



651304

LEGISLATIVE ACTION

Senate

House

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Floor: 16/AD/2R

04/11/2013 04:22 PM

Senator Simmons moved the following:

Senate Amendment (with title amendment)

Delete lines 2514 - 2744

and insert:

627.3518 Citizens Property Insurance Corporation
clearinghouse.—The Legislature recognizes that Citizens Property
Insurance Corporation has authority to establish a clearinghouse
as a separate organizational unit within the corporation for the
purpose of determining the eligibility of new and renewal risks,
excluding commercial residential, seeking coverage through the
corporation and facilitating the identification and diversion of
ineligible applicants and current policyholders from the
corporation into the voluntary insurance market. The purpose of



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14 this section is to augment that authority by providing a
15 framework for the corporation to implement such program by
16 January 1, 2014.

17 (1) As used in this section, the term:

18 (a) "Clearinghouse" means the clearinghouse diversion
19 program created under this section.

20 (b) "Corporation" means Citizens Property Insurance
21 Corporation.

22 (c) "Exclusive agent" means a licensed insurance agent who
23 has agreed, by contract, to act exclusively for one company or
24 group of affiliated insurance companies and is disallowed by the
25 provisions of that contract to directly write for any other
26 unaffiliated insurer absent express consent from the company or
27 group of affiliated insurance companies.

28 (d) "Independent agent" means a licensed insurance agent
29 not described in paragraph (c).

30 (2) In order to confirm eligibility with the corporation
31 and to enhance the access of new applicants for coverage and
32 existing policyholders of the corporation to offers of coverage
33 from authorized and eligible insurers, the corporation shall
34 establish a clearinghouse for personal residential risks in
35 order to facilitate the diversion of ineligible applicants and
36 existing policyholders from the corporation into the voluntary
37 insurance market. The corporation shall also develop appropriate
38 procedures for facilitating the diversion of ineligible
39 applicants and existing policyholders for commercial residential
40 coverage into the private insurance market, and shall report
41 such procedures to the President of the Senate and the Speaker
42 of the House of Representatives by July 1, 2015.



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43 (3) The clearinghouse has the same rights and
44 responsibilities in carrying out its duties as a licensed
45 general lines agent, but is not required to employ or engage a
46 licensed general lines agent or to maintain an insurance agency
47 license in order to solicit and place insurance coverage. In
48 establishing the clearinghouse, the corporation may:

49 (a) Require all new applications and all policies due for
50 renewal to be submitted to the clearinghouse in order to
51 facilitate obtaining an offer of coverage from an authorized
52 insurer before binding or renewing coverage by the corporation.

53 (b) Employ or otherwise contract with individuals or other
54 entities to provide administrative or professional services in
55 order to carry out the plan within the corporation in accordance
56 with the applicable purchasing requirements under s. 627.351.

57 (c) Enter into a contract with an authorized or eligible
58 insurer participating in the clearinghouse and accept an
59 appointment by such insurer.

60 (d) Provide funds to operate the clearinghouse. Insurers
61 and agents participating in the clearinghouse are not required
62 to pay a fee to offset or partially offset the cost of the
63 clearinghouse, or use the clearinghouse for the renewal of
64 policies initially written through the clearinghouse.

65 (e) Develop an enhanced application for obtaining
66 information that will assist private insurers in determining
67 whether to make an offer of coverage through the clearinghouse.

68 (f) Before approving new applications for coverage by the
69 corporation, require that every application be subject to a
70 period of 2 business days during which an insurer participating
71 in the program may select the application for coverage. The



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72 insurer may issue a binder on any policy selected for coverage
73 for at least 30 days but not more than 60 days.

74 (4) An authorized or eligible insurer may participate in
75 the clearinghouse; however, participation is not mandatory. An
76 insurer that makes an offer of coverage to a new applicant or
77 renews a policy for a policyholder through the clearinghouse:

78 (a) Is not required to individually appoint an agent whose
79 customer is underwritten and bound through the clearinghouse.

80 Notwithstanding s. 626.112, an insurer is not required to
81 appoint an agent on a policy underwritten through the
82 clearinghouse if that policy remains with the insurer. An
83 insurer may appoint an agent whose customer is initially
84 underwritten and bound through the clearinghouse. If an insurer
85 accepts a policy from an agent who is not appointed pursuant to
86 this paragraph and thereafter accepts a policy from such agent,
87 the provisions of s. 626.112 requiring appointment apply to the
88 agent.

89 (b) Must enter into a limited agency agreement with each
90 agent who is not appointed in accordance with paragraph (a) and
91 whose customer is underwritten and bound through the
92 clearinghouse.

93 (c) Must enter into its standard agency agreement with each
94 agent whose customer is underwritten and bound through the
95 clearinghouse if that agent has been appointed by the insurer
96 pursuant to s. 626.112.

97 (d) Must comply with s. 627.4133(2).

98 (e) Must allow authorized or eligible insurers
99 participating in the clearinghouse to participate through their
100 single, designated managing general agent or broker; however,



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101 the provisions of paragraph (6)(a) regarding ownership, control,
102 and use of the expirations apply.

103 (f) Must pay the producing agent a commission equal to that
104 paid by the corporation or the usual and customary commission
105 paid by the insurer for that line of business, whichever is
106 greater.

107 (5)(a) Notwithstanding s. 627.3517, an applicant for new
108 coverage is not eligible for coverage from the corporation if
109 the applicant is offered coverage from an authorized insurer
110 through the clearinghouse at a premium that is at or below the
111 eligibility threshold established under s. 627.351(6)(c)5.a.

112 (b) Notwithstanding any other provisions of law, if a
113 renewing policyholder of the corporation is offered coverage
114 from an authorized insurer for a personal lines or commercial
115 lines risk at a premium that is no more than 15 percent above
116 the corporation's renewal premium for comparable coverage, the
117 risk is not eligible for coverage with the corporation.

118 (c) Notwithstanding s. 626.916(1), if an applicant for new
119 or renewal coverage from the corporation does not receive an
120 offer of coverage from an authorized insurer, the applicant may
121 choose to accept an offer of coverage from an eligible insurer
122 or its broker under ss. 626.913-626.937. Such offer of coverage
123 from an eligible insurer does not make the risk ineligible for
124 coverage with the corporation.

125 (d) An applicant for new or renewal coverage from the
126 corporation may choose to accept any offer of coverage received
127 through the clearinghouse from an authorized insurer which is
128 greater than 15 percent of the corporation's renewal premium.

129 (e) Section 627.351(6)(c)5.a.(I) and b.(I) does not apply



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130 to an offer of coverage from an authorized insurer obtained
131 through the clearinghouse.

132 (6) An independent agent who submits a new application for
133 coverage or who is the agent of record on a renewal policy
134 submitted to the clearinghouse:

135 (a) Is granted and must maintain ownership and the
136 exclusive use of expirations, records, or other written or
137 electronic information directly related to such application or
138 renewal written through the corporation or through an insurer
139 participating in the clearinghouse, notwithstanding s.
140 627.351(6)(c)5.a.(I)(B) and (II)(B). Such ownership is granted
141 for as long as the insured remains with the agency or until sold
142 or surrendered in writing by the agent. A contract with the
143 corporation or required by the corporation may not amend,
144 modify, interfere with, or limit such rights of ownership. Such
145 expirations, records, or other written or electronic information
146 may be used to review an application or issue a policy or for
147 any other purpose necessary for placing business through the
148 clearinghouse.

149 (b) Is not required to be appointed by an insurer
150 participating in the clearinghouse for policies written solely
151 through the clearinghouse, notwithstanding s. 626.112.

152 (c) May accept an appointment from an insurer participating
153 in the clearinghouse.

154 (d) May enter into a standard or limited agency agreement
155 with the insurer, at the insurer's option.

156
157 An applicant ineligible for coverage under subsection (5)
158 remains ineligible if the applicant's independent agent is



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159 unwilling or unable to enter into a standard or limited agency
160 agreement with an insurer participating in the clearinghouse.

161 (7) An exclusive agent who submits a new application for
162 coverage or who is the agent of record on a renewal policy
163 submitted to the clearinghouse:

164 (a) Must maintain ownership and the exclusive use of
165 expirations, records, or other written or electronic information
166 directly related to such application or renewal written through
167 the corporation or through an insurer participating in the
168 clearinghouse, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
169 (II)(B). A contract with the corporation or required by the
170 corporation may not amend, modify, interfere with, or limit such
171 rights of ownership. Such expirations, records, or other written
172 or electronic information may be used to review an application
173 or issue a policy or for any other purpose necessary for placing
174 business through the clearinghouse.

175 (b) Is not required to be appointed by an insurer
176 participating in the clearinghouse for policies written solely
177 through the clearinghouse, notwithstanding s. 626.112.

178 (c) Must only facilitate the placement of an offer of
179 coverage from an insurer whose limited servicing agreement is
180 approved by that exclusive agent's exclusive insurer.

181 (d) May enter into a limited servicing agreement with the
182 insurer making an offer of coverage, and may do so only after
183 the exclusive agent's insurer has approved the terms of the
184 agreement. The exclusive agent's insurer must approve a limited
185 service agreement for the clearinghouse if the insurer has
186 approved a service agreement with the agent for other purposes.
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188 An applicant is ineligible for coverage under subsection (5) if
189 the applicant's exclusive agent is unwilling or unable to enter
190 into a standard or limited agency agreement with a participating
191 insurer making an offer of coverage to that applicant.

192 (8) Submission of an application to the clearinghouse for
193 coverage by the corporation does not constitute the binding of
194 coverage, and the failure of the clearinghouse to obtain an
195 offer of coverage by an insurer is not considered acceptance of
196 coverage of the risk by the corporation.

197 (9) The clearinghouse may not include commercial
198 nonresidential policies.

199 Section 14. Temporary keepout program.—Citizens Property
200 Insurance Corporation shall implement a temporary keepout
201 program beginning July 1, 2013, and ending on the date the
202 clearinghouse program established under s. 627.3518, Florida
203 Statutes, is operational.

204 (1) Subject to procedures adopted by the corporation, the
205 program shall provide an opportunity for new applicants for
206 personal residential multiperil coverage with the corporation to
207 be offered coverage with authorized insurers through the market
208 assistance plan established under s. 627.3515, Florida Statutes.

209 (2) The program is subject to all of the following:

210 (a) The corporation may not accept a new personal
211 residential multiperil application for coverage within 72 hours
212 after submission of the risk to the market assistance plan under
213 subsection (1).

214 (b) Section 627.3517, Florida Statutes, relating to
215 consumer choice of agent does not apply to applications for
216 coverage accepted by authorized insurers under the program.



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217 (c) Insurers issuing policies under this section are
218 subject to s. 627.3518(3), Florida Statutes, relating to agent
219 appointment.

220 (d) Notwithstanding s. 626.916(1), Florida Statutes, if an
221 applicant for new or renewal coverage from the corporation does
222 not receive an offer of coverage from an eligible insurer, the
223 applicant may accept an offer from a designated broker of an
224 insurer eligible under ss. 626.913-626.937, Florida Statutes.

225 (e) An exclusive agent must only facilitate the placement
226 of an offer of coverage from an insurer whose limited servicing
227 agreement is approved by that exclusive agent's exclusive
228 insurer.

229
230 An applicant is ineligible for coverage if the applicant's agent
231 is unwilling or unable to enter into a standard or limited
232 agency agreement with a participating insurer making an offer of
233 coverage to that applicant.

234 (3) This section expires on January 1, 2014, or when the
235 clearinghouse program established under s. 627.3518, Florida
236 Statutes, becomes operational, whichever occurs first.

237
238 ===== T I T L E A M E N D M E N T =====

239 And the title is amended as follows:

240 Delete lines 95 - 96

241 and insert:

242 establishing a temporary keepout