

1 A bill to be entitled
2 An act relating to the establishment of a
3 clearinghouse program within the Citizens Property
4 Insurance Corporation; amending s. 626.752, F.S.;
5 exempting Citizens Property Insurance Corporation from
6 exchange of business limitations and restrictions when
7 placing business with authorized insurers; creating s.
8 627.3518, F.S.; providing definitions; requiring the
9 creation of a clearinghouse program within the
10 corporation; specifying the purposes of the program;
11 specifying certain rights and responsibilities with
12 respect to the program; authorizing the corporation to
13 take specified actions in establishing the program;
14 providing conditions and requirements relating to the
15 participation of insurers in the program; providing
16 conditions, requirements, limitations, and procedures
17 applicable to offers of coverage with respect to
18 applicants for coverage with the corporation and
19 existing policyholders of the corporation; providing
20 requirements for certain independent insurance agents
21 and exclusive agents with respect to submitting
22 applications for coverage or policies for renewal to
23 the program; requiring the corporation to publish
24 standards by a certain date for recognition of private
25 entities as an alternative option to submitting risks
26 to the program; providing conditions and requirements
27 relating to such alternative options; providing for
28 construction; providing an effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (4) of section 626.752, Florida Statutes, is amended to read:

626.752 Exchange of business.-

(4) The foregoing limitations and restrictions shall not be construed and shall not apply to the placing of surplus lines business under the provisions of part VIII or to the activities of Citizens Property Insurance Corporation in placing new and renewal business with authorized insurers in accordance with s. 627.3518.

Section 2. Section 627.3518, Florida Statutes, is created to read:

627.3518 Citizens Property Insurance Corporation policyholder eligibility clearinghouse program.-

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

(a) "Corporation" means Citizens Property Insurance Corporation.

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

(c) "Independent agent" means any licensed insurance agent not described in paragraph (b).

(d) "Program" means the clearinghouse created under this

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57 | section.

58 | (2) In order to confirm eligibility for coverage with the
59 | corporation, and to enhance access of applicants for coverage
60 | with the corporation and access of existing policyholders of the
61 | corporation to offers of coverage from authorized insurers at
62 | renewal, the corporation shall establish a clearinghouse program
63 | to facilitate the diversion of ineligible applicants and
64 | existing policyholders from the corporation into the voluntary
65 | insurance market.

66 | (3) The corporation board shall establish the
67 | clearinghouse program as an organizational unit within the
68 | corporation. The program shall have all the rights and
69 | responsibilities in carrying out its duties as a licensed
70 | general lines agent, but may not be required to employ or engage
71 | a licensed general lines agent or to maintain an insurance
72 | agency license to carry out its activities in the solicitation
73 | and placement of insurance coverage. In establishing the
74 | program, the corporation may:

75 | (a) Require all new applications, and all policies due for
76 | renewal, to be submitted for coverage to the program or any
77 | private alternative in order to facilitate obtaining an offer of
78 | coverage from an authorized insurer before binding or renewing
79 | coverage by the corporation.

80 | (b) Employ or otherwise contract with individuals or other
81 | entities for appropriate administrative or professional services
82 | to effectuate the plan within the corporation in accordance with
83 | the applicable purchasing requirements under s. 627.351.

84 | (c) Enter into contracts with any authorized or surplus

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85 lines insurer to participate in the program and accept an
86 appointment by such insurer.

87 (d) Provide funds to operate the program and charge a
88 reasonable fee as a percentage of agent commission to offset, or
89 partially offset, the costs of the program. Insurers
90 participating in the program may not be required to pay a fee or
91 use the program for renewals of any policy initially written
92 through the program.

93 (e) Develop an enhanced application that includes
94 information to assist private insurers in determining whether to
95 make an offer of coverage through the program.

96 (f) Require, before approving all new applications for
97 coverage by the corporation, that every application be subject
98 to a 48-hour period when any insurer participating in the
99 program may select the application for coverage. The insurer may
100 issue a binder on any policy selected for coverage for a period
101 of at least 30 days but not more than 60 days.

102 (g) Allow eligible surplus lines insurers to participate
103 and make offers of coverage. An offer of coverage may be made by
104 an eligible surplus lines insurer only if an authorized insurer
105 does not make an offer of coverage through the program. Surplus
106 lines insurers may offer premiums and coverages that are more
107 favorable than those offered in the corporation, and agents are
108 not required to compile three declinations from authorized
109 insurers before binding coverage with a surplus lines insurer.

110 (4) Any authorized or surplus lines insurer may
111 participate in the program; however, participation is not
112 mandatory for any insurer. Insurers making offers of coverage to

113 new applicants or renewal policyholders through the program:

114 (a) May not be required to individually appoint any agent
115 whose customer is underwritten and bound through the program.

116 Notwithstanding s. 626.112, insurers are not required to appoint
117 any agent on a policy underwritten through the program for as
118 long as that policy remains with the insurer. Insurers may, at
119 their election, appoint any agent whose customer is initially
120 underwritten and bound through the program. In the event an
121 insurer accepts a policy from an agent who is not appointed
122 pursuant to this paragraph, and thereafter elects to accept a
123 policy from such agent, the provisions of s. 626.112 requiring
124 appointment apply to the agent.

125 (b) Must enter into a limited agency agreement with each
126 agent that is not appointed in accordance with paragraph (a) and
127 whose customer is underwritten and bound through the program.

128 (c) Must enter into its standard agency agreement with
129 each agent whose customer is underwritten and bound through the
130 program when that agent has been appointed by the insurer
131 pursuant to s. 626.112.

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

133 (5) Notwithstanding s. 627.3517, any applicant for new
134 coverage from the corporation is not eligible for coverage from
135 the corporation, if provided an offer of coverage from an
136 authorized insurer through the program at a premium that is at
137 or below the eligibility threshold established in s.

138 627.351(6)(c)5.a. and b. Whenever an offer of coverage for a
139 personal lines or commercial lines risk is received for a
140 policyholder of the corporation at renewal, notwithstanding any

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141 other provisions of law, if the offer is no more than 5 percent
142 above the corporation's renewal premium for comparable coverage,
143 the risk is not eligible for coverage with the corporation. In
144 the event an offer of coverage for a new applicant is received
145 from an insurer, and the premium offered exceeds the eligibility
146 threshold contained in s. 627.351(6)(c)5.a. and b., the
147 applicant or insured may elect to accept such coverage, or may
148 elect to accept or continue coverage with the corporation. In
149 the event an offer of coverage for a personal lines or
150 commercial lines risk is received from an insurer at renewal,
151 and the premium offered is more than 5 percent above the
152 corporation's renewal premium for comparable coverage, the
153 insured may elect to accept such coverage, or may elect to
154 accept or continue coverage with the corporation. Any applicant
155 for new coverage from the corporation, and policyholders of all
156 policies for renewal, if provided an offer of coverage from a
157 surplus lines insurer, are not required to accept such offer,
158 and may be accepted for coverage or renewed by the corporation
159 at the applicant's or policyholder's option. Sub-sub-
160 subparagraphs 627.351(6)(c)5.a.(I) and b.(I) do not apply to an
161 offer of coverage from an authorized insurer obtained through
162 the program.

163 (6) Independent insurance agents submitting new
164 applications for coverage or that are the agent of record on a
165 renewal policy submitted to the program:

166 (a) Must maintain ownership and the exclusive use of
167 expirations, records, or other written or electronic information
168 directly related to such applications or renewals written

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

177 (b) May not be required to be appointed by any insurer
178 participating in the program for policies written solely through
179 the program, notwithstanding the provisions of s. 626.112.

180 (c) May accept an appointment from any insurer
181 participating in the program.

182 (d) Must enter into either a standard or limited agency
183 agreement with the insurer, at the insurer's option.

184 (7) Exclusive agents submitting new applications for
185 coverage or that are the agent of record on a renewal policy
186 submitted to the program:

187 (a) Must maintain ownership and the exclusive use of
188 expirations, records, or other written or electronic information
189 directly related to such applications or renewals written
190 through the corporation or through an insurer participating in
191 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
192 (II)(B). Contracts with the corporation or required by the
193 corporation must not amend, modify, interfere with, or limit
194 such rights of ownership. Such expirations, records, or other
195 written or electronic information may be used to review an
196 application, issue a policy, or for any other purpose necessary

197 | for placing such business through the program.

198 | (b) May not be required to be appointed by any insurer
 199 | participating in the program for policies written solely through
 200 | the program, notwithstanding the provisions of s. 626.112.

201 | (c) Must accept an offer of coverage from any insurer
 202 | whose limited servicing agreement is approved by that agent's
 203 | exclusive insurer as eligible to participate in the program with
 204 | that insurer's exclusive agents.

205 | (d) Must enter into only a limited servicing agreement
 206 | with the insurer making an offer of coverage, and only after the
 207 | exclusive agent's insurer has approved the limited servicing
 208 | agreement terms. The exclusive agent's insurer must approve a
 209 | limited service agreement for the program for any insurer for
 210 | which it has approved a service agreement for other purposes.

211 | (8) To promote private market initiatives to obtain offers
 212 | of coverage from authorized and surplus lines insurers for
 213 | applicants for coverage by the corporation and the corporation's
 214 | policyholders on renewal, the corporation shall, by January 1,
 215 | 2014, publish reasonable standards for the recognition of
 216 | private alternatives to the submission of a risk to the program.
 217 | Such private alternatives to the program may act in a master
 218 | agency arrangement for producing agents who may be appointed as
 219 | subagents of the master agency using such private alternatives
 220 | for the submission of risks to the program. The alternative
 221 | option permitted under this subsection is an alternative and not
 222 | a replacement for the program established under this section.
 223 | Neither the program nor any private entity operating under this
 224 | subsection may prohibit insurers that elect to participate from

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225 participating in more than one program or alternative; however,
226 any insurer participating in the private entity must also
227 participate in the program.

228 (9) Submission of an application for coverage by the
229 corporation to the program does not constitute the binding of
230 coverage by the corporation, and failure of the program to
231 obtain an offer of coverage by an insurer may not be considered
232 acceptance of coverage of the risk by the corporation.

233 Section 3. This act shall take effect July 1, 2013.