

1                                   A bill to be entitled  
2       An act relating to the Citizens Property Insurance  
3       Corporation; amending s. 627.351, F.S.; requiring the  
4       corporation to charge a specified premium on certain  
5       risks; specifying that the premium for subsequent  
6       renewals of a corporation policy is subject to certain  
7       requirements; providing an exception; amending s.  
8       627.3518, F.S.; deleting an obsolete provision;  
9       defining terms; revising the definition of the term  
10      "program"; requiring the corporation to establish a  
11      personal lines clearinghouse for specified purposes;  
12      requiring, on or before a specified date, the  
13      corporation to implement a commercial lines  
14      clearinghouse for specified purposes; requiring, on or  
15      before a specified date, the corporation to develop  
16      and implement certain procedures; deleting reporting  
17      requirements; revising the rights and responsibilities  
18      the corporation has in establishing the program;  
19      authorizing approved surplus lines clearinghouse  
20      insurers to participate in the commercial lines  
21      clearinghouse; prohibiting such insurers from  
22      participating in the personal lines clearinghouse;  
23      specifying that participation in the program is not  
24      mandatory for such insurers; revising prohibitions and  
25      requirements for insurers making offers of coverage to

26        new applicants or renewal policyholders through the  
27        program; providing construction; specifying that  
28        applicants for new commercial lines residential  
29        coverage are not eligible for coverage from the  
30        corporation under certain circumstances; deleting the  
31        definition of the term "primary residence"; specifying  
32        the circumstances under which policyholders of the  
33        corporation are not eligible for commercial lines  
34        residential coverage with the corporation; authorizing  
35        applicants or insureds to elect to accept coverage  
36        with specified insurers or elect to accept or continue  
37        coverage with the corporation under certain  
38        circumstances; authorizing insureds to elect to accept  
39        coverage with specified insurers or elect to accept or  
40        continue coverage with the corporation under certain  
41        circumstances; providing applicability; specifying  
42        that certain applicants remain eligible for coverage  
43        from the corporation; authorizing such applicants to  
44        elect to accept coverage with specified insurers or  
45        elect to accept or continue coverage with the  
46        corporation; requiring certain applicants to pay a  
47        specified premium for corporation coverage; providing  
48        applicability; revising the rights and authorizations  
49        for certain independent insurance agents; deleting a  
50        prohibition relating to commercial nonresidential

51 policies; providing an effective date.

52  
53 Be It Enacted by the Legislature of the State of Florida:

54  
55 **Section 1. Paragraph (oo) is added to subsection (6) of**  
56 **section 627.351, Florida Statutes, to read:**

57 627.351 Insurance risk apportionment plans.—

58 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

59 (oo) The corporation must charge a premium on a commercial  
60 residential or commercial nonresidential risk that has received  
61 an offer of coverage under s. 627.3518(5)(c)2., which premium is  
62 the greater of the premium offered by the approved surplus lines  
63 clearinghouse insurer for such coverage or the premium for  
64 coverage from the corporation calculated pursuant to paragraph  
65 (n). The premium for subsequent renewals of a corporation policy  
66 that is charged a premium equivalent to the premium offered by  
67 an approved surplus lines insurer under s. 627.3518(5)(c)2. is  
68 subject to the requirements of paragraph (n) as applied to the  
69 premium that was applied pursuant to this paragraph, unless the  
70 risk receives an offer at the subsequent renewal under s.  
71 627.3518(5)(c)2., in which case the premium shall be the greater  
72 of the premium offered at the subsequent renewal by the surplus  
73 lines insurer or the corporation's premium on the risk.

74 **Section 2. Section 627.3518, Florida Statutes, is amended**  
75 **to read:**

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

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

(a) "Approved surplus lines clearinghouse insurer" means  
an eligible surplus lines insurer that has a financial strength  
rating of "A-" or higher from A.M. Best Company and that the  
corporation determines has demonstrated competence in writing  
the types of risks for which it will make offers of coverage  
through the program.

(b) "Corporation" means Citizens Property Insurance  
Corporation.

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

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

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

(f) ~~(d)~~ "Program" means the clearinghouse created under  
this section, consisting of the personal lines clearinghouse and

101 the commercial lines clearinghouse.

102 (g) "Surplus lines agent" means an insurance agent  
103 licensed pursuant to s. 626.927 or s. 626.9272.

104 (2)(a) The corporation shall establish a personal lines  
105 clearinghouse ~~in order to confirm an applicant's eligibility~~  
106 ~~with the corporation, and to enhance access of new applicants~~  
107 ~~for personal lines coverage and existing personal lines~~  
108 ~~policyholders of the corporation to offers of coverage from~~  
109 ~~authorized insurers, and the corporation shall establish a~~  
110 ~~program for personal residential risks in order to facilitate~~  
111 ~~the diversion of ineligible applicants and existing~~  
112 ~~policyholders from the corporation into the voluntary insurance~~  
113 ~~market.~~

114 (b) The corporation shall implement, on or before January  
115 1, 2027, a commercial lines clearinghouse in order to enhance  
116 new applicants' access to commercial residential coverage and  
117 commercial nonresidential coverage and existing policyholders of  
118 the corporation to offers of coverage from approved surplus  
119 lines clearinghouse insurers. The corporation shall also develop  
120 and implement, on or before January 1, 2028, appropriate  
121 procedures for facilitating the diversion of new ~~ineligible~~  
122 ~~applicants and existing policyholders of the corporation to~~  
123 ~~offers of commercial residential and commercial nonresidential~~  
124 ~~coverage from authorized insurers for commercial residential~~  
125 ~~coverage into the private insurance market and shall report such~~

~~procedures to the President of the Senate and the Speaker of the House of Representatives by January 1, 2014.~~

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

(a) May require all new applications, and all policies due for renewal, to be submitted for coverage to the program in order to facilitate obtaining an offer of coverage from an authorized insurer or, if the risk is a commercial risk, obtaining an offer of coverage from an approved surplus lines clearinghouse insurer, before binding or renewing coverage by the corporation.

(b) May employ or otherwise contract with individuals or other entities for appropriate administrative or professional services to effectuate the plan within the corporation in accordance with the applicable purchasing requirements under s. 627.351 and, for purposes of implementing the commercial lines clearinghouse and providing offers of coverage from approved

151 surplus lines clearinghouse insurers on or before January 1,  
152 2028, contract with such individuals or entities in accordance  
153 with s. 287.057(3)(c).

154 (c) May enter into contracts with any authorized insurer  
155 and any approved surplus lines clearinghouse insurer to  
156 participate in the program and accept an appointment by such  
157 insurer.

158 (d) May provide funds to operate the program. Insurers and  
159 agents participating in the program are not required to pay a  
160 fee to offset or partially offset the cost of the program or use  
161 the program for renewal of policies initially written through  
162 the clearinghouse.

163 (e) May develop an enhanced application that includes  
164 information to assist private insurers in determining whether to  
165 make an offer of coverage through the program.

166 (f) For personal lines residential risks, may require  
167 that, before approving all new applications for coverage by the  
168 corporation, ~~that~~ every application be subject to a period of 2  
169 business days when any insurer participating in the program may  
170 select the application for coverage. The insurer may issue a  
171 binder on any policy selected for coverage for a period of at  
172 least 30 days but not more than 60 days.

173 (g) Shall, in creating the commercial lines clearinghouse,  
174 establish criteria to determine the capabilities necessary to  
175 effectively provide and manage the commercial lines

176 clearinghouse. For facilitating offers of surplus lines  
177 coverage, such criteria must include confirmed expertise in the  
178 surplus lines market, at least 5 years of publicly available  
179 audited financial statements, the ability to facilitate all  
180 approved surplus lines clearinghouse insurers to participate in  
181 the commercial lines clearinghouse on terms established by the  
182 corporation, and other criteria that the corporation determines  
183 necessary to effectively establish and manage offers of surplus  
184 lines coverage through the commercial lines clearinghouse.

185 (4) Any authorized insurer may participate in the program;  
186 however, participation is not mandatory for any insurer.

187 Approved surplus lines clearinghouse insurers may participate in  
188 the commercial lines clearinghouse but may not participate in  
189 the personal lines clearinghouse; however, participation in the  
190 program is not mandatory for any approved surplus lines insurer.

191 Insurers making offers of coverage to new applicants or renewal  
192 policyholders through the program:

193 (a) May not be required to individually appoint any agent  
194 whose customer is underwritten and bound through the program.  
195 Notwithstanding s. 626.112, insurers are not required to appoint  
196 any agent on a policy underwritten through the program for as  
197 long as that policy remains with the insurer. Insurers may, at  
198 their election, appoint any agent or surplus lines agent whose  
199 direct or indirect customer is initially underwritten and bound  
200 through the program. In the event an insurer accepts a policy



201 from an agent who is not appointed pursuant to this paragraph,  
202 and thereafter elects to accept a policy from such agent, the  
203 provisions of s. 626.112 requiring appointment apply to the  
204 agent.

205 (b) Must enter into a limited agency agreement with each  
206 agent or surplus lines agent that is not appointed in accordance  
207 with paragraph (a) and whose customer is underwritten and bound  
208 through the program. In addition, a surplus lines agent that  
209 enters into a limited agency or broker agreement with an  
210 approved surplus lines clearinghouse insurer making an offer of  
211 coverage through the program must also enter into a limited  
212 agency or broker agreement with each producing agent whose  
213 customer is underwritten and bound through the program.

214 (c) Must enter into its standard agency agreement with  
215 each agent or surplus lines agent whose customer is underwritten  
216 and bound through the program when that agent or surplus lines  
217 agent has been appointed by the insurer pursuant to s. 626.112.

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

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

224 (f) For authorized insurers, must pay to the producing  
225 agent a commission equal to that paid by the corporation or the

226 usual and customary commission paid by the insurer for that line  
227 of business, whichever is greater.

228 (g) For approved surplus lines clearinghouse insurers,  
229 must pay a commission on premiums, exclusive of fees,  
230 surcharges, and taxes, to the surplus lines agent, managing  
231 general agent, or managing general underwriter placing the risk.  
232 The surplus lines agent, managing general agent, or managing  
233 general underwriter must pay the producing agent a commission at  
234 least equal to the commission the corporation pays agents for  
235 coverage, calculated in the same manner and on the same basis  
236 used by the corporation, and shall retain the remainder of the  
237 total commission or equivalent compensation. This paragraph does  
238 not prohibit an agent from voluntarily accepting a lower  
239 commission at the agent's sole discretion.

240 (5)(a) Notwithstanding s. 627.3517, any applicant for new  
241 personal lines coverage from the corporation is not eligible for  
242 coverage from the corporation if provided an offer of comparable  
243 coverage from an authorized insurer through the program at a  
244 premium that is at or below the eligibility threshold for  
245 applicants for new coverage of a primary residence established  
246 in s. 627.351(6)(c)5.a., or for applicants for new coverage of a  
247 risk that is not a primary residence established in s.  
248 627.351(6)(c)5.b. Whenever an offer of comparable coverage for a  
249 personal lines risk is received for a policyholder of the  
250 corporation at renewal from an authorized insurer through the

251 program which is at or below the eligibility threshold for  
252 primary residences of policyholders of the corporation  
253 established in s. 627.351(6)(c)5.a., or the eligibility  
254 threshold for risks that are not primary residences of  
255 policyholders of the corporation established in s.  
256 627.351(6)(c)5.b., the risk is not eligible for coverage with  
257 the corporation. In the event an offer of coverage for a new  
258 applicant is received from an authorized insurer through the  
259 program, and the premium offered exceeds the eligibility  
260 threshold for applicants for new coverage of a primary residence  
261 established in s. 627.351(6)(c)5.a., or the eligibility  
262 threshold for applicants for new coverage on a risk that is not  
263 a primary residence established in s. 627.351(6)(c)5.b., the  
264 applicant or insured may elect to accept such coverage, or may  
265 elect to accept or continue coverage with the corporation. In  
266 the event an offer of coverage for a personal lines risk is  
267 received from an authorized insurer at renewal through the  
268 program, and the premium offered exceeds the eligibility  
269 threshold for primary residences of policyholders of the  
270 corporation established in s. 627.351(6)(c)5.a., or exceeds the  
271 eligibility threshold for risks that are not primary residences  
272 of policyholders of the corporation established in s.  
273 627.351(6)(c)5.b., the insured may elect to accept such  
274 coverage, or may elect to accept or continue coverage with the  
275 corporation. Section 627.351(6)(c)5.a.(I) and b.(I) does not

276 apply to an offer of coverage from an authorized insurer  
277 obtained through the program. ~~As used in this subsection, the~~  
278 ~~term "primary residence" has the same meaning as in s.~~  
279 ~~627.351(6)(c)2.a.~~

280 (b) Notwithstanding s. 627.3517, an applicant for new  
281 commercial lines residential coverage from the corporation is  
282 not eligible for coverage from the corporation if the applicant  
283 is provided an offer of comparable coverage from an authorized  
284 insurer through the program at a premium that is at or below the  
285 eligibility threshold for applicants for new coverage  
286 established in s. 627.351(6)(c)5.c. Whenever an offer of  
287 comparable coverage for a commercial lines residential risk is  
288 received for a policyholder of the corporation at renewal from  
289 an authorized insurer through the program which is at or below  
290 the eligibility threshold in s. 627.351(6)(c)5.c., the risk is  
291 not eligible for coverage with the corporation. In the event an  
292 offer of coverage for a new applicant is received from an  
293 authorized insurer through the program, and the premium offered  
294 exceeds the eligibility threshold established in s.  
295 627.351(6)(c)5.c., the applicant or insured may elect to accept  
296 such coverage or to accept or continue coverage with the  
297 corporation. In the event an offer of coverage for a commercial  
298 lines residential risk is received from an authorized insurer at  
299 renewal through the program, and the premium offered exceeds the  
300 eligibility threshold for policyholders of the corporation

301 established in s. 627.351(6)(c)5.c., the insured may elect to  
302 accept such coverage or to accept or continue coverage with the  
303 corporation. Section 627.351(6)(c)5.c.(I) does not apply to an  
304 offer of coverage from an authorized insurer obtained through  
305 the program.

306 (c)1. Except as provided in subparagraph 2., any applicant  
307 for new coverage from the corporation and any policyholder of  
308 the corporation that is offered commercial lines residential or  
309 commercial lines residential coverage pursuant to the program by  
310 an approved surplus lines clearinghouse insurer remains eligible  
311 for coverage from the corporation. The applicant or insured  
312 receiving an offer from an approved surplus lines clearinghouse  
313 insurer may elect to accept such coverage or may elect to accept  
314 or continue coverage with the corporation.

315 2. Any applicant for new coverage from the corporation and  
316 any policyholder of the corporation that is offered commercial  
317 lines residential or commercial lines nonresidential coverage by  
318 an approved surplus lines insurer pursuant to the program, if  
319 such coverage is equivalent to or greater than coverage from the  
320 corporation as to all aspects of such coverage and is for a  
321 premium that is not more than 20 percent greater than the  
322 premium for corporation coverage that will be paid by an  
323 applicant for corporation coverage or will be paid at renewal by  
324 a policyholder of the corporation, may elect to accept such  
325 coverage from the approved surplus lines clearinghouse insurer

326 or may elect to accept or continue coverage with the  
327 corporation, but, if electing corporation coverage, such  
328 applicant or policyholder must pay a premium for corporation  
329 coverage that is the greater of the premium for such coverage  
330 from the corporation or from the approved surplus lines  
331 clearinghouse insurer.

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

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

338 (a) Are granted and must maintain ownership and the  
339 exclusive use of expirations, records, or other written or  
340 electronic information directly related to such applications or  
341 renewals written through the corporation or through an insurer  
342 participating in the program, notwithstanding s. 627.351(5)(a),  
343 s. 627.351(6)(c)5.a.(I)(B) and (II)(B), or s.  
344 627.351(6)(c)5.b.(I)(B) and (II)(B). Such ownership is granted  
345 for as long as the insured remains with the agency or until sold  
346 or surrendered in writing by the agent. Contracts with the  
347 corporation, ~~or~~ required by the corporation, or with any insurer  
348 or surplus lines agent must not amend, modify, interfere with,  
349 or limit such rights of ownership. Such expirations, records, or  
350 other written or electronic information may be used to review an

351 application, issue a policy, or for any other purpose necessary  
352 for placing such business through the program.

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

356 (c) May accept an appointment from any insurer  
357 participating in the program.

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

361  
362 Applicants ineligible for coverage in accordance with subsection  
363 (5) remain ineligible if their independent agent is unwilling or  
364 unable to enter into a standard or limited agency agreement with  
365 an insurer participating in the program.

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

369 (a) Must maintain ownership and the exclusive use of  
370 expirations, records, or other written or electronic information  
371 directly related to such applications or renewals written  
372 through the corporation or through an insurer participating in  
373 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and  
374 (II)(B) or s. 627.351(6)(c)5.b.(I)(B) and (II)(B). Contracts  
375 with the corporation or required by the corporation must not

376 amend, modify, interfere with, or limit such rights of  
377 ownership. Such expirations, records, or other written or  
378 electronic information may be used to review an application,  
379 issue a policy, or for any other purpose necessary for placing  
380 such business through the program.

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

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

387 (d) May enter into a limited servicing agreement with the  
388 insurer making an offer of coverage, and only after the  
389 exclusive agent's insurer has approved the limited servicing  
390 agreement terms. The exclusive agent's insurer must approve a  
391 limited service agreement for the program for any insurer for  
392 which it has approved a service agreement for other purposes.

393  
394 Applicants ineligible for coverage in accordance with subsection  
395 (5) remain ineligible if their exclusive agent is unwilling or  
396 unable to enter into a standard or limited agency agreement with  
397 an insurer making an offer of coverage to that applicant.

398 (8) Submission of an application for coverage by the  
399 corporation to the program does not constitute the binding of  
400 coverage by the corporation, and failure of the program to



401 obtain an offer of coverage by an insurer may not be considered  
402 acceptance of coverage of the risk by the corporation.

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

408 (10) ~~The program may not include commercial nonresidential~~  
409 ~~policies.~~

410 ~~(11)~~ Proprietary business information provided to the  
411 corporation's clearinghouse by insurers with respect to  
412 identifying and selecting risks for an offer of coverage is  
413 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
414 of the State Constitution.

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

418 1. Is identified by the insurer as proprietary business  
419 information and is intended to be and is treated by the insurer  
420 as private in that the disclosure of the information would cause  
421 harm to the insurer, an individual, or the company's business  
422 operations and has not been disclosed unless disclosed pursuant  
423 to a statutory requirement, an order of a court or  
424 administrative body, or a private agreement that provides that  
425 the information will not be released to the public;

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

3. Includes:

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

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

Proprietary business information may be found in underwriting criteria or instructions which are used to identify and select risks through the program for an offer of coverage and are shared with the clearinghouse to facilitate the shopping of risks with the insurer.

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

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

2. Pursuant to a court order; or

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

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