

By the Committee on Banking and Insurance; and Senator Gruters

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A bill to be entitled

An act relating to the Citizens Property Insurance Corporation; amending s. 627.351, F.S.; prohibiting the corporation from issuing or renewing coverage for commercial residential and commercial nonresidential risks under certain circumstances; prohibiting the corporation from imposing a premium equalization adjustment under certain circumstances; providing applicability; specifying the components of the total cost of insurance coverage; specifying that certain adjustments expire at a specified time; amending s. 627.3518, F.S.; deleting an obsolete provision; defining terms; revising the definition of the term "program"; requiring the corporation to establish a personal lines clearinghouse for specified purposes; requiring, on or before a specified date, the corporation to implement a commercial lines clearinghouse for a specified purpose; authorizing the corporation to develop and implement a separate commercial lines clearinghouse for specified purposes; deleting obsolete provisions; revising the program's rights and responsibilities; revising the rights and responsibilities the corporation has in establishing the program; authorizing approved surplus lines clearinghouse insurers to participate in the commercial lines clearinghouse; prohibiting such insurers from participating in the personal lines clearinghouse; specifying that participation in the program is not mandatory for such insurers; revising

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prohibitions and requirements for insurers making offers of coverage to new applicants or renewal policyholders through the program; providing construction; defining the term "effective commission percentage"; specifying that applicants for new commercial lines residential coverage are not eligible for coverage from the corporation under certain circumstances; specifying the circumstances under which policyholders of the corporation are not eligible for new commercial lines residential coverage from the corporation; authorizing applicants or insureds to elect to accept coverage with authorized insurers or elect to accept or continue coverage with the corporation under certain circumstances; authorizing insureds to elect to accept coverage with specified insurers or elect to accept or continue coverage with the corporation under certain circumstances; providing applicability; specifying that certain applicants and policyholders remain eligible for coverage from the corporation; authorizing such applicants and policyholders to elect to accept coverage from clearinghouse insurers or elect to accept or continue coverage with the corporation; authorizing certain applicants and policyholders of the corporation to elect to accept coverage from clearinghouse insurers or elect to accept or continue coverage with the corporation; requiring such applicants or policyholders to pay a specified total cost of insurance for corporation

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59 coverage; providing applicability; revising the rights
60 and authorizations for certain independent insurance
61 agents; deleting a prohibition relating to commercial
62 nonresidential policies; providing an effective date.

63

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

65

66 Section 1. Paragraph (oo) is added to subsection (6) of
67 section 627.351, Florida Statutes, to read:

68 627.351 Insurance risk apportionment plans.—

69 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

70 (oo) For commercial residential and commercial

71 nonresidential risks, if an approved surplus lines clearinghouse
72 insurer offers coverage under s. 627.3518(5)(c)2. and the total
73 cost of such coverage is not more than 20 percent greater than
74 the total cost of insurance coverage from the corporation, the
75 corporation may not issue or renew coverage unless it imposes a
76 premium equalization adjustment on such policy equal to the
77 amount by which the total cost of insurance coverage offered by
78 the approved surplus lines clearinghouse insurer exceeds the
79 total cost of insurance coverage from the corporation. If the
80 total cost of insurance from the approved surplus lines
81 clearinghouse insurer does not exceed the total cost of
82 corporation coverage, the corporation may not impose the premium
83 equalization adjustment. If more than one approved surplus lines
84 clearinghouse insurer offers coverage under s. 627.3518(5)(c)2.,
85 the lowest offered total cost of insurance coverage applies for
86 purposes of this paragraph. The total cost of insurance coverage
87 includes, but is not limited to, the premium, fees, surcharges,

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88 and applicable taxes. A premium equalization adjustment applied
89 pursuant to this paragraph expires at the end of the policy
90 term.

91 Section 2. Section 627.3518, Florida Statutes, is amended
92 to read:

93 627.3518 Citizens Property Insurance Corporation
94 policyholder eligibility clearinghouse program.—The purpose of
95 this section is to provide a framework for the corporation to
96 implement a clearinghouse program ~~by January 1, 2014.~~

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

98 (a) "Approved surplus lines clearinghouse insurer" means an
99 eligible surplus lines insurer that has a financial strength
100 rating of "A-" or higher and a financial size category of A-VII
101 or higher from A.M. Best Company which the clearinghouse
102 administrator recommends for participation in the program and
103 which the office verifies meets the requirements for
104 participation in the program within 5 business days after the
105 commercial lines clearinghouse administrator's recommendation.

106 (b) "Commercial lines clearinghouse administrator" means
107 the individual or entity employed or otherwise contracted by the
108 corporation to provide administrative or professional services
109 to implement the commercial lines clearinghouse required
110 pursuant to subparagraph (2) (b)1. within the corporation as set
111 forth in paragraph (3) (b).

112 (c) "Corporation" means Citizens Property Insurance
113 Corporation.

114 (d) ~~(b)~~ "Exclusive agent" means any licensed insurance agent
115 that has, by contract, agreed to act exclusively for one company
116 or group of affiliated insurance companies and is disallowed by

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117 the provisions of that contract to directly write for any other
118 unaffiliated insurer absent express consent from the company or
119 group of affiliated insurance companies.

120 (e) "Independent agent" means any licensed insurance
121 agent not described in paragraph (d) ~~(b)~~.

122 (f) "Primary residence" has the same meaning as in s.
123 627.351(6)(c)2.a.

124 (g) ~~(d)~~ "Program" means the clearinghouse created under this
125 section, consisting of the personal lines clearinghouse and the
126 commercial lines clearinghouse.

127 (h) "Surplus lines agent" means an insurance agent licensed
128 pursuant to s. 626.927 or s. 626.9272.

129 (2) (a) The corporation shall establish a personal lines
130 clearinghouse in order to confirm an applicant's eligibility
131 with the corporation, and to enhance access of new applicants
132 for personal lines coverage and existing personal lines
133 policyholders of the corporation to offers of coverage from
134 authorized insurers, and the corporation shall establish a
135 program for personal residential risks in order to facilitate
136 the diversion of ineligible applicants and existing
137 policyholders from the corporation into the voluntary insurance
138 market.

139 (b) 1. The corporation shall implement on or before January
140 1, 2027, a commercial lines clearinghouse in order to enhance
141 access to offers of coverage from approved surplus lines
142 clearinghouse insurers for new applicants for commercial
143 residential coverage and commercial nonresidential coverage and
144 existing commercial residential and commercial nonresidential
145 policyholders of the corporation.

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146 2. To facilitate the diversion of ineligible applicants and
147 existing policyholders from the corporation to authorized
148 insurers, the corporation may shall also develop and implement a
149 separate commercial lines clearinghouse to confirm eligibility
150 with the corporation and to enhance access to offers of such
151 coverage from authorized insurers for new applicants for
152 commercial residential or commercial nonresidential coverage and
153 existing commercial residential and commercial nonresidential
154 policyholders of the corporation appropriate procedures for
155 facilitating the diversion of ineligible applicants and existing
156 policyholders for commercial residential coverage into the
157 private insurance market and shall report such procedures to the
158 President of the Senate and the Speaker of the House of
159 Representatives by January 1, 2014.

160 (3) The corporation board shall establish the ~~clearinghouse~~
161 program as an organizational unit within the corporation. The
162 program shall have all the rights and responsibilities in
163 carrying out its duties as a licensed general lines agent and a
164 surplus lines agent, but may not be required to employ or engage
165 a licensed general lines agent or a surplus lines agent, or to
166 maintain an insurance agency license to carry out its activities
167 in the solicitation and placement of insurance coverage. In
168 establishing the program, the corporation has all of the
169 following rights and responsibilities may:

170 (a) May require all new applications for personal lines
171 coverage, and all personal lines policies due for renewal, to be
172 submitted for coverage to the program in order to facilitate
173 obtaining an offer of coverage from an authorized insurer or, if
174 the risk is a commercial risk, shall require all new

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175 applications for commercial lines coverage, and all commercial
176 lines policies due for renewal, to be initially submitted for
177 coverage through the commercial clearinghouse as a single point
178 of intake for both the corporation and the program in order to
179 facilitate obtaining an offer of coverage from an approved
180 surplus lines clearinghouse insurer, before binding or renewing
181 coverage by the corporation.

182 (b) Shall establish and maintain the operational systems
183 and procedures necessary to implement the program.

184 (c) May employ or otherwise contract with individuals or
185 other entities for appropriate administrative or professional
186 services to effectuate the plan within the corporation in
187 accordance with the applicable purchasing requirements under s.
188 627.351 and, for purposes of implementing the commercial lines
189 clearinghouse and providing offers of coverage from approved
190 surplus lines clearinghouse insurers on or before January 1,
191 2027, contract with such individuals or entities in accordance
192 with s. 287.057(3)(c).

193 (d) ~~(e)~~ May enter into contracts with any authorized insurer
194 and any approved surplus lines clearinghouse insurer to
195 participate in the program and accept an appointment by such
196 insurer.

197 (e) ~~(d)~~ May provide funds to operate the program. Insurers
198 and agents participating in the program are not required to pay
199 a fee to offset or partially offset the cost of the program or
200 use the program for renewal of policies initially written
201 through the clearinghouse. Notwithstanding this paragraph, any
202 commercial lines clearinghouse administrator may charge approved
203 surplus lines clearinghouse insurers and surplus lines agents

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204 participating in the program reasonable transaction, technology,
205 administration, and other similar fees.

206 (f) ~~(e)~~ May develop an enhanced application that includes
207 information to assist private insurers in determining whether to
208 make an offer of coverage through the program.

209 (g) ~~(f)~~ For personal lines residential risks, may require
210 that, before approving all new applications for coverage by the
211 corporation, ~~that~~ every application be subject to a period of 2
212 business days when any insurer participating in the program may
213 select the application for coverage. For commercial lines
214 residential and commercial lines nonresidential risks, the
215 corporation may require, before approving all new applications
216 for commercial lines coverage by the corporation, that every
217 application be subject to a period of 5 business days when any
218 insurer participating in the program may select the application
219 for coverage. The insurer may issue a binder on any policy
220 selected for coverage for a period of at least 30 days but not
221 more than 60 days.

222 (h) Shall, in creating the commercial lines clearinghouse,
223 establish criteria to determine the capabilities necessary for
224 the commercial lines clearinghouse administrator. For
225 facilitating offers of surplus lines coverage, such criteria
226 must include confirmed expertise in the surplus lines market, at
227 least 5 years of publicly available audited financial
228 statements, the ability to facilitate all approved surplus lines
229 clearinghouse insurers to participate in the commercial lines
230 clearinghouse on terms established by the corporation, and other
231 criteria that the corporation determines necessary to
232 effectively establish, administer, and manage offers of surplus

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233 lines coverage through the commercial lines clearinghouse.
234 (i) Shall select a commercial lines clearinghouse
235 administrator within 90 days after the effective date of this
236 act.

237 (j) May allow the commercial lines clearinghouse
238 administrator to establish procedures and account clearance
239 requirements the commercial lines clearinghouse administrator
240 deems necessary to ensure an orderly process for offers of
241 coverage to be provided by approved surplus lines clearinghouse
242 insurers participating in the commercial lines clearinghouse and
243 to avoid multiple offers of coverage from the same insurer for
244 the same risk.

245 (k) Must submit to the commercial lines clearinghouse
246 administrator its coverage terms and conditions, deductible
247 structures, and its unalterable indicated total cost of
248 insurance coverage, which must include, but is not limited to,
249 the premium, fees, surcharges, and applicable taxes for the
250 subject risk before any approved surplus lines clearinghouse
251 insurer is provided a submission for coverage pursuant to the
252 program by any applicant for new coverage from the corporation
253 or any policyholder of the corporation. The commercial lines
254 clearinghouse administrator shall provide the corporation's
255 unalterable indicated coverage terms and conditions and
256 deductible structures, but may not provide the indicated total
257 cost of corporation insurance coverage, to the approved surplus
258 lines clearinghouse insurers participating in the program. The
259 commercial lines clearinghouse administrator shall then use the
260 corporation's unalterable indication to determine whether any
261 offers of coverage from approved surplus lines clearinghouse

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262 insurers satisfy the requirements set forth in s. 627.351(6)(oo)
263 and subparagraph (5)(c)2. The corporation may not bind or
264 otherwise communicate, indicate, or make an offer of coverage to
265 an applicant or policyholder, or its agent, or otherwise accept
266 coverage until 5 business days have elapsed from the date that
267 it provided its unalterable indication to the commercial lines
268 clearinghouse administrator unless the time limit is waived in
269 writing. Any change to the corporation's coverage terms and
270 conditions, deductible structures, or indicated total cost of
271 insurance coverage constitutes a new submission by the
272 corporation under this paragraph. The validation period
273 described in this paragraph applies regardless of any proposed
274 effective date, renewal date, or expiration date of the policy
275 and may not be shortened or bypassed based on timing
276 considerations relating to binding or renewal.

277 (4) Any authorized insurer may participate in the program;
278 however, participation is not mandatory for any insurer.
279 Approved surplus lines clearinghouse insurers may participate in
280 the commercial lines clearinghouse but may not participate in
281 the personal lines clearinghouse; however, participation in the
282 program is not mandatory for any surplus lines insurer. Insurers
283 making offers of coverage to new applicants or renewal
284 policyholders through the program:

285 (a) May not be required to individually appoint any agent
286 whose customer is underwritten and bound through the program.
287 Notwithstanding s. 626.112, insurers are not required to appoint
288 any agent on a policy underwritten through the program for as
289 long as that policy remains with the insurer. Insurers may, at
290 their election, appoint any agent or surplus lines agent whose

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291 direct or indirect customer is initially underwritten and bound
292 through the program. In the event an insurer accepts a policy
293 from an agent who is not appointed pursuant to this paragraph,
294 and thereafter elects to accept a policy from such agent, the
295 provisions of s. 626.112 requiring appointment apply to the
296 agent.

297 (b) Must enter into a limited agency agreement with each
298 agent or surplus lines agent that is not appointed in accordance
299 with paragraph (a) and whose direct or indirect customer is
300 underwritten and bound through the program. In addition, a
301 surplus lines agent that enters into a limited agency or broker
302 agreement with an approved surplus lines clearinghouse insurer
303 making an offer of coverage through the program must also enter
304 into a limited agency or broker agreement with each producing
305 agent whose customer is underwritten and bound through the
306 program.

307 (c) Must enter into its standard agency agreement with each
308 agent or surplus lines agent whose direct or indirect customer
309 is underwritten and bound through the program when that agent or
310 surplus lines agent has been appointed by the insurer pursuant
311 to s. 626.112. In addition, a surplus lines agent that enters
312 into a limited agency or broker agreement with an approved
313 surplus lines clearinghouse insurer making an offer of coverage
314 through the program must also enter into a limited agency or
315 broker agreement with each producing agent whose customer is
316 underwritten and bound through the program.

317 (d) Must comply with s. 627.4133(2) or, if the insurer is
318 an approved surplus lines clearinghouse insurer, s. 626.9201.

319 (e) May participate through their single-designated

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320 managing general agent or broker or surplus lines agent;
321 however, the provisions of paragraph (6)(a) regarding ownership,
322 control, and use of the expirations continue to apply.

323 (f) For authorized insurers, must pay to the producing
324 agent a commission equal to that paid by the corporation or the
325 usual and customary commission paid by the insurer for that line
326 of business, whichever is greater.

327 (g) For approved surplus lines clearinghouse insurers, when
328 coverage is placed through the clearinghouse with an approved
329 surplus lines clearinghouse insurer, must pay a total commission
330 or equivalent compensation on gross written premium, exclusive
331 of fees, surcharges, and taxes, to the surplus lines agent,
332 managing general agent, or managing general underwriter placing
333 the risk. The surplus lines agent, managing general agent, or
334 managing general underwriter must pay the producing agent a
335 commission that results in an effective commission percentage at
336 least equal to the commission percentage published by the
337 corporation and in effect on January 1, 2026, calculated in the
338 same manner and on the same basis used by the corporation, and
339 shall retain the remainder of the total commission or equivalent
340 compensation. This paragraph does not prohibit an agent from
341 voluntarily accepting a lower commission at the agent's sole
342 discretion. As used in this paragraph, the term "effective
343 commission percentage" means the commission expressed as a
344 percentage of premium, exclusive of all fees, assessments,
345 surcharges, and taxes.

346 (5)(a) Notwithstanding s. 627.3517, any applicant for new
347 personal lines coverage from the corporation is not eligible for
348 coverage from the corporation if provided an offer of comparable

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349 coverage from an authorized insurer through the program at a
350 premium that is at or below the eligibility threshold for
351 applicants for new coverage of a primary residence established
352 in s. 627.351(6)(c)5.a., or for applicants for new coverage of a
353 risk that is not a primary residence established in s.
354 627.351(6)(c)5.b. Whenever an offer of comparable coverage for a
355 personal lines risk is received for a policyholder of the
356 corporation at renewal from an authorized insurer through the
357 program which is at or below the eligibility threshold for
358 primary residences of policyholders of the corporation
359 established in s. 627.351(6)(c)5.a., or the eligibility
360 threshold for risks that are not primary residences of
361 policyholders of the corporation established in s.
362 627.351(6)(c)5.b., the risk is not eligible for coverage with
363 the corporation. In the event an offer of coverage for a new
364 applicant is received from an authorized insurer through the
365 program, and the premium offered exceeds the eligibility
366 threshold for applicants for new coverage of a primary residence
367 established in s. 627.351(6)(c)5.a., or the eligibility
368 threshold for applicants for new coverage on a risk that is not
369 a primary residence established in s. 627.351(6)(c)5.b., the
370 applicant or insured may elect to accept such coverage, or may
371 elect to accept or continue coverage with the corporation. In
372 the event an offer of coverage for a personal lines risk is
373 received from an authorized insurer at renewal through the
374 program, and the premium offered exceeds the eligibility
375 threshold for primary residences of policyholders of the
376 corporation established in s. 627.351(6)(c)5.a., or exceeds the
377 eligibility threshold for risks that are not primary residences

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378 of policyholders of the corporation established in s.
379 627.351(6)(c)5.b., the insured may elect to accept such
380 coverage, or may elect to accept or continue coverage with the
381 corporation. Section 627.351(6)(c)5.a.(I) and b.(I) does not
382 apply to an offer of coverage from an authorized insurer
383 obtained through the program. ~~As used in this subsection, the~~
384 ~~term "primary residence" has the same meaning as in s.~~
385 ~~627.351(6)(c)2.a.~~

386 (b) Any applicant for new commercial lines residential
387 coverage from the corporation is not eligible for coverage from
388 the corporation if provided an offer of comparable coverage from
389 an authorized insurer through the program at a premium that is
390 at or below the eligibility threshold for applicants for new
391 coverage established in s. 627.351(6)(c)5.c. Whenever an offer
392 of comparable coverage for a commercial lines residential risk
393 is received for a policyholder of the corporation at renewal
394 from an authorized insurer through the program which is at or
395 below the eligibility threshold in s. 627.351(6)(c)5.c., the
396 risk is not eligible for coverage from the corporation. In the
397 event that an offer of coverage for a new applicant is received
398 from an authorized insurer through the program, and the premium
399 offered exceeds the eligibility threshold established in s.
400 627.351(6)(c)5.c., the applicant or insured may elect to accept
401 such coverage or may elect to accept or continue coverage with
402 the corporation. In the event that an offer of coverage for a
403 commercial lines residential risk is received from an authorized
404 insurer at renewal through the program, and the premium offered
405 exceeds the eligibility threshold for policyholders of the
406 corporation established in s. 627.351(6)(c)5.c., the insured may

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407 elect to accept such coverage or may elect to accept or continue
408 coverage with the corporation. Section 627.351(6)(c)5.c.(I) does
409 not apply to an offer of coverage from an authorized insurer
410 obtained through the program.

411 (c)1. Except as provided in subparagraph 2., any applicant
412 for new commercial lines residential coverage or commercial
413 lines nonresidential coverage from the corporation and any
414 policyholder of the corporation, when such applicant or
415 corporation policyholder is offered commercial lines residential
416 or commercial lines nonresidential coverage pursuant to the
417 program by an approved surplus lines clearinghouse insurer,
418 remains eligible for coverage from the corporation. The
419 applicant or policyholder receiving an offer from an approved
420 surplus lines clearinghouse insurer may elect to accept such
421 coverage or may elect to accept or continue coverage with the
422 corporation.

423 2. Any applicant for new commercial lines residential
424 coverage or commercial lines nonresidential coverage from the
425 corporation and any policyholder of the corporation, when such
426 applicant or corporation policyholder is offered commercial
427 lines residential or commercial lines nonresidential coverage by
428 an approved surplus lines insurer pursuant to the program and
429 such offered coverage has material terms and conditions that are
430 substantially equivalent to or better than coverage from the
431 corporation as to all aspects of such coverage, as determined by
432 the corporation through the clearinghouse process and applicable
433 program standards, and the total cost of such insurance coverage
434 is not more than 20 percent greater than the total cost of
435 insurance coverage from the corporation, may elect to accept

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436 such coverage from the approved surplus lines clearinghouse
437 insurer or may elect to accept or continue coverage with the
438 corporation, but, if electing corporation coverage, such
439 applicant or policyholder must pay a premium for corporation
440 coverage that is subject to s. 627.351(6)(oo).

441 3. Section 627.351(6)(c)5.c.(I) does not apply to an offer
442 of coverage from an approved surplus lines clearinghouse insurer
443 obtained through the program.

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

447 (a) Are granted and must maintain ownership and the
448 exclusive use of expirations, records, or other written or
449 electronic information directly related to such applications or
450 renewals written through the corporation or through an insurer
451 participating in the program, notwithstanding s. 627.351(5)(a),
452 s. 627.351(6)(c)5.a.(I)(B) and (II)(B), or s.
453 627.351(6)(c)5.b.(I)(B) and (II)(B). Such ownership is granted
454 for as long as the insured remains with the agency or until sold
455 or surrendered in writing by the agent. Contracts with the
456 corporation or required by the corporation or with any insurer
457 or surplus lines agent may ~~must~~ not amend, modify, interfere
458 with, or limit such rights of ownership. Such expirations,
459 records, or other written or electronic information may be used
460 to review an application, issue a policy, or for any other
461 purpose necessary for placing such business through the program.

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

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465 (c) May accept an appointment from any insurer
466 participating in the program.

467 (d) May enter into either a standard or limited agency
468 agreement with the insurer, at the insurer's option, and may
469 enter into agreements with a surplus lines agent.

470
471 Applicants ineligible for coverage in accordance with subsection
472 (5) remain ineligible if their independent agent is unwilling or
473 unable to enter into a standard or limited agency agreement with
474 an insurer participating in the program.

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

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

493 (c) Must only facilitate the placement of an offer of

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494 coverage from an insurer whose limited servicing agreement is
495 approved by that exclusive agent's exclusive insurer.

496 (d) May enter into a limited servicing agreement with the
497 insurer making an offer of coverage, and only after the
498 exclusive agent's insurer has approved the limited servicing
499 agreement terms. The exclusive agent's insurer must approve a
500 limited service agreement for the program for any insurer for
501 which it has approved a service agreement for other purposes.

502
503 Applicants ineligible for coverage in accordance with subsection
504 (5) remain ineligible if their exclusive agent is unwilling or
505 unable to enter into a standard or limited agency agreement with
506 an insurer making an offer of coverage to that applicant.

507 (8) Submission of an application for coverage by the
508 corporation to the program does not constitute the binding of
509 coverage by the corporation, and failure of the program to
510 obtain an offer of coverage by an insurer may not be considered
511 acceptance of coverage of the risk by the corporation.

512 (9) The 45-day notice of nonrenewal requirement set forth
513 in s. 627.4133(2)(b)5. applies when a policy is nonrenewed by
514 the corporation because the risk has received an offer of
515 coverage pursuant to this section which renders the risk
516 ineligible for coverage by the corporation.

517 (10) ~~The program may not include commercial nonresidential~~
518 ~~policies.~~

519 (11) Proprietary business information provided to the
520 corporation's clearinghouse by insurers with respect to
521 identifying and selecting risks for an offer of coverage is
522 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I

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523 of the State Constitution.

524 (a) As used in this subsection, the term "proprietary
525 business information" means information, regardless of form or
526 characteristics, which is owned or controlled by an insurer and:527 1. Is identified by the insurer as proprietary business
528 information and is intended to be and is treated by the insurer
529 as private in that the disclosure of the information would cause
530 harm to the insurer, an individual, or the company's business
531 operations and has not been disclosed unless disclosed pursuant
532 to a statutory requirement, an order of a court or
533 administrative body, or a private agreement that provides that
534 the information will not be released to the public;535 2. Is not otherwise readily ascertainable or publicly
536 available by proper means by other persons from another source
537 in the same configuration as provided to the clearinghouse; and

538 3. Includes:

539 a. Trade secrets, as defined in s. 688.002.

540 b. Information relating to competitive interests, the
541 disclosure of which would impair the competitive business of the
542 provider of the information.543
544 Proprietary business information may be found in underwriting
545 criteria or instructions which are used to identify and select
546 risks through the program for an offer of coverage and are
547 shared with the clearinghouse to facilitate the shopping of
548 risks with the insurer.549 (b) The clearinghouse may disclose confidential and exempt
550 proprietary business information:

551 1. If the insurer to which it pertains gives prior written

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552 consent;

553 2. Pursuant to a court order; or

554 3. To another state agency in this or another state or to a
555 federal agency if the recipient agrees in writing to maintain
556 the confidential and exempt status of the document, material, or
557 other information and has verified in writing its legal
558 authority to maintain such confidentiality.

559 Section 3. This act shall take effect upon becoming a law.