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LEGISLATIVE ACTION

Senate

House

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Floor: WD/2R

04/26/2013 12:14 PM

Senator Brandes moved the following:

Senate Amendment (with title amendment)

Between lines 1404 and 1405

insert:

Section 31. Section 627.3518, Florida Statutes, is created to read:

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 risks, seeking coverage through the corporation, and facilitating the identification and



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14 diversion of ineligible applicants and current policyholders
15 from the corporation into the voluntary insurance market. This
16 section augments that authority by providing a framework for the
17 corporation to implement such a program by January 1, 2014.

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

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

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

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

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

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



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43 of the House of Representatives by July 1, 2015.

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

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

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

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

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

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

70 (f) Before approving new applications for coverage by the
71 corporation, require that every application be subject to a hold



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72 of 2 business days during which time an insurer participating in
73 the clearinghouse may select the application for coverage. The
74 insurer may issue a binder on any policy selected for coverage
75 for at least 30 days but not more than 60 days.

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

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

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

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

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

100 (e) Must allow authorized or eligible insurers



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101 participating in the clearinghouse to participate through their
102 single, designated managing general agent or broker; however,
103 the provisions of paragraph (6) (a) regarding ownership, control,
104 and use of the expirations apply.

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

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

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

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

127 (d) An applicant for new or renewal coverage from the
128 corporation may choose to accept any offer of coverage received
129 through the clearinghouse from an authorized insurer which is



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130 greater than 15 percent of the corporation's renewal premium.

131 (e) Section 627.351(6)(c)5.a.(I) and b.(I) do not apply to
132 an offer of coverage from an authorized insurer obtained through
133 the clearinghouse.

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

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

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

154 (c) May accept an appointment from an insurer participating
155 in the clearinghouse.

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



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159 An applicant ineligible for coverage under subsection (5)
160 remains ineligible if the applicant's independent agent is
161 unwilling or unable to enter into a standard or limited agency
162 agreement with an insurer participating in the clearinghouse.

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

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

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

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

183 (d) May enter into a limited servicing agreement with the
184 insurer making an offer of coverage only after the exclusive
185 agent's insurer has approved the terms of the agreement. The
186 exclusive agent's insurer must approve a limited service
187 agreement for the clearinghouse if the insurer has approved a



188 service agreement with the agent for other purposes.

189
190 An applicant is ineligible for coverage under subsection (5) if
191 the applicant's exclusive agent is unwilling or unable to enter
192 into a standard or limited agency agreement with a participating
193 insurer making an offer of coverage to that applicant.

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

199 (9) The clearinghouse may not include commercial
200 nonresidential policies.

201
202 ===== T I T L E A M E N D M E N T =====

203 And the title is amended as follows:

204 Between lines 130 and 131

205 insert:

206 creating s. 627.3518, F.S.; authorizing the creation
207 of a clearinghouse diversion program within the
208 Citizens Property Insurance Corporation for
209 identifying and diverting insurance coverage to
210 private insurers; providing definitions; providing
211 requirements and duties of the corporation, insurers,
212 insureds, agents, and applicants; specifying criteria
213 for coverage eligibility; providing that submission of
214 an application to the clearinghouse does not
215 constitute binding coverage by the corporation;
216 prohibiting the clearinghouse from including



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commercial nonresidential policies;