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 or renewing coverage for
5 commercial residential and commercial nonresidential
6 risks under certain circumstances; prohibiting the
7 corporation from imposing an equalization adjustment
8 under certain circumstances; providing applicability;
9 providing the components of the total cost of
10 insurance coverage; providing that the corporation is
11 not relieved from an obligation to impose an
12 equalization adjustment under certain circumstances;
13 providing that certain adjustments expire at a
14 specified time; defining the term "equalization
15 adjustment"; amending s. 627.3518, F.S.; deleting an
16 obsolete date; providing definitions; revising the
17 definition of the term "program"; requiring the
18 corporation to establish a personal lines
19 clearinghouse for specified purposes; requiring, on or
20 before a specified date, the corporation to amend its
21 plan of operation and implement a commercial lines
22 clearinghouse for a specified purpose; requiring, on
23 or before a specified date, the corporation to
24 implement a separate commercial lines clearinghouse
25 for specified purposes; deleting obsolete provisions;

26 revising the program's rights and responsibilities;
27 revising the rights and responsibilities the
28 corporation has in establishing the program;
29 authorizing a commercial lines clearinghouse
30 administrator to charge certain fees; authorizing the
31 corporation to share risk exposure and policy
32 information with the commercial lines clearinghouse
33 administrator; authorizing such administrator to use
34 such information for a specified purpose; authorizing
35 approved surplus lines clearinghouse insurers to
36 participate in the commercial lines clearinghouse;
37 prohibiting such insurers from participating in the
38 personal lines clearinghouse; specifying that
39 participation in the program is not mandatory for such
40 insurers; revising prohibitions and requirements for
41 insurers making offers of coverage to new applicants
42 or renewal policyholders through the program;
43 providing construction; defining the term "effective
44 commission percentage"; specifying that applicants for
45 new commercial lines residential coverage are not
46 eligible for coverage from the corporation under
47 certain circumstances; specifying the circumstances
48 under which policyholders of the corporation are not
49 eligible for new commercial lines residential coverage
50 from the corporation; requiring that the determination

of whether an offer of comparable coverage from an authorized insurer is at or below the eligibility threshold be made at a specified time; authorizing applicants or insureds to elect to accept coverage with authorized insurers or elect to accept or continue coverage with the corporation under certain circumstances; authorizing insureds to elect to accept coverage with specified insurers or elect to accept or continue coverage with the corporation under certain circumstances; providing applicability; specifying that certain applicants and policyholders remain eligible for coverage from the corporation; authorizing such applicants and policyholders to elect to accept coverage from clearinghouse insurers or elect to accept or continue coverage with the corporation; authorizing certain applicants and policyholders of the corporation to elect to accept coverage from clearinghouse insurers or elect to accept or continue coverage with the corporation; requiring such applicants or policyholders to pay a specified total cost of insurance for corporation coverage; providing applicability; revising the rights and authorizations for certain independent insurance agents; deleting a prohibition relating to commercial nonresidential policies; authorizing the Office of

76 Insurance Regulation to review certain operational
77 processes related to the program; specifying the
78 contents of such review; requiring the office to
79 notify the corporation and submit written
80 recommendations to the Financial Services Commission
81 under certain circumstances; authorizing the
82 corporation to temporarily implement certain
83 recommendations; providing construction; requiring the
84 corporation and the commercial lines clearinghouse
85 administrator to implement specified procedures;
86 authorizing the office to review such procedures;
87 providing an effective date.
88
89 Be It Enacted by the Legislature of the State of Florida:
90
91 **Section 1. Paragraph (oo) is added to subsection (6) of**
92 **section 627.351, Florida Statutes, to read:**
93 627.351 Insurance risk apportionment plans.—
94 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—
95 (oo) For commercial residential and commercial
96 nonresidential risks, if an approved surplus lines clearinghouse
97 insurer offers coverage under s. 627.3518(6)(c)2. and the total
98 cost of such coverage is not more than 20 percent greater than
99 the total cost of insurance coverage from the corporation, the
100 corporation may not issue or renew coverage unless it imposes an

101 equalization adjustment on such policy equal to the amount by
102 which the total cost of insurance coverage offered by the
103 approved surplus lines clearinghouse insurer exceeds the total
104 cost of insurance coverage from the corporation. If the total
105 cost of insurance from the approved surplus lines clearinghouse
106 insurer does not exceed the total cost of corporation coverage,
107 the corporation may not impose the equalization adjustment. If
108 more than one approved surplus lines clearinghouse insurer
109 offers coverage under s. 627.3518(6)(c)2., the lowest offered
110 total cost of insurance coverage applies for purposes of this
111 paragraph. The total cost of insurance coverage includes, but is
112 not limited to, the premium, fees, surcharges, and applicable
113 taxes. An offer submitted by a surplus lines clearinghouse
114 insurer which is declined by the applicant or policyholder,
115 expires, or is not accepted by the applicant or policyholder for
116 any reason does not relieve the corporation from its obligation,
117 if any, to impose an equalization adjustment as set forth in
118 this paragraph. An equalization adjustment applied pursuant to
119 this paragraph expires at the end of the policy term. For the
120 purposes of this paragraph, the term "equalization adjustment"
121 means a temporary policy-term-only adjustment applied solely for
122 purposes of evaluating and comparing offers of coverage on a
123 comparable basis under this section. An equalization adjustment
124 does not constitute a rate, premium, surcharge, or filing; does
125 not modify or affect any rate, rating plan, rule, or filing

126 approved for the corporation; and expires by operation of law at
127 the end of the applicable policy term.
128 **Section 2. Section 627.3518, Florida Statutes, is amended**
129 **to read:**
130 627.3518 Citizens Property Insurance Corporation
131 policyholder eligibility clearinghouse program.—The purpose of
132 this section is to provide a framework for the corporation to
133 implement a clearinghouse program ~~by January 1, 2014~~.
134 (1) As used in this section, the term:
135 (a) "Approved surplus lines clearinghouse insurer" means
136 an eligible surplus lines insurer that has a financial strength
137 rating of "A-" or higher and a financial size category of A-VII
138 or higher from A.M. Best Company which the clearinghouse
139 administrator recommends for participation in the program and
140 which the office verifies meets the requirements for
141 participation in the program within 10 business days after the
142 commercial lines clearinghouse administrator's recommendation.
143 If the office does not complete such verification within the 10-
144 business-day period, the insurer shall be deemed verified for
145 purposes of participation in the program.
146 (b) "Authorized insurer" means an insurer authorized to
147 act as an insurer by a subsisting certificate of authority
148 issued to the insurer by the office.
149 (c) "Commercial lines clearinghouse administrator" means
150 the individual or entity employed or otherwise contracted by the

151 corporation to provide administrative or professional services
152 to implement the commercial lines clearinghouse required
153 pursuant to subparagraph (2)(b)1. within the corporation as set
154 forth in paragraph (3)(b).
155 (d) "Comparable coverage" means coverage that has material
156 terms and conditions that are substantially equivalent to or
157 better than coverage from the corporation as to all aspects of
158 such coverage, as determined by the corporation through the
159 clearinghouse process and applicable program standards.
160 (e) "Corporation" means Citizens Property Insurance
161 Corporation.
162 (f) ~~(b)~~ "Exclusive agent" means any licensed insurance
163 agent that has, by contract, agreed to act exclusively for one
164 company or group of affiliated insurance companies and is
165 disallowed by the provisions of that contract to directly write
166 for any other unaffiliated insurer absent express consent from
167 the company or group of affiliated insurance companies.
168 (g) ~~(c)~~ "Independent agent" means any licensed insurance
169 agent not described in paragraph (f) ~~(b)~~.
170 (h) "Primary residence" has the same meaning as in s.
171 627.351(6)(c)2.a.
172 (i) ~~(d)~~ "Program" means the clearinghouse created under
173 this section, consisting of the personal lines clearinghouse and
174 the commercial lines clearinghouse.
175 (j) "Surplus lines agent" means an insurance agent

176 licensed pursuant to s. 626.927 or s. 626.9272.
177 (2)(a) The corporation shall establish a personal lines
178 clearinghouse ~~in order~~ to confirm an applicant's eligibility
179 with the corporation, ~~and~~ to enhance access of new applicants
180 for personal lines coverage and existing personal lines
181 policyholders of the corporation to offers of coverage from
182 authorized insurers, and ~~the corporation shall establish a~~
183 ~~program for personal residential risks in order~~ to facilitate
184 the diversion of ineligible applicants and existing
185 policyholders from the corporation into the voluntary insurance
186 market.
187 (b)1. The corporation shall amend its plan of operation
188 and implement, on or before January 1, 2027, a commercial lines
189 clearinghouse in order to enhance access to offers of coverage
190 from approved surplus lines clearinghouse insurers for new
191 applicants for commercial residential coverage and commercial
192 nonresidential coverage and existing commercial residential and
193 commercial nonresidential policyholders of the corporation.
194 2. To facilitate the diversion of ineligible applicants
195 and existing policyholders from the corporation to authorized
196 insurers, the corporation shall implement, on or before January
197 1, 2027, a separate commercial lines clearinghouse to confirm
198 eligibility for coverage from the corporation and to enhance
199 access to offers of coverage from authorized insurers for new
200 applicants for commercial residential and commercial

201 nonresidential coverage and existing commercial residential and
202 commercial nonresidential policyholders of the corporation ~~shall~~
203 ~~also develop appropriate procedures for facilitating the~~
204 ~~diversion of ineligible applicants and existing policyholders~~
205 ~~for commercial residential coverage into the private insurance~~
206 ~~market and shall report such procedures to the President of the~~
207 ~~Senate and the Speaker of the House of Representatives by~~
208 ~~January 1, 2014~~.
209 (3) The corporation board shall establish the
210 ~~clearinghouse~~ program as an organizational unit within the
211 corporation. The program shall have all the rights and
212 responsibilities in carrying out its duties as a licensed
213 general lines agent and a surplus lines agent, but may not be
214 required to employ or engage a licensed general lines agent or a
215 surplus lines agent, or to maintain an insurance agency license
216 to carry out its activities in the solicitation and placement of
217 insurance coverage. In establishing the program, the corporation
218 has all of the following rights and responsibilities ~~may~~:
219 (a) Before binding or renewing coverage by the
220 corporation:
221 1. May require all new applications for personal lines
222 coverage, and all personal lines policies due for renewal, to be
223 submitted for coverage to the program in order to facilitate
224 obtaining an offer of coverage from an authorized insurer.
225 2. May, if the corporation establishes a clearinghouse

226 pursuant to subparagraph (2)b.2., require all new applications
227 for commercial lines coverage, and all commercial lines policies
228 due for renewal, to be submitted for coverage to the program in
229 order to facilitate obtaining an offer of coverage from an
230 authorized insurer.
231 3. Shall require all new applications for commercial lines
232 coverage, and all commercial lines policies due for renewal, to
233 be initially submitted for coverage through the commercial lines
234 clearinghouse as a single point of intake for both the
235 corporation and the program in order to facilitate obtaining an
236 offer of coverage from an approved surplus lines clearinghouse
237 insurer ~~before binding or renewing coverage by the corporation~~.
238 (b) Shall establish and maintain the operational systems
239 and procedures necessary to implement the program.
240 (c) May employ or otherwise contract with individuals or
241 other entities for appropriate administrative or professional
242 services to effectuate the plan within the corporation in
243 accordance with the applicable purchasing requirements under s.
244 627.351 and, for purposes of implementing the commercial lines
245 clearinghouse and providing offers of coverage from approved
246 surplus lines clearinghouse insurers on or before January 1,
247 2027, contract with such individuals or entities in accordance
248 with s. 287.057.
249 (d) ~~(c)~~ May enter into contracts with any authorized
250 insurer and any approved surplus lines clearinghouse insurer to

251 participate in the program and accept an appointment by such
252 insurer.
253 (e) ~~(d)~~ May provide funds to operate the program. Insurers
254 and agents participating in the program are not required to pay
255 a fee to offset or partially offset the cost of the program or
256 use the program for renewal of policies initially written
257 through the clearinghouse. Notwithstanding this paragraph, any
258 commercial lines clearinghouse administrator may charge approved
259 surplus lines clearinghouse insurers participating in the
260 program reasonable transaction, technology, administration, and
261 other similar fees. All fees charged by the commercial lines
262 clearinghouse administrator must be fair and reasonable.
263 (f) Shall include separate components for authorized
264 insurers and approved surplus lines insurers with respect to the
265 commercial lines clearinghouse, each of which shall be
266 independently operated and independently funded.
267 (g) In the event that there is insufficient commercial
268 support for any component of the commercial lines clearinghouse,
269 shall be relieved of its obligations with respect to that
270 component for which there is insufficient commercial support.
271 (h) Shall provide or permit access to shared or hosted
272 technology, systems, interfaces, or applications programming
273 interfaces to the commercial lines clearinghouse administrator,
274 provided that each retains operational control over and
275 responsibility for its own technology, systems, interfaces, or

276 applications. Notwithstanding paragraph (e), the corporation may
277 not provide funds to support or offset the infrastructure or
278 operations of the commercial lines clearinghouse or any
279 component thereof, but shall fund and operate its own
280 technology, systems, interfaces, or applications as necessary
281 for the corporation to access and interface with the commercial
282 lines clearinghouse.
283 (i) ~~(e)~~ May develop an enhanced application that includes
284 information to assist private insurers in determining whether to
285 make an offer of coverage through the program.
286 (j) ~~(f)~~ For personal lines residential risks, may require
287 that, before approving all new applications for coverage by the
288 corporation, ~~that~~ every application be subject to a period of 2
289 business days when any insurer participating in the program may
290 select the application for coverage. For commercial lines
291 residential and commercial lines nonresidential risks, the
292 corporation may require, before approving all new applications
293 for commercial lines coverage by the corporation, that every
294 application be subject to a period of 5 business days when any
295 insurer participating in the program may select the application
296 for coverage. The insurer may issue a binder on any policy
297 selected for coverage for a period of at least 30 days but not
298 more than 60 days.
299 (k) Shall, in creating the commercial lines clearinghouse,
300 establish criteria to determine the capabilities necessary for

301 the commercial lines clearinghouse administrator. For
302 facilitating offers of surplus lines coverage, such criteria
303 must include confirmed expertise in the surplus lines market; at
304 least 5 years of publicly available audited financial
305 statements; the ability to facilitate all approved surplus lines
306 clearinghouse insurers to participate in the commercial lines
307 clearinghouse; other criteria that the corporation determines
308 necessary to effectively establish, administer, manage offers of
309 surplus lines coverage through the commercial lines
310 clearinghouse; and the ability to collect and remit, either
311 directly or through a surplus lines agent, all taxes pursuant to
312 s. 626.932 and service fees pursuant to s. 626.9325.
313 (l) Shall select a commercial lines clearinghouse
314 administrator within 90 days after the effective date of this
315 act.
316 (m) May allow the commercial lines clearinghouse
317 administrator to establish procedures and account clearance
318 requirements the commercial lines clearinghouse administrator
319 deems necessary to ensure an orderly process for offers of
320 coverage to be provided by authorized insurers or approved
321 surplus lines clearinghouse insurers participating in the
322 commercial lines clearinghouse and to avoid multiple offers of
323 coverage from the same insurer for the same risk.
324 (n) Must submit to the commercial lines clearinghouse
325 administrator its coverage terms and conditions, deductible

326 structures, and unalterable indicated total cost of insurance
327 coverage, which must include, but is not limited to, the
328 premium, fees, surcharges, and applicable taxes for the subject
329 risk before any approved surplus lines clearinghouse insurer is
330 provided a submission for coverage pursuant to the program by
331 any applicant for new coverage from the corporation or any
332 policyholder of the corporation. Upon completion of such
333 submission, the commercial lines clearinghouse administrator
334 shall provide the corporation's unalterable indicated coverage
335 terms and conditions and deductible structures, but may not
336 provide the indicated total cost of corporation insurance
337 coverage, to the approved surplus lines clearinghouse insurers
338 participating in the program. The commercial lines clearinghouse
339 administrator shall determine, through established procedures,
340 whether a submission is complete before release, which
341 submission requires, at a minimum, a validated application from
342 the agent and the corporation's unalterable indicated total cost
343 of insurance, coverage terms and conditions, and deductible
344 structures. The commercial lines clearinghouse administrator
345 shall then use the corporation's unalterable indication to
346 determine whether any offers of coverage from approved surplus
347 lines clearinghouse insurers satisfy the requirements set forth
348 in s. 627.351(6)(oo) and subparagraph (6)(c)2. The corporation
349 may not bind or otherwise communicate, indicate, or make an
350 offer of coverage to an applicant or policyholder, or its agent,

351 or otherwise accept coverage until the commercial lines
352 clearinghouse administrator has determined that a complete
353 submission has been made, affirmatively releases one or more
354 offers of coverage from approved surplus lines clearinghouse
355 insurers, or affirms that no clearinghouse insurer offer of
356 coverage has been made, and at least 5 business days have
357 elapsed from the date of such release, unless waived in writing.
358 Any change to the corporation's coverage terms and conditions,
359 deductible structures, or indicated total cost of insurance
360 coverage constitutes a new submission by the corporation under
361 this paragraph. The validation period described in this
362 paragraph applies regardless of any proposed effective date,
363 renewal date, or expiration date of the policy and may not be
364 shortened or bypassed based on timing considerations relating to
365 binding or renewal.
366 (4) The corporation may share risk exposure and policy
367 information with the commercial lines clearinghouse
368 administrator, and, through the commercial lines clearinghouse,
369 the commercial lines clearinghouse administrator may use such
370 information as necessary to operate and administer the
371 commercial lines clearinghouse and ensure the orderly, timely,
372 and transparent assessment of risks by insurers participating in
373 the commercial lines clearinghouse.
374 (5) Any authorized insurer may participate in the program;
375 however, participation is not mandatory for any insurer.

376 Approved surplus lines clearinghouse insurers may participate in
377 the commercial lines clearinghouse but may not participate in
378 the personal lines clearinghouse; however, participation in the
379 program is not mandatory for any surplus lines insurer. Insurers
380 making offers of coverage to new applicants or renewal
381 policyholders through the program:
382 (a) May not be required to individually appoint any agent
383 whose customer is underwritten and bound through the program.
384 Notwithstanding s. 626.112, insurers are not required to appoint
385 any agent on a policy underwritten through the program for as
386 long as that policy remains with the insurer. Insurers may, at
387 their election, appoint any agent or surplus lines agent whose
388 direct or indirect customer is initially underwritten and bound
389 through the program. In the event an insurer accepts a policy
390 from an agent who is not appointed pursuant to this paragraph,
391 and thereafter elects to accept a policy from such agent, the
392 provisions of s. 626.112 requiring appointment apply to the
393 agent.
394 (b) Must enter into a limited agency agreement with each
395 agent or surplus lines agent that is not appointed in accordance
396 with paragraph (a) and whose direct or indirect customer is
397 underwritten and bound through the program. In addition, a
398 surplus lines agent that enters into a limited agency or broker
399 agreement with an approved surplus lines clearinghouse insurer
400 making an offer of coverage through the program must also enter

401 into a limited agency or broker agreement with each producing
402 agent whose customer is underwritten and bound through the
403 program.
404 (c) Must enter into its standard agency agreement with
405 each agent or surplus lines agent whose direct or indirect
406 customer is underwritten and bound through the program when that
407 agent or surplus lines agent has been appointed by the insurer
408 pursuant to s. 626.112. In addition, a surplus lines agent that
409 enters into a standard agency or broker agreement with an
410 approved surplus lines clearinghouse insurer making an offer of
411 coverage through the program must also enter into a limited
412 agency or broker agreement with each producing agent whose
413 customer is underwritten and bound through the program.
414 (d) Must comply with s. 627.4133(2) or, if the insurer is
415 an approved surplus lines clearinghouse insurer, s. 626.9201.
416 (e) May participate through their designated ~~single-~~
417 ~~designated~~ managing general agent, managing general underwriter,
418 ~~or~~ broker, or surplus lines agent; however, the provisions of
419 paragraph (7)(a) ~~(6)(a)~~ regarding ownership, control, and use of
420 the expirations continue to apply.
421 (f) For authorized insurers, must pay to the producing
422 agent a commission equal to that paid by the corporation or the
423 usual and customary commission paid by the insurer for that line
424 of business, whichever is greater.
425 (g) For approved surplus lines clearinghouse insurers,

426 when coverage is placed through the clearinghouse with an
427 approved surplus lines clearinghouse insurer, must pay a total
428 commission or equivalent compensation on gross written premium,
429 exclusive of fees, surcharges, and taxes, to the surplus lines
430 agent, managing general agent, or managing general underwriter
431 placing the risk. The surplus lines agent, managing general
432 agent, or managing general underwriter must pay the producing
433 agent a commission that results in an effective commission
434 percentage at least equal to the commission percentage published
435 by the corporation and in effect on January 1, 2026, calculated
436 in the same manner and on the same basis used by the
437 corporation, and shall retain the remainder of the total
438 commission or equivalent compensation. This paragraph does not
439 prohibit an agent from voluntarily accepting a lower commission
440 at the agent's sole discretion. As used in this paragraph, the
441 term "effective commission percentage" means the commission
442 expressed as a percentage of premium, exclusive of all fees,
443 assessments, surcharges, and taxes.
444 (6)(a)~~(5)~~ Notwithstanding s. 627.3517, any applicant for
445 new personal lines coverage from the corporation is not eligible
446 for coverage from the corporation if provided an offer of
447 comparable coverage from an authorized insurer through the
448 program at a premium that is at or below the eligibility
449 threshold for applicants for new coverage of a primary residence
450 established in s. 627.351(6)(c)5.a., or for applicants for new

451 coverage of a risk that is not a primary residence established
452 in s. 627.351(6)(c)5.b. Whenever an offer of comparable coverage
453 for a personal lines risk is received for a policyholder of the
454 corporation at renewal from an authorized insurer through the
455 program which is at or below the eligibility threshold for
456 primary residences of policyholders of the corporation
457 established in s. 627.351(6)(c)5.a., or the eligibility
458 threshold for risks that are not primary residences of
459 policyholders of the corporation established in s.
460 627.351(6)(c)5.b., the risk is not eligible for coverage with
461 the corporation. In the event an offer of coverage for a new
462 applicant is received from an authorized insurer through the
463 program, and the premium offered exceeds the eligibility
464 threshold for applicants for new coverage of a primary residence
465 established in s. 627.351(6)(c)5.a., or the eligibility
466 threshold for applicants for new coverage on a risk that is not
467 a primary residence established in s. 627.351(6)(c)5.b., the
468 applicant or insured may elect to accept such coverage, or may
469 elect to accept or continue coverage with the corporation. In
470 the event an offer of coverage for a personal lines risk is
471 received from an authorized insurer at renewal through the
472 program, and the premium offered exceeds the eligibility
473 threshold for primary residences of policyholders of the
474 corporation established in s. 627.351(6)(c)5.a., or exceeds the
475 eligibility threshold for risks that are not primary residences

476 of policyholders of the corporation established in s.
477 627.351(6)(c)5.b., the insured may elect to accept such
478 coverage, or may elect to accept or continue coverage with the
479 corporation. Section 627.351(6)(c)5.a.(I) and b.(I) does not
480 apply to an offer of coverage from an authorized insurer
481 obtained through the program. ~~As used in this subsection, the~~
482 ~~term "primary residence" has the same meaning as in s.~~
483 ~~627.351(6)(c)2.a.~~
484 (b) Any applicant for new commercial lines residential
485 coverage from the corporation is not eligible for coverage from
486 the corporation if provided an offer of comparable coverage from
487 the corporation as to all aspects of such coverage from an
488 authorized insurer through the program at a premium that is at
489 or below the eligibility threshold for applicants for new
490 coverage established in s. 627.351(6)(c)5.c. The determination
491 of whether an offer of comparable coverage from an authorized
492 insurer through the program is at or below the eligibility
493 threshold must be made before the submission of the
494 corporation's coverage terms and conditions, deductible
495 structures, and unalterable indicated total cost of insurance is
496 provided to the commercial lines clearinghouse administrator.
497 Whenever an offer of comparable coverage from the corporation as
498 to all aspects of such coverage for a commercial lines
499 residential risk is received for a policyholder of the
500 corporation at renewal from an authorized insurer through the

501 program which is at or below the eligibility threshold in s.
502 627.351(6)(c)5.c., the risk is not eligible for coverage from
503 the corporation. In the event that an offer of coverage for a
504 new applicant is received from an authorized insurer through the
505 program, and the premium offered exceeds the eligibility
506 threshold established in s. 627.351(6)(c)5.c., the applicant or
507 insured may elect to accept such coverage or may elect to accept
508 or continue coverage with the corporation. In the event that an
509 offer of coverage for a commercial lines residential risk is
510 received from an authorized insurer at renewal through the
511 program, and the premium offered exceeds the eligibility
512 threshold for policyholders of the corporation established in s.
513 627.351(6)(c)5.c., the insured may elect to accept such coverage
514 or may elect to accept or continue coverage with the
515 corporation. Section 627.351(6)(c)5.c.(I) does not apply to an
516 offer of coverage from an authorized insurer obtained through
517 the program.
518 (c)1. Except as provided in subparagraph 2., any applicant
519 for new commercial lines residential coverage or commercial
520 lines nonresidential coverage from the corporation and any
521 policyholder of the corporation, when such applicant or
522 corporation policyholder is offered commercial lines residential
523 or commercial lines nonresidential coverage pursuant to the
524 program by an approved surplus lines clearinghouse insurer,
525 remains eligible for coverage from the corporation. The

526 applicant or policyholder receiving an offer from an approved
527 surplus lines clearinghouse insurer may elect to accept such
528 coverage or may elect to accept or continue coverage with the
529 corporation.
530 2. Any applicant for new commercial lines residential
531 coverage or commercial lines nonresidential coverage from the
532 corporation and any policyholder of the corporation, when such
533 applicant or corporation policyholder is offered commercial
534 lines residential or commercial lines nonresidential coverage by
535 an approved surplus lines insurer pursuant to the program and
536 such offered coverage is comparable coverage, and the total cost
537 of such insurance coverage is not more than 20 percent greater
538 than the total cost of insurance coverage from the corporation,
539 may elect to accept such coverage from the approved surplus
540 lines clearinghouse insurer or may elect to accept or continue
541 coverage with the corporation, but, if electing corporation
542 coverage, such applicant or policyholder must pay the total cost
543 of insurance for corporation coverage that is subject to s.
544 627.351(6)(oo).
545 3. Section 627.351(6)(c)5.c.(I) does not apply to an offer
546 of coverage from an approved surplus lines clearinghouse insurer
547 obtained through the program.
548 (7) ~~(6)~~ Independent insurance agents submitting new
549 applications for coverage or that are the agent of record on a
550 renewal policy submitted to the program:

551 (a) Are granted and must maintain ownership and the
552 exclusive use of expirations, records, or other written or
553 electronic information directly related to such applications or
554 renewals written through the corporation or through an insurer
555 participating in the program, notwithstanding s. 627.351(5)(a),
556 s. 627.351(6)(c)5.a.(I)(B) and (II)(B), or s.
557 627.351(6)(c)5.b.(I)(B) and (II)(B). Such ownership is granted
558 for as long as the insured remains with the agency or until sold
559 or surrendered in writing by the agent. Contracts with the
560 corporation or required by the corporation or with any insurer
561 or surplus lines agent may ~~must~~ not amend, modify, interfere
562 with, or limit such rights of ownership. Such expirations,
563 records, or other written or electronic information may be used
564 to review an application, issue a policy, or for any other
565 purpose necessary for placing such business through the program.
566 (b) May not be required to be appointed by any insurer
567 participating in the program for policies written solely through
568 the program, notwithstanding the provisions of s. 626.112.
569 (c) May accept an appointment from any insurer
570 participating in the program.
571 (d) May enter into either a standard or limited agency
572 agreement with the insurer, at the insurer's option, and may
573 enter into agreements with a surplus lines agent.
574
575 Applicants ineligible for coverage in accordance with subsection

576 (6) ~~(5)~~ remain ineligible if their independent agent is
577 unwilling or unable to enter into a standard or limited agency
578 agreement with an insurer participating in the program.
579 (8) ~~(7)~~ Exclusive agents submitting new applications for
580 coverage or that are the agent of record on a renewal policy
581 submitted to the program:
582 (a) Must maintain ownership and the exclusive use of
583 expirations, records, or other written or electronic information
584 directly related to such applications or renewals written
585 through the corporation or through an insurer participating in
586 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
587 (II)(B) or s. 627.351(6)(c)5.b.(I)(B) and (II)(B). Contracts
588 with the corporation or required by the corporation must not
589 amend, modify, interfere with, or limit such rights of
590 ownership. Such expirations, records, or other written or
591 electronic information may be used to review an application,
592 issue a policy, or for any other purpose necessary for placing
593 such business through the program.
594 (b) May not be required to be appointed by any insurer
595 participating in the program for policies written solely through
596 the program, notwithstanding the provisions of s. 626.112.
597 (c) Must only facilitate the placement of an offer of
598 coverage from an insurer whose limited servicing agreement is
599 approved by that exclusive agent's exclusive insurer.
600 (d) May enter into a limited servicing agreement with the

601 insurer making an offer of coverage, and only after the
602 exclusive agent's insurer has approved the limited servicing
603 agreement terms. The exclusive agent's insurer must approve a
604 limited service agreement for the program for any insurer for
605 which it has approved a service agreement for other purposes.
606
607 Applicants ineligible for coverage in accordance with subsection
608 (6) ~~(5)~~ remain ineligible if their exclusive agent is unwilling
609 or unable to enter into a standard or limited agency agreement
610 with an insurer making an offer of coverage to that applicant.
611 (9) ~~(8)~~ Submission of an application for coverage by the
612 corporation to the program does not constitute the binding of
613 coverage by the corporation, and failure of the program to
614 obtain an offer of coverage by an insurer may not be considered
615 acceptance of coverage of the risk by the corporation.
616 (10) ~~(9)~~ The 45-day notice of nonrenewal requirement set
617 forth in s. 627.4133(2)(b)5. applies when a policy is nonrenewed
618 by the corporation because the risk has received an offer of
619 coverage pursuant to this section which renders the risk
620 ineligible for coverage by the corporation.
621 ~~(10) The program may not include commercial nonresidential~~
622 ~~policies.~~
623 (11) Proprietary business information provided to the
624 corporation's clearinghouse by insurers with respect to
625 identifying and selecting risks for an offer of coverage is

626 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
627 of the State Constitution.
628 (a) As used in this subsection, the term "proprietary
629 business information" means information, regardless of form or
630 characteristics, which is owned or controlled by an insurer and:
631 1. Is identified by the insurer as proprietary business
632 information and is intended to be and is treated by the insurer
633 as private in that the disclosure of the information would cause
634 harm to the insurer, an individual, or the company's business
635 operations and has not been disclosed unless disclosed pursuant
636 to a statutory requirement, an order of a court or
637 administrative body, or a private agreement that provides that
638 the information will not be released to the public;
639 2. Is not otherwise readily ascertainable or publicly
640 available by proper means by other persons from another source
641 in the same configuration as provided to the clearinghouse; and
642 3. Includes:
643 a. Trade secrets, as defined in s. 688.002.
644 b. Information relating to competitive interests, the
645 disclosure of which would impair the competitive business of the
646 provider of the information.
647
648 Proprietary business information may be found in underwriting
649 criteria or instructions which are used to identify and select
650 risks through the program for an offer of coverage and are

651 shared with the clearinghouse to facilitate the shopping of
652 risks with the insurer.
653 (b) The clearinghouse may disclose confidential and exempt
654 proprietary business information:
655 1. If the insurer to which it pertains gives prior written
656 consent;
657 2. Pursuant to a court order; or
658 3. To another state agency in this or another state or to
659 a federal agency if the recipient agrees in writing to maintain
660 the confidential and exempt status of the document, material, or
661 other information and has verified in writing its legal
662 authority to maintain such confidentiality.
663 (12) To promote actuarial soundness, program integrity,
664 and mitigation of solvency or assessment risk to the
665 corporation, the office may review operational processes related
666 to the program. Such review may include, but is not limited to,
667 all of the following:
668 (a) Comparable coverage determinations upon complaint to
669 the office by or on behalf of a policy applicant.
670 (b) Verification of the financial strength of approved
671 surplus lines clearinghouse insurers participating in the
672 program.
673 (c) The reasonableness of fees charged by the commercial
674 lines clearinghouse administrator.
675 (d) The operational processes used by the commercial lines

676 clearinghouse administrator to determine whether an offer of
677 coverage from an insurer participating in the program precludes
678 coverage from the corporation or requires an equalization
679 adjustment by the corporation.
680 (e) The potential for material adverse impact to the
681 corporation's surplus, solvency, or assessment exposure.
682 (13)(a) If, after a review under subsection (12), the
683 office determines that program processes are creating a material
684 risk to the solvency of the corporation, the office shall notify
685 the corporation and submit written recommendations to the
686 commission.
687 (b) Upon approval by the commission, the corporation may
688 temporarily implement recommendations made by the office to
689 address the solvency risk. Such recommendations may include, but
690 are not limited to, all of the following:
691 1. Temporary suspension of the equalization adjustment
692 authorized under s. 627.351(6)(oo).
693 2. Temporary exclusion of one or more participating
694 insurers from the program.
695 3. Temporary modification of program procedural timelines.
696 4. If exigent circumstances exist, temporary suspension of
697 the requirement that any applicant for new commercial
698 residential coverage or commercial nonresidential coverage from
699 the corporation and any policyholder of the corporation submit
700 applications for coverage through the commercial lines

701 clearinghouse.
702 (14) This section does not authorize rebates or any
703 activity that would violate part IX of chapter 626. The
704 corporation and the commercial lines clearinghouse administrator
705 shall implement procedures to ensure that participating agents
706 and insurers are not induced to violate part IX of chapter 626.
707 The office may review such compliance procedures solely for the
708 purpose of submitting recommendations to the commission under
709 subsection (13).
710 **Section 3.** This act shall take effect upon becoming a law.