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1 A bill to be entitled
2 An act relating to the Citizens Property Insurance
3 Corporation; amending s. 627.351, F.S.; prohibiting
4 the corporation from issuing new coverage for
5 commercial residential and commercial nonresidential
6 risks under certain circumstances; providing an
7 exception; defining the term "total cost of insurance
8 coverage for the specific risk"; amending s. 627.3518,
9 F.S.; deleting an obsolete provision; defining terms;
10 revising the definition of the term "program";
11 requiring the corporation to establish a personal
12 lines clearinghouse for specified purposes; requiring,
13 on or before a specified date, the corporation to
14 amend its plan of operation and implement a separate
15 commercial lines clearinghouse for a specified
16 purpose; requiring, on or before a specified date, the
17 corporation to implement a separate commercial lines
18 clearinghouse for specified purposes; requiring
19 certain risks to be eligible for submission to the
20 commercial lines clearinghouse for surplus lines
21 insurance under certain circumstances; deleting
22 obsolete provisions; revising the program's rights and
23 responsibilities; revising the rights and
24 responsibilities the corporation has in establishing
25 the program; providing construction; requiring the
26 corporation to share risk exposure and policy
27 information with the commercial lines clearinghouse
28 administrator for the commercial lines clearinghouse
29 for surplus lines insurance; authorizing such

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30 administrator to use such information for a specified
31 purpose; providing construction; requiring that
32 certain risk information be aggregated and
33 deidentified; authorizing authorized insurers to
34 participate in the personal lines clearinghouse or the
35 commercial lines clearinghouse for authorized
36 insurers; authorizing surplus lines clearinghouse
37 insurers to participate in the commercial lines
38 clearinghouse for surplus lines insurance; prohibiting
39 such insurers from participating in the personal lines
40 clearinghouse or the commercial lines clearinghouse
41 for authorized insurance; specifying that
42 participation in the program is not mandatory for such
43 insurers; revising prohibitions and requirements for
44 insurers making offers of coverage to new applicants
45 or renewal policyholders through the program;
46 providing construction; defining the term "effective
47 commission percentage"; specifying that applicants for
48 new or renewal commercial lines nonresidential
49 coverage from the corporation are not eligible for
50 coverage from the corporation under certain
51 circumstances; specifying that applicants for new
52 commercial lines residential coverage are not eligible
53 for coverage from the corporation under certain
54 circumstances; specifying the circumstances under
55 which policyholders of the corporation are not
56 eligible for new commercial lines residential coverage
57 from the corporation; requiring that the determination
58 of whether an offer of comparable coverage from an

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59 authorized insurer is at or below the eligibility
60 threshold be made at a specified time; authorizing
61 applicants or insureds to elect to accept coverage
62 with authorized insurers or elect to accept or
63 continue coverage with the corporation under certain
64 circumstances; authorizing insureds to elect to accept
65 coverage with specified insurers or elect to accept or
66 continue coverage with the corporation under certain
67 circumstances; providing applicability; specifying
68 that certain applicants and policyholders become
69 ineligible for coverage from the corporation under
70 certain circumstances; authorizing applicants or
71 policyholders to elect to accept certain coverage
72 under certain circumstances; providing applicability;
73 revising the rights and authorizations for certain
74 independent insurance agents; providing applicability;
75 requiring the commercial lines clearinghouse
76 administrator for the commercial lines clearinghouse
77 for surplus lines insurance to give the first-named
78 insured a specified notice within a specified
79 timeframe under certain circumstances; deleting a
80 prohibition relating to commercial nonresidential
81 policies; requiring the office to review and approve
82 the program through final order; requiring the office
83 to specifically approve certain items; prohibiting the
84 corporation from applying discretionary rate
85 adjustments to certain risks; providing construction;
86 requiring the corporation and each commercial lines
87 clearinghouse administrator to implement certain

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88 procedures; providing a directive to the Division of
89 Law Revision; providing an effective date.

90
91 Be It Enacted by the Legislature of the State of Florida:

92
93 Section 1. Paragraph (oo) is added to subsection (6) of
94 section 627.351, Florida Statutes, to read:

95 627.351 Insurance risk apportionment plans.—

96 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

97 (oo) For commercial residential and commercial
98 nonresidential risks submitted through the commercial lines
99 clearinghouse pursuant to s. 627.3518, if an approved surplus
100 lines clearinghouse insurer offers comparable coverage as
101 defined in s. 627.3518(1) and the total cost of insurance
102 coverage for the specific risk is not more than 15 percent
103 greater than the corporation's total cost of insurance coverage
104 for the specific risk, the corporation may not issue new
105 coverage unless otherwise provided in s. 627.3518(10). For
106 purposes of this paragraph, the term "total cost of insurance
107 coverage for the specific risk" means the aggregate annual
108 premium, plus all fees, taxes, assessments, surcharges, and any
109 other mandatory charges that a policyholder must pay to maintain
110 coverage for the entirety of the proposed policy period.

111 Section 2. Section 627.3518, Florida Statutes, is amended
112 to read:

113 627.3518 Citizens Property Insurance Corporation
114 policyholder eligibility clearinghouse program.—The purpose of
115 this section is to provide a framework for the corporation to
116 implement a clearinghouse program ~~by January 1, 2014.~~

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

118 (a) "Applicable program standards" means the insurer
119 participation eligibility criteria, contractual requirements,
120 and account clearance requirements the commercial lines
121 clearinghouse administrator and the corporation deem necessary
122 to ensure an orderly process for offers of comparable coverage
123 to be provided by approved surplus lines clearinghouse insurers.

124 (b) "Approved surplus lines clearinghouse insurer" means an
125 eligible surplus lines insurer pursuant to s. 626.918 which has
126 a financial strength rating of "A-" or higher and a financial
127 size category of A-VII or higher from A.M. Best Company which
128 the clearinghouse administrator recommends for participation in
129 the program and which the office verifies meets the applicable
130 program standards for participation in the program within 30
131 business days after the commercial lines clearinghouse
132 administrator's recommendation. If the office does not complete
133 such verification within the 30-business-day period, the insurer
134 is deemed verified for purposes of participation in the program.

135 (c) "Authorized insurer" means an insurer authorized to act
136 as an insurer by a subsisting certificate of authority issued to
137 the insurer by the office.

138 (d) "Commercial lines clearinghouse administrator" means an
139 individual or entity employed or otherwise contracted by the
140 corporation to provide administrative or professional services
141 to implement the commercial lines clearinghouse for authorized
142 insurance or the commercial lines clearinghouse for surplus
143 lines insurance within the corporation as set forth in paragraph

144 (3) (b) .

145 (e) "Commercial lines clearinghouse for authorized

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146 insurance” means the clearinghouse program established under
147 subparagraph (2) (b) 2.

148 (f) “Commercial lines clearinghouse for surplus lines
149 insurance” means the clearinghouse program established under
150 subparagraph (2) (b) 1.

151 (g) “Comparable coverage” means, for purposes of the
152 commercial lines clearinghouse for authorized insurance and the
153 commercial lines clearinghouse for surplus lines insurance,
154 coverage that is equivalent to or better than coverage from the
155 corporation as to all aspects of such coverage, as determined by
156 the corporation through the clearinghouse process and applicable
157 program standards. Administrative, procedural, and other such
158 terms and conditions may not be considered when assessing
159 comparable coverage.

160 (h) “Corporation” means the Citizens Property Insurance
161 Corporation.

162 (i) ~~(b)~~ “Exclusive agent” means any licensed insurance agent
163 that has, by contract, agreed to act exclusively for one company
164 or group of affiliated insurance companies and is disallowed by
165 the provisions of that contract to directly write for any other
166 unaffiliated insurer absent express consent from the company or
167 group of affiliated insurance companies.

168 (j) ~~(e)~~ “Independent agent” means any licensed insurance
169 agent not described in paragraph (i) ~~(b)~~.

170 (k) “Personal lines clearinghouse” means the clearinghouse
171 program established under paragraph (2) (a).

172 (l) “Primary residence” has the same meaning as in s.
173 627.351 (6) (c) 2.a.

174 (m) ~~(d)~~ “Program” means the clearinghouses ~~clearinghouse~~

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175 created under this section, consisting of the personal lines
176 clearinghouse, the commercial lines clearinghouse for authorized
177 insurance, and the commercial lines clearinghouse for surplus
178 lines insurance.

179 (n) "Surplus lines agent" means an insurance agent licensed
180 pursuant to s. 626.927 or s. 626.9272.

181 (o) "Total cost of the coverage for the specific risk"
182 means the aggregate annual premium, plus all fees, taxes,
183 assessments, surcharges, and any other mandatory charges that a
184 policyholder must pay to maintain coverage over the entirety of
185 the proposed policy period.

186 (2)(a) The corporation shall establish a personal lines
187 clearinghouse ~~in order~~ to confirm an applicant's eligibility
188 with the corporation, ~~and~~ to enhance access of new applicants
189 for personal lines coverage and existing personal lines
190 policyholders of the corporation to offers of coverage from
191 authorized insurers, ~~and the corporation shall establish a~~
192 ~~program for personal residential risks in order~~ to facilitate
193 the diversion of ineligible applicants and existing
194 policyholders from the corporation into the voluntary insurance
195 market.

196 (b)1. To facilitate the diversion of applicants and
197 existing policyholders from the corporation to approved surplus
198 lines clearinghouse insurers, the corporation shall amend its
199 plan of operation and implement on or before January 1, 2027, a
200 separate commercial lines clearinghouse pursuant to this
201 subparagraph in order to enhance access to offers of coverage
202 from approved surplus lines clearinghouse insurers for new
203 applicants for commercial residential coverage and commercial

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204 nonresidential coverage and existing commercial residential and
205 commercial nonresidential policyholders of the corporation.

206 2. To facilitate the diversion of ineligible applicants and
207 existing policyholders from the corporation to authorized
208 insurers, the corporation shall implement, on or before January
209 1, 2027, a separate commercial lines clearinghouse pursuant to
210 this subparagraph to confirm eligibility for coverage from the
211 corporation and to enhance access to offers of coverage from
212 authorized insurers for new applicants for commercial
213 residential and commercial nonresidential coverage and existing
214 commercial residential and commercial nonresidential
215 policyholders of the corporation. If no offer of comparable
216 coverage from an authorized insurer through the program at a
217 premium that is at or below the eligibility threshold is made
218 through the commercial lines clearinghouse for authorized
219 insurance pursuant to this subparagraph within 5 days after
220 receipt of a submission, the risk shall be eligible for
221 submission to the commercial lines clearinghouse for surplus
222 lines insurance ~~The corporation shall also develop appropriate~~
223 ~~procedures for facilitating the diversion of ineligible~~
224 ~~applicants and existing policyholders for commercial residential~~
225 ~~coverage into the private insurance market and shall report such~~
226 ~~procedures to the President of the Senate and the Speaker of the~~
227 ~~House of Representatives by January 1, 2014.~~

228 (3) The corporation board shall establish the clearinghouse
229 program as an organizational unit within the corporation. The
230 program shall have all the rights and responsibilities in
231 carrying out its duties as a licensed general lines agent and a
232 surplus lines agent and may, but is not ~~may not be~~ required to,

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233 employ or engage a licensed general lines agent or a surplus
234 lines agent, or to maintain an insurance agency license to carry
235 out its activities in the solicitation and placement of
236 insurance coverage. In establishing the program, the corporation
237 has all of the following rights and responsibilities ~~may~~:

238 (a) Before binding or renewing coverage by the corporation,
239 the corporation:

240 1. Shall require all new applications for personal lines
241 coverage, and all personal lines policies due for renewal, to be
242 submitted for coverage to the program in order to facilitate
243 obtaining an offer of coverage from an authorized insurer.

244 2. Must, when the corporation establishes a commercial
245 lines clearinghouse for authorized insurance, require all new
246 applications for commercial lines coverage, and all commercial
247 lines policies due for renewal, to be initially submitted for
248 coverage to the commercial lines clearinghouse for authorized
249 insurance in order to facilitate obtaining an offer of coverage
250 from an authorized insurer. The commercial lines clearinghouse
251 for authorized insurance shall serve as the single initial point
252 of intake in order to facilitate obtaining an offer of coverage
253 from an authorized insurer.

254 3. Must, when the corporation establishes a commercial
255 lines clearinghouse for surplus lines insurance, require all new
256 applications for commercial lines coverage, and all commercial
257 lines policies due for renewal, following the completion of the
258 process described in subparagraph 2., to be submitted for
259 coverage to the commercial lines clearinghouse for surplus lines
260 insurance in order to facilitate obtaining an offer of coverage
261 from an approved surplus lines clearinghouse insurer. The

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262 commercial lines clearinghouse for surplus lines insurance shall
263 serve as the single point of intake for the commercial lines
264 clearinghouse in order to facilitate obtaining an offer of
265 coverage from an approved surplus lines clearinghouse insurer
266 before the corporation may quote, bind, or otherwise indicate or
267 offer coverage. This paragraph may not prevent an insured from
268 submitting at any time an application to the commercial lines
269 clearinghouse for surplus lines insurance seeking noncomparable
270 coverage from approved surplus lines clearinghouse insurers as
271 authorized by paragraph (5) (f) before binding or renewing
272 coverage by the corporation.

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

275 (c) Shall employ or otherwise contract with individuals or
276 other entities for appropriate administrative or professional
277 services to effectuate the plan within the corporation in
278 accordance with the applicable purchasing requirements under s.
279 627.351 and, for purposes of implementing the commercial lines
280 clearinghouse for surplus lines insurance for providing offers
281 of coverage from approved surplus lines clearinghouse insurers
282 on or before January 1, 2027, may contract with such individuals
283 or entities in accordance with s. 287.057.

284 (d) ~~(e)~~ May enter into contracts with any authorized insurer
285 and any approved surplus lines clearinghouse insurer to
286 participate in the program and accept an appointment by such
287 insurer.

288 (e) ~~(d)~~ May provide funds to operate the personal lines
289 clearinghouse and the commercial lines clearinghouse for
290 authorized insurance program. Insurers and agents participating

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291 in the personal lines clearinghouse or the commercial lines
292 clearinghouse for authorized insurance ~~program~~ are not required
293 to pay a fee to offset or partially offset the cost of the
294 program or use the program for renewal of policies initially
295 written through the clearinghouse.

296 (f) Shall separately operate and fund pursuant to paragraph
297 (h) the commercial lines clearinghouse for surplus lines
298 insurance and shall separately operate and fund pursuant to
299 paragraph (e) the commercial lines clearinghouse for authorized
300 insurance.

301 (g) Must, if there is insufficient commercial support for
302 any commercial lines clearinghouse, be relieved of its
303 obligations with respect to that commercial lines clearinghouse
304 until such time there is sufficient commercial support.

305 (h) Shall provide or permit access to shared or hosted
306 technology, systems, interfaces, or applications programming
307 interfaces to the commercial lines clearinghouse administrator,
308 provided that each retains operational control over and
309 responsibility for its own technology, systems, interfaces, or
310 applications. Notwithstanding paragraph (e), the corporation may
311 not provide funds to support or offset the infrastructure or
312 operations of the commercial lines clearinghouse for surplus
313 lines insurance or any component thereof, but shall fund and
314 operate its own technology, systems, interfaces, or applications
315 as necessary for the corporation to access and interface with
316 the commercial lines clearinghouse for surplus lines insurance.

317 (i)-(e) May develop an enhanced application that includes
318 information to assist private insurers in determining whether to
319 make an offer of coverage through the program.

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320 (j)~~(f)~~ For personal lines residential risks, may require
321 that, before approving all new applications for coverage by the
322 corporation, ~~that~~ every application be subject to a period of 2
323 business days when any insurer participating in the personal
324 lines clearinghouse program may select the application for
325 coverage. For commercial lines residential and commercial lines
326 nonresidential risks, the corporation must require, before
327 approving all new applications for commercial lines coverage by
328 the corporation, that every application be subject to an initial
329 period of 5 business days when any authorized insurer
330 participating in the commercial lines clearinghouse for
331 authorized insurance may select the application for coverage.
332 The authorized insurer may issue a binder on any policy selected
333 for coverage for a period of at least 30 days but not more than
334 60 days.

335 (k) Shall, in creating the commercial lines clearinghouse
336 for authorized insurance and the commercial lines clearinghouse
337 for surplus lines insurance, establish criteria to determine the
338 capabilities necessary for the commercial lines clearinghouse
339 administrators. For facilitating offers of surplus lines
340 coverage, such criteria must include confirmed expertise in the
341 surplus lines market, at least 5 years of publicly available
342 audited financial statements, the ability to facilitate all
343 approved surplus lines clearinghouse insurers to participate in
344 the commercial lines clearinghouse for surplus lines insurance,
345 and other criteria that the corporation determines necessary to
346 effectively and timely establish and administer the commercial
347 lines clearinghouse for surplus lines insurance, manage offers
348 of surplus lines coverage through the commercial lines

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349 clearinghouse for surplus lines insurance, and the ability to
350 collect and remit, either directly or through a surplus lines
351 agent, all taxes pursuant to s. 626.932 and service fees
352 pursuant to s. 626.9325.

353 (l) Shall select a commercial lines clearinghouse
354 administrator for the commercial lines clearinghouse for
355 authorized insurance and a separate commercial lines
356 clearinghouse administrator for the commercial lines
357 clearinghouse for surplus lines insurance within 90 days after
358 the effective date of this act.

359 (m) Shall allow the commercial lines clearinghouse
360 administrators to establish applicable program standards and
361 procedures to ensure an orderly process for offers of coverage
362 to be provided by authorized insurers or approved surplus lines
363 clearinghouse insurers, including engagement of or with surplus
364 lines agents or managing general agents or managing general
365 underwriters pursuant to paragraph (5) (h), participating in the
366 commercial lines clearinghouse for surplus lines insurance.

367 (n) Shall submit to the commercial lines clearinghouse
368 administrator for the commercial lines clearinghouse for surplus
369 lines insurance its coverage terms and conditions, deductible
370 structures, total cost of insurance coverage for the specific
371 risk, the currently approved rate applicable to the risk, and
372 the premium that would be charged after application of s.
373 627.351(6)(n)5. The commercial lines clearinghouse administrator
374 shall disclose the total cost of insurance coverage to
375 participating approved surplus lines clearinghouse insurers
376 following the commercial lines clearinghouse administrator's
377 receipt of a comparable coverage offer from such participating

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378 approved surplus lines clearinghouse insurer. Any change to the
379 corporation's coverage terms and conditions, deductible
380 structures, rating classification, total cost of insurance
381 coverage for the specific risk, or rating factor constitutes a
382 new submission and restarts the validation period. The
383 commercial lines clearinghouse administrator for the commercial
384 lines clearinghouse for surplus lines insurance shall enter into
385 agreements with approved surplus lines clearinghouse insurers
386 participating in the commercial lines clearinghouse for surplus
387 lines insurance.

388 (4) The corporation shall share risk exposure and policy
389 information with the commercial lines clearinghouse
390 administrator for the commercial lines clearinghouse for surplus
391 lines insurance and, through the commercial lines clearinghouse
392 for surplus lines insurance, the commercial lines clearinghouse
393 administrator for the commercial lines clearinghouse for surplus
394 lines insurance may use such information as necessary to operate
395 and administer the commercial lines clearinghouse for surplus
396 lines insurance and ensure the orderly, timely, and transparent
397 assessment of risks by approved surplus lines clearinghouse
398 insurers participating in the commercial lines clearinghouse for
399 surplus lines insurance. This subsection does not prohibit a
400 commercial lines clearinghouse administrator from sharing risk
401 information with approved surplus lines clearinghouse insurers
402 for underwriting evaluation. Any risk information shared for
403 purposes of this subsection, other than a submission of coverage
404 for a specific risk, must be aggregated and deidentified.

405 (5) Any authorized insurer may participate in the personal
406 lines clearinghouse or the commercial lines clearinghouse for

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407 authorized insurance program; however, participation is not
408 mandatory for any insurer. Approved surplus lines clearinghouse
409 insurers may participate in the commercial lines clearinghouse
410 for surplus lines insurance but may not participate in the
411 personal lines clearinghouse or the commercial lines
412 clearinghouse for authorized insurance; however, participation
413 is not mandatory for any surplus lines insurer. Insurers making
414 offers of coverage to new applicants or renewal policyholders
415 through the program:

416 (a) May not be required to individually appoint any agent
417 whose customer is underwritten and bound through the program.
418 Notwithstanding s. 626.112, insurers are not required to appoint
419 any agent on a policy underwritten through the program for as
420 long as that policy remains with the insurer. Insurers may, at
421 their election, appoint any agent or surplus lines agent whose
422 direct or indirect customer is initially underwritten and bound
423 through the program. In the event an insurer accepts a policy
424 from an agent who is not appointed pursuant to this paragraph,
425 and thereafter elects to accept a policy from such agent, the
426 provisions of s. 626.112 requiring appointment apply to the
427 agent.

428 (b) Must enter into a limited agency agreement with each
429 agent or surplus lines agent that is not appointed in accordance
430 with paragraph (a) and whose direct or indirect customer is
431 underwritten and bound through the program. In addition, a
432 surplus lines agent that enters into a limited agency or broker
433 agreement with an approved surplus lines clearinghouse insurer
434 making an offer of coverage through the program must also enter
435 into a limited agency or broker agreement with each producing

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436 agent whose customer is underwritten and bound through the
437 program.

438 (c) Must enter into its standard agency agreement with each
439 agent or surplus lines agent whose direct or indirect customer
440 is underwritten and bound through the program when that agent or
441 surplus lines agent has been appointed by the insurer pursuant
442 to s. 626.112. In addition, a surplus lines agent that enters
443 into a standard agency or broker agreement with an approved
444 surplus lines clearinghouse insurer making an offer of coverage
445 through the program must also enter into a limited agency or
446 broker agreement with each producing agent whose customer is
447 underwritten and bound through the program.

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

449 (e) May participate through their designated ~~single-~~
450 ~~designated~~ managing general agent, managing general underwriter,
451 ~~or~~ broker, or surplus lines agent; however, the provisions of
452 paragraph (7) (a) ~~(6) (a)~~ regarding ownership, control, and use of
453 the expirations continue to apply.

454 (f) May make offers of coverage through the commercial
455 lines clearinghouse for surplus lines insurance other than
456 comparable coverage, as long as such noncomparable offers of
457 coverage are clearly designated as noncomparable. Such
458 noncomparable offers of coverage are outside of the program and
459 not subject to s. 627.351(6) (oo).

460 (g) ~~(f)~~ For authorized insurers, must pay to the producing
461 agent a commission equal to that paid by the corporation or the
462 usual and customary commission paid by the insurer for that line
463 of business, whichever is greater.

464 (h) For approved surplus lines clearinghouse insurers, when

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465 coverage is placed through the commercial lines clearinghouse
466 for surplus lines insurance, directly or through a managing
467 general agent or managing general underwriter, must pay a total
468 commission or equivalent compensation on gross written premium,
469 exclusive of fees, surcharges, and taxes, to the surplus lines
470 agent placing the risk. The surplus lines agent must pay the
471 producing agent a commission that results in an effective
472 commission percentage at least equal to the commission
473 percentage published by the corporation and in effect on January
474 1, 2026, calculated in the same manner and on the same basis
475 used by the corporation, and shall retain the remainder of the
476 total commission or equivalent compensation. This paragraph does
477 not prohibit an agent from voluntarily accepting a lower
478 commission at the agent's sole discretion. As used in this
479 paragraph, the term "effective commission percentage" means the
480 commission expressed as a percentage of premium, exclusive of
481 all fees, assessments, surcharges, and taxes.

482 (6) (a) ~~(5)~~ Notwithstanding s. 627.3517, any applicant for
483 new personal lines coverage from the corporation is not eligible
484 for coverage from the corporation if provided an offer of
485 coverage from an authorized insurer through the program at a
486 premium that is at or below the eligibility threshold for
487 applicants for new coverage of a primary residence established
488 in s. 627.351(6)(c)5.a., or for applicants for new coverage of a
489 risk that is not a primary residence established in s.
490 627.351(6)(c)5.b. Whenever an offer of coverage for a personal
491 lines risk is received for a policyholder of the corporation at
492 renewal from an authorized insurer through the program which is
493 at or below the eligibility threshold for primary residences of

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494 policyholders of the corporation established in s.
495 627.351(6)(c)5.a., or the eligibility threshold for risks that
496 are not primary residences of policyholders of the corporation
497 established in s. 627.351(6)(c)5.b., the risk is not eligible
498 for coverage with the corporation. In the event an offer of
499 coverage for a new applicant is received from an authorized
500 insurer through the program, and the premium offered exceeds the
501 eligibility threshold for applicants for new coverage of a
502 primary residence established in s. 627.351(6)(c)5.a., or the
503 eligibility threshold for applicants for new coverage on a risk
504 that is not a primary residence established in s.
505 627.351(6)(c)5.b., the applicant or insured may elect to accept
506 such coverage, or may elect to accept or continue coverage with
507 the corporation. In the event an offer of coverage for a
508 personal lines risk is received from an authorized insurer at
509 renewal through the program, and the premium offered exceeds the
510 eligibility threshold for primary residences of policyholders of
511 the corporation established in s. 627.351(6)(c)5.a., or exceeds
512 the eligibility threshold for risks that are not primary
513 residences of policyholders of the corporation established in s.
514 627.351(6)(c)5.b., the insured may elect to accept such
515 coverage, or may elect to accept or continue coverage with the
516 corporation. Section 627.351(6)(c)5.a.(I) and b.(I) does not
517 apply to an offer of coverage from an authorized insurer
518 obtained through the program. ~~As used in this subsection, the~~
519 ~~term "primary residence" has the same meaning as in s.~~
520 ~~627.351(6)(c)2.a.~~

521 (b) Any applicant for new or renewal commercial lines
522 nonresidential coverage from the corporation is not eligible for

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523 coverage from the corporation if provided an offer of comparable
524 coverage from an authorized insurer through the program. Any
525 applicant for new commercial lines residential coverage from the
526 corporation is not eligible for coverage from the corporation if
527 provided an offer of comparable coverage from an authorized
528 insurer through the program at a premium that is at or below the
529 eligibility threshold for applicants for new coverage
530 established in s. 627.351(6)(c)5.c. The determination of whether
531 an offer of comparable coverage from an authorized insurer
532 through the program is at or below the eligibility threshold
533 must be made before the submission of the corporation's coverage
534 terms and conditions, deductible structures, and unalterable
535 indicated total cost of insurance for the specific risk is
536 provided to the commercial lines clearinghouse administrator.
537 Whenever an offer of comparable coverage for a commercial lines
538 residential risk is received for a policyholder of the
539 corporation at renewal from an authorized insurer through the
540 program which is at or below the eligibility threshold in s.
541 627.351(6)(c)5.c., the risk is not eligible for coverage from
542 the corporation. In the event that an offer of coverage for a
543 new applicant is received from an authorized insurer through the
544 program, and the premium offered exceeds the eligibility
545 threshold established in s. 627.351(6)(c)5.c., the applicant or
546 insured may elect to accept such coverage or may elect to accept
547 or continue coverage with the corporation. In the event that an
548 offer of coverage for a commercial lines residential risk is
549 received from an authorized insurer at renewal through the
550 program, and the premium offered exceeds the eligibility
551 threshold for policyholders of the corporation established in s.

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552 627.351(6)(c)5.c., the insured may elect to accept such coverage
553 or may elect to accept or continue coverage with the
554 corporation. Section 627.351(6)(c)5.c.(I) does not apply to an
555 offer of coverage from an authorized insurer obtained through
556 the program.

557 (c) Any applicant for new commercial lines residential
558 coverage or commercial lines nonresidential coverage from the
559 corporation and any policyholder of the corporation, when such
560 applicant or corporation policyholder is offered commercial
561 lines residential or commercial lines nonresidential coverage
562 pursuant to the program by an approved surplus lines
563 clearinghouse insurer, becomes ineligible for coverage from the
564 corporation if an approved surplus lines clearinghouse insurer
565 offers comparable coverage and the total cost of insurance
566 coverage for the specific risk is not more than 15 percent
567 greater than the total cost of insurance coverage for the
568 specific risk from the corporation. In the event that an offer
569 of coverage for a new applicant or policyholder of the
570 corporation is received from an approved surplus lines
571 clearinghouse insurer through the program, and the total cost of
572 insurance coverage is more than 15 percent greater than the
573 total cost of insurance coverage for the specific risk from the
574 corporation, the applicant or policyholder of the corporation
575 may elect to accept such coverage or may elect to accept or
576 continue coverage with the corporation. Section
577 627.351(6)(c)5.c.(I) does not apply to an offer of coverage from
578 an approved surplus lines clearinghouse insurer obtained through
579 the program.

580 (7)-(6) Independent insurance agents submitting new

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581 applications for coverage or that are the agent of record on a
582 renewal policy submitted to the program:

583 (a) Are granted and must maintain ownership and the
584 exclusive use of expirations, records, or other written or
585 electronic information directly related to such applications or
586 renewals written through the corporation or through an insurer
587 participating in the program, notwithstanding s. 627.351(5)(a),
588 s. 627.351(6)(c)5.a.(I)(B) and (II)(B), or s.
589 627.351(6)(c)5.b.(I)(B) and (II)(B). Such ownership is granted
590 for as long as the insured remains with the agency or until sold
591 or surrendered in writing by the agent. Contracts with the
592 corporation or required by the corporation or with any insurer
593 or surplus lines agent may ~~must~~ not amend, modify, interfere
594 with, or limit such rights of ownership. Such expirations,
595 records, or other written or electronic information may be used
596 to review an application, issue a policy, or for any other
597 purpose necessary for placing such business through the program.

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

601 (c) May accept an appointment from any insurer
602 participating in the program.

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

606
607 Applicants ineligible for coverage in accordance with subsection
608 (6) ~~(5)~~ remain ineligible if their independent agent is
609 unwilling or unable to enter into a standard or limited agency

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610 agreement with an insurer participating in the program.

611 (8)~~(7)~~ Exclusive agents submitting new applications for
612 coverage or that are the agent of record on a renewal policy
613 submitted to the program:

614 (a) Must maintain ownership and the exclusive use of
615 expirations, records, or other written or electronic information
616 directly related to such applications or renewals written
617 through the corporation or through an insurer participating in
618 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
619 (II)(B) or s. 627.351(6)(c)5.b.(I)(B) and (II)(B). Contracts
620 with the corporation or required by the corporation must not
621 amend, modify, interfere with, or limit such rights of
622 ownership. Such expirations, records, or other written or
623 electronic information may be used to review an application,
624 issue a policy, or for any other purpose necessary for placing
625 such business through the program.

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

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

632 (d) May enter into a limited servicing agreement with the
633 insurer making an offer of coverage, and only after the
634 exclusive agent's insurer has approved the limited servicing
635 agreement terms. The exclusive agent's insurer must approve a
636 limited service agreement for the program for any insurer for
637 which it has approved a service agreement for other purposes.
638

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639 Applicants ineligible for coverage in accordance with subsection
640 (6) ~~(5)~~ remain ineligible if their exclusive agent is unwilling
641 or unable to enter into a standard or limited agency agreement
642 with an insurer making an offer of coverage to that applicant.

643 (9) ~~(8)~~ Submission of an application for coverage by the
644 corporation to the program does not constitute the binding of
645 coverage by the corporation, and failure of the program to
646 obtain an offer of coverage by an insurer may not be considered
647 acceptance of coverage of the risk by the corporation.

648 (10) ~~(9)~~ The 45-day notice of nonrenewal requirement set
649 forth in s. 627.4133(2)(b)5. applies when a policy is nonrenewed
650 by the corporation because the risk has received an offer of
651 coverage from an authorized insurer pursuant to this section
652 which renders the risk ineligible for coverage by the
653 corporation. Section 627.4133 does not apply when a policy is
654 nonrenewed by the corporation because the risk has received an
655 offer of coverage from an approved surplus lines clearinghouse
656 insurer pursuant to this section which renders the risk
657 ineligible for coverage by the corporation. Within 5 days after
658 the date an approved surplus lines clearinghouse insurer makes
659 an offer of coverage pursuant to this section which renders the
660 risk ineligible for coverage by the corporation, the commercial
661 lines clearinghouse administrator for the commercial lines
662 clearinghouse for surplus lines insurance must, on behalf of the
663 corporation, give the first-named insured written notice of
664 nonrenewal stating the reason as to why the policy is not to be
665 renewed. If the commercial lines clearinghouse administrator for
666 the commercial lines clearinghouse for surplus lines insurance
667 fails to provide the notice as required by this paragraph,

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668 paragraph (6)(c) does not apply to the risk.

669 ~~(10) The program may not include commercial nonresidential~~
670 ~~policies.~~

671 (11) Proprietary business information provided to the
672 corporation's clearinghouse by insurers with respect to
673 identifying and selecting risks for an offer of coverage is
674 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
675 of the State Constitution.

676 (a) As used in this subsection, the term "proprietary
677 business information" means information, regardless of form or
678 characteristics, which is owned or controlled by an insurer and:

679 1. Is identified by the insurer as proprietary business
680 information and is intended to be and is treated by the insurer
681 as private in that the disclosure of the information would cause
682 harm to the insurer, an individual, or the company's business
683 operations and has not been disclosed unless disclosed pursuant
684 to a statutory requirement, an order of a court or
685 administrative body, or a private agreement that provides that
686 the information will not be released to the public;

687 2. Is not otherwise readily ascertainable or publicly
688 available by proper means by other persons from another source
689 in the same configuration as provided to the clearinghouse; and

690 3. Includes:

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

692 b. Information relating to competitive interests, the
693 disclosure of which would impair the competitive business of the
694 provider of the information.

695
696 Proprietary business information may be found in underwriting

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697 criteria or instructions which are used to identify and select
698 risks through the program for an offer of coverage and are
699 shared with the clearinghouse to facilitate the shopping of
700 risks with the insurer.

701 (b) The clearinghouse may disclose confidential and exempt
702 proprietary business information:

703 1. If the insurer to which it pertains gives prior written
704 consent;

705 2. Pursuant to a court order; or

706 3. To another state agency in this or another state or to a
707 federal agency if the recipient agrees in writing to maintain
708 the confidential and exempt status of the document, material, or
709 other information and has verified in writing its legal
710 authority to maintain such confidentiality.

711 (12) Within 3 months after the effective date of this act
712 and annually thereafter, unless waived by the office in its sole
713 discretion, the office shall review and approve the program
714 through a final order. At a minimum, the office must
715 specifically approve all of the following items:

716 (a) The applicable program standards.

717 (b) Procedural rules, which shall provide for the efficient
718 operation of all clearinghouses and allow sufficient time for
719 participating surplus lines insurers to consider and quote
720 risks.

721 (c) Any contractual agreement relating to the program
722 between any combination of the following: the corporation, any
723 commercial lines clearinghouse administrator, or any approved
724 surplus lines clearinghouse insurer.

725 (d) The operational processes used by any commercial lines

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726 clearinghouse administrator to determine comparable coverage or
727 whether an offer of coverage from an insurer participating in
728 the program precludes coverage from the corporation.

729 (e) Applicable controls relating to data and proprietary
730 business information used in the program which do not otherwise
731 conflict with this statute.

732

733 Changes to the items described in this subsection must be
734 approved in writing by the office.

735 (13) The corporation may not apply discretionary rate
736 adjustments to specific risks submitted to the commercial lines
737 clearinghouse for surplus lines insurance.

738 (14) This section does not authorize rebates or any
739 activity that would violate part IX of chapter 626. The
740 corporation and each commercial lines clearinghouse
741 administrator shall implement procedures to ensure that
742 participating agents and insurers are not induced to violate
743 part IX of chapter 626.

744 Section 3. The Division of Law Revision is directed to
745 replace the phrase "the effective date of this act" wherever it
746 occurs in this act with the date this act becomes a law.

747 Section 4. This act shall take effect upon becoming a law.