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1  
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.