

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

29 construction; providing an effective date.

30

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

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

35 626.752 Exchange of business.—

36 (4) The foregoing limitations and restrictions shall not
 37 be construed and shall not apply to the placing of surplus lines
 38 business under the provisions of part VIII or to the activities
 39 of Citizens Property Insurance Corporation, or any private
 40 alternative under s. 627.3518(8), in placing new and renewal
 41 business with authorized insurers in accordance with s.
 42 627.3518.

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

45 627.3518 Citizens Property Insurance Corporation
 46 policyholder eligibility clearinghouse program.—

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

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

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

56 (c) "Independent agent" means any licensed insurance agent

57 | not described in paragraph (b).

58 | (d) "Program" means the clearinghouse created under this
59 | section.

60 | (2) In order to confirm eligibility for coverage with the
61 | corporation, and to enhance access of applicants for coverage
62 | with the corporation and access at renewal of existing
63 | policyholders of the corporation to offers of coverage from
64 | authorized insurers and eligible insurers under s. 626.918, the
65 | corporation shall establish a clearinghouse program to
66 | facilitate the diversion of ineligible applicants and existing
67 | policyholders from the corporation into the voluntary insurance
68 | market.

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

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

83 | (b) Employ or otherwise contract with individuals or other
84 | entities for appropriate administrative or professional services

85 | to effectuate the plan within the corporation in accordance with
 86 | the applicable purchasing requirements under s. 627.351.

87 | (c) Enter into contracts with any authorized or eligible
 88 | insurer to participate in the program and accept an appointment
 89 | by such insurer.

90 | (d) Provide funds to operate the program and charge a
 91 | reasonable fee as a percentage of agent commission to offset, or
 92 | partially offset, the costs of the program. Any fee charged as a
 93 | percentage of agent commission may only be charged when there is
 94 | an offer of coverage by an insurer participating in the program.
 95 | Insurers participating in the program may not be required to pay
 96 | a fee or use the program for renewals of any policy initially
 97 | written through the program.

98 | (e) Develop an enhanced application that includes
 99 | information to assist private insurers in determining whether to
 100 | make an offer of coverage through the program.

101 | (f) For personal lines residential risks, require, before
 102 | approving all new applications for coverage by the corporation,
 103 | that every application be subject to a period of 2 business days
 104 | when any insurer participating in the program may select the
 105 | application for coverage. The insurer may issue a binder on any
 106 | policy selected for coverage for a period of at least 30 days
 107 | but not more than 60 days.

108 | (g) For commercial lines residential risks, require,
 109 | before approving all new applications for coverage by the
 110 | corporation, that every application be subject to a 21-day
 111 | period when any insurer participating in the program may select
 112 | the application for coverage. The insurer may issue a binder on

113 any policy selected for coverage for a period of at least 30
114 days but not more than 60 days.

115 (h) Allow eligible insurers to participate and make offers
116 of coverage. An offer of coverage may be made by an eligible
117 insurer only if an authorized insurer does not make an offer of
118 coverage through the program. Eligible insurers may offer
119 premiums and coverages that are more favorable than those
120 offered in the corporation, and agents are not required to
121 compile three declinations from authorized insurers before
122 binding coverage with an eligible insurer.

123 (4) Any authorized or eligible insurer may participate in
124 the program; however, participation is not mandatory for any
125 insurer. Insurers making offers of coverage to new applicants or
126 renewal policyholders through the program:

127 (a) May not be required to individually appoint any agent
128 whose customer is underwritten and bound through the program.
129 Notwithstanding s. 626.112, insurers are not required to appoint
130 any agent on a policy underwritten through the program for as
131 long as that policy remains with the insurer. Insurers may, at
132 their election, appoint any agent whose customer is initially
133 underwritten and bound through the program. In the event an
134 insurer accepts a policy from an agent who is not appointed
135 pursuant to this paragraph, and thereafter elects to accept a
136 policy from such agent, the provisions of s. 626.112 requiring
137 appointment apply to the agent.

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

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

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

146 (e) May participate through their single-designated
147 managing general agent or broker; however, the provisions of
148 paragraph (6) (a) regarding ownership, control, and use of the
149 expirations continue to apply.

150 (5) Notwithstanding s. 627.3517, any applicant for new
151 coverage from the corporation is not eligible for coverage from
152 the corporation, if provided an offer of coverage from an
153 authorized insurer through the program at a premium that is at
154 or below the eligibility threshold established in s.
155 627.351(6)(c)5.a. and b. Whenever an offer of coverage for a
156 personal lines or commercial lines risk is received for a
157 policyholder of the corporation at renewal, notwithstanding any
158 other provisions of law, if the offer is no more than 5 percent
159 above the corporation's renewal premium for comparable coverage,
160 the risk is not eligible for coverage with the corporation. In
161 the event an offer of coverage for a new applicant is received
162 from an insurer, and the premium offered exceeds the eligibility
163 threshold contained in s. 627.351(6)(c)5.a. and b., the
164 applicant or insured may elect to accept such coverage, or may
165 elect to accept or continue coverage with the corporation. In
166 the event an offer of coverage for a personal lines or
167 commercial lines risk is received from an insurer at renewal,
168 and the premium offered is more than 5 percent above the

169 corporation's renewal premium for comparable coverage, the
170 insured may elect to accept such coverage, or may elect to
171 accept or continue coverage with the corporation. Any applicant
172 for new coverage from the corporation, and policyholders of all
173 policies for renewal, if provided an offer of coverage from an
174 eligible insurer, are not required to accept such offer, and may
175 be accepted for coverage or renewed by the corporation at the
176 applicant's or policyholder's option. Sub-sub-subparagraphs
177 627.351(6)(c)5.a.(I) and b.(I) do not apply to an offer of
178 coverage from an authorized insurer obtained through the
179 program.

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

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

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

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197 (c) May accept an appointment from any insurer
198 participating in the program.

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

201
202 Applicants ineligible for coverage in accordance with subsection
203 (5) remain ineligible if their independent agent is unwilling or
204 unable to enter into a standard or limited agency agreement with
205 an insurer participating in the program.

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

209 (a) Must maintain ownership and the exclusive use of
210 expirations, records, or other written or electronic information
211 directly related to such applications or renewals written
212 through the corporation or through an insurer participating in
213 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
214 (II)(B). Contracts with the corporation or required by the
215 corporation must not amend, modify, interfere with, or limit
216 such rights of ownership. Such expirations, records, or other
217 written or electronic information may be used to review an
218 application, issue a policy, or for any other purpose necessary
219 for placing such business through the program.

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

223 (c) Must accept an offer of coverage from any insurer
224 whose limited servicing agreement is approved by that agent's

225 exclusive insurer as eligible to participate in the program with
226 that insurer's exclusive agents. Applicants ineligible for
227 coverage in accordance with subsection (5) remain ineligible if
228 their exclusive agent is unwilling or unable to enter into a
229 standard or limited agency agreement with an insurer making an
230 offer of coverage to that applicant.

231 (d) Must enter into only a limited servicing agreement
232 with the insurer making an offer of coverage, and only after the
233 exclusive agent's insurer has approved the limited servicing
234 agreement terms. The exclusive agent's insurer must approve a
235 limited service agreement for the program for any insurer for
236 which it has approved a service agreement for other purposes.

237 (8) To promote private market initiatives to obtain offers
238 of coverage from authorized and eligible insurers for applicants
239 for coverage by the corporation and the corporation's
240 policyholders on renewal, the corporation shall, by January 1,
241 2014, publish reasonable standards for the recognition of
242 private alternatives to the submission of a risk to the program.
243 Such private alternatives to the program may act in a master
244 agency arrangement for producing agents who may be appointed as
245 subagents of the master agency using such private alternatives
246 for the submission of risks to the program. The alternative
247 option permitted under this subsection is an alternative and not
248 a replacement for the program established under this section.
249 Neither the program nor any private entity operating under this
250 subsection may prohibit insurers that elect to participate from
251 participating in more than one program or alternative; however,
252 any insurer participating in the private entity must also

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253 participate in the program.

254 (9) Submission of an application for coverage by the
255 corporation to the program does not constitute the binding of
256 coverage by the corporation, and failure of the program to
257 obtain an offer of coverage by an insurer may not be considered
258 acceptance of coverage of the risk by the corporation.

259 (10) The program may not include commercial nonresidential
260 policies.

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