

**SB 166 by Richter; (Similar to H 0167) Annuities**

432914	A	S	RCS	BI, Richter	Delete L.319:	02/06 05:05 PM
633592	A	S	RCS	BI, Richter	Delete L.343:	02/06 05:05 PM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**BANKING AND INSURANCE**  
**Senator Simmons, Chair**  
**Senator Clemens, Vice Chair**

**MEETING DATE:** Wednesday, February 6, 2013  
**TIME:** 10:30 a.m.—12:30 p.m.  
**PLACE:** *Toni Jennings Committee Room*, 110 Senate Office Building

**MEMBERS:** Senator Simmons, Chair; Senator Clemens, Vice Chair; Senators Benacquisto, Detert, Diaz de la Portilla, Hays, Lee, Margolis, Montford, Negron, Richter, and Ring

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>Workshop</b> - Discussion and testimony only on the following (no vote to be taken):  Citizens Property Insurance Corporation		Discussed
2	<b>Workshop</b> - Discussion and testimony only on the following (no vote to be taken):  Personal Injury Protection (PIP)		Not Considered
3	<b>SB 166</b> Richter (Similar H 167)	Annuities; Providing that recommendations relating to annuities made by an insurer or its agents apply to all consumers not just to senior consumers; deleting a provision providing a cap on surrender or deferred sales charges; increasing the period of time that an unconditional refund must remain available with respect to certain annuity contracts; making such unconditional refunds available to all prospective annuity contract buyers without regard to the buyer's age, etc.  BI      02/06/2013 Fav/CS JU RC	Fav/CS Yeas 11 Nays 0
Other Related Meeting Documents			



**Locke Burt, Chairman and President, Security First Insurance**

W. Lockwood (Locke) Burt began his insurance career in 1974. Since 1980, he has served as President of Ormond Re Group. A licensed insurance and reinsurance broker, he served on the Board of the Florida Association of Domestic Insurance Companies, and as President of the Independent Reinsurance Underwriters and Brokers Association. He is a licensed attorney and former member of the Florida Senate.

# Florida Property Insurance Market Analysis and Recommendations

**Presentation to The Florida Senate  
Banking and Insurance Committee**  
*February 6, 2013*

Locke Burt, Chairman and President  
Security First Insurance Company  
**[www.SecurityFirstFlorida.com](http://www.SecurityFirstFlorida.com)**

# Two key points regarding Citizens reform

#1

Shrinking Citizens **does not** require the price paid by Citizens' policyholders to increase. In fact, thousands of Citizens policyholders could save money by shopping for insurance from the private market.

#2

Enforcing the current 115% rule for Citizens eligibility would result in fewer people qualifying for coverage at **subsidized** rates.

This may be contrary to what you've heard,  
but here's the truth

# Florida Homeowners Insurance Misconception #1

**Citizens provides the majority of homeowners insurance in Florida.**

# Citizens Market Share Analysis

## Personal and Commercial Residential Policies (June 30, 2012)

Product Type	State Total	Citizens	Citizens' Market Share	Private Sector Market Share
Homeowner (Owner-Occupied)	3,443,220	592,744	17%	83%
Condominium Unit Owners	776,761	113,635	15%	85%
Dwelling Fire	720,370	281,948	39%	61%
Mobile Homes	380,550	146,992	39%	61%
Renters	374,889	16,663	4%	96%
Wind-Only	255,858	240,511	94%	6%
Commercial Residential	72,592	20,159	28%	72%
Allied Lines	59,119	0	0	100%
Farm-owners	2,983	0	0	100%
<b>Total</b>	<b>6,086,342</b>	<b>1,412,652</b>	<b>23%</b>	<b>77%</b>

Source: Florida Office of Insurance Regulation QUASR report

**The private sector insures 77% of all policies insured in the state of Florida.**

# Citizens Market Share by Insured Value of Coverage A (Main Structure)

Personal Residential Owner-Occupied HO3 (Excl Tenant and Condo)

Insured Value (Coverage A)	Total Market	Citizens	Citizens Market Share
Less Than \$400,000	2,675,382*	568,747	21.30%
More Than \$400,001	767,838*	23,997	3.10%
<b>Total</b>	<b>3,443,220</b>	<b>592,744</b>	<b>17.20%</b>

\*Estimated based on US Census 2006-2010 American Community Survey

In 2012, Citizens non-renewed more than 7,000 high value homes. The private market was able to provide replacement coverage for these policies.



# Citizens Market Share by Year Built

Personal Residential Owner-Occupied HO3 (Excl Tenant and Condo)

Age of Home	Total Market	Citizens	Citizens Market Share
Pre-Florida Building Code (2000 or older)	2,807,258*	548,739	19.50%
Post-Florida Building Code (2001 or newer)	635,962*	44,008	6.90%
<b>Total</b>	<b>3,443,220</b>	<b>592,747</b>	<b>17.20%</b>

\*Estimated based on US Census 2006-2010 American Community Survey

# Citizens Market Share by County

Personal Residential Owner-Occupied HO3 (Excl Condo and Tenants)

County	Market Total	Citizens	Citizens Market Share
<b>Non-Coastal Counties (32)</b>	874,567	7,226	0.8%
<b>Coastal Counties (35)</b>	2,568,653	585,518	22.80%
<b>Total</b>	<b>3,443,220</b>	<b>592,744</b>	<b>17.2%</b>

Source: Office of Insurance Regulation QUASR Report June 30, 2012

If Citizens discontinues writing policies in non-coastal counties, there will be no disruption in the market.

# Citizens' market share varies significantly by Senate District.

Citizens Market Share By Committee Member (HO3 Owner-Occupied)	
Committee Member	Citizens Market Share
Senator David Simmons (R)	2%
Senator Jeff Clemens (D)	34%
Senator Lizbeth Benacquisto (R)	31%
Senator Nancy C. Detert (R)	49%
Senator Miguel Diaz de la Portilla (R)	25%
Senator Alan Hayes (R)	4%
Senator Tom Lee (R)	14%
Senator Gwen Margolis (D)	48%
Senator Bill Montford (D)	2%
Senator Joe Negron (R)	19%
Senator Garrett Richter (R)	24%
Senator Jeremy Ring (D)	22%

Source: Citizens Property Insurance Corporation, US Census, American Community Survey Data December 31, 2011

# Citizens insures less than 30% of the homes in more than two thirds of the Senate and House Districts

Citizens Policies as % of total policies for Florida housing units by legislative district		
Number of Districts Having:	Senate	House
Over 50%	3	9
40-49 %	2	9
30-39%	8	17
20-29%	8	21
10-19%	7	22
0-9%	12	42
<b>Total</b>	<b>40</b>	<b>120</b>

Source: Citizens Property Insurance Corporation, United States Census, American Community Survey Data

# Market share data by county was provided to each committee member on January 16, 2013



## Citizens Market Share Analysis

Personal Residential HO3 and HO6

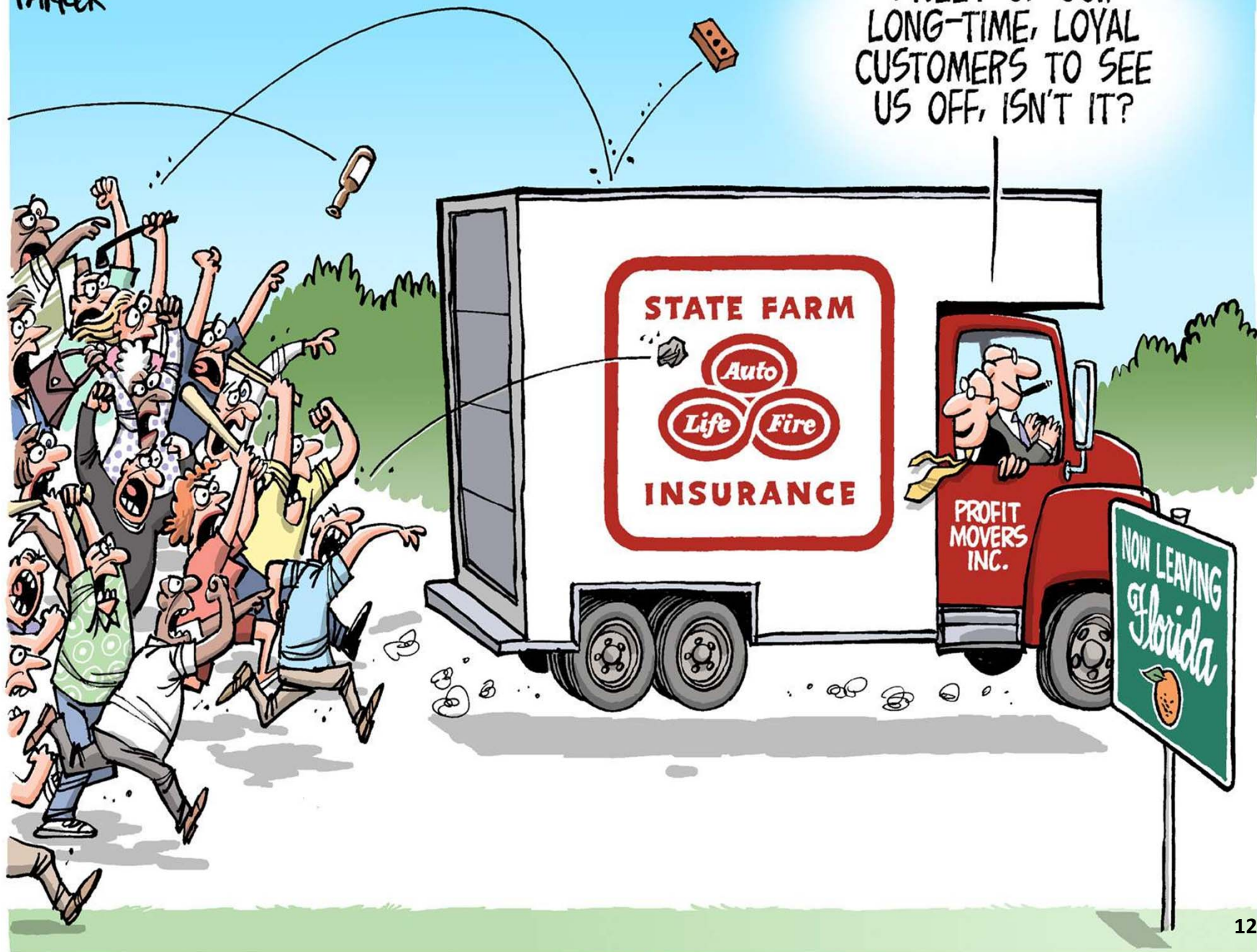
*January 16, 2013*

The Citizens Market Share Analysis provides the market share percentage of Citizens business for HO3 (home) and HO6 (condo) multi-peril policies by county. Also included is a market share analysis by product (commercial and residential) at the state and county level.

# Florida Homeowners Insurance Misconception #2

**Citizens is growing because the private sector isn't writing new business.**

SWEET OF OUR  
LONG-TIME, LOYAL  
CUSTOMERS TO SEE  
US OFF, ISN'T IT?



## Top 10 Writers of Residential Insurance in the U.S. Have Reduced Policies In-Force in Florida more than 650,000 in the Last Three Years

Company/Group	National HO Market Share	Florida Market Share 3/31/2009	Florida Market Share 6/30/2012	Market Share Change
State Farm Mutual	21.3%	13.8%	6.9%	-7.0%
Allstate Corp	9.4%	3.8%	3.5%	-0.3%
Farmers Ins Grp	6.2%	1.5%	0.7%	-0.8%
Liberty Mutual	5.5%	1.6%	0.9%	-0.7%
USAA	4.6%	4.0%	4.0%	-0.1%
Travelers Cos	4.6%	0.5%	0.5%	0.0%
Nationwide	3.7%	2.0%	1.1%	-0.9%
Chubb	2.4%	0.5%	0.4%	-0.1%
American Family Mutual	2.1%	0.0%	0.0%	0.0%
Hartford Fin Svcs	1.5%	1.1%	0.7%	-0.5%
<b>Total Market Share</b>	<b>61.3%</b>	<b>28.8%</b>	<b>18.6%</b>	<b>-10.2%</b>
<b>Top 10 Policies In-Force</b>		<b>1,773,245</b>	<b>1,118,378</b>	<b>-654,867</b>
<b>Total Policies In-force</b>		<b>6,151,362</b>	<b>6,013,750</b>	

Source: Office of Insurance Regulation Quarterly Supplemental Report (QUASR)

Most of these policyholders have found replacement coverage in the private market.



# New Policies Written By Type of Company

Owner-Occupied Homeowners Excl Condo and Tenant (First 6 mos 2012)

Type of Company	New Policies	Percent of Total
Florida Domestics	250,951	70.9%
Citizens	88,622	25.0%
Other	11,723	3.3%
State Farm, Allstate, Nationwide, and Travelers	2,915	0.8%
<b>Total</b>	<b>354,211</b>	<b>100.0%</b>

Source: Florida Office of Insurance Regulation QUASR report

# New Policies Written By Private Company

Owner-Occupied Homeowners Excl Condo and Tenant (First 6 months 2012)

Company	New Policies	Percent of Total
Universal Property & Casualty	25,133	10.0%
<b>Security First Insurance</b>	<b>20,636</b>	<b>8.2%</b>
United Property and Casualty	18,337	7.3%
Florida Peninsula Insurance	14,713	5.9%
Tower Hill Prime Insurance	14,229	5.7%
St. Johns Insurance	13,272	5.3%
American Integrity Insurance	11,932	4.8%
Federated National Insurance	13,158	5.2%
Southern Fidelity Insurance	12,722	5.0%
All Other Specialists	106,819	42.6%
<b>Total</b>	<b>250,951</b>	<b>100.0%</b>

Source: Florida Office of Insurance Regulation QUASR report

# Florida Homeowners Insurance Misconception #3

**Citizens policies are cheaper than those sold by private companies.**

# Citizens Competitive Rate Analysis (H03)

County	Total Citizens Policies	Total Quotations	% Private Market Quotations Less Than Citizens	% Private Market Quotations Within 15% of Citizens Rate
Miami-Dade	137,804	3,316,426	45.9%	72.0%
Pinellas	84,047	2,035,922	11.2%	21.6%
Broward	72,428	1,807,417	42.2%	66.0%
Palm Beach	52,863	1,171,857	57.9%	78.1%
Hillsborough	51,412	1,433,024	17.3%	34.6%
Pasco	48,018	1,085,850	51.6%	63.6%
Hernando	28,812	664,463	47.1%	58.2%
Sarasota	11,822	252,850	20.9%	36.7%
Lee	9,860	201,737	37.2%	61.7%
<b>Subtotal</b>	<b>497,066</b>	<b>11,969,546</b>	<b>37.7%</b>	<b>56.8%</b>
All other counties (58)	61,012	1,458,475	49.0%	66.4%
<b>Total</b>	<b>558,078</b>	<b>13,428,021</b>	<b>38.9%</b>	<b>57.8%</b>

**Total quotations = Citizens policies in county quoted by private companies (41) that have capacity (open) to write this business.**

## 91% of Citizens policies received at least one quotation that was less than they are currently paying with Citizens.

County	Number of Citizens policies that did not receive a price quotation less than Citizens rate from at least one private company	Number of Citizens policies that did not receive a price quotation less than 115% of Citizens rate from at least one private company
Brevard	137	0
Broward	1,344	0
Charlotte	446	0
Escambia	2	0
Gadsden	15	0
Hernando	658	0
Hillsborough	7,040	0
Holmes	4	0
Indian River	9	0
Lee	732	0
Manatee	533	0
Miami-Dade	1,043	0
Palm Beach	74	0
Pinellas	35,886	0
Polk	2	0
St. Johns	13	0
Sarasota	2,791	0
Volusia	742	0
<b>Total</b>	<b>54,471</b>	<b>0</b>

# Citizens Competitive Rate Analysis (HO6)

County	Total Citizens Policies	Total Quotations	% Private Market Quotations Less Than Citizens	% Private Market Quotations Within 15% of Citizens Rate
Miami-Dade	12,192	73,469	65.8%	78.8%
Pinellas	10,532	65,881	59.4%	69.0%
Broward	23,278	138,138	48.9%	63.5%
Palm Beach	14,617	86,818	66.1%	77.4%
Hillsborough	1,528	12,150	48.9%	59.9%
Pasco	1,289	8,020	53.2%	64.1%
Hernando	42	249	81.1%	87.1%
Sarasota	2,816	19,206	84.0%	90.3%
Lee	3,211	19,876	53.7%	65.8%
<b>Subtotal</b>	<b>69,505</b>	<b>423,807</b>	<b>58.8%</b>	<b>71.0%</b>
All other counties (58)	14,436	92,444	66.9%	78.1%
<b>Total</b>	<b>83,941</b>	<b>516,251</b>	<b>60.2%</b>	<b>72.2%</b>

**Total quotations = Citizens policies in county quoted by private companies (41) that have capacity (open) to write this business.**

# Competitive Rate Analysis for HO3 and HO6 business by county was provided to each committee member on January 16, 2013



## Citizens Competitive Rate Analysis

Personal Residential HO3 Owner-Occupied

*January 16, 2013*

The competitive rate analysis provides a comparison of the average Citizens rate with the average rates of private companies writing homeowners business in Florida. Mutil-peril HO3 policies from Citizens March 31, 2012 in-force extract were run through a competitive rating platform and a rate for each policy was generated for each of the companies for which that risk qualified.

The rates derived at the policy level have been aggregated up to provide comparisons at state and county level. The rates represent the "real" costs of insurance since they include the wind mitigation credits that apply as well as the actual coverage selected by the policyholder. Comparisons are made only on the policies that were eligible to be rated by both Citizen's and the private market, so the results are a true "apples to apples" comparison.

# Florida Homeowners Insurance Misconception #4

**There will always be 400,000 policies in the Citizens Coastal Account.**



# Policies in the Coastal Account (2006-2012)

<b>Citizens Policies Wind Only vs. Multi-Peril Coverage (Personal Residential)</b>			
<b>Date</b>	<b>Coastal (Wind Only)</b>	<b>Coastal (Multi-Peril)</b>	<b>Total Count</b>
<b>Nov. 2012</b>	240,184	165,729	405,913
<b>Dec. 2011</b>	245,506	173,798	419,304
<b>Dec. 2010</b>	248,328	154,663	402,991
<b>Dec. 2009</b>	251,287	114,561	365,848
<b>Dec. 2008</b>	328,775	67,672	396,447
<b>Dec. 2007</b>	421,505	24,676	446,181
<b>Dec. 2006</b>	403,509	0	403,509

# History of Depopulation in Citizens' Coastal Account – Multi-Peril Business

Year	Number of Policies
2007	0
2008	21,519
2009	16,842
2010	2,231
2011	7,750
2012	24,034
Jan 2013	1,786
<b>Total</b>	<b>74,164</b>

# Florida Homeowners Insurance Misconception #5

Florida-based insurance companies will be unable to pay claims in full after a large hurricane.

## **McCarty Testimony - January 16, 2013**

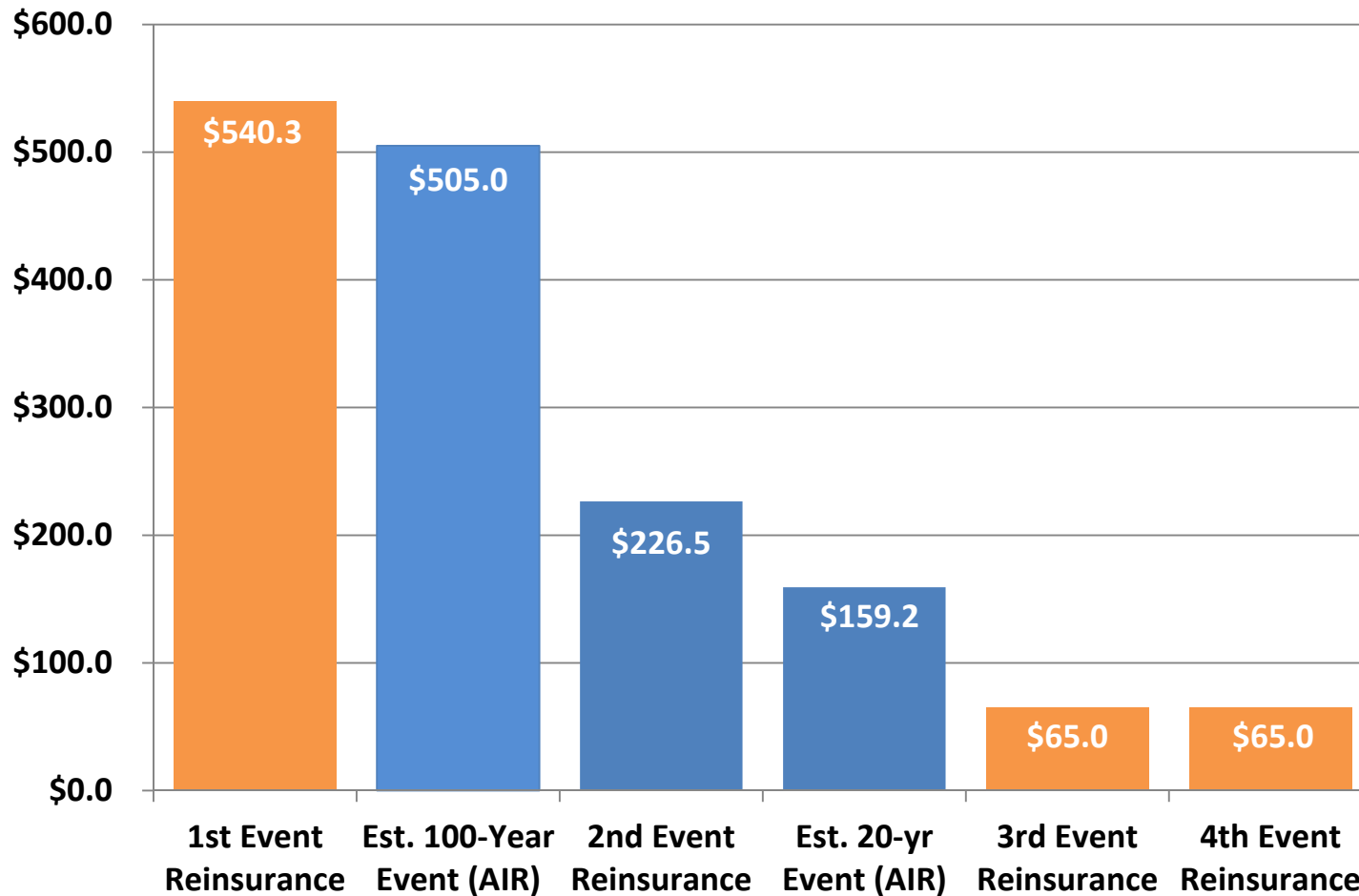
- 96% of Florida domestic insurance companies were reinsured to an 80-year event
- 91% of Florida domestic insurance companies were reinsured to a 100-year event

## **Gilway Testimony – January 16, 2013**

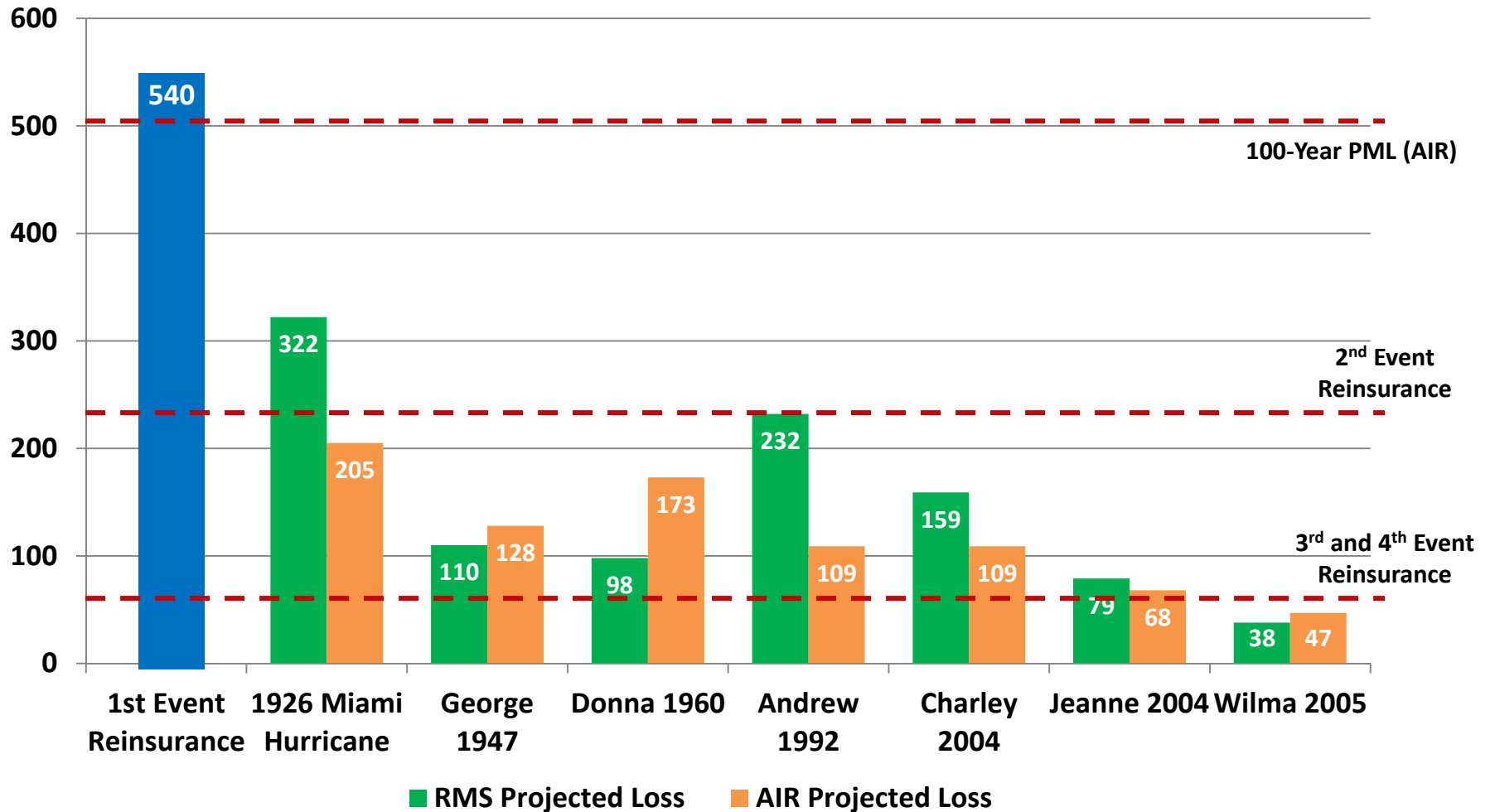
- Citizens' Coastal Account was reinsured to the 45-year event

# Domestic companies understand Florida and plan for multiple events

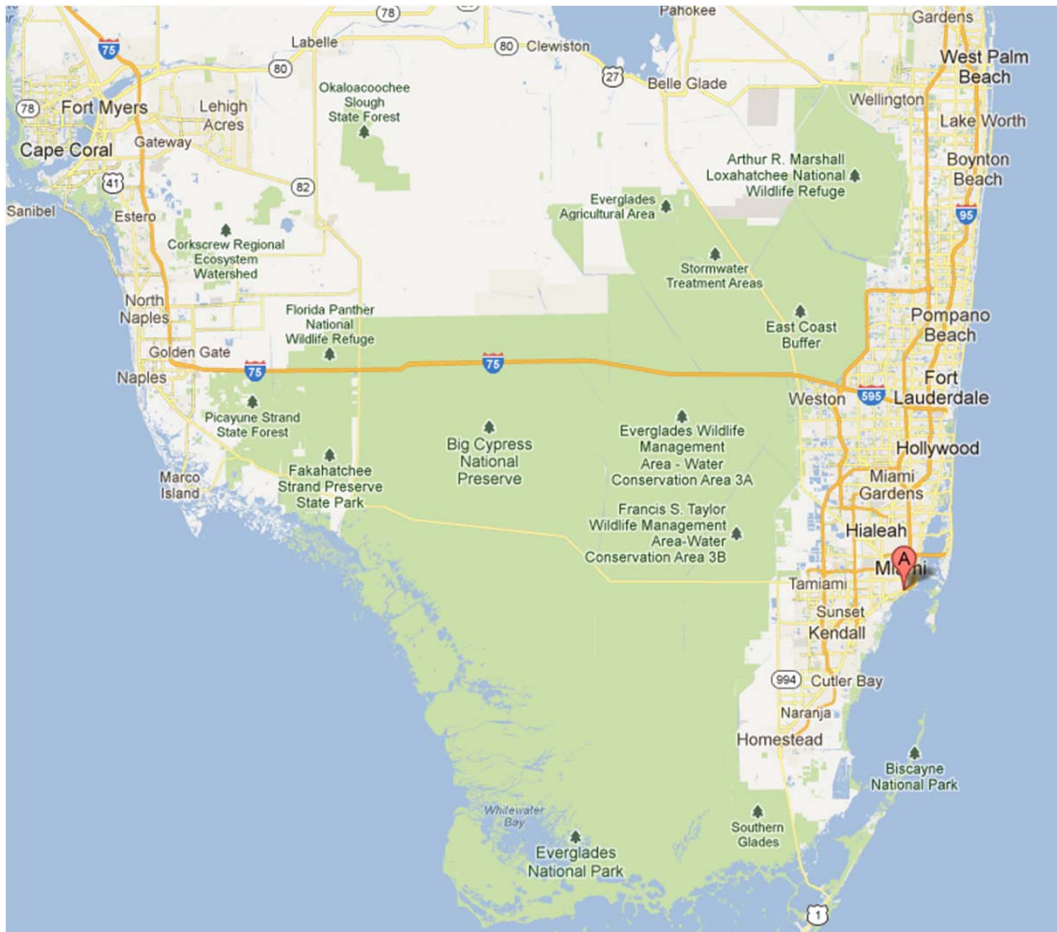
Security First Estimated Exposure and Purchased Reinsurance Protection



# Security First Insurance Company Estimated Exposure and Reinsurance Modeled Historical Events



# How will changes at Citizens affect my friends, neighbors, and constituents?



**Case Study:  
Coconut Grove,  
Florida**

# Grove Isle Drive, Coconut Grove, 33133



<b>Year Built: 1979-81</b>	<b>Units Per Building: 169</b>
<b>Stories: 18</b>	<b>Unit Square Feet: 1,404 – 5,8112</b>
<b>Sales Price Per Unit: \$400,000 - \$1,000,000+</b>	



## 2 Grove Isle Drive, Coconut Grove, 33133

- Citizens insures 11 condos at this location
- Average insured value: \$159,000
- Average premium: \$2,374

**Owners of the other units either purchase insurance from the private market or are self-insured.**

*Source: Citizens Property Insurance Corporation*

# What about single-family homes?



# Citizens Rate Comparison Zip: 33133

## Policies In-Force Homeowners (HO3) as of March 31, 2012

Rating Group	# Policies	Avg Prem Citizens	Avg Prem All Other	% Prem Diff	% Prem Less Than Citizens	% Prem Less Than 15%
\$50,001-\$75,000	2	\$2,563	\$2,591	-1%	69%	72%
\$75,001-\$100,000	21	\$2,668	\$2,777	-4%	46%	71%
\$100,001-\$200,000	657	\$4,207	\$4,574	-9%	39%	65%
\$200,001-\$300,000	526	\$6,123	\$6,186	-1%	49%	75%
\$300,001-\$400,000	150	\$8,882	\$8,584	3%	56%	79%
\$400,001-\$500,000	84	\$12,204	\$11,618	5%	58%	81%
\$500,001-\$600,000	38	\$14,175	\$13,279	6%	61%	81%
\$600,001-\$700,000	19	\$16,898	\$15,104	11%	67%	85%
\$700,001-\$800,000	20	\$16,643	\$14,942	10%	67%	84%
\$800,001-\$900,000	10	\$17,788	\$15,337	14%	73%	85%
\$900,001-\$1M	1	\$18,849	\$13,204	30%	96%	100%
\$1M +	7	\$18,901	\$21,116	-12%	54%	80%
<b>Totals</b>	<b>1,535</b>	<b>\$6,535</b>	<b>\$6,572</b>	<b>-0.57%</b>	<b>47%</b>	<b>72%</b>

The private market is more affordable for most homes quoted and 72% of the policies could find coverage in the private market at a premium less than 15% of Citizens' rates.

# \$1 Million+ homes cancelled by Citizens in Coconut Grove have obtained coverage in the private market



**Insured Value: \$2.5 million**

**Year Built: 1994**

**Square Feet: 6,571**

**Zip Code: 33133**

**Citizens Price: \$24,735**

**Security First Price: \$14,792**

# Rate suppression by regulators prevents private companies from writing more business in Zip Code 33133

Security First History of Recent Rate Requests			
<i>Rating Territory 310 – Miami-Dade Coastal HO3 Policies</i>			
Effective Date	Indicated Change	Company Proposed Change	OIR Approved Change
April 1, 2011	26.7%	13.4%	11.6%
October 1, 2011	41.8%	24.0%	18.9%
April 1, 2012	12.3%	10.6%	9.2%
October 1, 2012	14.6%	14.0%	14.0%
April 15, 2013	2.7%	2.7%	Pending
<b>Cumulative Change</b>		<b>82.0%</b>	<b>69.8%*</b>

\*Assumes approval of 2.7% pending rate increase

# Another Choice for Consumers

## Consent to Rate – What does it mean?

Policy Type	Rate Approval	Form Approval	Guarantee Fund Protection	Fees
Standard (AKA Admitted)	OIR	OIR	Yes	No
Consent to Rate	Consumer	OIR	Yes	No
Excess and Surplus Lines (AKA Non-Admitted)	Consumer	None	No	Yes

Consent to Rate is a consumer friendly alternative to the Excess and Surplus lines market for customers unable to purchase admitted coverage at filed rates.

## Top 2 Changes to Reduce the Size of Citizens


**#1**

**Clarify existing law to make the 115% rule apply to new and renewal business.**

**F.S. 627.351(5)(a):** the risk is not eligible for any policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 15 percent greater than the premium for comparable coverage from the corporation.

# Under current law, Citizens could easily provide existing and potential customers with price comparisons using existing technology.

**CHALLENGE MY RATE**

Exclusively brought to you by: 

These are just a few of the companies we represent. Additional rates are just a click away. Take the challenge and save today!

Tower Hill Omega:	\$1121
Cypress:	\$1236
Tower Hill Select:	\$1261
Frontline:	\$1309
Gulfstream:	\$1317
Tower Hill Preferred:	\$1318
Sunshine State:	\$1352
Sawgrass:	\$1366
Federated National:	\$1399
Southern Oak:	\$1527
St Johns:	\$1536
Bankers:	\$1584
Florida Peninsula Elite:	\$1617
Citizens:	\$1685
Heritage:	\$1738
Security First:	\$1828
American Integrity:	\$1833
Universal P&C:	\$1855
Tower Hill Signature:	\$1872
American Traditions:	\$1893
Olympus:	\$1934
Southern Fidelity:	\$1946
Universal North America:	\$1999
Ark Royal:	\$2014
Florida Peninsula Preferred:	\$2155
United P&C:	\$2169
ASI Preferred:	\$2172
Prepared:	\$2285

For quotes on high value homes through Chubb and Fireman's Fund take the challenge to speak with an agent who can tailor a policy to fit your needs.

**Homeowners Insurance Rates Guaranteed!\*** Lower Rate

Owner  Tenant

Masonry  Frame

Yes  No

Contents? ... Yes  No

**Instant Quotes**

Your information is safe.

Agents who can provide you access to quotes from one of our knowledgeable agents work with you if you are paying too much for insurance!



## **Enforcing the 115% rule DOES NOT mean:**

- Florida residents will be required to accept a takeout offer from a company they've never heard of and don't want to do business with (no change in consumer choice).

## **Enforcing the 115% rule DOES mean:**

- Florida residents can continue to work with an agent of their choice.

**Enforcing the 115% rule will reduce the size of Citizens without increasing Citizens' rates**

# Top 2 Changes to Reduce the Size of Citizens

#2

**Citizens to Stop Writing New Wind-Only Policies on July 1, 2013. Non-Renew All Existing Wind-Only Policies Beginning Jan 1, 2014.**

# Citizens to Stop Writing New and Renewal Wind-Only Policies

## Advantages for Citizens:

- Less work – no rate filings for wind only policies
- More revenue – they get the profits on the x-wind accounts that they are missing
- Increased opportunities for depopulation when those policies becomes rate adequate

## Advantages for Florida residents:

- One policy instead of two
- Still maintain access to Citizens at subsidized rates
- Prevents companies from offloading wind risk to Florida taxpayers while retaining profits on the ex-wind business.

# Additional suggested changes to Citizens were distributed to committee members on January 16, 2013



## Proposed Statutory Changes to Reduce the Size of Citizens Property Insurance Corporation

### 1. Adopt a Rate Standard for Citizens That Works

Louisiana has been successful with a standard that combines actuarial soundness with the requirement that the rates charged by Louisiana Citizens be at least 10% higher than the rates charged by the top 10 writers in the state.

### 2. Require Citizens to Implement a "Clearinghouse" for New and Renewal Business

A "clearinghouse" will provide consumers with additional choices for insurance coverage at rates lower than those charged by Citizens and permit Citizens to enforce the current statutory eligibility rule. Amendments to Citizens Plan of Operation (FS 627.351(6)(c)5), Citizens eligibility requirements (FS 627.351(6)(c)5), and the Exchange of Business statutes (FS 626.752 (4)) are required to implement the "Clearinghouse".

### 3. Expand the Ability of Admitted Markets to Compete With Non-Admitted Markets for Citizens' business by Modifying Consent to Rate (F.S. 627.171)

- Clarify that the initial written consent of the insured is valid for all subsequent renewals
- Allow companies to write up to 25% of their policies as "Consent to Rate" instead of the current 5%

# Security First is Not Recommending an Increase in the Glide Path

Product Type	Average Premium	Cost of Glide Path	
		Current Law 10%	Proposed by Mission Review Task Force 20%
<b>Homeowner (Owner-Occupied)</b>	\$2,337	\$234	<b>\$467</b>
<b>Condominium Unit Owners</b>	\$725	\$73	<b>\$145</b>
<b>Dwelling Fire</b>	\$1,482	\$149	<b>\$296</b>
<b>Mobile Homes</b>	\$974	\$97	<b>\$195</b>
<b>Renters</b>	\$373	\$37	<b>\$75</b>
<b>Wind Only</b>	\$1,917	\$192	<b>\$383</b>

Source: Florida Office of Insurance Regulation QUASR report

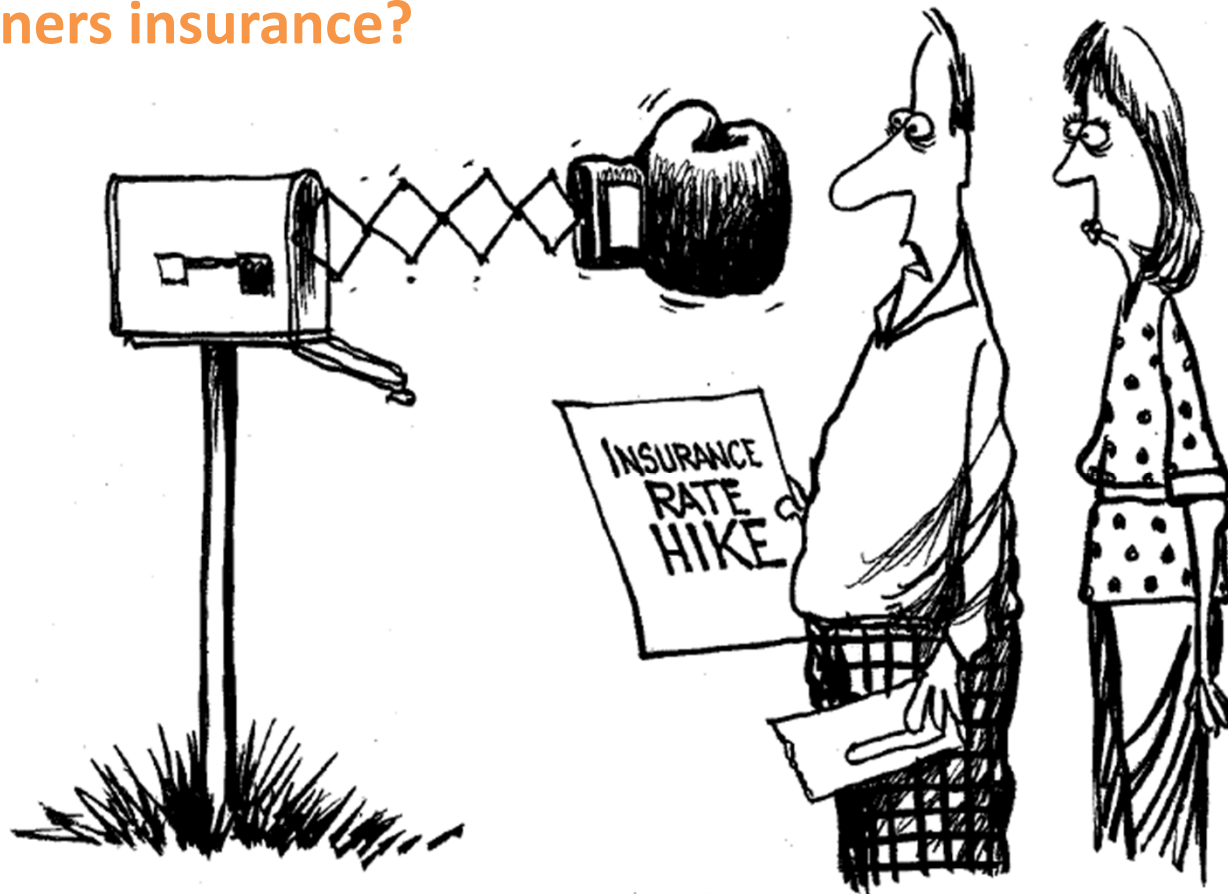
**Security First does believe that the legislature should mandate that Citizens' rates should not decrease in any territory while the glide path is in effect.**

# Factors to Consider When Debating Changes to the Glide Path

- 1. The price difference between a 10% and 20% glide path for the average Citizens' policyholder is 60 cents/per day.**
- 2. Any change in the glide path won't be effective until 2014.**
- 3. You don't have to treat all Citizens' policyholders the same. The glide path could vary based on :**
  - New vs renewal
  - Value of home
  - Location of home
  - Policy type (mobile home, tenant, dwelling fire, etc.)
  - Line of business (personal vs. commercial)

## Another factor to consider when debating changes in the glide path:

How much can Citizens' customers afford to pay for homeowners insurance?



"It's a Category 5 sucker punch from our good neighbors."

# Homeowners Underwriting Resistance Index (H.U.R.T)

County	Average Premium 6/30/12 QUASR HO3 Owner Occupied (Excl Tenant and Condo)	Mean Household Income Past 12 Months Ending 12/31/11*	Premium/Income Ratio
Miami-Dade	\$3,308	\$65,652	5.04%
Broward	\$2,894	\$72,242	4.01%
Gulf	\$1,906	\$49,654	3.84%
Pinellas	\$2,297	\$64,111	3.58%
Palm Beach	\$2,888	\$81,578	3.54%
Collier	\$2,855	\$94,212	3.03%
<b>Florida</b>	<b>\$2,027</b>	<b>\$67,065</b>	<b>3.02%</b>
Hillsborough	\$2,033	\$69,276	2.93%
Sarasota	\$1,820	\$71,767	2.54%
Seminole	\$1,708	\$79,008	2.16%
Duval	\$1,291	\$65,839	1.96%

On a relative basis, homeowners in Miami-Dade county spend 2 ½ times more than homeowners in Duval and Seminole counties.



## How do you solve the affordability issue for those customers who are struggling financially?

### **Permit Citizens' Board of Governors to Waive a Portion of Premium in Cases of Demonstrated Financial Need**

The biggest obstacle to increasing Citizens' rates to the level of "actuarially sound" as required by current law is the concern that actuarially sound rates might be unaffordable for some Citizens' customers. **This statutory change would eliminate that concern.**

# Security First Insurance Supports the Following Recommendations by the OIR

- 1. Expand consumer choices by changing Consent to Rate statute**
- 2. Give consumers more deductible choices**
- 3. Transfer evaluation and determination of wind mitigation credits and surcharges to the Florida Commission of Hurricane Loss Methodology—OIR will continue to regulate rate impact.**
- 4. Create the “Clearinghouse.”**
- 5. Re-establish the Citizens’ rating plan based on the top 20 private homeowners insurance companies.**
- 6. Allow Citizens to enter into risk-sharing arrangements with the private market.**

# Security First Insurance Supports the Following Recommendations by the Office of the Insurance Consumer Advocate

- 1. Transfer public model oversight and development to Department of Emergency Management (D.E.M.) from the OIR to expand its role in mitigation and risk assessment for wind and flood**
- 2. Transfer responsibility of wind inspections, including the 1802 Form to the D.E.M. from the OIR**
- 3. Create mechanism to consolidate and expand mitigation programs under D.E.M. with funds from various private sources, potentially Citizens and Federal Grants**

# Security First supports legislation filed by Senator Brandes

## **SB ### (Citizens)**

- Implements “Clearinghouse”
- Makes 115% rule apply to new and renewal business
- Gives Citizens a new financial tool, reinsurance, to encourage depopulation

## **SB 324 (FIGA)**

- Aligns FIGA’s statute with how emergency assessments are levied by Citizens and the Cat Fund
- Gives FIGA’s board authority to determine how regular assessments are levied

# **Additional Recommendations by Security First for Florida Property Insurance Market Reform**

- 1. Clarify Civil Remedy Notice law 624.155(3) to require a specific cure amount**
- 2. Eliminate abuses with Assignment of Benefits by requiring the assignee to complete a Proof of Loss and submit to an examination under oath when required**
- 3. Simplify initial rate filing for both new products and new companies where there are no existing policyholders**
- 4. Allow Citizens and private carriers to fund positions at the Division of Insurance Fraud and State's Attorneys' Offices**
- 5. Change the insurance rating law to provide for the use of multiple hurricane models**
- 6. Eliminate requirement for annual rate filing**

All of these recommendations are described further in the booklet distributed on January 23, 2013. The booklet includes suggested changes in statutory language to implement each recommendation

## Florida Property Insurance Reform

### Proposed Statutory Changes 2013

*January 23, 2013*

**Submitted by:**

Locke Burt

Chairman and President,  
Security First Insurance Company

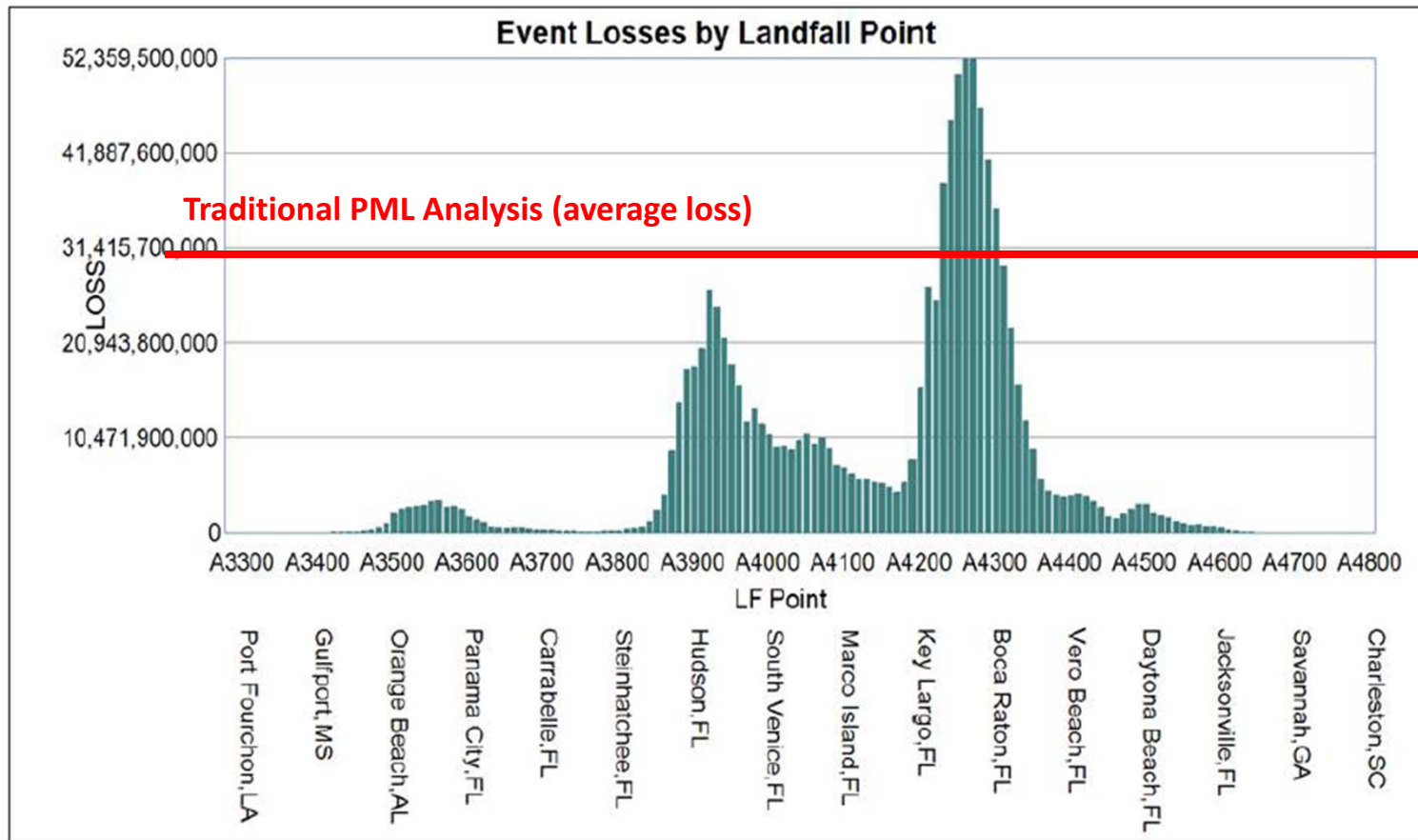
(386) 523-2300

[LBurt@SecurityFirstFlorida.com](mailto:LBurt@SecurityFirstFlorida.com)

**Why is it important for the legislature to reduce the size of Citizens. . .now?**

# #1 Citizens has made a promise it can't keep.

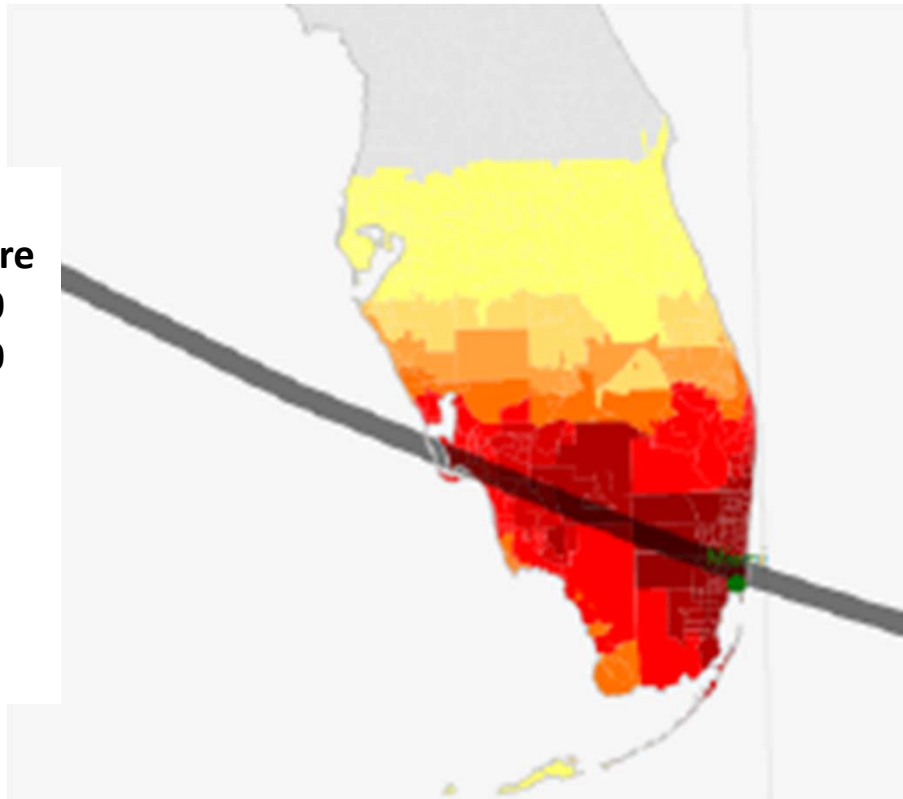
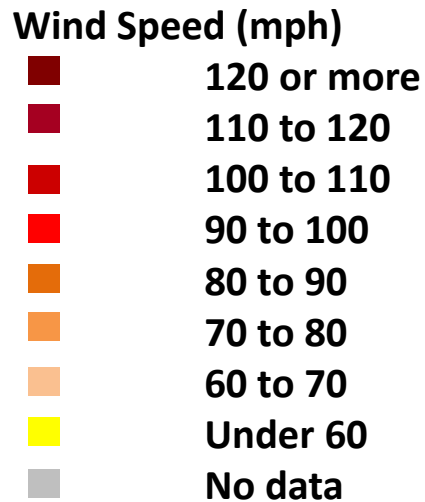
## Total Portfolio Multi-Peril 100-Year Characteristic Event Loss Estimates (June 2012)



RiskInsight's new computer model shows how a meteorological event that has a 1% chance of occurring would cost Citizens vastly different amounts of money depending on where it made landfall.



# 100-Yr Characteristic Event Miami Landfall Total Loss: \$52 Billion



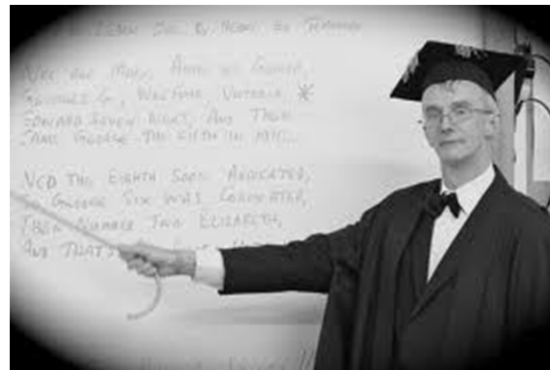
## #2 The current system isn't fair

- **40% of Floridians who rent homes are being asked to subsidize people who can afford to own a home. Some of these renters lost their home.**
- **80% of Florida homeowners are being asked to subsidize 20% of Floridians that are insured by Citizens.**

**Many Citizens customers don't need a subsidy.**

# Can legislative change actually reduce the size of Citizens?

## A history lesson from 1996



# CS for SB 2314

## SPECIAL ORDER CALENDAR, continued

**CS for SB 2314**—A bill to be entitled An act relating to insurance; creating s. 215.5551, F.S.; authorizing the board to issue bonds to reimburse insurers for claims paid on dwelling structures included in coverage only of a standard homeowner insurance policy; providing conditions for such reimbursement; authorizing the board to purchase reinsurance; creating s. 215.5552, F.S.; providing for use of moneys appropriated by the Legislature from the Florida Hurricane Catastrophe Fund for mitigation purposes; creating s. 624.4041, F.S.; providing that an insurer's authority to transact business may not be conditioned on the number or type of policies it writes or could write in the state of upon a requirement that the insurer write other kinds of insurance; amending s. 626.2815, F.S.; altering the continuing education requirements for agents; providing new membership criteria for the continuing education advisory board; providing conditions for appointment; providing for application of the continuing education requirements to nonresidents; authorizing the Department of Insurance to enter into contracts; creating s. 626.9153, F.S.; providing for expatriation of hurricane deductible risk in residential

Insurance policies; amending s. 627.701, F.S.; increasing deductibles for hurricane losses; providing for choice by policyholders; providing for an acknowledgment; requiring incentives for mitigation; amending s. 626.918, F.S.; exempting certain surplus lines insurers from certain eligibility requirements; requiring that such insurers maintain a specified surplus as to policyholders; providing for severability; providing an effective date.

—was read the second time by title.

Senator Jenne moved the following amendment:

**Amendment 1 (with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. This act may be cited as the "Hurricane Insurance Affordability and Availability Act of 1996."

Section 2. Section 215.555, Florida Statutes, is amended to read:

Section 215.555, Florida Statutes, is amended to read: ... Florida Hurricane Catastrophe Fund ...

- **Changed the rate standard to top 20**
- **Eliminated eligibility for any homeowner who had received any offer of coverage from the private sector**

## Yeas 22, Nays 16

These two changes resulted in a reduction of 900,000 policies from the RPCJUA, the forerunner to Citizens, within four years.

# Q&A

## **Locke Burt**

Chairman and President  
Security First Insurance Company  
(386) 523-2300  
[Lburt@SecurityFirstFlorida.com](mailto:Lburt@SecurityFirstFlorida.com)

## **Kevin McCarty, Commissioner Office of Insurance Regulation**

McCarty began his career in public service in 1988 becoming an expert in workers' compensation issues with the Department of Labor & Employment Security. His experience gained him a position with the Florida Department of Insurance in 1991. In 1992, McCarty became a point-man to implement strategies to improve the private marketplace following the devastation of Hurricane Andrew.

The Governor and Florida Cabinet announced McCarty as the first appointed insurance commissioner in January 2003.

Throughout his career, McCarty has cited three main principles that have guided his vision of government's role in society: 1.) Government should serve and ultimately be accountable to the people; 2.) Government should be transparent in its operations, and treat its clients fairly and equitably; and 3.) Government should promote a vibrant, competitive marketplace while protecting those unable to protect themselves.

McCarty has cemented his reputation as an innovator utilizing technology to improve the regulatory process, with the electronic rate and form filing and application processes, increasing speed to market for insurers and reducing administrative costs for insurers. He is a fierce defender of seniors and historically discriminated minorities and a national leader on national catastrophe strategy.

He continues to focus on stabilizing the Florida property insurance market, reforming personal injury protection (PIP) law and protecting Florida's consumers. McCarty has played a key role over the years in promoting lower workers' compensation premiums, and continues to chair the state's cost containment board – the Workers' Compensation Three Member Panel.

McCarty's work within the National Association of Insurance Commissioners (NAIC) ensures Florida consumers and insurers have a voice on national insurance issues. He is the current President of the NAIC. Florida is participating on 28 committees, task forces and working groups, chairing six and serving as vice-chair of the Senior Issues (B) Task Force. McCarty has previously chaired a number of substantive committees including the Financial Condition (E) Committee and the Property & Casualty (C) Committee, and has coordinated Florida's NAIC Financial Accreditation. Florida took the lead on organizing the U.S. regulation response to the International Monetary Fund's evaluation of the U.S. insurance sector.

He has elevated Florida's international presence by serving as a U.S. representative on the International Association of Insurance Supervisors' (IAIS) Executive and Technical Committees and the ComFrame Oversight Task Force, as well as the Joint Forum, a key group of leading international regulators from the insurance, banking and securities sectors.

McCarty has been privileged to testify on several occasions before the U.S. Congress on a number of insurance related matters.

McCarty and the Office received the 2010 Esprit de Corps Award for outstanding service to the NAIC. He was selected for the Spirit of Independence Award in 2011 from the National Association of Health Underwriters for his work to preserve the role of health insurance agents in light of federal health care reforms.

McCarty received his bachelor's degree and Juris Doctorate from the University of Florida.

**Dr. Ray Spudeck**

Dr. Ray Spudeck is the founding Principal of Spudeck Consulting, LLC, a consultancy providing economic, financial, and regulatory analysis and advocacy to government agencies, trade associations and private corporate clients. Dr. Spudeck brings a strong regulatory background from experience with the Securities Valuation Office in New York City, many years with the National Association of Insurance Commissioners and as the Chief Economist for the Florida Office of Insurance Regulation.

Dr. Spudeck has represented our nation in the global debate on financial regulation reform and has served as a consultant to the International Monetary Fund.



# **Preliminary Impact Assessment**

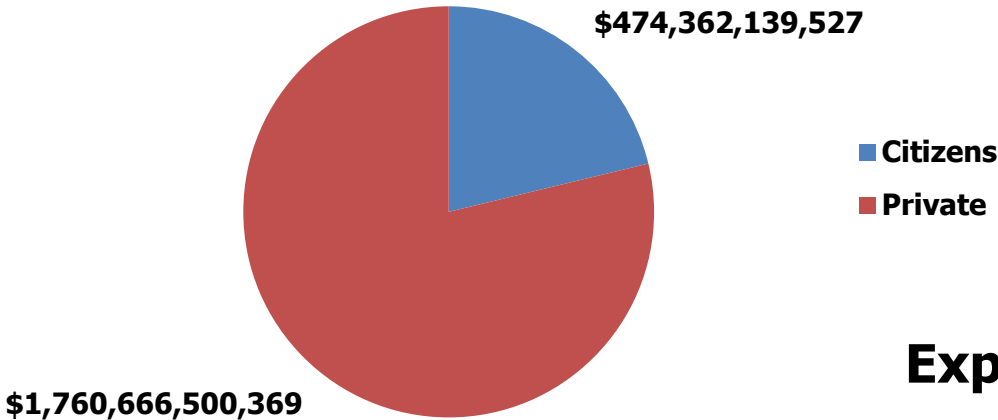
Senate Banking & Insurance Committee

February 6, 2013

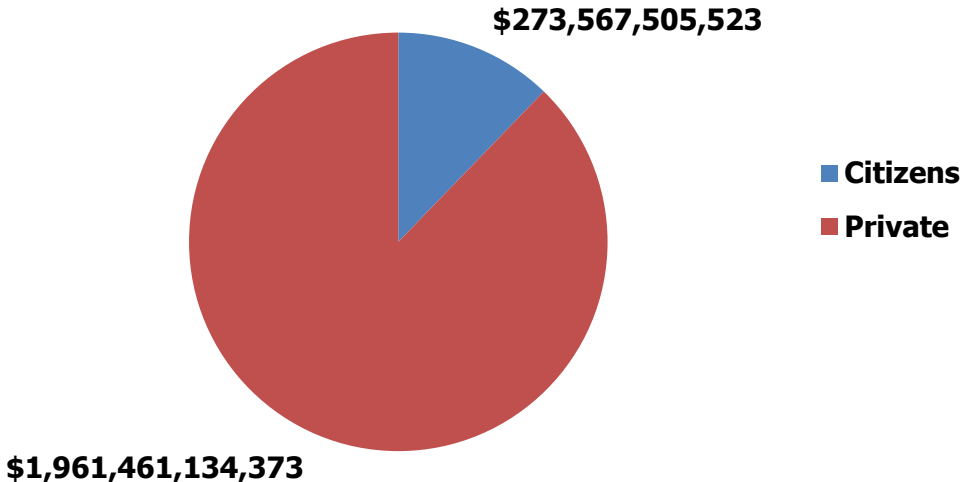
Dr. Ray Spudeck

# Citizens Recent Exposure at 2005 Footprint 42.3% Reduction

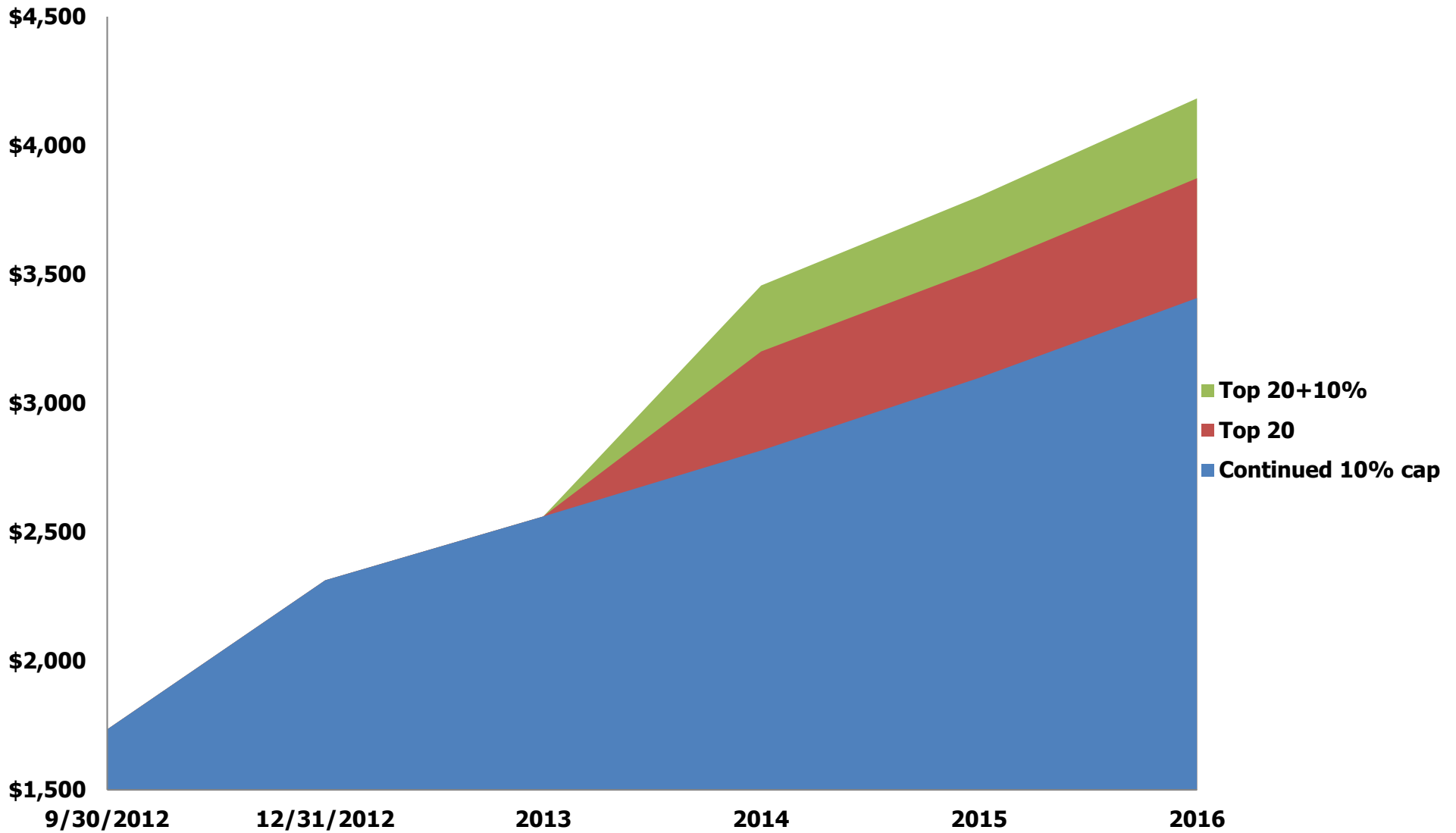
## Recent Exposure (3<sup>rd</sup> Qtr QUASR)



## Exposure Restated to 2005 Footprint



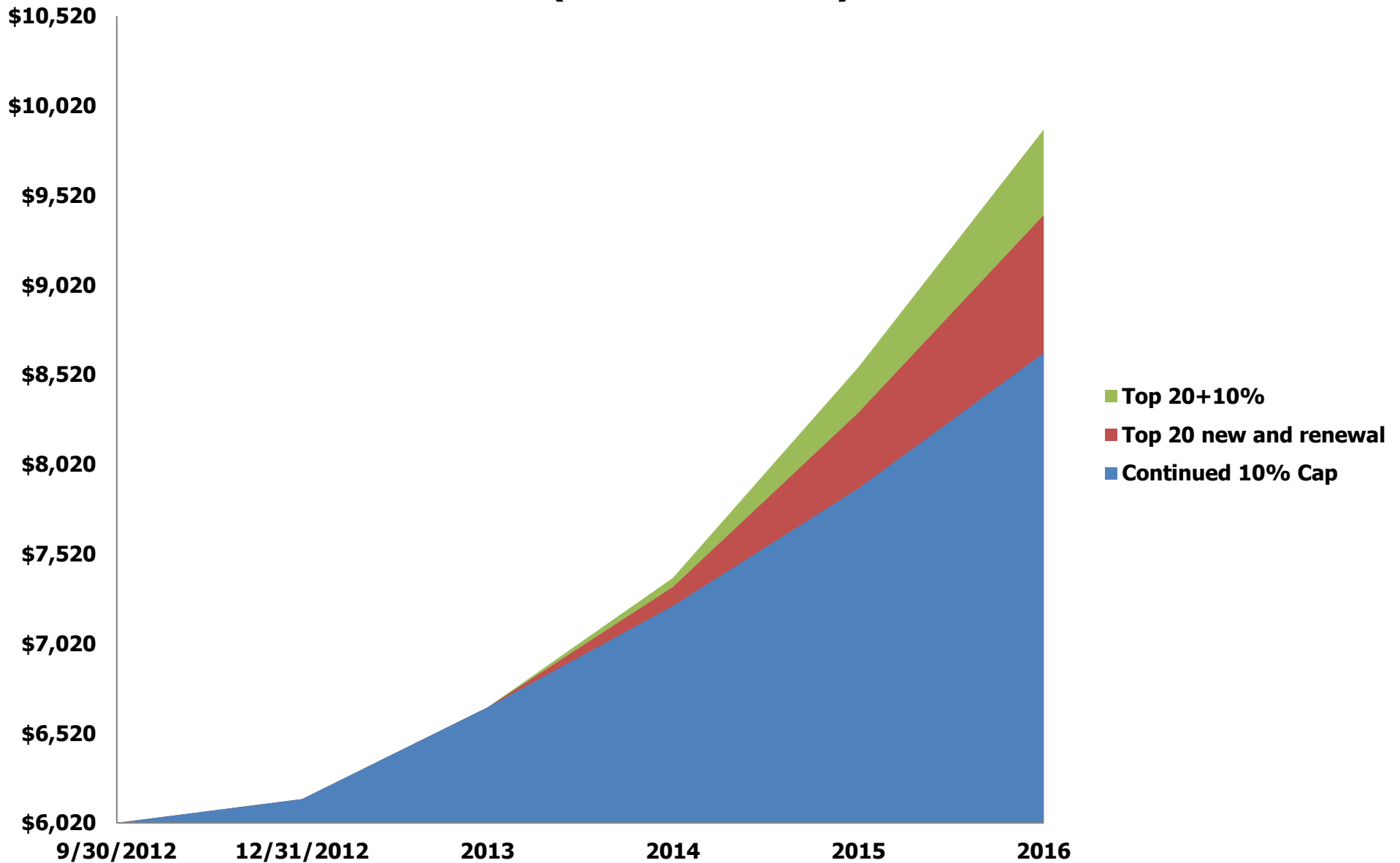
# Premium Growth Under Alternative Rate Paths (\$ Millions)



Assumes Citizens book remains the same as 3Q 2012



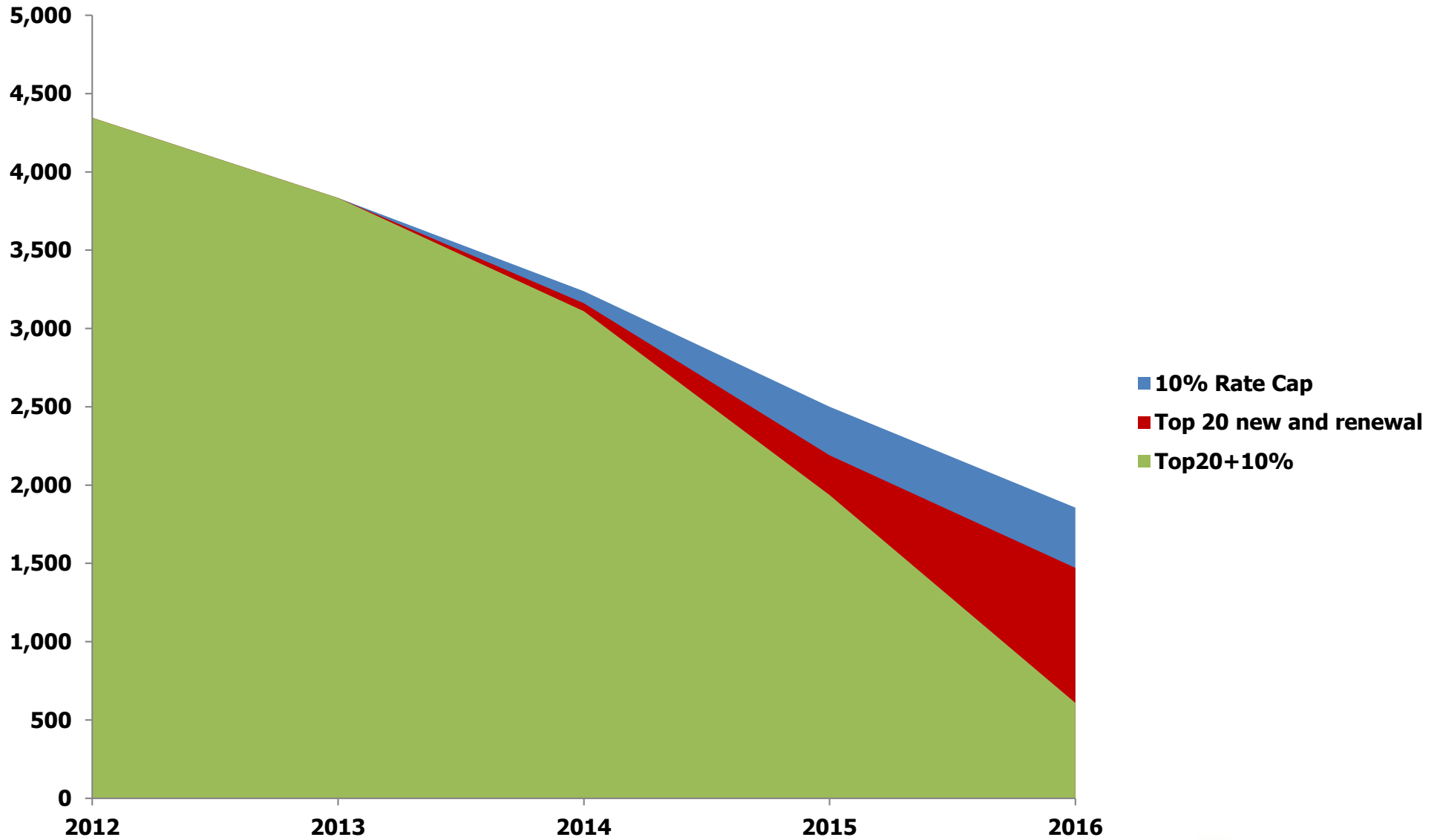
# Surplus Growth Under Alternative Rate Paths (\$ Millions)



Assumes Citizens book remains the same as 3Q 2012



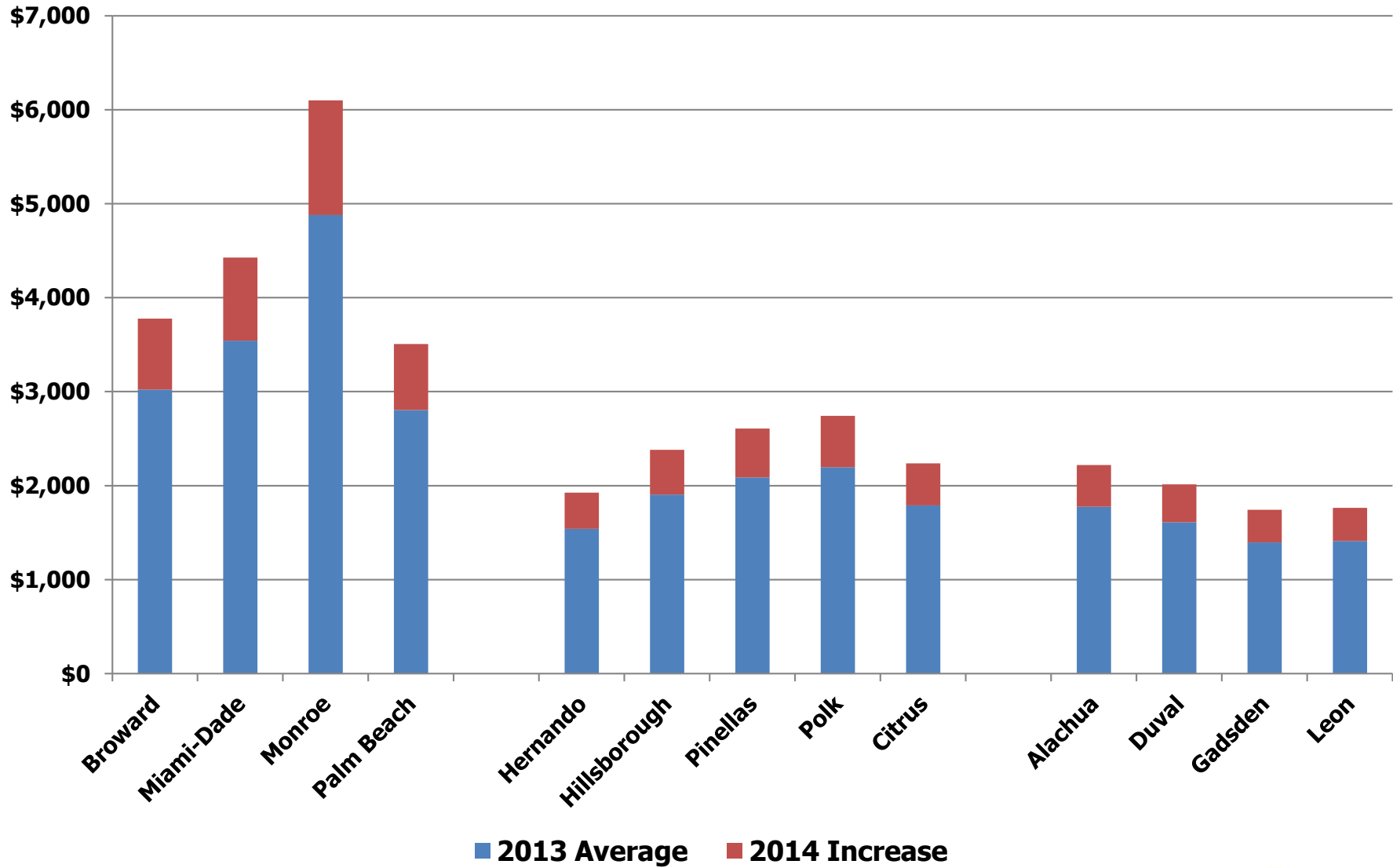
# Assessment Needed for 1-in-100 Year Storm (\$ millions)



Assumes Citizens book remains the same as 3Q 2012



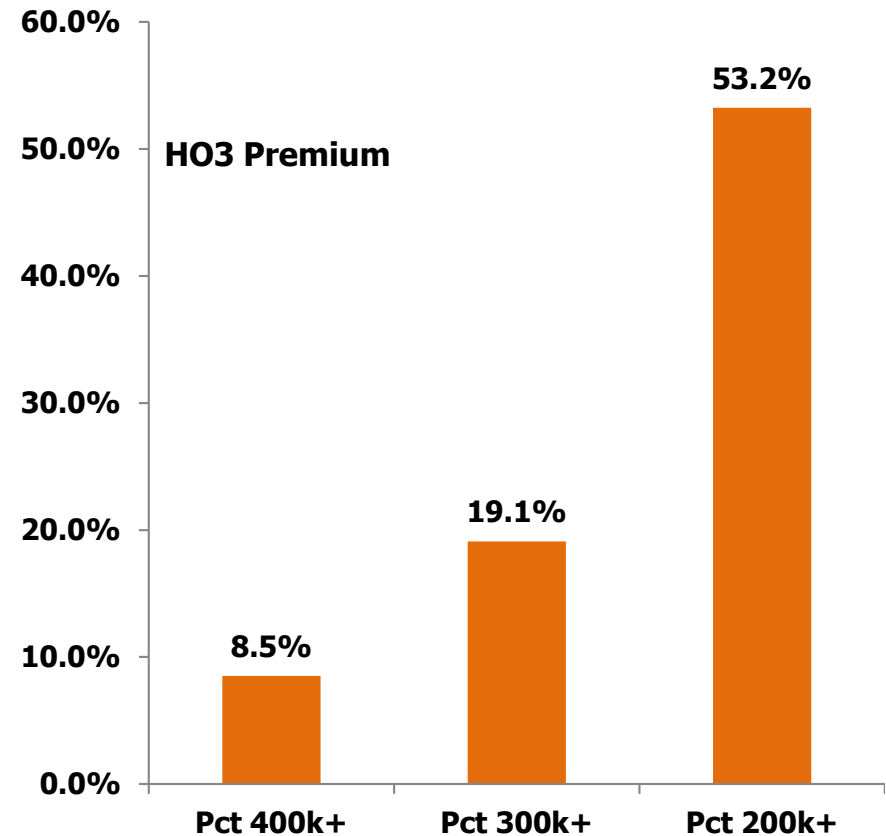
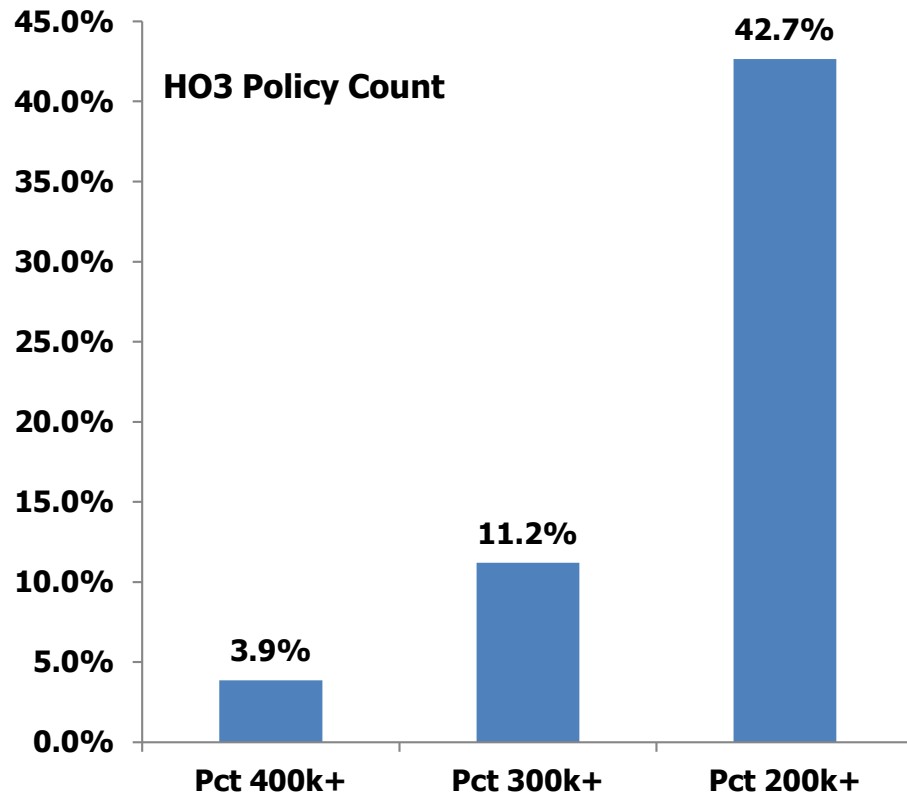
# Citizens Average HO3 Premium 2013-2014 Based on Top 20



# Citizens Average HO3 Market Size Characteristics

**Policies: 495,278**  
**Premium: \$1.134 million**

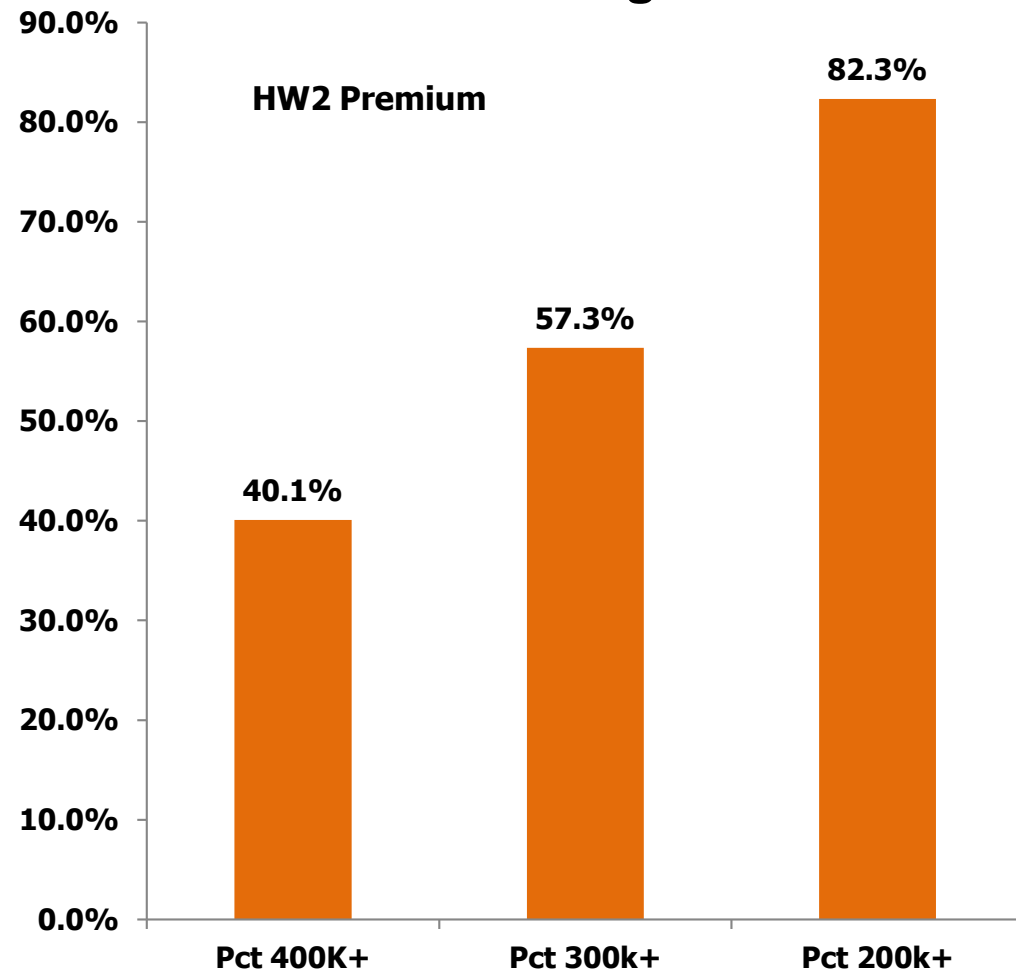
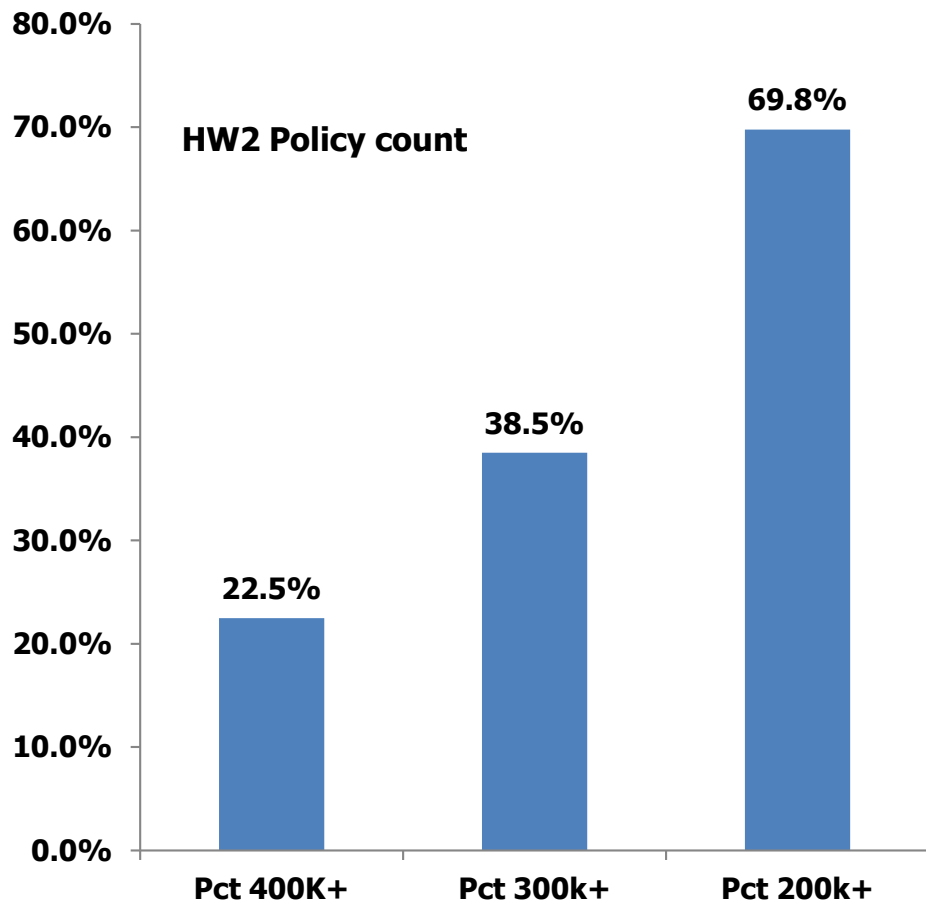
**\$206,873 average in-force Coverage A**



# Citizens HW2 (Wind Only Homeowners) Market Size Characteristics

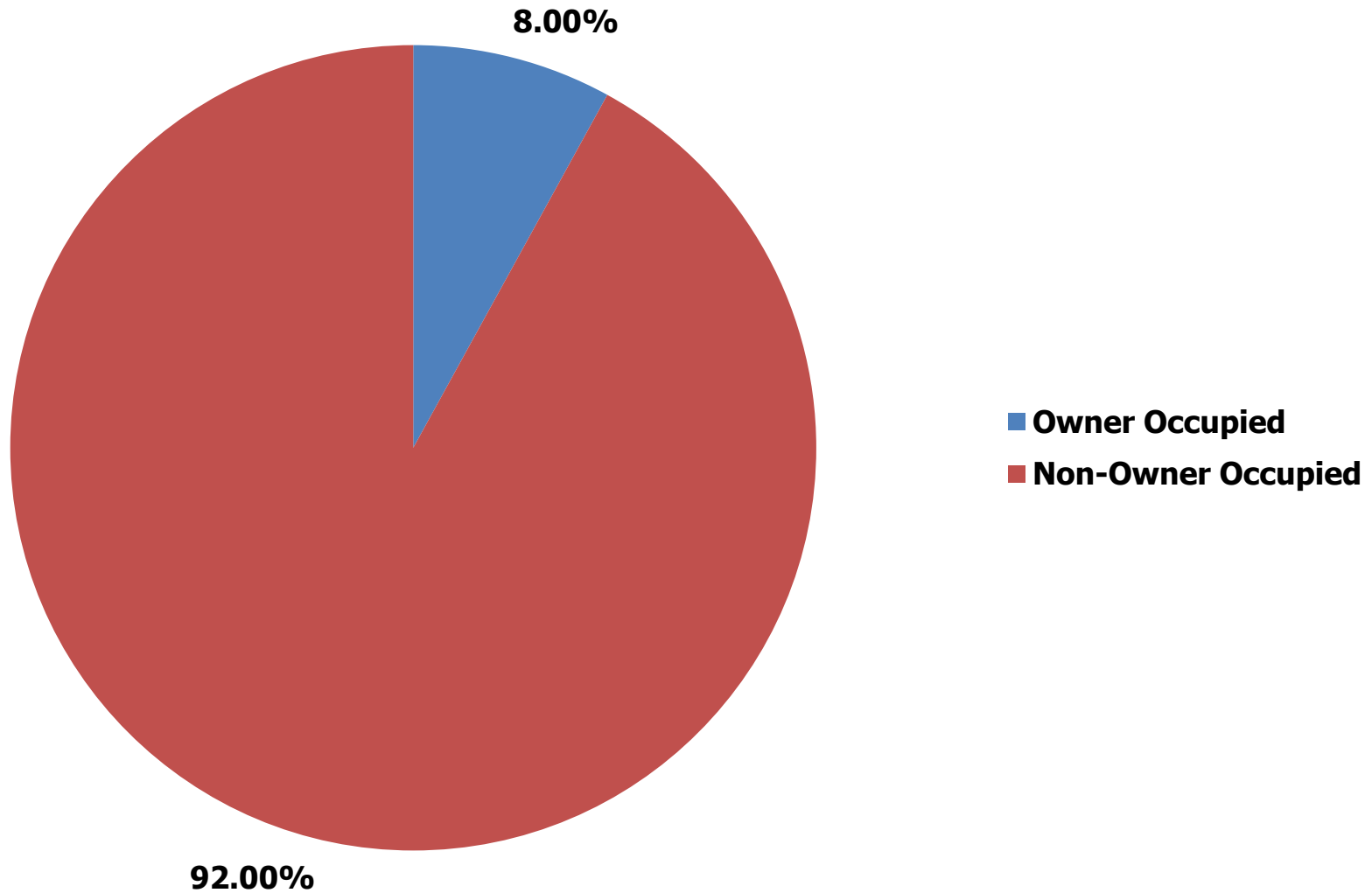
**Policies: 152,718**  
**Premium: \$357.6 million**

**\$327,068 average In  
force Coverage A**





# Dwelling Policies in Citizens (270,930 policies in force 3Q 2012)



OFFICE OF INSURANCE REGULATION  
 COMPARISON OF CITIZENS HO3 AVG PREMIUM HOMEOWNERS DWELLINGS  
 EXCLUDES WIND ONLY POLICIES  
 ASSUMES RATE CHANGES 10.7%,2013 25% 2014 and 10% 2015-2016  
 9/30/2012 is from QUASR

County	9/30/2012 No of Policies	Average Prem	2013 Average Premium	2014 Average Premium	2015 Average Pr Premium	2016 Average Premium	
Alachua	628	\$1,603	\$1,775	\$2,218	\$444	\$2,440	\$2,684
Baker	37	\$1,418	\$1,570	\$1,962	\$392	\$2,158	\$2,374
Bay	1,106	\$2,068	\$2,290	\$2,862	\$572	\$3,148	\$3,463
Bradford	24	\$1,818	\$2,012	\$2,515	\$503	\$2,767	\$3,043
Brevard	11,526	\$2,076	\$2,298	\$2,873	\$575	\$3,160	\$3,476
Broward	95,174	\$2,730	\$3,022	\$3,777	\$755	\$4,155	\$4,570
Calhoun	12	\$1,556	\$1,722	\$2,153	\$431	\$2,368	\$2,605
Charlotte	7,150	\$1,843	\$2,040	\$2,550	\$510	\$2,805	\$3,086
Citrus	910	\$1,616	\$1,789	\$2,237	\$447	\$2,460	\$2,706
Clay	342	\$1,304	\$1,443	\$1,804	\$361	\$1,985	\$2,183
Collier	4,034	\$2,803	\$3,102	\$3,878	\$776	\$4,266	\$4,693
Columbia	64	\$2,034	\$2,251	\$2,814	\$563	\$3,096	\$3,405
Miami-Dade	145,717	\$3,200	\$3,543	\$4,429	\$886	\$4,872	\$5,359
Desoto	109	\$1,862	\$2,061	\$2,576	\$515	\$2,834	\$3,118
Dixie	91	\$1,909	\$2,113	\$2,642	\$528	\$2,906	\$3,196
Duval	2,458	\$1,455	\$1,611	\$2,013	\$403	\$2,215	\$2,436
Escambia	2,518	\$2,127	\$2,355	\$2,943	\$589	\$3,238	\$3,561
Flagler	397	\$1,773	\$1,962	\$2,453	\$491	\$2,698	\$2,968
Franklin	88	\$2,772	\$3,069	\$3,836	\$767	\$4,220	\$4,642
Gadsden	181	\$1,260	\$1,395	\$1,744	\$349	\$1,918	\$2,110
Gilchrist	52	\$1,546	\$1,712	\$2,140	\$428	\$2,354	\$2,589
Glades	47	\$1,671	\$1,849	\$2,312	\$462	\$2,543	\$2,797
Gulf	105	\$2,614	\$2,893	\$3,617	\$723	\$3,978	\$4,376
Hamilton	10	\$1,804	\$1,997	\$2,496	\$499	\$2,745	\$3,020
Hardee	20	\$1,591	\$1,762	\$2,202	\$440	\$2,422	\$2,665
Hendry	192	\$1,889	\$2,091	\$2,614	\$523	\$2,875	\$3,163
Hernando	28,863	\$1,392	\$1,541	\$1,926	\$385	\$2,119	\$2,330
Highlands	219	\$1,712	\$1,895	\$2,369	\$474	\$2,606	\$2,867
Hillsborough	55,433	\$1,720	\$1,904	\$2,380	\$476	\$2,618	\$2,880
Holmes	63	\$1,453	\$1,609	\$2,011	\$402	\$2,212	\$2,433
Indian River	1,851	\$2,238	\$2,477	\$3,097	\$619	\$3,406	\$3,747
Jackson	103	\$1,427	\$1,579	\$1,974	\$395	\$2,171	\$2,389
Jefferson	43	\$1,391	\$1,540	\$1,925	\$385	\$2,118	\$2,330
Lafayette	22	\$1,953	\$2,162	\$2,702	\$540	\$2,972	\$3,270

Lake	556	\$1,518	\$1,681	\$2,101	\$420	\$2,311	\$2,542
Lee	9,763	\$2,084	\$2,306	\$2,883	\$577	\$3,171	\$3,488
Leon	540	\$1,274	\$1,411	\$1,763	\$353	\$1,940	\$2,134
Levy	228	\$1,956	\$2,165	\$2,706	\$541	\$2,977	\$3,275
Liberty	8	\$1,699	\$1,881	\$2,351	\$470	\$2,586	\$2,844
Madison	27	\$1,683	\$1,864	\$2,329	\$466	\$2,562	\$2,819
Manatee	8,482	\$1,931	\$2,137	\$2,672	\$534	\$2,939	\$3,233
Marion	1,098	\$1,542	\$1,707	\$2,133	\$427	\$2,347	\$2,581
Martin	3,054	\$2,952	\$3,268	\$4,085	\$817	\$4,494	\$4,943
Monroe	472	\$4,408	\$4,880	\$6,100	\$1,220	\$6,710	\$7,381
Nassau	377	\$1,897	\$2,099	\$2,624	\$525	\$2,887	\$3,175
Okaloosa	1,829	\$2,352	\$2,603	\$3,254	\$651	\$3,579	\$3,937
Okeechobee	97	\$1,887	\$2,089	\$2,611	\$522	\$2,872	\$3,160
Orange	1,294	\$1,780	\$1,970	\$2,463	\$493	\$2,709	\$2,980
Osceola	490	\$1,491	\$1,651	\$2,063	\$413	\$2,270	\$2,497
Palm Beach	57,804	\$2,534	\$2,805	\$3,506	\$701	\$3,856	\$4,242
Pasco	47,654	\$1,504	\$1,665	\$2,082	\$416	\$2,290	\$2,519
Pinellas	91,377	\$1,885	\$2,087	\$2,609	\$522	\$2,869	\$3,156
Polk	950	\$1,983	\$2,195	\$2,744	\$549	\$3,018	\$3,320
Putnam	153	\$1,456	\$1,612	\$2,014	\$403	\$2,216	\$2,437
Santa Rosa	1,525	\$2,465	\$2,728	\$3,410	\$682	\$3,751	\$4,126
Sarasota	12,707	\$1,912	\$2,117	\$2,646	\$529	\$2,910	\$3,201
Seminole	519	\$1,833	\$2,029	\$2,536	\$507	\$2,790	\$3,068
St. Johns	1,408	\$1,678	\$1,858	\$2,322	\$464	\$2,555	\$2,810
St. Lucie	3,725	\$1,975	\$2,186	\$2,733	\$547	\$3,006	\$3,306
Sumter	230	\$1,383	\$1,531	\$1,913	\$383	\$2,104	\$2,315
Suwanee	30	\$2,131	\$2,359	\$2,949	\$590	\$3,243	\$3,568
Taylor	129	\$1,749	\$1,937	\$2,421	\$484	\$2,663	\$2,929
Union	14	\$2,140	\$2,369	\$2,961	\$592	\$3,257	\$3,583
Volusia	6,783	\$1,498	\$1,658	\$2,073	\$415	\$2,280	\$2,508
Wakulla	91	\$1,834	\$2,030	\$2,537	\$507	\$2,791	\$3,070
Walton	434	\$3,154	\$3,491	\$4,364	\$873	\$4,801	\$5,281
Washington	37	\$1,822	\$2,017	\$2,522	\$504	\$2,774	\$3,051
Total	613,474	\$2,339	\$2,590	\$3,237	\$647	\$3,561	\$3,917

## **Jim Graganella, President**

Mr. Graganella has over twenty years of experience guiding all levels and strategic decisions for a variety of insurance companies. His business skills coupled with legal expertise have resulted in recognition as an influential leader within the insurance industry. He has spent considerable time working with hurricane modeling and reinsurance brokers. Mr. Graganella has developed insurance products and rates in response to current market conditions. He has proven creativity in developing business and legal strategies to gain and sustain a competitive advantage. Mr. Graganella will direct and participate in the development and implementation of goals, objectives, policies and procedures.



**Gary Farmer –Farmer, Jaffe, Weissing, Edwards, Fistos & Lehrman, P.L.**

Gary Farmer has spent almost his entire career fighting for the rights of consumers, fair and just compensation for victims, the creation of new law that protects society, and the protection of the civil justice system and full access to the court system.

Over the past decade, Mr. Farmer has been at the forefront of high-profile consumer litigation in Florida: Whether acting as lead counsel in record setting qui tam recoveries, creating new law and causes of actions for subscribers wrongfully denied coverage by their HMO's, litigating the "Butterfly Ballot" and absentee voting cases to the Florida Supreme Court during the infamous 2000 election litigation, representing consumers who were deceived by tobacco companies' deceptive marketing practices involving light cigarettes, or representing patients, consumers and employees wronged by deceptive trade practices. Mr. Farmer has also been involved in landmark pharmaceutical litigation involving injury claims of patients who ingested drugs with dangerous side-effects that were hidden by the drug companies.

Through it all, Mr. Farmer's motivation has been consistent – protect society the way he would want his wife Stacey and his daughters Hannah and Abigail protected. His devotion to the law is second only to his devotion to his family, without whom his life would be incomplete.

1 A bill to be entitled

2 An act relating to property insurance; amending s. 215.555,  
3 F.S.; providing that the maximum coverage level available from  
4 the Florida Hurricane Catastrophe Fund be reduced by 5 percent  
5 each year beginning with the 2013-2014 contract year and  
6 continuing until it reaches 75 percent; providing that the  
7 maximum obligation of the board is reduced to \$16 billion for  
8 the contract year 2014-2015, to \$15 billion for the contract  
9 year 2015-2016, and to \$14 billion for the contract year 2016-  
10 2017; amending s. 626.752, F.S.; exempting Citizens Property  
11 Insurance Corporation from exchange of business restrictions  
12 when placing business with authorized insurers; amending s.  
13 627.062, F.S.; requiring the office to calculate an annual  
14 property insurance inflation factor and allowing insurers that  
15 file rates below the factor to be deemed not excessive; amending  
16 s. 627.0628, F.S.; requiring that the proper mitigation models  
17 be approved by the Florida Commission on Hurricane Loss  
18 Projection Methodology; amending s. 627.0629, F.S.; allowing  
19 insurers to use the same model for calculating the mitigation  
20 credits that is used for estimating losses in the rate setting  
21 process; allowing the office to hold a hearing on a rate filing  
22 whenever it deems appropriate; amending s. 627.171, F.S.;  
23 allowing insurers to use the "consent to rate" provision for up  
24 to 15% of its commercial book and up to 10% of its personal  
25 book, instead of the current respective 10% and 5% limits;  
26 amending s. 627.351, F.S.; prohibiting Citizens from covering  
27 structures commencing construction after July 1, 2013, that are  
28 seaward of the coastal construction control line, unless built  
29 to code-plus; creating a process and structure to allow Citizens  
30 to enter into risk-sharing agreements with private companies;  
31 providing that the eligibility restriction of a private company  
32 offer within 15% of Citizens' rate applies to both new and

33 renewal policies; requiring Citizens to establish a  
34 clearinghouse to enforce the eligibility requirements for both  
35 new and renewal coverage; requiring that agents must document a  
36 continuing effort to seek private market placement for their  
37 policyholders that are in Citizens; requiring that for all new  
38 policies, for all houses valued in excess of \$400,000, and for  
39 all non-homestead homes, Citizens' rates will be set at the  
40 highest average rate in the rating territory among the 20  
41 private insurers with the greatest statewide market share;  
42 requiring that for renewal policies, the rate increase  
43 restriction will continue at a rate that is estimated to attain  
44 the target rate within 3 years; for counties in which office  
45 determines that there is no meaningful degree of competition,  
46 the rates will be actuarially sound; allowing an additional  
47 increase of 5% for Citizens to purchase additional reinsurance  
48 or other risk transfer product; requiring Citizens to examine  
49 the feasibility of developing a process to determine whether  
50 policyholders may be eligible to receive relief from the full  
51 rates based on a demonstration of financial need; amending s.  
52 627.405, F.S.; requiring that assignment of benefits for  
53 property insurance must comply with the policy conditions;  
54 amending s. 627.410, F.S., and s. 627.4102, F.S.; providing for  
55 an additional process by which the office may approve property  
56 and casualty forms, except for workers compensation filings;  
57 providing an effective date.

58  
59 Be It Enacted by the Legislature of the State of Florida:

60  
61 Section 1. Paragraph (e) of subsection (2) and paragraphs  
62 (b) and (c) of subsection (4) of section 215.555, Florida  
63 Statutes, are amended to read:

64 215.555 Florida Hurricane Catastrophe Fund.—

65 (2) DEFINITIONS.—As used in this section:

66 (e) "Retention" means the amount of losses below which an  
67 insurer is not entitled to reimbursement from the fund. An  
68 insurer's retention shall be calculated as follows:

69 1. The board shall calculate and report to each insurer the  
70 retention multiples for that year.

71 a. For the contract year beginning June 1, 2005, the  
72 retention multiple shall be equal to \$4.5 billion divided by the  
73 total estimated reimbursement premium for the contract year; for  
74 subsequent years, the retention multiple shall be equal to \$4.5  
75 billion, adjusted based upon the reported exposure for the  
76 contract year occurring 2 years before the particular contract  
77 year to reflect the percentage growth in exposure to the fund  
78 for covered policies since 2004, divided by the total estimated  
79 reimbursement premium for the contract year.

80 b. The total reimbursement premium for purposes of the  
81 calculation under this subparagraph shall be estimated:

82 (I) For the 2013-2014 contract year using the assumption  
83 that all insurers have selected the 90-percent coverage level.

84 (II) For the 2014-2015 contract year using the assumption  
85 that all insurers have selected the 85-percent coverage level.

86 (III) For the 2015-2016 contract year using the assumption  
87 that all insurers have selected the 80-percent coverage level.

88 (IV) For the 2016-2017 contract year and subsequent  
89 contract years using the assumption that all insurers have  
90 selected the 75-percent coverage level.

91 2. The retention multiple as determined under subparagraph  
92 1. shall be adjusted to reflect the coverage level elected by  
93 the insurer.

94 a. For an insurer electing the maximum coverage level  
95 available under paragraph (4) (b) for a particular contract year  
96 ~~For insurers electing the 90-percent coverage level, the~~



97 adjusted retention multiple is 100 percent of the amount  
98 determined under subparagraph 1.

99 b. For an insurer electing a coverage level other than the  
100 maximum coverage level, the adjusted retention multiple is as  
101 follows:

102 (I) With respect to the 2013-2014 contract year, for an  
103 insurer ~~For insurers~~ electing the 75-percent coverage level, the  
104 retention multiple is 90/75ths ~~120 percent~~ of the amount  
105 determined under subparagraph 1., and for an insurer ~~For~~  
106 ~~insurers~~ electing the 45-percent coverage level, the adjusted  
107 retention multiple is 90/45ths ~~200 percent~~ of the amount  
108 determined under subparagraph 1.

109 (II) With respect to the 2014-2015 contract year, for an  
110 insurer electing the 75-percent coverage level, the retention  
111 multiple is 85/75ths of the amount determined under subparagraph  
112 1., and for an insurer electing the 45-percent coverage level,  
113 the retention multiple is 85/45ths of the amount determined  
114 under subparagraph 1.

115 (III) With respect to the 2015-2016 contract year, for an  
116 insurer electing the 75-percent coverage level, the retention  
117 multiple is 80/75ths of the amount determined under subparagraph  
118 1., and for an insurer electing the 45-percent coverage level,  
119 the retention multiple is 80/45ths of the amount determined  
120 under subparagraph 1.

121 (IV) With respect to the 2016-2017 contract year and  
122 subsequent contract years, for an insurer electing the 45-  
123 percent coverage level, the retention multiple is 75/45ths of  
124 the amount determined under subparagraph 1.

125 3. An insurer shall determine its provisional retention by  
126 multiplying its provisional reimbursement premium by the  
127 applicable adjusted retention multiple and shall determine its  
128 actual retention by multiplying its actual reimbursement premium

129 by the applicable adjusted retention multiple.

130 4. For insurers who experience multiple covered events  
131 causing loss during the contract year, beginning June 1, 2005,  
132 each insurer's full retention must ~~shall~~ be applied to each of  
133 the covered events causing the two largest losses for that  
134 insurer. For each other covered event resulting in losses, the  
135 insurer's retention shall be reduced to one-third of the full  
136 retention. The reimbursement contract shall provide for the  
137 reimbursement of losses for each covered event based on the full  
138 retention with adjustments made to reflect the reduced  
139 retentions on or after January 1 of the contract year provided  
140 the insurer reports its losses as specified in the reimbursement  
141 contract.

142 (4) REIMBURSEMENT CONTRACTS.—

143 (b)1.a. The contract shall contain a promise by the board  
144 to reimburse the insurer for a specified percentage ~~45 percent,~~  
145 ~~75 percent, or 90 percent~~ of its losses from each covered event  
146 in excess of the insurer's retention, plus 5 percent of the  
147 reimbursed losses to cover loss adjustment expenses.

148 b. The available coverage levels are as follows:

149 (I) For the 2013-2014 contract year, 90 percent, 75  
150 percent, and 45 percent.

151 (II) For the 2014-2015 contract year, 85 percent, 75  
152 percent, and 45 percent.

153 (III) For the 2015-2016 contract year, 80 percent, 75  
154 percent, and 45 percent.

155 (IV) For the 2016-2017 contract year and subsequent  
156 contract years, 75 percent and 45 percent.

157 2.a. The insurer must elect one of the percentage coverage  
158 levels specified in this paragraph and may, upon renewal of a  
159 reimbursement contract, elect a lower percentage coverage level  
160 if no revenue bonds issued under subsection (6) after a covered

161 event are outstanding, or elect a higher percentage coverage  
162 level, regardless of whether or not revenue bonds are  
163 outstanding. All members of an insurer group must elect the same  
164 percentage coverage level. ~~A Any~~ joint underwriting association,  
165 risk apportionment plan, or other entity created under s.  
166 627.351 must elect the maximum 90-percent coverage level  
167 available under subparagraph 1.

168 b. In order to implement the phase-in of reduced coverage  
169 levels as provided in subparagraph 1., and notwithstanding any  
170 provisions of sub-subparagraph a. to the contrary, if revenue  
171 bonds issued under subsection (6) after a covered event are  
172 outstanding and the insurer has elected the maximum coverage  
173 level available under subparagraph 1., the insurer must, upon  
174 renewal of the reimbursement contract, elect the maximum  
175 coverage level available under subparagraph 1. for the renewal  
176 contract year.

177 3. The contract shall provide that reimbursement amounts  
178 shall not be reduced by reinsurance paid or payable to the  
179 insurer from other sources.

180 ~~4. Notwithstanding any other provision contained in this~~  
181 ~~section, the board shall make available to insurers that~~  
182 ~~purchased coverage provided by this subparagraph in 2008,~~  
183 ~~insurers qualifying as limited apportionment companies under s.~~  
184 ~~627.351(6)(c), and insurers that have been approved to~~  
185 ~~participate in the Insurance Capital Build-Up Incentive Program~~  
186 ~~pursuant to s. 215.5595 a contract or contract addendum that~~  
187 ~~provides an additional amount of reimbursement coverage of up to~~  
188 ~~\$10 million. The premium to be charged for this additional~~  
189 ~~reimbursement coverage shall be 50 percent of the additional~~  
190 ~~reimbursement coverage provided, which shall include one prepaid~~  
191 ~~reinstatement. The minimum retention level that an eligible~~  
192 ~~participating insurer must retain associated with this~~

193 ~~additional coverage layer is 30 percent of the insurer's surplus~~  
194 ~~as of December 31, 2008, for the 2009-2010 contract year; as of~~  
195 ~~December 31, 2009, for the 2010-2011 contract year; and as of~~  
196 ~~December 31, 2010, for the 2011-2012 contract year. This~~  
197 ~~coverage shall be in addition to all other coverage that may be~~  
198 ~~provided under this section. The coverage provided by the fund~~  
199 ~~under this subparagraph shall be in addition to the claims-~~  
200 ~~paying capacity as defined in subparagraph (c)1., but only with~~  
201 ~~respect to those insurers that select the additional coverage~~  
202 ~~option and meet the requirements of this subparagraph. The~~  
203 ~~claims-paying capacity with respect to all other participating~~  
204 ~~insurers and limited apportionment companies that do not select~~  
205 ~~the additional coverage option shall be limited to their~~  
206 ~~reimbursement premium's proportionate share of the actual~~  
207 ~~claims-paying capacity otherwise defined in subparagraph (c)1.~~  
208 ~~and as provided for under the terms of the reimbursement~~  
209 ~~contract. The optional coverage retention as specified shall be~~  
210 ~~accessed before the mandatory coverage under the reimbursement~~  
211 ~~contract, but once the limit of coverage selected under this~~  
212 ~~option is exhausted, the insurer's retention under the mandatory~~  
213 ~~coverage will apply. This coverage will apply and be paid~~  
214 ~~concurrently with mandatory coverage. This subparagraph expires~~  
215 ~~on May 31, 2012.~~

216 (c)1. The contract must ~~shall~~ also provide that the  
217 obligation of the board with respect to all contracts covering a  
218 particular contract year shall not exceed the actual claims-  
219 paying capacity of the fund up to the limit specified in this  
220 subparagraph.

221 a. For the 2013-2014 contract year, the limit is \$17  
222 billion.

223 b. For the 2014-2015 contract year, the limit is \$16  
224 billion.

225 c. For the 2015-2016 contract year, the limit is \$15  
226 billion.

227 d. For the 2016-2017 contract year and subsequent contract  
228 years, the limit is \$14 billion.

229 e. For contract years after the 2016-2017 contract year, if  
230 a limit of \$17 billion for that contract year, unless the board  
231 determines that there is sufficient estimated claims-paying  
232 capacity to provide \$14 \$17 billion of capacity for the current  
233 contract year and an additional \$14 \$17 billion of capacity for  
234 subsequent contract years. If the board makes such a  
235 determination, the estimated claims-paying capacity for the  
236 particular contract year shall be determined by adding to the  
237 \$14 \$17 billion limit one-half of the fund's estimated claims-  
238 paying capacity in excess of \$28 \$34 billion. However, the  
239 dollar growth in the limit may not increase in any year by an  
240 amount greater than the dollar growth of the balance of the fund  
241 as of December 31, less any premiums or interest attributable to  
242 optional coverage, as defined by rule, which occurred over the  
243 prior calendar year.

244 2. In May and October of the contract year, the board shall  
245 publish in the Florida Administrative Weekly a statement of the  
246 fund's estimated borrowing capacity, the fund's estimated  
247 claims-paying capacity, and the projected balance of the fund as  
248 of December 31. After the end of each calendar year, the board  
249 shall notify insurers of the estimated borrowing capacity,  
250 estimated claims-paying capacity, and the balance of the fund as  
251 of December 31 to provide insurers with data necessary to assist  
252 them in determining their retention and projected payout from  
253 the fund for loss reimbursement purposes. In conjunction with  
254 the development of the premium formula, as provided for in  
255 subsection (5), the board shall publish factors or multiples  
256 that assist insurers in determining their retention and

257 projected payout for the next contract year. For all regulatory  
258 and reinsurance purposes, an insurer may calculate its projected  
259 payout from the fund as its share of the total fund premium for  
260 the current contract year multiplied by the sum of the projected  
261 balance of the fund as of December 31 and the estimated  
262 borrowing capacity for that contract year as reported under this  
263 subparagraph.

264 Section 2. Subsection (4) of section 626.752, Florida  
265 Statutes, is amended to read:

266 626.752 Exchange of business.—

267 (4) The foregoing limitations and restrictions shall not be  
268 construed and shall not apply to the placing of surplus lines  
269 business under the provisions of part VIII or to the activities  
270 of Citizens Property Insurance Corporation in placing new and  
271 renewal business with authorized insurers in conjunction with  
272 efforts to reduce the size of the corporation pursuant to the  
273 provisions of 627.351(6).

274 Section 3. Paragraph (a) of subsection (2) of section  
275 627.062, Florida Statutes, is amended to read:

276 627.062 Rate standards.—

277 (2) As to all such classes of insurance:

278 (a) Insurers or rating organizations shall establish and  
279 use rates, rating schedules, or rating manuals that allow the  
280 insurer a reasonable rate of return on the classes of insurance  
281 written in this state. A copy of rates, rating schedules, rating  
282 manuals, premium credits or discount schedules, and surcharge  
283 schedules, and changes thereto, must be filed with the office  
284 under one of the following procedures:

285 ~~3. For all property insurance filings made or submitted~~  
286 ~~after January 25, 2007, but before May 1, 2012, an insurer~~  
287 ~~seeking a rate that is greater than the rate most recently~~  
288 ~~approved by the office shall make a "file and use" filing. For~~

289 ~~purposes of this subparagraph, motor vehicle collision and~~  
290 ~~comprehensive coverages are not considered property coverages.~~

291 3.a. The office shall calculate and publish an insurance  
292 inflation factor based on direct costs for use in residential  
293 property insurance filings. The office shall update the  
294 published factor annually and make it available on its web site.

295 b. Residential property insurance rate filings that  
296 propose a change in base rates by a factor equal to or less than  
297 the published insurance inflation factor may be made on a use  
298 and file basis and shall be deemed not excessive. The office  
299 shall verify insurer use of the appropriate published inflation  
300 factor.

301 c. An insurer may proceed under other provisions of this  
302 section or other provisions of law if the filing exceeds the  
303 published insurance inflation factor. An insurer may not make  
304 filings under this subparagraph with respect to any policy form,  
305 including endorsements issued with the form, if the change in  
306 base rates exceeds the published insurance inflation factor in  
307 any 12-month period.

308 d. An insurer filing under this subparagraph may make a  
309 separate filing pursuant to paragraph (k) of this subsection to  
310 adjust its rates for reinsurance rates, reinsurance financing  
311 costs and products, and cash buildup factor costs. The insurance  
312 inflation factor for direct costs under sub-subparagraph a. does  
313 not apply to these filings.

314 e. The provisions of this subparagraph do not apply to  
315 filings made by Citizens Property Insurance Corporation.

316 f. An insurer proceeding under this subparagraph must also  
317 satisfy the requirements for annual filings under s. 627.0645.

318 g. The calculation of an insurance inflation factor is not  
319 subject to rulemaking under Chapter 120.

320

321 The provisions of this subsection do not apply to workers'  
322 compensation, employer's liability insurance, and motor vehicle  
323 insurance.

324 Section 4. Section 627.0628, Florida Statutes is amended to  
325 read:

326 627.0628 Florida Commission on Hurricane Loss Projection  
327 Methodology

328 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

329 (a) The commission shall consider any actuarial methods,  
330 principles, standards, models, or output ranges that have the  
331 potential for improving the accuracy of or reliability of the  
332 hurricane loss projections and wind mitigation discounts used in  
333 residential property insurance rate filings. The commission  
334 shall, from time to time, adopt findings as to the accuracy or  
335 reliability of particular methods, principles, standards,  
336 models, or output ranges.

337 (b) The commission shall consider any actuarial methods,  
338 principles, standards, or models that have the potential for  
339 improving the accuracy of or reliability of projecting probable  
340 maximum loss levels. The commission shall adopt findings as to  
341 the accuracy or reliability of particular methods, principles,  
342 standards, or models related to probable maximum loss  
343 calculations. The commission shall review models for accuracy  
344 of use to establish wind mitigation discounts.

345 (c) In establishing reimbursement premiums for the Florida  
346 Hurricane Catastrophe Fund, the State Board of Administration  
347 must, to the extent feasible, employ actuarial methods,  
348 principles, standards, models, or output ranges found by the  
349 commission to be accurate or reliable.

350 (d) With respect to a rate filing under s. 627.062, an  
351 insurer shall employ and may not modify or adjust actuarial  
352 methods, principles, standards, models, or output ranges found



353 by the commission to be accurate or reliable in determining  
354 hurricane loss factors for use in a rate filing under s.  
355 627.062. An insurer shall employ and may not modify or adjust  
356 models found by the commission to be accurate or reliable in  
357 determining probable maximum loss levels pursuant to paragraph  
358 (b) with respect to a rate filing under s. 627.062 made more  
359 than 60 days after the commission has made such findings.

360 Section 5. Section 627.0629, Florida Statutes, is amended  
361 to read:

362 627.0629 Residential property insurance; rate filings.—

363 (1) It is the intent of the Legislature that insurers  
364 provide savings to consumers who install or implement windstorm  
365 damage mitigation techniques, alterations, or solutions to their  
366 properties to prevent windstorm losses. A rate filing for  
367 residential property insurance must include notice of the  
368 mitigation discounts offered by the insurer which shall be  
369 actuarially reasonable discounts, credits, or other rate  
370 differentials, or appropriate reductions in deductibles, for  
371 properties on which fixtures or construction techniques  
372 demonstrated to reduce the amount of loss in a windstorm have  
373 been installed or implemented. Insurers may use the same model  
374 used for the rate to determine appropriate mitigation discounts.

375 The fixtures or construction techniques must include, but are  
376 not limited to, fixtures or construction techniques that enhance  
377 roof strength, roof covering performance, roof-to-wall strength,  
378 wall-to-floor-to-foundation strength, opening protection, and  
379 window, door, and skylight strength. Credits, discounts, or  
380 other rate differentials, or appropriate reductions in  
381 deductibles, for fixtures and construction techniques that meet  
382 the minimum requirements of the Florida Building Code must be  
383 included in the rate filing. The office shall determine the  
384 discounts, credits, other rate differentials, and appropriate

385 reductions in deductibles that reflect the full actuarial value  
386 of such revaluation, which may be used by insurers in rate  
387 filings.

388 Section 6. Subsection (6) of section 627.0629, Florida  
389 Statutes, is amended to read:

390 627.0629 Residential property insurance; rate filings.—

391 (6) At the discretion of the commissioner, a public  
392 hearing may be held for any ~~Any~~ rate filing that is based in  
393 whole or part on data from a computer model. Any rate filing  
394 that is based in whole or part on data from a computer model may  
395 not exceed 25 ~~15~~ percent unless there is a public hearing.

396 Section 7. Subsection (2) of section 627.171, Florida  
397 Statutes, is amended to read:

398 627.171 Excess rates.—

399 (2) An insurer may not use excess rates pursuant to this  
400 section for more than 15 ~~10~~ percent of its commercial insurance  
401 policies written or renewed in each calendar year for any line  
402 of commercial insurance or for more than 10 ~~5~~ percent of its  
403 personal lines insurance policies written or renewed in each  
404 calendar year for any line of personal insurance. In determining  
405 the 15 ~~10~~-percent limitation for commercial insurance policies,  
406 the insurer shall exclude any workers' compensation policy that  
407 was written for an employer who had coverage in the joint  
408 underwriting plan created by s. 627.311(5) immediately prior to  
409 the writing of the policy by the insurer and any workers'  
410 compensation policy that was written for an employer who had  
411 been offered coverage in the joint underwriting plan but who was  
412 written a policy by the insurer in lieu of accepting the joint  
413 underwriting plan policy. These workers' compensation policies  
414 shall be excluded from the 15 ~~10~~-percent limitation for the  
415 first 3 years of coverage.

416 Section 8. Paragraph (a) of subsection 627.351(6), Florida

417 Statutes, is amended to read:

418 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

419 (a) The public purpose of this subsection is to ensure that  
420 there is an orderly market for property insurance for residents  
421 and businesses of this state.

422 1. The Legislature finds that private insurers are  
423 unwilling or unable to provide affordable property insurance  
424 coverage rates in certain parts of this state to the extent  
425 sought and needed. The absence of affordable property insurance  
426 threatens the public health, safety, and welfare and likewise  
427 threatens the economic health of the state. The state,  
428 therefore, has a compelling public interest and a public purpose  
429 to assist in assuring that property in the state is insured and  
430 that it is insured at affordable rates that reflect the risks  
431 covered so as to facilitate the remediation, reconstruction, and  
432 replacement of damaged or destroyed property, in order to reduce  
433 or avoid the negative effects otherwise resulting to the public  
434 health, safety, and welfare, to the economy of the state, and to  
435 the revenues of the state and local governments which are needed  
436 to provide for the public welfare. It is necessary, therefore,  
437 through the creation of Citizens Property Insurance Corporation  
438 to make ~~provide~~ affordable property insurance available to  
439 applicants who are in good faith entitled to procure insurance  
440 through the voluntary market but are unable to do so. The  
441 Legislature intends, therefore, that affordable property  
442 insurance be provided and that it continue to be provided and  
443 that it continue to be provided, as long as necessary through  
444 Citizens Property Insurance Corporation, a government entity  
445 that is an integral part of the state, and that is not a private  
446 insurance company. To that end, the corporation shall strive to  
447 increase the availability of affordable property insurance  
448 coverage in this state, while achieving efficiencies and

449 economies, and while providing service to policyholders,  
450 applicants, and agents which is no less than the quality  
451 generally provided in the voluntary market, for the achievement  
452 of the foregoing public purposes. Because it is essential for  
453 this government entity to have the maximum financial resources  
454 to pay claims following a catastrophic hurricane, it is further  
455 the intent of the Legislature that the corporation continue to  
456 be an integral part of the state and not a private insurance  
457 company, and that the income of the corporation be exempt from  
458 federal income taxation and that interest on the debt  
459 obligations issued by the corporation be exempt from federal  
460 income taxation.

461 2. The Residential Property and Casualty Joint Underwriting  
462 Association originally created by this statute shall be known as  
463 the Citizens Property Insurance Corporation. The corporation  
464 shall provide insurance for residential and commercial property,  
465 for applicants who are entitled, but, in good faith, are unable  
466 to procure insurance through the voluntary market. The  
467 corporation shall operate pursuant to a plan of operation  
468 approved by order of the Financial Services Commission. The plan  
469 is subject to continuous review by the commission. The  
470 commission may, by order, withdraw approval of all or part of a  
471 plan if the commission determines that conditions have changed  
472 since approval was granted and that the purposes of the plan  
473 require changes in the plan. For the purposes of this  
474 subsection, residential coverage includes both personal lines  
475 residential coverage, which consists of the type of coverage  
476 provided by homeowner's, mobile home owner's, dwelling,  
477 tenant's, condominium unit owner's, and similar policies; and  
478 commercial lines residential coverage, which consists of the  
479 type of coverage provided by condominium association, apartment  
480 building, and similar policies.

481           3. ~~Effective January 1, 2009, a~~ A personal lines  
482 residential structure that has a dwelling replacement cost of \$1  
483 2 million or more, or a single condominium unit that has a  
484 combined dwelling and contents replacement cost of \$1 2 million  
485 or more is not eligible for coverage by the corporation. Such  
486 dwellings insured by the corporation on July 1, 2013 ~~December~~  
487 ~~31, 2008~~, may continue to be covered by the corporation until  
488 the end of the policy term. ~~However, such dwellings may reapply~~  
489 ~~and obtain coverage if the property owner provides the~~  
490 ~~corporation with a sworn affidavit from one or more insurance~~  
491 ~~agents, on a form provided by the corporation, stating that the~~  
492 ~~agents have made their best efforts to obtain coverage and that~~  
493 ~~the property has been rejected for coverage by at least one~~  
494 ~~authorized insurer and at least three surplus lines insurers. If~~  
495 ~~such conditions are met, the dwelling may be insured by the~~  
496 ~~corporation for up to 3 years, after which time the dwelling is~~  
497 ~~ineligible for coverage.~~ The office shall approve the method  
498 used by the corporation for valuing the dwelling replacement  
499 cost for the purposes of this subparagraph. If a policyholder is  
500 insured by the corporation prior to being determined to be  
501 ineligible pursuant to this subparagraph and such policyholder  
502 files a lawsuit challenging the determination, the policyholder  
503 may remain insured by the corporation until the conclusion of  
504 the litigation.

505           4. It is the intent of the Legislature that policyholders,  
506 applicants, and agents of the corporation receive service and  
507 treatment of the highest possible level but never less than that  
508 generally provided in the voluntary market. It is also intended  
509 that the corporation be held to service standards no less than  
510 those applied to insurers in the voluntary market by the office  
511 with respect to responsiveness, timeliness, customer courtesy,  
512 and overall dealings with policyholders, applicants, or agents

513 of the corporation.

514       5.a. Effective January 1, 2009, a personal lines  
515 residential structure that is located in the "wind-borne debris  
516 region," as defined in s. 1609.2, International Building Code  
517 (2006), and that has an insured value on the structure of  
518 \$750,000 or more is not eligible for coverage by the corporation  
519 unless the structure has opening protections as required under  
520 the Florida Building Code for a newly constructed residential  
521 structure in that area. A residential structure shall be deemed  
522 to comply with this subparagraph if it has shutters or opening  
523 protections on all openings and if such opening protections  
524 complied with the Florida Building Code at the time they were  
525 installed.

526       b. Any structure for which a notice of commencement has  
527 been issued on or after July 1, 2013, pursuant to s. 713.135,  
528 which is located seaward of the coastal construction control  
529 line created pursuant to s. 161.053, is ineligible for coverage  
530 through the corporation unless the structure meets the coastal  
531 code-plus building code criteria developed and recommended by  
532 the Florida Building Commission.

533       6. For any claim filed under any policy of the corporation,  
534 a public adjuster may not charge, agree to, or accept any  
535 compensation, payment, commission, fee, or other thing of value  
536 greater than 10 percent of the additional amount actually paid  
537 over the amount that was originally offered by the corporation  
538 for any one claim.

539       Section 9. Paragraph (c) of subsection 627.351(6), Florida  
540 Statutes, is amended to read:

541       (c) The corporation's plan of operation:

542       2. Must provide that the corporation and an authorized  
543 insurer may enter into a risk-sharing agreement for the purpose  
544 of reducing the exposure of the corporation.

545 a. As used in this section, a "risk-sharing agreement" is  
546 an agreement between the corporation and an authorized insurer  
547 for the corporation to retain part, but not all, of the risk for  
548 a specified group of policies or specified perils within a group  
549 of policies, as part of the term for removal of policies. To  
550 avoid unnecessary expense, the Board of Governors may limit the  
551 corporation's participation in risk-sharing agreements to those  
552 participants capable and willing to assume a minimum of 25  
553 percent of the exposure on at least 100,000 policies and may  
554 specify other limitations. A risk-sharing agreement in which  
555 the corporation retains part of the risk shall not exceed a  
556 period of 5 years.

557 b. The risk-sharing agreement may cover policies in any  
558 account and may cover any perils. The corporation may act as a  
559 reinsurer or a cedent under a risk sharing agreement. If the  
560 corporation is the reinsurer, the insurance policy forms and  
561 endorsements must be approved by the office, cover all perils  
562 that are the subject of the risk-sharing agreement, and cover at  
563 least the same limits as the corporation policies being  
564 replaced. Entering into a risk-sharing agreement between the  
565 corporation and an authorized insurer is voluntary and at the  
566 discretion of the authorized insurer and the corporation.

567 c. The terms of each risk-sharing agreement shall ensure  
568 that the consideration received by the corporation is  
569 commensurate with the risk retained by the corporation and the  
570 risk assumed by the authorized insurer. The corporation will  
571 not share risk for bad faith.

572 d. Notwithstanding any other provision of law:

573 1. policies offered coverage by the corporation or an  
574 authorized insurer through a risk-sharing agreement are not  
575 eligible for coverage by the corporation outside of the  
576 agreement; and

577 2. a risk-sharing agreement between the corporation and an  
578 authorized insurer shall not be subject to the requirements of a  
579 take-out or keep out programs, in s. 627.3517 and ss.  
580 627.351(6), except that the agreement must be filed by the  
581 authorized insurer with the office for review and approval prior  
582 to the execution of the agreement by the insurer.

583 e. The risk-sharing agreement shall specify the proportion  
584 of exposure that the authorized insurer shall report to the  
585 Florida Hurricane Catastrophe Fund, and the exposure retained by  
586 the corporation. Each shall pay premium and receive  
587 reimbursements from the Florida Hurricane Catastrophe Fund for  
588 the exposure that they assume or retain as provided in the risk-  
589 sharing agreement. The risk assumed or retained as a result of  
590 the participation of the corporation and the authorized insurer  
591 in a risk-sharing agreement shall be eligible for coverage by  
592 the Florida Hurricane Catastrophe Fund and shall not be  
593 considered reinsurance for purposes of coverage by the Florida  
594 Hurricane Catastrophe Fund. The authorized insurer and the  
595 corporation may report participation in the Risk Sharing  
596 Agreement on their financial statements as reinsurance if  
597 appropriate according to the characteristics of the agreement  
598 based on statutory accounting rules and instructions.

599 23. Must provide that the corporation adopt a program in  
600 which the corporation and authorized insurers enter into quota  
601 share primary insurance agreements for hurricane coverage, as  
602 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
603 property insurance forms for eligible risks which cover the  
604 peril of wind only.

605  
606 56. Must provide a procedure for determining the  
607 eligibility of a risk for coverage that shall apply to both new  
608 and renewal policies of the corporation, as follows:



609 a. Subject to s. 627.3517, with respect to personal lines  
610 residential risks, if the risk is offered coverage from an  
611 authorized insurer at the insurer's approved rate under a  
612 standard policy including wind coverage or, if consistent with  
613 the insurer's underwriting rules as filed with the office, a  
614 basic policy including wind coverage, ~~for a new application to~~  
615 ~~the corporation for coverage~~, the risk is not eligible for any  
616 policy issued by the corporation unless the premium for coverage  
617 from the authorized insurer is more than 15 percent greater than  
618 the premium for comparable coverage from the corporation. If the  
619 risk is not able to obtain such offer, the risk is eligible for  
620 a standard policy including wind coverage or a basic policy  
621 including wind coverage issued by the corporation; however, if  
622 the risk could not be insured under a standard policy including  
623 wind coverage regardless of market conditions, the risk is  
624 eligible for a basic policy including wind coverage unless  
625 rejected under subparagraph 8. ~~However, a policyholder of the~~  
626 ~~corporation or a policyholder removed from the corporation~~  
627 ~~through an assumption agreement until the end of the assumption~~  
628 ~~period, remains eligible for coverage from the corporation~~  
629 ~~regardless of any offer of coverage from an authorized insurer~~  
630 ~~or surplus lines insurer~~. The corporation shall determine the  
631 type of policy to be provided on the basis of objective  
632 standards specified in the underwriting manual and based on  
633 generally accepted underwriting practices.

634 (I) If the risk accepts an offer of coverage through the  
635 market assistance plan or through a mechanism established by the  
636 corporation before a policy is issued to the risk by the  
637 corporation or during the first 30 days of coverage by the  
638 corporation, and the producing agent who submitted the  
639 application to the plan or to the corporation is not currently  
640 appointed by the insurer, the insurer shall:

641 (A) Pay to the producing agent of record of the policy for  
642 the first year, an amount that is the greater of the insurer's  
643 usual and customary commission for the type of policy written or  
644 a fee equal to the usual and customary commission of the  
645 corporation; or

646 (B) Offer to allow the producing agent of record of the  
647 policy to continue servicing the policy for at least 1 year and  
648 offer to pay the agent the greater of the insurer's or the  
649 corporation's usual and customary commission for the type of  
650 policy written.

651 If the producing agent is unwilling or unable to accept  
652 appointment, the new insurer shall pay the agent in accordance  
653 with sub-sub-sub-subparagraph (A).

654 (II) If the corporation enters into a contractual  
655 agreement for a take-out plan, the producing agent of record of  
656 the corporation policy is entitled to retain any unearned  
657 commission on the policy, and the insurer shall:

658 (A) Pay to the producing agent of record, for the first  
659 year, an amount that is the greater of the insurer's usual and  
660 customary commission for the type of policy written or a fee  
661 equal to the usual and customary commission of the corporation;  
662 or

663 (B) Offer to allow the producing agent of record to  
664 continue servicing the policy for at least 1 year and offer to  
665 pay the agent the greater of the insurer's or the corporation's  
666 usual and customary commission for the type of policy written.

667 If the producing agent is unwilling or unable to accept  
668 appointment, the new insurer shall pay the agent in accordance  
669 with sub-sub-sub-subparagraph (A).

670 b. With respect to commercial lines residential risks, ~~for~~  
671 ~~a new application to the corporation for coverage~~, if the risk  
672 is offered coverage under a policy including wind coverage from

673 an authorized insurer at its approved rate, the risk is not  
674 eligible for a policy issued by the corporation unless the  
675 premium for coverage from the authorized insurer is more than 15  
676 percent greater than the premium for comparable coverage from  
677 the corporation. If the risk is not able to obtain any such  
678 offer, the risk is eligible for a policy including wind coverage  
679 issued by the corporation. ~~However, a policyholder of the~~  
680 ~~corporation or a policyholder removed from the corporation~~  
681 ~~through an assumption agreement until the end of the assumption~~  
682 ~~period remains eligible for coverage from the corporation~~  
683 ~~regardless of an offer of coverage from an authorized insurer or~~  
684 ~~surplus lines insurer.~~

685 (I) If the risk accepts an offer of coverage through the  
686 market assistance plan or through a mechanism established by the  
687 corporation before a policy is issued to the risk by the  
688 corporation or during the first 30 days of coverage by the  
689 corporation, and the producing agent who submitted the  
690 application to the plan or the corporation is not currently  
691 appointed by the insurer, the insurer shall:

692 (A) Pay to the producing agent of record of the policy, for  
693 the first year, an amount that is the greater of the insurer's  
694 usual and customary commission for the type of policy written or  
695 a fee equal to the usual and customary commission of the  
696 corporation; or

697 (B) Offer to allow the producing agent of record of the  
698 policy to continue servicing the policy for at least 1 year and  
699 offer to pay the agent the greater of the insurer's or the  
700 corporation's usual and customary commission for the type of  
701 policy written.

702 If the producing agent is unwilling or unable to accept  
703 appointment, the new insurer shall pay the agent in accordance  
704 with sub-sub-sub-subparagraph (A).

705 (II) If the corporation enters into a contractual  
706 agreement for a take-out plan, the producing agent of record of  
707 the corporation policy is entitled to retain any unearned  
708 commission on the policy, and the insurer shall:

709 (A) Pay to the producing agent of record, for the first  
710 year, an amount that is the greater of the insurer's usual and  
711 customary commission for the type of policy written or a fee  
712 equal to the usual and customary commission of the corporation;  
713 or

714 (B) Offer to allow the producing agent of record to  
715 continue servicing the policy for at least 1 year and offer to  
716 pay the agent the greater of the insurer's or the corporation's  
717 usual and customary commission for the type of policy written.

718 If the producing agent is unwilling or unable to accept  
719 appointment, the new insurer shall pay the agent in accordance  
720 with sub-sub-sub-subparagraph (A).

721 c. For purposes of determining comparable coverage under  
722 sub-subparagraphs a. and b., the comparison must be based on  
723 those forms and coverages that are reasonably comparable. The  
724 corporation may rely on a determination of comparable coverage  
725 and premium made by the producing agent who submits the  
726 application to the corporation, made in the agent's capacity as  
727 the corporation's agent. A comparison may be made solely of the  
728 premium with respect to the main building or structure only on  
729 the following basis: the same coverage A or other building  
730 limits; the same percentage hurricane deductible that applies on  
731 an annual basis or that applies to each hurricane for commercial  
732 residential property; the same percentage of ordinance and law  
733 coverage, if the same limit is offered by both the corporation  
734 and the authorized insurer; the same mitigation credits, to the  
735 extent the same types of credits are offered both by the  
736 corporation and the authorized insurer; the same method for loss

737 payment, such as replacement cost or actual cash value, if the  
738 same method is offered both by the corporation and the  
739 authorized insurer in accordance with underwriting rules; and  
740 any other form or coverage that is reasonably comparable as  
741 determined by the board. If an application is submitted to the  
742 corporation for wind-only coverage in the coastal account, the  
743 premium for the corporation's wind-only policy plus the premium  
744 for the ex-wind policy that is offered by an authorized insurer  
745 to the applicant must be compared to the premium for multiperil  
746 coverage offered by an authorized insurer, subject to the  
747 standards for comparison specified in this subparagraph. If the  
748 corporation or the applicant requests from the authorized  
749 insurer a breakdown of the premium of the offer by types of  
750 coverage so that a comparison may be made by the corporation or  
751 its agent and the authorized insurer refuses or is unable to  
752 provide such information, the corporation may treat the offer as  
753 not being an offer of coverage from an authorized insurer at the  
754 insurer's approved rate.

755 d. By January 1, 2014, the corporation shall implement  
756 appropriate eligibility procedures and operational requirements  
757 to ensure that only risks which are eligible for coverage from  
758 the corporation receive such coverage. The procedures and  
759 requirements so implemented must, at a minimum, include the use  
760 of a clearinghouse for new applications which allows licensed  
761 insurers and agents to voluntarily write risks which have made  
762 application for coverage to the corporation and a mechanism to  
763 make renewal offers for existing policies available to licensed  
764 insurers and agents to voluntarily write risks insured by the  
765 corporation. The corporation may create an appropriate  
766 agency/agent mechanism to place new and renewal business with  
767 authorized insurers and shall also require that any risk insured  
768 by the corporation for three (3) or more consecutive years be

769 nonrenewed and required to submit a new application for  
770 coverage. Compliance with these eligibility procedures and  
771 operational requirements is a condition of coverage by the  
772 corporation.

773 6. Must include rules for classifications of risks and  
774 rates.

775 7. Must provide that if premium and investment income for  
776 an account attributable to a particular calendar year are in  
777 excess of projected losses and expenses for the account  
778 attributable to that year, such excess shall be held in surplus  
779 in the account. Such surplus must be available to defray  
780 deficits in that account as to future years and used for that  
781 purpose before assessing assessable insurers and assessable  
782 insureds as to any calendar year.

783 8. Must provide objective criteria and procedures to be  
784 uniformly applied to all applicants in determining whether an  
785 individual risk is so hazardous as to be uninsurable. In making  
786 this determination and in establishing the criteria and  
787 procedures, the following must be considered:

788 a. Whether the likelihood of a loss for the individual risk  
789 is substantially higher than for other risks of the same class;  
790 and

791 b. Whether the uncertainty associated with the individual  
792 risk is such that an appropriate premium cannot be determined.

793  
794 The acceptance or rejection of a risk by the corporation  
795 shall be construed as the private placement of insurance, and  
796 the provisions of chapter 120 do not apply.

797 9. Must provide that the corporation make its best efforts  
798 to procure catastrophe reinsurance at reasonable rates, to cover  
799 its projected 100-year probable maximum loss as determined by  
800 the board of governors.

801           10. The policies issued by the corporation must provide  
802 that if the corporation or the market assistance plan obtains an  
803 offer from an authorized insurer to cover the risk at its  
804 approved rates, the risk is no longer eligible for renewal  
805 through the corporation, except as otherwise provided in this  
806 subsection.

807           11. Corporation policies and applications must include a  
808 notice that the corporation policy could, under this section, be  
809 replaced with a policy issued by an authorized insurer which  
810 does not provide coverage identical to the coverage provided by  
811 the corporation. The notice must also specify that acceptance of  
812 corporation coverage creates a conclusive presumption that the  
813 applicant or policyholder is aware of this potential.

814           12. May establish, subject to approval by the office,  
815 different eligibility requirements and operational procedures  
816 for any line or type of coverage for any specified county or  
817 area if the board determines that such changes are justified due  
818 to the voluntary market being sufficiently stable and  
819 competitive in such area or for such line or type of coverage  
820 and that consumers who, in good faith, are unable to obtain  
821 insurance through the voluntary market through ordinary methods  
822 continue to have access to coverage from the corporation. If  
823 coverage is sought in connection with a real property transfer,  
824 the requirements and procedures may not provide an effective  
825 date of coverage later than the date of the closing of the  
826 transfer as established by the transferor, the transferee, and,  
827 if applicable, the lender.

828           13. Must provide that, with respect to the coastal account,  
829 any assessable insurer with a surplus as to policyholders of \$25  
830 million or less writing 25 percent or more of its total  
831 countrywide property insurance premiums in this state may  
832 petition the office, within the first 90 days of each calendar

833 year, to qualify as a limited apportionment company. A regular  
834 assessment levied by the corporation on a limited apportionment  
835 company for a deficit incurred by the corporation for the  
836 coastal account may be paid to the corporation on a monthly  
837 basis as the assessments are collected by the limited  
838 apportionment company from its insureds, but a limited  
839 apportionment company must begin collecting the regular  
840 assessments not later than 90 days after the regular assessments  
841 are levied by the corporation, and the regular assessments must  
842 be paid in full within 15 months after being levied by the  
843 corporation. A limited apportionment company shall collect from  
844 its policyholders any emergency assessment imposed under sub-  
845 subparagraph (b)3.d. The plan must provide that, if the office  
846 determines that any regular assessment will result in an  
847 impairment of the surplus of a limited apportionment company,  
848 the office may direct that all or part of such assessment be  
849 deferred as provided in subparagraph (q)4. However, an emergency  
850 assessment to be collected from policyholders under sub-  
851 subparagraph (b)3.d. may not be limited or deferred.

852 14. Must provide that the corporation appoint as its  
853 licensed agents only those agents who at the time of initial  
854 appointment and annually thereafter demonstrate to the  
855 corporation that they also hold an appointment as defined in s.  
856 626.015(3) with an insurer who ~~at the time of the agent's~~  
857 initial appointment by the corporation is authorized to write  
858 and is actually writing new personal lines residential property  
859 coverage policies, new commercial residential property policies  
860 coverage, or new commercial nonresidential property coverage  
861 policies within the state. As a condition of continued  
862 appointment, agents of the corporation must maintain appropriate  
863 documentation specified by the corporation which demonstrates  
864 that alternative coverage was annually sought for each risk



865 insured by that agent with the corporation.

866 Section 10. Effective January 1, 2014, Paragraph (n) of  
867 subsection 627.351(6), Florida Statutes, is amended to read:

868 ~~(n)1. Rates for coverage provided by the corporation must~~  
869 ~~be actuarially sound and subject to s. 627.062, Except as~~  
870 ~~otherwise provided in this paragraph-, rates for coverage~~  
871 ~~provided by the corporation shall be actuarially sound and not~~  
872 ~~competitive with approved rates charged in the admitted~~  
873 ~~voluntary market, so that the corporation functions as a~~  
874 ~~residual market mechanism to provide insurance only when the~~  
875 ~~insurance cannot be procured in the voluntary market.~~

876 2.a. For each rating territory, the average rates of the  
877 corporation, for each line of business for personal lines  
878 residential policies shall be no lower than the average rates  
879 charged by the insurer that had the highest average rate in that  
880 rating territory among the 20 admitted insurers with the  
881 greatest total direct written premium in the state for that line  
882 of business in the preceding year, except that with respect to  
883 mobile home coverages, the average rates of the corporation  
884 shall be no lower than the average rates charged by the insurer  
885 that had the highest average rate in that rating territory among  
886 the 5 admitted insurers with the greatest total written premium  
887 for mobile home owner's policies in the state in the preceding  
888 year. This subparagraph shall be implemented beginning with  
889 policies issued on or after January 1 2014, as follows:

890 b. For all new policies, all renewal policies covering non-  
891 homestead personal residential properties and renewal policies  
892 covering commercial non-residential properties, and for all  
893 renewal policies covering structures that have a replacement  
894 cost value of \$300,000 or more for coverage A, the rates  
895 resulting from the application of this rate standard shall be  
896 implemented in full.

897 3. For all new policies and for renewal non-residential  
898 commercial policies covered by the corporation in counties where  
899 the office determines there is not a reasonable degree of  
900 competition, the rates shall be actuarially sound. The  
901 commission shall adopt rules establishing the criteria for  
902 determining whether a reasonable degree of competition for  
903 personal lines residential insurance exists per county.

904 ~~The corporation shall provide any additional information~~  
905 ~~regarding the rates which the office requires. The office shall~~  
906 ~~consider the recommendations of the board and issue a final~~  
907 ~~order establishing the rates for the corporation within 45 days~~  
908 ~~after the recommended rates are filed. The corporation may not~~  
909 ~~pursue an administrative challenge or judicial review of the~~  
910 ~~final order of the office.~~

911 ~~24. In addition to the rates otherwise determined pursuant~~  
912 ~~to this paragraph, the corporation shall impose and collect an~~  
913 ~~amount equal to the premium tax provided in s. 624.509 to~~  
914 ~~augment the financial resources of the corporation.~~

915 ~~35. After the public hurricane loss-projection model under~~  
916 ~~s. 627.06281 has been found to be accurate and reliable by the~~  
917 ~~Florida Commission on Hurricane Loss Projection Methodology, the~~  
918 ~~model shall serve as the minimum benchmark for determining the~~  
919 ~~windstorm portion of the corporation's rates. This subparagraph~~  
920 ~~does not require or allow the corporation to adopt rates lower~~  
921 ~~than the rates otherwise required or allowed by this paragraph.~~

922 ~~46. The rate filings for the corporation which were~~  
923 ~~approved by the office and took effect January 1, 2007, are~~  
924 ~~rescinded, except for those rates that were lowered. As soon as~~  
925 ~~possible, the corporation shall begin using the lower rates that~~  
926 ~~were in effect on December 31, 2006, and provide refunds to~~  
927 ~~policyholders who paid higher rates as a result of that rate~~  
928 ~~filing. The rates in effect on December 31, 2006, remain in~~

929 ~~effect for the 2007 and 2008 calendar years except for any rate~~  
930 ~~change that results in a lower rate. The next rate change that~~  
931 ~~may increase rates shall take effect pursuant to a new rate~~  
932 ~~filing recommended by the corporation and established by the~~  
933 ~~office, subject to this paragraph.~~

934 ~~57. Beginning on July 15, 2009, and annually thereafter,~~  
935 ~~the corporation must make a recommended actuarially sound rate~~  
936 ~~filing for each personal and commercial line of business it~~  
937 ~~writes, to be effective no earlier than January 1, 2010.~~

938 ~~68. Beginning on or after January 1, 2010~~ January 1, 2014,  
939 ~~and notwithstanding the board's recommended rates and the~~  
940 ~~office's final order regarding the corporation's filed rates~~  
941 ~~under subparagraph 1. for policies not subject to subparagraph~~  
942 ~~2(b), the corporation shall annually implement a rate increase~~  
943 ~~which, except for sinkhole coverage, shall be for each policy~~  
944 ~~the greater of 10% for any single territory ~~policy~~ issued by the~~  
945 ~~corporation, excluding coverage changes and surcharges.~~

946 ~~7. The corporation may also implement an increase: to~~  
947 ~~reflect the effect on the corporation of the cash buildup factor~~  
948 ~~pursuant to s. 215.555(5)(b).~~

949 9. The corporation shall also implement the following  
950 increases:

951 a. An increase to reflect the effect on the corporation of  
952 the cash buildup factor pursuant to s. 215.555(5)(b).

953 b. An increase of up to 5 percent, which may be used only  
954 to procure catastrophe reinsurance or other risk transfer  
955 mechanisms. Such increase must reflect the actual cost of the  
956 procurement of catastrophe reinsurance or other risk transfer  
957 mechanisms.

958 §10. The corporation's implementation of rates as  
959 prescribed in subparagraph 86. shall cease for any line of  
960 business written by the corporation upon the corporation's

961 implementation of the rates described in subparagraph  
962 2. actuarially sound rates. Thereafter, the corporation shall  
963 annually make a ~~recommended actuarially sound~~ rate filing  
964 implementing the rates described in subparagraph 2. for each  
965 commercial and personal line of business the corporation writes.

966 11. The corporation shall annually certify to the office  
967 that its personal lines rates comply with the requirements of  
968 this paragraph. If any adjustment in the rates or rating factors  
969 of the corporation is necessary to ensure such compliance, the  
970 corporation shall make and implement such adjustments and file  
971 its revised rates and rating factors with the office. If the  
972 office thereafter determines that the revised rates and rating  
973 factors fail to comply with the provisions of this paragraph, it  
974 shall notify the corporation and require the corporation to  
975 amend its rates or rating factors in conjunction with its next  
976 rate filing. The office must notify the corporation by  
977 electronic means of any rate filing it approves for any insurer  
978 among the insurers referred to in this paragraph.

979 12. The board shall examine the feasibility of developing a  
980 process to determine whether policyholders may be eligible to  
981 receive relief from the full rates based on a demonstration of  
982 financial need.

983 Section 11. Section 627.405, Florida Statutes, is amended  
984 to read:

985 627.405 Insurable interest; property --

986 (1) No contract of insurance of property or of any  
987 interest in property or arising from property shall be  
988 enforceable as to the insurance except for the benefit of  
989 persons having an insurable interest in the things insured as at  
990 the time of the loss. Policyholders under a contract of property  
991 insurance may assign benefits to be received under that contract  
992 in payment for a loss covered by that contract. However,

993 assignees of benefits under a contract of property insurance  
994 must comply with, and are subject to, policy conditions as set  
995 forth by the subject policy.

996 (2) "Insurable interest" as used in this section means any  
997 actual, lawful, and substantial economic interest in the safety  
998 or preservation of the subject of the insurance free from loss,  
999 destruction, or pecuniary damage or impairment.

1000 (3) The measure of an insurable interest in property is the  
1001 extent to which the insured might be damnified by loss, injury,  
1002 or impairment thereof.

1003 Section 12. Subsection (1) of section 627.410, Florida  
1004 Statutes, is amended to read:

1005 627.410 Filing, approval of forms.—

1006 (1) A ~~No~~ basic insurance policy or annuity contract form,  
1007 or application form where written application is required and is  
1008 to be made a part of the policy or contract, ~~or~~ group  
1009 certificates issued under a master contract delivered in this  
1010 state, or printed rider or endorsement form or form of renewal  
1011 certificate, may not shall be delivered or issued for delivery  
1012 in this state, unless the form has been filed with the office by  
1013 or on ~~in~~ behalf of the insurer that ~~which~~ proposes to use such  
1014 form and has been approved by the office or filed pursuant to s.  
1015 627.4102. This provision does not apply to surety bonds or to  
1016 policies, riders, endorsements, or forms of unique character  
1017 that ~~which~~ are designed for and used with ~~relation to~~ insurance  
1018 on ~~upon~~ a particular subject, ~~(other than as to health~~  
1019 ~~insurance)~~, or that ~~which~~ relate to the manner of distributing  
1020 ~~distribution of~~ benefits or to the reservation of rights and  
1021 benefits under life or health insurance policies and are used at  
1022 the request of the individual policyholder, contract holder, or  
1023 certificate holder. For ~~As to~~ group insurance policies  
1024 effectuated and delivered outside this state but covering

1025 persons resident in this state, the group certificates to be  
1026 delivered or issued for delivery in this state shall be filed  
1027 with the office for information purposes only.

1028 Section 13. Section 627.4102, Florida Statutes, is created  
1029 to read:

1030 627.4102 Informational filing of forms; certification.—

1031 (1) Property and casualty forms, except workers'  
1032 compensation forms, are exempt from the approval process  
1033 required under s. 627.410 if:

1034 (a) The form has been electronically submitted to the  
1035 office in an informational filing made through I-File 30 days  
1036 before the delivery or issuance for delivery of the form within  
1037 this state; and

1038 (b) At the time the informational filing is made, a  
1039 notarized certification is attached to the filing that certifies  
1040 that each form within the filing is in compliance with all  
1041 applicable state laws and rules. The certification must be on  
1042 the insurer's letterhead and signed and dated by the insurer's  
1043 president, chief executive officer, general counsel, or an  
1044 employee of the insurer responsible for the filing on behalf of  
1045 the insurer. The certification must contain the following  
1046 statement, and no other language: "I, ...[name]..., as  
1047 ...[title]... of...[insurer name]..., do hereby certify that  
1048 this form filing has been thoroughly and diligently reviewed by  
1049 me and by all appropriate company personnel, as well as company  
1050 consultants, if applicable, and certify that each form contained  
1051 within the filing is in compliance with all applicable Florida  
1052 laws and rules. Should a form be found to be not in compliance  
1053 with Florida laws and rules, I acknowledge that the Florida  
1054 Office of Insurance Regulation shall disapprove the form."

1055 (2) If the filing contains a form that is found to be not  
1056 in compliance with state laws and rules, the form filing, at the

1057 discretion of the office, shall be subject to prior review and  
1058 approval pursuant to s. 627.410, and the period for review and  
1059 approval established under s. 627.410(2) will begin to run on  
1060 the date the office notifies the insurer of the discovery of the  
1061 noncompliant form.

1062 (3) A Notice of Change in Policy Terms form required under  
1063 s. 627.43141(2) shall be filed as a part of the informational  
1064 filing for a renewal policy that contains a change. All  
1065 modifications, additions, or deletions of terms, coverages,  
1066 duties or conditions shall be enumerated within the body of the  
1067 "Notice of Change in Policy Terms" form. If a renewal policy  
1068 that was certified requires such form, the insurer must provide  
1069 a copy of the form to the named insured's agent pursuant to s.  
1070 627.43141(6) (c) before or upon providing the form to the named  
1071 insured.

1072 (4) This section does not preclude an insurer from electing  
1073 to file any form for approval under s. 627.410 that would  
1074 otherwise be exempt under this section.

1075 (5) The provisions of this section supersede and replace  
1076 the existing order issued by the office exempting specified  
1077 property and casualty forms from the requirements of s. 627.410.

1078 Section 14. Except as otherwise expressly provided in this  
1079 act, this act shall take effect July 1, 2013.  
1080

## 2013 Citizens Draft:

**Section 1** - Right sizes the CAT Fund (Attachment titled as “CAT Fund” above). In this approach, we reduced the top layer by \$1 billion per year for 3 years (taking it from \$17 billion to \$14 billion), and we reduced the maximum percentage payout by 5% per year for 3 years (taking it from the current 90% to 75%).

*Decision: Decrease the CAT fund to \$14 billion over 3 years or \$12 billion over 5 years?*

**Section 2** - Exempts Citizens from “exchange of business” restrictions, thereby facilitating the ability of Citizens to establish a clearinghouse.

**Section 3** - Requires OIR to calculate an annual property insurance inflation factor. Companies that file rates below the factor are not to be deemed excessive.

**Section 4** - Requires that the proper mitigation models would be approved by the Florida Commission on Hurricane Loss Projection Methodology.

**Section 5** - Allows companies to use the same model for calculating the mitigation credits that is used for estimating losses in the rate setting process.

**Section 6** - Allows OIR to hold a hearing on a rate filing whenever it deems appropriate. It requires that OIR must hold a public hearing for every rate filing requesting an increase of more than 25%, instead of the current 15%.

*Decision: Is there a need for a limit or should it be left for OIR to decide?*

**Section 7** - Allows insurers to use the “consent to rate” provision for up to 15% of its commercial book and up to 10% of its personal book, instead of the current respective 10% and 5% limits.

**Section 8** - Makes changes to the regulation of Citizens. (1) Changes the mission of Citizens; (2) Reduce the maximum value covered per policy from \$2 million to \$1 million; (3) Prohibits Citizens from covering structures commencing construction after July 1, 2013, that are seaward of the coastal construction control line, unless built to code-plus.

**Section 9** - Makes changes to Citizens: (1) creates a process and structure to allow Citizens to enter into risk-sharing agreements with private companies; (2) Provides that the eligibility restriction of a private company offer within 15% of Citizens’ rate applies to both new and renewal policies; (3) Requires Citizens to establish a clearinghouse to enforce the eligibility requirements for both new and renewal coverage; (4) Requires Citizens policy holders to be non-renewed after 3 years and submit a new application for coverage; (5) Requires that agents must document a continuing effort to seek private market placement for their policyholders that are in Citizens.

*Decision: In a risk-share agreement what amount of the policy will still remain eligible for the Citizens surcharge?*

*Decision: Should the 15% apply to renewal business or would a lower number such as 10% or 5% be more appropriate given the current glide path?*

*Decision: Should an agent’s commission be withheld for placing ineligible business with Citizens?*



**Section 10** - Changes to Citizens: (1) Requires that for all new policies, all houses valued in excess of \$300,000, all non-homestead homes and all non-residential commercial policies, Citizens' rates will be set at the highest average rate in the rating territory among the 20 private insurers with the greatest statewide market share; (2) For counties in which OIR determines that there is no meaningful degree of competition, the rates for all new policies and all renewal non-residential commercial policies in those areas will be actuarially sound; (3) Apply the glide path by a territorial basis. (4) Allows an additional increase of 5% for Citizens to purchase additional reinsurance; (5) Citizens board shall examine the feasibility of developing a process to determine whether policyholders may be eligible to receive relief from the full rates based on a demonstration of financial need.

*Decision: Should renewal policies for non-homestead properties or policies over \$300,000 be immediately increased or set on a maximum three year glide path?*

*Decision: Should Citizens actuarially sound rate in territories OIR determines no competition exists included a risk load factor?*

**Section 11** - Requires that assignment of benefits for property insurance must comply with the policy conditions.

**Section 12 and 13** - Provides for an additional process by which OIR may approve property and casualty forms, except for workers compensation filings.



FLORIDA OFFICE OF  
INSURANCE REGULATION

COMMUNICATIONS OFFICE



**Belinda H. Miller**  
**General Counsel**

Belinda Miller is a seasoned professional with more than 20 years of insurance regulatory and receivership experience. As the Florida Office of Insurance Regulation's (Office) General Counsel, Belinda Miller directs the Legal Services Unit, which consists of 22 lawyers representing two broad functional areas, specifically regulatory actions and litigation. In addition, she provides legal counsel to the Commissioner and the Financial Services Commission regarding all matters related to the regulation of insurers. She was appointed to this role in February 2011.

Belinda began her public service career as an attorney with the Department of Insurance in 1986. During that time, she served as the Director of the Division of Rehabilitation and Liquidation, accumulating over 10 years of receivership experience. From 1999 – 2002, she worked at the Department of Insurance as Director for both the Division of Insurer Services and Legal Services. An opportunity with a private sector law firm provided her with experience as an attorney representing receivers and regulators. She returned to public service in 2003 as Deputy Commissioner of the Property & Casualty Unit for the Florida Office of Insurance Regulation (formerly known as the Department of Insurance).

Ms. Miller has represented the Commissioner on a variety of boards and working groups, and testified in court proceedings and legislative hearings on behalf of the Office. She has taught segments of legal continuing education courses sponsored by the National Association of Insurance Commissioners (NAIC) and the Regulating for Solvency program. Ms. Miller is certified by the International Association of Insurance Receivers as a Certified Insurance Receiver, qualified for appointment as deputy receiver for either property and casualty or life and health insurers. In addition, she has participated in complex investigations and resulting legal cases, and been closely involved in the supervision of financially troubled insurance companies.

Ms. Miller holds a Bachelor of Arts degree with a major in International Studies from Emory University. She received a law degree from Florida State University and been a member of the Florida Bar since 1986.

**Sandra Starnes**  
**Director Property & Casualty Product Review**



As the Director of the Property & Casualty Product Review for the Florida Office of Insurance Regulation (Office), Ms. Starnes has oversight responsibility for the approval of property and casualty insurance policy forms and rates through the supervision of contract and actuarial staff. She began her career with the Office in 1996 as an actuarial analyst in the workers' compensation area, and was then promoted to the senior actuarial analyst position in the commercial insurance lines. She left in 2002 to work for the National Council on Compensation Insurance (NCCI) as an actuarial consultant, but returned to work for the Office in 2007. Most recently, she held the position of Deputy Director of Property & Casualty Product Review. Ms. Starnes received a Bachelor of Science in Mathematics from Florida State University.

# **HB 119 Implementation**

## **Personal Injury Protection (PIP) Insurance**

Senate Banking & Insurance Committee

February 6, 2013

Sandra Starnes  
Director, Property & Casualty Product Review

# Informational Memoranda

- **OIR-12-02M**

Issued May 4, 2012 - Sample language for Medicare fee schedule limitation notice.

- **OIR-12-06M**

Issued November 6, 2012 – Clarification for the application of Medicare fee schedule.



# Actuarial Report

- HB 119 required the Office to contract with an independent consultant for calculating the expected savings of the bill.
- Report due to the Governor, Senate President and Speaker of the House by September 15, 2012.
- The Office accepted the bid from Pinnacle Actuarial Resources, Inc. on June 12, 2012.
- Final report was issued on August 20, 2012 and released on [www.floir.com](http://www.floir.com).



# Estimate of Impact from Pinnacle

- Pinnacle estimated that the indicated savings in PIP losses was between 16.3% and 28.7%.
- Statewide average savings in PIP premiums between 14.0% and 24.6%.
- PIP premiums represent approximately 20% of total personal auto premiums. Therefore, OIR calculates based on the above information that the estimated impact on statewide average personal auto premiums is a savings between 2.8% and 4.9%.

## **An important caveat in the report:**

*“The savings shown assume that current rates are adequate. To the extent that current PIP rates are inadequate, it is likely that insurers will offset the savings from HB 119 against the otherwise indicated PIP rates.”*

# Updates to Office Forms

## December 2012:

- **Forms OIR-B1-1149 & OIR-B1-1809**  
Workshops held on both forms to reflect changes due to HB 119.
- **Emergency Form ER-B1-1149**  
Proposed changes authorized by Financial Services Commission.

## January 10, 2013:

- Hearing date scheduled – no formal request for a hearing received.

## February 7, 2013:

- Forms up for final adoption by the Financial Services Commissioner.





# Form Filings for Fee Schedule

156 form filings submitted to address the notice requirements for the fee schedule in HB 119.

All form filings have been reviewed and closed:

- 123 filings approved
- 23 filings withdrawn
- 1 filing disapproved
- 9 filings submitted as informational

Information as of February 4, 2013

# Form Filings for Other Proposed Changes

## 128 form filings submitted:

- 27 filings approved
- 9 filings withdrawn
- 1 filing disapproved
- 74 filings submitted as informational
- 17 filings currently under review

Information as of February 4, 2013

# Lines 1785-1793 of HB 119\*

*“By October 1, 2012, an insurer writing private passenger automobile personal injury protection insurance in this state shall make a rate filing with the Office of Insurance Regulation. A rate certification is not sufficient to satisfy this requirement. If the insurer requests a rate in excess of a 10-percent reduction as applied to the current rate in its overall base rate for personal injury protection insurance, the insurer must include in its rate filing a detailed explanation of the reasons for failure to achieve a 10-percent reduction.”*

\* - CS/CS/HB 119, Engrossed 3 version found at [www.flsenate.gov/Session/Bill/2012/0119/BillText/er/PDF](http://www.flsenate.gov/Session/Bill/2012/0119/BillText/er/PDF)



# HB 119 Rate Filings - Due 10/1/2012

**149 rate filings submitted to meet October 1<sup>st</sup> filing requirement:**

- 133 filings were approved.
- 7 filings were withdrawn.
- 9 filings are in “Approved – Final Pages” status until final manual pages or Rate Collection System (RCS) information is received.

Information as of February 4, 2013

# Results of HB 119 Rate Filings

## Of the 133 approved filings:

- **37 filings were increases in PIP**, supported by detailed explanation from the insurer.
- **31 filings were decreases in PIP**, supported by detailed explanation from the insurer.
- **24 filings resulted in no changes to PIP**, supported by detailed explanation from the insurer.
- **36 filings were reduced by at least 10%** with no detailed support provided (as allowed in HB 119).
- 3 were submitted for inactive programs.
- 2 were submitted to address RCS issues.

# Results of HB 119 Rate Filings (continued)

## Of the 128 approved rate filings:

(excludes the inactive programs and RCS issue filings):

- 52% resulted in decreases to PIP premiums.
- 71% resulted in decreases or no changes to PIP premiums.

Information as of February 4, 2013

# Filings for Top 5\* Personal Auto Insurers

<b>Company Name</b>	<b>File Number</b>	<b>Company Indication</b>	<b>Selected PIP Percentage Change</b>
State Farm Mutual Auto Insurance Co.	12-15711	22.00%	7.90%
GEICO General Insurance Co.	12-15922	-7.80%	-10.00%
Progressive American Insurance Co.	12-15814	-0.80%	-10.00%
Progressive Select Insurance Co.	12-15813	-0.40%	-10.00%
GEICO Indemnity Co.	12-15922	-8.00%	-10.00%

\* - Based on 2011 Total Personal Auto premiums reported on FL state page of the annual statement

Source: October 9, 2012 press release titled "Office Provides Update on Auto Insurance Filings Pertaining to HB 119" on [www.FLOIR.com](http://www.FLOIR.com)

# Top Five PIP States

	<b>State</b>	<b>No-Fault Limit</b>	<b>Bodily Injury Limit (If mandatory)</b>
1.	Florida	\$10,000 PIP limit	N/A
2.	Michigan	Unlimited PIP	\$20,000 per person/\$40,000 per accident
3.	New York	\$50,000 Limit	\$25,000 per person/\$50,000 per accident
4.	New Jersey	\$250,000 Standard Limit (A \$15,000 Basic limit is available)	\$15,000 per person/\$30,000 per accident for Standard Policy \$10,000 per accident available as option for Basic Policy
5.	Pennsylvania*	\$5,000 Medical Benefits Only (Funeral expenses, wage loss, etc. available as additional optional coverages)	\$15,000 per person/\$30,000 per accident

Source for Rankings: Annual Statement – 2011 Direct Written Premium from Statutory Page 14 for Private Passenger Auto No-Fault (Personal Injury Protection) line of business. \* Pennsylvania allows insureds a choice between a no-fault and a tort system.





# PIP Benefits

## PIP benefits include the following:

- **Medical benefits** – 80% of all reasonable expenses for medically necessary medical, surgical, X-ray, dental, and rehabilitative services.
  - Limited to \$2,500 if determined that the claimant did not have an emergency medical condition (EMC).
  - Limited to \$10,000 if claimant was determined to have an EMC.
- **Lost wages** – 60% of any loss of gross income/earning capacity and 100% of necessary and reasonable “replacement services” (Combined with medical benefits – limited to \$10,000).
- **Death benefit** - \$5,000

# PIP/Patient Protection and Affordable Care Act (PPACA)

## Is PIP still relevant once PPACA is enacted?

PIP provides additional benefits beyond the medical services and care. In addition, even under PPACA:

- Some will refuse to purchase health insurance.
- Some will purchase high deductible plans.
- For those over age 65, Medicare Part A only covers hospital costs. Part B (Medical Services) and Part D (Prescription Drugs) are still optional.



# What Happens if PIP is Eliminated?

- There will be cost-shifting to private insurers, Medicare, Medicaid and the injured person.
- Will likely be an increase in the amount of unpaid emergency medical treatment costs.
- Potential for increased reimbursement timeframe for healthcare providers.



# Impact of PIP Elimination in Colorado

- Private health insurers expected to increase the health insurance premiums by 1.6% due to change from no-fault.
- Emergency Medical Service providers reported percentage of non-reimbursed charges doubled and time to pay almost doubled.
- Hospitals provided a comparison of “payer mix” for motor vehicle accidents:

<b>Payer Mix</b>	<b>2002</b>	<b>2006</b>
Private insurance	75.4%	49.3%
Medicare	2.9	7.7
Medicaid	2.6	5.9
Colorado Indigent Care Program	1.6	2.8
Self-Pay	13.4	27.2
Charity care	0.2	1.5
Other	4.0	5.7
Total	100.0	100.0

Source: “Auto Insurance/Trauma System Study – State of Colorado” Final Report , dated February 18, 2008; prepared by BBC Research & Consulting



# PIP vs. Bodily Injury (BI) Premiums (Selected Companies/Regions)

<u>OIR Region</u>	<b>State Farm Mutual</b> 12-15711 – Eff. New 3/11/2013		<b>GEICO General</b> 12-20399 – Eff. New 2/14/2013		<b>Progressive American</b> 12-15814 – Eff. New 11/9/2012		<b>United Automobile</b> 12-15386 – Eff. New 10/1/2012	
	<u>BI</u>	<u>PIP</u>	<u>BI</u>	<u>PIP</u>	<u>BI</u>	<u>PIP</u>	<u>BI</u>	<u>PIP</u>
Hillsborough (1) – Central Tampa	\$578.78	\$1,346.28	\$262.23	\$573.77	\$867.00	\$3,258.00	\$613.33	\$3,621.67
Leon (1) – Tallahassee	\$275.16	\$247.14	\$126.85	\$210.70	\$340.00	\$791.00	\$450.00	\$804.00
Miami-Dade (1) – Central Miami	\$429.99	\$1,232.16	\$244.75	\$805.15	\$709.00	\$3,158.00	\$308.00	\$1,691.00

Source: BI 10/20 Limit; PIP \$10,000 Limit; Premium shown is annual premium from Rate Collection System information for latest filing; Gold D rating example – Married couple, both age 40, one car (latest model Toyota Camry) ; one minor violation and one not-at-fault accident in latest three years for male driver.



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: CS/SB 166

INTRODUCER: Banking and Insurance Committee and Senator Richter

SUBJECT: Annuities

DATE: February 6, 2013

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Burgess	BI	Fav/CS
2.			JU	
3.			RC	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

Senate Bill 166 substantially revises the Florida consumer protection laws related to sales of annuities by incorporating the 2010 National Association of Insurance Commissioners model regulation on annuity protections. The bill expands the scope of the consumer protection laws to generally include all consumers purchasing annuities; current law applies the protections only to senior consumers aged 65 and older. The bill also retains current law limiting the surrender charges and deferred sales charges that may be imposed upon senior consumers. The primary consumer protections contained in the bill are:

*Suitability of Annuities* – The bill requires an insurer or insurance agent recommending the purchase or exchange of an annuity that results in an insurance transaction to have reasonable grounds for believing the recommendation is suitable for the consumer, based on the consumer’s suitability information. Additional duties are placed on insurers and insurance agents when a transaction involves the exchange or replacement of an annuity.

*Documentation of Sales Transaction* – An agent or agent’s representative must make a record of any recommendation made to a consumer.

*Prohibitions on Agents* – The bill prohibits agents from dissuading or attempting to dissuade a consumer from truthfully responding to the insurer’s request for suitability information, filing a complaint, or cooperating with the investigation of a complaint.

*Unconditional Refund Period* – Expands from 14 to 21 days the unconditional refund period for all purchasers of fixed and variable annuities.

*Limit on Surrender Charges* – The bill retains the prohibition against surrender charges or deferred sales charges in annuity contracts issued to a senior consumer exceeding 10 percent of the amount withdrawn. The charge must be reduced so that no surrender or deferred sales charge exists after the end of the 10th policy year or 10 years after the premium is paid, whichever is later.

*Penalties* – Authorizes the imposition of corrective action, appropriate penalties, and sanctions on insurers, agents, managing general agencies, or insurance agencies that violate the requirements of s. 627.4554, F.S. An insurance agent must pay restitution to a consumer whose money the agent misappropriates, converts, or unlawfully withholds.

The bill has an effective date of October 1, 2013.

This bill substantially amends the following sections of the Florida Statutes: 627.4554 and 626.99

## **II. Present Situation:**

### **Annuities:**

An annuity is a contract between a customer and an insurer wherein the customer makes a lump sum payment or series of payments to an insurer that in return agrees to make periodic payments back to the annuitant at a future date, either for the annuitant’s life or a specified period. Annuities can be obtained in either immediate or deferred form. In an immediate annuity the annuity company is typically given a lump sum payment in exchange for immediate and regular periodic payments, which may be for as long as the contract owner lives. For a deferred annuity, premiums are usually either paid in a lump sum or by a series of payments, and the annuity is subject to an *accumulation phase*, when those payments experience tax-deferred growth, followed by the *annuitization* or *payout phase*, when the annuity provides a regular stream of periodic payments to the consumer.

Annuities are often used for retirement planning because they provide a guaranteed source of income for future years. Immediate annuities are often used by senior citizens as a means to supplement their retirement income, or as a method of planning for Medicaid nursing care. The main advantage of deferred annuities is that the principal invested grows on a tax-deferred basis. Both deferred and immediate annuities are long-term contracts that typically restrict investor’s ability to access money placed in the annuity. Deferred annuities may be unsuitable investments for some senior consumers because of this fact.

### **Fixed vs. Variable Annuities**

There are two basic annuity types, the fixed annuity and the variable annuity. A fixed annuity guarantees fixed payments to the annuitant. During the accumulation phase, the insurance company agrees to pay no less than a specified rate of interest. The insurance company also agrees that during the annuitization phase the periodic payments will be a specified amount per dollar in your account. These periodic payments may last for a definite period, such as 20 years, or an indefinite period, such as your lifetime or the lifetime of you and your spouse. Fixed annuities are considered insurance products that may be sold by a licensed life insurance and annuity agent.

A variable annuity provides a rate of return that is not guaranteed and is based on the success of the investment option that underlies the annuity. In a variable annuity, the premium dollars are placed into a variety of investments called subaccounts. The performance of the investments (usually stocks, bonds, or money market instruments) in the subaccounts determines the performance of the annuity. Variable annuities will often offer a wide range of subaccount investment options with varying degrees of risk. Variable annuities are considered investment products and under the jurisdiction of both securities regulators and state insurance departments. Agents selling this type of annuity must hold a variable annuity license from the state insurance regulator, a securities license and an active securities registration with a broker/dealer. Variable annuity sales are subject to the suitability standards contained in Financial Industry Regulatory Authority (FINRA) Rule 2330.

### **Equity Indexed Annuities**

Equity indexed annuities are defined and regulated as fixed annuity products, but act more as a hybrid of a fixed and variable annuity. Equity indexed annuities provide a “minimum guaranteed” interest rate in combination with an index-linked component. This is different than a traditional fixed annuity which provides a specific guaranteed rate of interest.

Equity indexed annuities are often aggressively marketed to seniors in Florida. The products are touted as a vehicle for investors to realize gains similar to those in the stock market without the corresponding risk. However, such annuities rarely provide returns that are the equivalent of a stock market index. Additionally, even with a guaranteed minimum interest rate, investors may still lose money purchasing an equity indexed annuity if the rate is less than the premium or initial payment. Investors who need to cancel an annuity to access funds prior to the maturity of the contract may lose principal through surrender charges.

Equity indexed annuities are complex and can contain many detrimental features such as hidden penalties, fees, and large multi-year surrender charges. These annuities are not considered securities and not required to register with the federal Securities and Exchange Commission, as is the case with variable annuities. As a result, the law does not require equity indexed annuities to be accompanied with a prospectus that discloses possible investment risks. Additionally, unlike variable annuity products that may only be sold by agents with securities and insurance licenses, agents that have only an insurance license may sell equity indexed annuities.



Equity based annuities have several unique factors that may affect potential return. The unique factors used to calculate the interest an investor may receive often include:

- Interest Rate Caps – A maximum rate of interest that an investor will receive, even if the underlying stock market index performs well. For example, if an equity indexed annuity has a cap of 6 percent the investor is limited to a 6 percent return even if the underlying investment index earns a much higher percentage.
- Participation Rates – Determines how much of the increase or return of the underlying stock market index will be used to calculate the annuity's return on investment. For example, if the participation rate is 70 percent, and the index increases 20 percent, the return credited to the equity indexed annuity would be only 14 percent.
- Index Crediting Methods – Permit investors to choose the method by which interest will be credited to equity indexed annuities. For instance, the annual ratchet method usually credits an amount of interest based on the increase (if any) in value of the underlying index from the beginning to the end of the year. The point-to-point method credits an amount of interest based on any increase in the value of the underlying index from the beginning to the end of a specific period of time, sometimes based on the contract date.

Equity indexed annuities often have various fees and charges. These include:

- Surrender Charges – These vary dramatically among annuities and can be as high as 25 percent and be valid for up to 20 years.
- Administrative Fees or Margins – The fees in some equity indexed annuities amount to the difference between the percentage gain in the index and the actual amount credited to the investor. These fees or “margins” are not always disclosed clearly in marketing materials or contracts.
- Market Value Adjustments – Typically function to alter or reduce the cash value of an annuity dependent on changes in the interest rate since the contract's issue. Such adjustments may result in a loss of previously credited bonuses or interest credits.
- Asset Fees – Charged by the company, based upon a percentage of the value of the annuity, sometimes subject to change annually.

It is important to note that whether an annuity is fixed, variable or equity indexed, the industry does not require that the annuity contract be provided to the consumer prior to or at the time of purchase. Thus, the consumer must rely on the representations of the agent. Florida requires that contracts contain a free look provision that allows consumers to read and review their contracts and request cancellation within 10 days after receiving the contract.

### **Common Types of Annuity and Life Insurance Fraud**

When unsuitable annuities are sold to consumers, the transaction commonly involves inappropriate conduct by the agent such as misrepresentations and material omissions designed to hide the fact that the product is not suitable to meet the consumer's needs. Forgeries are also commonplace. Annuity or life insurance transactions involving misrepresentations or material omissions are administratively prosecutable under the Unfair Insurance Trade Practices Act in ch. 626, F.S.

Two common unfair insurance trade practices are “twisting” and “churning.” Twisting involves knowingly making misleading representations, or incomplete or fraudulent comparisons, or fraudulent material omissions regarding insurance policies or insurers in an attempt to induce a customer to take an action regarding their current insurance policy or take out an insurance policy with another insurer.<sup>1</sup> Churning is similar to twisting, but instead involves the surrender or withdrawal from a product to fund another product issued by the same company.<sup>2</sup> Agents that engage in these practices do so to obtain additional agent commissions.

### **Suitability of Annuity and Life Insurance Products**

In Florida, the suitability—the appropriateness of a particular product relative to the consumer’s age, investment objectives, and current and future financial needs—is a primary concern with regard to transactions involving senior consumers. In 2004, the Florida Legislature enacted the Annuity Transactions Model Regulation of the National Association of Insurance Commissioners in s. 627.4554, F.S.<sup>3</sup> The 2008 Legislature subsequently passed the John and Patricia Seibel Act, which strengthened Florida’s annuity standards and procedures.<sup>4</sup> Those standards were further strengthened by the 2010 Legislature.<sup>5</sup>

Section 627.4554, F.S., provides standards and procedures that must be followed when recommending the purchase of an annuity product to senior consumers (age 65 and older). The section sets forth duties on insurers and insurance agents when recommending the purchase of an annuity by a senior. The agent or insurer must make reasonable efforts to obtain information about the senior’s financial status, tax status, and investment objectives prior to completing the sale of an annuity. Additionally, the agent or insurer must have objectively reasonable grounds for recommending the annuity on the basis of the facts disclosed by the senior consumer as to his or her investments, other insurance products, financial situation, and needs.<sup>6</sup> If an agent recommends replacing or exchanging an existing annuity for a new annuity, the agent must provide a written summary detailing the differences between the existing annuity and the new annuity product.<sup>7</sup> The disclosure must provide the benefits, terms, and limitations of each annuity, the fees and charges of each annuity, and the basis for the agent’s recommendation, including all relevant information the agent considered in making the recommendation.<sup>8</sup> Insurers and insurance agents are required to develop written procedures designed to ensure compliance with the statutory disclosure requirements.

Florida law also allows consumers to obtain an unconditional refund within 14 days of entering into a fixed or variable annuity contract.<sup>9</sup> Senior consumers may obtain such refunds within 21 days. An annuity contract issued to a senior consumer also is prohibited from containing a surrender or deferred sales charge for a withdrawal of money that exceeds 10 percent of the

---

<sup>1</sup> Section 626.9541(1)(l), F.S.

<sup>2</sup> Section 626.9541(1)(aa), F.S.

<sup>3</sup> Section 146, ch. 2004-390, L.O.F.

<sup>4</sup> Section 9, ch. 2008-237, L.O.F.

<sup>5</sup> Section 52, ch. 2010-175, L.O.F.

<sup>6</sup> Section 627.4554(4), F.S.

<sup>7</sup> Section 627.4554(4)(d), F.S.

<sup>8</sup> The written disclosure must be made on a form developed by the DFS.

<sup>9</sup> Section 626.99(4)(b), F.S.

amount withdrawn.<sup>10</sup> Such charges must be reduced so that no surrender or deferred sales charge exists after the end of the 10th policy year or 10 years after the premium is paid, whichever is later.

If a senior consumer is harmed due to the failure of an insurer or insurance agent to comply with the provisions, the insurer or insurance agent may be ordered to take corrective action.<sup>11</sup> The Office of Insurance Regulation (OIR) has authority to order the rescission of the annuity contract and order the refund of all premiums paid or the accumulation value of the annuity, whichever is greater. The Department of Financial Services (DFS) may order an insurance agent to provide monetary restitution of all monies misappropriated, converted, or unlawfully withheld as well as restitution of penalties and fees incurred by a senior consumer. The DFS may also require insurance agencies to take reasonably appropriate corrective action for a senior consumer harmed by an agent's noncompliance.

### **Unfair Insurance Trade Practices Act**

The "Unfair Insurance Trade Practices Act" under s. 626.9541, F.S., specifies and prohibits practices which constitute unfair methods of competition or unfair or deceptive acts. Insurers, insurance agents, and any other person involved in the business of insurance can be fined for violating the act, up to \$5,000 for each non-willful violation up to an aggregate \$20,000 fine, and up to \$40,000 for each willful violation up to an aggregate \$200,000 fine. Willful violations of these provisions are also subject to criminal prosecution as a second degree misdemeanor (s. 624.15, F.S.). Each such act is a third degree felony if committed by a person who is not licensed, authorized, or eligible to engage in business under the Florida Insurance Code.

Further, the unfair trade practice laws authorize the OIR or the DFS to issue cease and desist orders against insurers and agents that violate those provisions (s. 626.9581, F.S.). Violation of a cease and desist order is subject to a penalty not to exceed \$50,000 (s. 626.9601, F.S.). An insurance agent that violates this section is also subject to suspension or revocation of his or her license and an administrative penalty of up to \$500 or, for willful violations, up to \$3,500, under the authority of the DFS (s. 626.681, F.S.).

Certain violations such as "twisting" and "churning" are subject to increased penalties.<sup>12</sup> Such violations are first degree misdemeanors. Each non-willful violation is subject to a \$5,000 fine up to an aggregate \$50,000 fine, while each willful violation is subject to a \$75,000 fine up to an aggregate \$250,000 fine. Willfully submitting fraudulent signatures on an application or policy-related document is a third degree felony, and is subject to an administrative fine not greater than \$5,000 for each nonwillful violation up to an aggregate fine of \$50,000, while each willful violation is subject to an administrative fine not greater than \$75,000 up to an aggregate fine of \$250,000.

---

<sup>10</sup> Section 627.4554(9), F.S.

<sup>11</sup> Section 627.4554(5), F.S.

<sup>12</sup> Section 626.9521(3), F.S.

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 627.4554, F.S., which under current law contains standards and procedures for making annuity recommendations to senior consumers. The bill incorporates the 2010 National Association of Insurance Commissioners model regulation on annuity protections, which expands the scope of the section to generally include all annuity transactions and places additional duties on agents and insurers.<sup>13</sup> The bill also retains Florida-specific consumer protections that are currently available to senior consumers, often expanding them to all consumers. The major provisions of the bill are as follows:

#### Duties of Insurers and Agents

*Suitability of Annuities* – The bill requires an insurer or insurance agent recommending the purchase or exchange of an annuity that results in an insurance transaction to have reasonable grounds for believing the recommendation is suitable for the consumer, based on the consumer’s suitability information. The insurer or agent must also have a reasonable basis to believe that:

- The consumer has been reasonably informed of:
  - The annuity’s features such as the potential surrender period and surrender charge;
  - Potential tax penalties if the consumer sells, exchanges, surrenders, or annuitizes the annuity;
  - Mortality and expense fees;
  - Investment advisory fees;
  - Riders, their features, and potential charges;
  - Limits on interest returns;
  - Insurance and investment components; and
  - Market risk.
- The consumer would benefit from certain features of the annuity such as tax-deferred growth, annuitization, or the death or living benefit.
- The annuity and any associated subaccounts, riders, and product enhancements are suitable. If the annuity is being exchanged or replaced, the annuity must be suitable for the particular consumer based on his or her suitability information.

Insurance agents, prior to recommending a product to a consumer, must obtain specified personal and financial information from the consumer relevant to the suitability of the recommendation on a form promulgated by the DFS (DFS-H1-1980).

*Suitability of the Exchange or Replacement of an Annuity* – Additional duties are placed on insurers or insurance agents when a transaction involves the exchange or replacement of an annuity. The bill provides criteria for determining whether the new annuity is suitable for a particular consumer. The insurer or agent must consider whether the consumer:

- Will incur a surrender charge; be subject to commencement of a new surrender period; lose existing benefits (death, living, or other contractual benefits), or be subject to increased fees

---

<sup>13</sup> Unless stated otherwise, the bill expands the application of the statute to all consumers.

(including investment advisory fees or charges for riders or other similar product enhancements).

- Will benefit from product enhancements and improvements; and
- Has had another annuity exchange or replacement, in particular within the past 36 months.

The insurer or agent must provide the consumer with specified information on a DFS form (DFS-H1-1981) concerning differences between the annuity being recommended for purchase and the existing annuity that would be surrendered or replaced. Under current law this only applies to transactions involving a senior consumer.

*Requirement to Obtain Suitability Information* – The bill retains the requirement in current law that the insurer or its agent must make reasonable efforts to obtain a consumer’s suitability information. An insurer may not issue an annuity unless there is a reasonable basis to believe the annuity is suitable based on the consumer’s suitability information. However, the insurer or its agent are not obliged to have a reasonable basis for believing the annuity is suitable if no recommendation has been made, the recommendation was based on materially inaccurate information, the consumer refuses to provide relevant suitability information and the annuity transaction is not recommended, or the consumer decides to enter into an annuity transaction not based on a recommendation of an insurer or its agent.

*Documentation of Sales Transaction* – An agent or agent’s representative must make a record of any recommendation made to a consumer. If the consumer refuses to provide suitability information, the agent or representative must obtain a signed statement from the consumer documenting his or her refusal to provide suitability information. If the consumer enters into an annuity transaction that is not based on the recommendation of the insurer or insurance agent, the agent or representative must obtain a signed statement from the consumer acknowledging that the annuity transaction is not recommended.

*Compliance Measures* – As under current law, insurers must establish a supervision system designed to ensure insurer and agent compliance with the requirements of the statute. The measures include maintaining procedures to inform agents of their legal requirements when selling annuities, providing training and training materials that explain the insurer’s annuity products, maintaining procedures for reviewing each recommendation before issuing an annuity, procedures for detecting recommendations that are not suitable, and an annual report to senior managers. Insurers may contract with outside entities to perform these duties, but if an insurer does so, the insurer must supervise contractual performance.

*Prohibitions on Agents* – The bill prohibits agents from dissuading or attempting to dissuade a consumer from (1) truthfully responding to the insurer’s request for suitability information, (2) filing a complaint, or (3) cooperating with the investigation of a complaint.

*Compliance and Penalties* – Insurers are responsible for compliance with this section, both with regard to the insurer and its agents. The OIR may order an insurer to take reasonably appropriate corrective action for a consumer harmed by the actions of the insurer or an insurer’s agent. The bill removes language specifying that the OIR may require the rescission of the policy or a full refund of the premiums paid or the accumulation value.

The DFS is authorized to order an insurance agent to take reasonably appropriate corrective action, including monetary restitution of penalties or fees incurred by the consumer. The DFS must order an insurance agent to pay restitution to a consumer who is deprived of money due to the agent's misappropriation, conversion, or unlawful withholding of moneys belonging to a consumer. The DFS also may order a managing general agency or insurance agency to take corrective action.

Insurance code penalties must be reduced or eliminated by the OIR or the DFS if corrective action for the consumer is promptly taken after the discovery of a violation. Violations under this section do not give rise to a cause of action.

*Prohibited Sales and Surrender Charges on Senior Consumers* – The bill retains the requirement in current law that an annuity contract issued to a senior consumer may not contain a surrender charge or deferred sales charge for a withdrawal of money from an annuity exceeding 10 percent of the amount withdrawn. The charge must be reduced so that no surrender or deferred sales charge exists after the end of the 10th policy year or 10 years after the premium is paid, whichever is later. The provision contains exceptions for purchases by accredited investors and contracts used to fund specified benefit plans, personal injury litigation settlements, or prepaid funeral contracts.

*Other Provisions* – The bill also contains the following provisions:

- The bill defines “suitability information” as information related to the consumer that is reasonably appropriate to determine the suitability of a recommendation made to the consumer.
- Annuity sales made in compliance with FINRA requirements pertaining to the suitability and supervision of annuity transactions must also comply with the requirements contained in this section. This requirement only applies when (1) the FINRA broker dealer sells an annuity and the suitability and supervision is similar to those applied to variable annuity sales; (2) the insurer monitors the FINRA member broker-dealer; and (3) the insurer provides information to the FINRA member broker-dealer in maintaining its supervision system.
- Insurers and agents must retain records of the annuity transaction for 5 years.
- Grants rulemaking authority to the Department of Financial Services and the Financial Services Commission to adopt rules to administer the section.

**Section 2.** Amends s. 626.99, F.S., to apply to all consumers the requirement that annuity policies must provide an unconditional refund for at least 21 days and be equal to the surrender value of the annuity contract. Current law only provides senior consumers with a 21 day unconditional refund period; for other consumers the unconditional refund is available for 14 days. The bill specifies disclosures that must be included within the mandatory cover page that informs the prospective purchaser of the unconditional refund period.

**Section 3.** The bill has an effective date of October 1, 2013.

**Other Potential Implications:****IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

The consumer protections of s. 627.4554, F.S., will generally apply to all consumers purchasing annuities.

## C. Government Sector Impact:

The Office of Insurance Regulation indicates that insurers will need to file revised contract forms for approval by the OIR and that the OIR can absorb the increase in workload within current resources. The Department of Financial Services does not indicate that additional resources will be needed due to the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

## A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Banking and Insurance on February 6, 2013:**

- Clarifies DFS authority to order restitution for any consumer whose money has been unlawfully misappropriated, converted, or unlawfully withheld by an agent.
- Reinstates the rulemaking authority of the Financial Services Commission.

B. Amendments:

None.

---

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---





432914

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/06/2013	.	
	.	
	.	
	.	

---

---

The Committee on Banking and Insurance (Richter) recommended the following:

**Senate Amendment (with title amendment)**

Delete line 319  
and insert:  
withholding of moneys belonging to the consumer in the

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 17 - 19  
and insert:  
Financial Industry Regulatory Authority; prohibiting  
specified charges for



633592

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/06/2013	.	
	.	
	.	
	.	

---

The Committee on Banking and Insurance (Richter) recommended the following:

**Senate Amendment (with title amendment)**

Delete line 343  
and insert:  
(9) RULES.—The department and the commission may adopt rules to administer

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 20  
and insert:  
annuities issued to person 65 years of age or older;



633592

13  
14

authorizing the Department of Financial Services and  
the Financial Services Commission to adopt rules;

By Senator Richter

23-00193B-13

2013166\_\_

1 A bill to be entitled  
 2 An act relating to annuities; amending s. 627.4554,  
 3 F.S.; providing that recommendations relating to  
 4 annuities made by an insurer or its agents apply to  
 5 all consumers not just to senior consumers; revising  
 6 and providing definitions; providing exemptions;  
 7 revising the duties of insurers and agents; providing  
 8 that recommendations must be based on consumer  
 9 suitability information; revising the information  
 10 relating to annuities that must be provided by the  
 11 insurer or its agent to the consumer; revising the  
 12 requirements for monitoring contractors that are  
 13 providing certain functions for the insurer relating  
 14 to the insurer's system for supervising  
 15 recommendations; revising provisions relating to the  
 16 relationship between this act and the federal  
 17 Financial Industry Regulatory Authority; deleting a  
 18 provision providing a cap on surrender or deferred  
 19 sales charges; prohibiting specified charges for  
 20 annuities issued to persons 65 years of age or older;  
 21 amending s. 626.99, F.S.; increasing the period of  
 22 time that an unconditional refund must remain  
 23 available with respect to certain annuity contracts;  
 24 making such unconditional refunds available to all  
 25 prospective annuity contract buyers without regard to  
 26 the buyer's age; revising requirements for cover pages  
 27 of annuity contracts; providing an effective date.  
 28  
 29 Be It Enacted by the Legislature of the State of Florida:

Page 1 of 14

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

23-00193B-13

2013166\_\_

30  
 31 Section 1. Section 627.4554, Florida Statutes, is amended  
 32 to read:  
 33 (Substantial rewording of section. See  
 34 s. 627.4554, F.S., for present text.)  
 35 627.4554 Annuity investments.—  
 36 (1) PURPOSE.—The purpose of this section is to require  
 37 insurers to set forth standards and procedures for making  
 38 recommendations to consumers which result in transactions  
 39 involving annuity products, and to establish a system for  
 40 supervising such recommendations in order to ensure that the  
 41 insurance needs and financial objectives of consumers are  
 42 appropriately addressed at the time of the transaction.  
 43 (2) SCOPE.—This section applies to any recommendation made  
 44 to a consumer to purchase, exchange, or replace an annuity by an  
 45 insurer or its agent, and which results in the purchase,  
 46 exchange, or replacement recommended.  
 47 (3) DEFINITIONS.—As used in this section, the term:  
 48 (a) "Agent" has the same meaning as provided in s. 626.015.  
 49 (b) "Annuity" means an insurance product under state law  
 50 which is individually solicited, whether classified as an  
 51 individual or group annuity.  
 52 (c) "FINRA" means the Financial Industry Regulatory  
 53 Authority or a succeeding agency.  
 54 (d) "Insurer" has the same meaning as provided in s.  
 55 624.03.  
 56 (e) "Recommendation" means advice provided by an insurer or  
 57 its agent to a consumer which would result in the purchase,  
 58 exchange, or replacement of an annuity in accordance with that

Page 2 of 14

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

23-00193B-13

2013166\_\_

59 advice.

60 (f) "Replacement" means a transaction in which a new policy  
 61 or contract is to be purchased and it is known or should be  
 62 known to the proposing insurer or its agent that by reason of  
 63 such transaction an existing policy or contract will be:

64 1. Lapsed, forfeited, surrendered or partially surrendered,  
 65 assigned to the replacing insurer, or otherwise terminated;

66 2. Converted to reduced paid-up insurance, continued as  
 67 extended term insurance, or otherwise reduced in value due to  
 68 the use of nonforfeiture benefits or other policy values;

69 3. Amended so as to effect a reduction in benefits or the  
 70 term for which coverage would otherwise remain in force or for  
 71 which benefits would be paid;

72 4. Reissued with a reduction in cash value; or

73 5. Used in a financed purchase.

74 (g) "Suitability information" means information related to  
 75 the consumer which is reasonably appropriate to determine the  
 76 suitability of a recommendation made to the consumer, including  
 77 the following:

78 1. Age;

79 2. Annual income;

80 3. Financial situation and needs, including the financial  
 81 resources used for funding the annuity;

82 4. Financial experience;

83 5. Financial objectives;

84 6. Intended use of the annuity;

85 7. Financial time horizon;

86 8. Existing assets, including investment and life insurance  
 87 holdings;

23-00193B-13

2013166\_\_

88 9. Liquidity needs;

89 10. Liquid net worth;

90 11. Risk tolerance; and

91 12. Tax status.

92 (4) EXEMPTIONS.—This section does not apply to transactions  
 93 involving:

94 (a) Direct-response solicitations where there is no  
 95 recommendation based on information collected from the consumer  
 96 pursuant to this section;

97 (b) Contracts used to fund:

98 1. An employee pension or welfare benefit plan that is  
 99 covered by the federal Employee Retirement and Income Security  
 100 Act;

101 2. A plan described by s. 401(a), s. 401(k), s. 403(b), s.  
 102 408(k), or s. 408(p) of the Internal Revenue Code, if  
 103 established or maintained by an employer;

104 3. A government or church plan defined in s. 414 of the  
 105 Internal Revenue Code, a government or church welfare benefit  
 106 plan, or a deferred compensation plan of a state or local  
 107 government or tax-exempt organization under s. 457 of the  
 108 Internal Revenue Code;

109 4. A nonqualified deferred compensation arrangement  
 110 established or maintained by an employer or plan sponsor;

111 5. Settlements or assumptions of liabilities associated  
 112 with personal injury litigation or a dispute or claim-resolution  
 113 process; or

114 6. Formal prepaid funeral contracts.

115 (5) DUTIES OF INSURERS AND AGENTS.—

116 (a) When recommending the purchase or exchange of an

23-00193B-13

2013166

117 annuity to a consumer which results in an insurance transaction  
 118 or series of insurance transactions, the agent, or the insurer  
 119 where no agent is involved, must have reasonable grounds for  
 120 believing that the recommendation is suitable for the consumer,  
 121 based on the consumer's suitability information, and that there  
 122 is a reasonable basis to believe all of the following:

123 1. The consumer has been reasonably informed of various  
 124 features of the annuity, such as the potential surrender period  
 125 and surrender charge; potential tax penalty if the consumer  
 126 sells, exchanges, surrenders, or annuitizes the annuity;  
 127 mortality and expense fees; investment advisory fees; potential  
 128 charges for and features of riders; limitations on interest  
 129 returns; insurance and investment components; and market risk.

130 2. The consumer would benefit from certain features of the  
 131 annuity, such as tax-deferred growth, annuitization, or the  
 132 death or living benefit.

133 3. The particular annuity as a whole, the underlying  
 134 subaccounts to which funds are allocated at the time of purchase  
 135 or exchange of the annuity, and riders and similar product  
 136 enhancements, if any, are suitable; and, in the case of an  
 137 exchange or replacement, the transaction as a whole is suitable  
 138 for the particular consumer based on his or her suitability  
 139 information.

140 4. In the case of an exchange or replacement of an annuity,  
 141 the exchange or replacement is suitable after considering  
 142 whether the consumer:

143 a. Will incur a surrender charge; be subject to the  
 144 commencement of a new surrender period; lose existing benefits,  
 145 such as death, living, or other contractual benefits; or be

23-00193B-13

2013166

146 subject to increased fees, investment advisory fees, or charges  
 147 for riders and similar product enhancements;

148 b. Would benefit from product enhancements and  
 149 improvements; and

150 c. Has had another annuity exchange or replacement,  
 151 including an exchange or replacement within the preceding 36  
 152 months.

153 (b) Before executing a purchase, exchange, or replacement  
 154 of an annuity resulting from a recommendation, an insurer or its  
 155 agent must make reasonable efforts to obtain the consumer's  
 156 suitability information. The information shall be collected on  
 157 form DFS-HI-1980, which is hereby incorporated by reference, and  
 158 completed and signed by the applicant and agent. Questions  
 159 requesting this information must be presented in at least 12-  
 160 point type and be sufficiently clear so as to be readily  
 161 understandable by both the agent and the consumer. A true and  
 162 correct executed copy of the form must be provided by the agent  
 163 to the insurer, or to the person or entity that has contracted  
 164 with the insurer to perform this function as authorized by this  
 165 section, within 10 days after execution of the form, and shall  
 166 be provided to the consumer no later than the date of delivery  
 167 of the contract or contracts.

168 (c) Except as provided under paragraph (d), an insurer may  
 169 not issue an annuity recommended to a consumer unless there is a  
 170 reasonable basis to believe the annuity is suitable based on the  
 171 consumer's suitability information.

172 (d) An insurer's issuance of an annuity must be reasonable  
 173 based on all the circumstances actually known to the insurer at  
 174 the time the annuity is issued. However, an insurer or its agent

23-00193B-13 2013166\_\_

175 does not have an obligation to a consumer related to an annuity  
 176 transaction under paragraph (a) or paragraph (c) if:

177 1. A recommendation has not been made;  
 178 2. A recommendation was made and is later found to have  
 179 been based on materially inaccurate information provided by the  
 180 consumer;

181 3. A consumer refuses to provide relevant suitability  
 182 information and the annuity transaction is not recommended; or  
 183 4. A consumer decides to enter into an annuity transaction  
 184 that is not based on a recommendation of an insurer or its  
 185 agent.

186 (e) At the time of sale, the agent or the agent's  
 187 representative must:

188 1. Make a record of any recommendation made to the consumer  
 189 pursuant to paragraph (a);

190 2. Obtain the consumer's signed statement documenting his  
 191 or her refusal to provide suitability information, if  
 192 applicable; and

193 3. Obtain the consumer's signed statement acknowledging  
 194 that an annuity transaction is not recommended if he or she  
 195 decides to enter into an annuity transaction that is not based  
 196 on the insurer's or its agent's recommendation, if applicable.

197 (f) Before executing a replacement or exchange of an  
 198 annuity contract resulting from a recommendation, the agent must  
 199 provide on form DFS-H1-1981, which is hereby incorporated by  
 200 reference, information that compares the differences between the  
 201 existing annuity contract and the annuity contract being  
 202 recommended in order to determine the suitability of the  
 203 recommendation and its benefit to the consumer. A true and

23-00193B-13 2013166\_\_

204 correct executed copy of this form must be provided by the agent  
 205 to the insurer, or to the person or entity that has contracted  
 206 with the insurer to perform this function as authorized by this  
 207 section, within 10 days after execution of the form, and must be  
 208 provided to the consumer no later than the date of delivery of  
 209 the contract or contracts.

210 (g) An insurer shall establish a supervision system that is  
 211 reasonably designed to achieve the insurer's and its agent's  
 212 compliance with this section.

213 1. Such system must include, but is not limited to:

214 a. Maintaining reasonable procedures to inform its agents  
 215 of the requirements of this section and incorporating those  
 216 requirements into relevant agent training manuals;

217 b. Establishing standards for agent product training;

218 c. Providing product-specific training and training  
 219 materials that explain all material features of its annuity  
 220 products to its agents;

221 d. Maintaining procedures for the review of each  
 222 recommendation before issuance of an annuity which are designed  
 223 to ensure that there is a reasonable basis for determining that  
 224 a recommendation is suitable. Such review procedures may use a  
 225 screening system for identifying selected transactions for  
 226 additional review and may be accomplished electronically or  
 227 through other means, including physical review. Such electronic  
 228 or other system may be designed to require additional review  
 229 only of those transactions identified for additional review  
 230 using established selection criteria;

231 e. Maintaining reasonable procedures to detect  
 232 recommendations that are not suitable, such as confirmation of

23-00193B-13

2013166

233 consumer suitability information, systematic customer surveys,  
 234 consumer interviews, confirmation letters, and internal  
 235 monitoring programs. This sub-subparagraph does not prevent an  
 236 insurer from using sampling procedures or from confirming  
 237 suitability information after the issuance or delivery of the  
 238 annuity; and

239 f. Annually providing a report to senior managers,  
 240 including the senior manager who is responsible for audit  
 241 functions, which details a review, along with appropriate  
 242 testing, which is reasonably designed to determine the  
 243 effectiveness of the supervision system, the exceptions found,  
 244 and corrective action taken or recommended, if any.

245 2. An insurer is not required to include in its supervision  
 246 system agent recommendations to consumers of products other than  
 247 the annuities offered by the insurer.

248 3. An insurer may contract for performance of a function  
 249 required under subparagraph 1.

250 a. If an insurer contracts for the performance of a  
 251 function, the insurer must include the supervision of  
 252 contractual performance as part of those procedures listed in  
 253 subparagraph 1. These include, but are not limited to:

254 (I) Monitoring and, as appropriate, conducting audits to  
 255 ensure that the contracted function is properly performed; and

256 (II) Annually obtaining a certification from a senior  
 257 manager who has responsibility for the contracted function that  
 258 the manager has a reasonable basis for representing that the  
 259 function is being properly performed.

260 b. An insurer is responsible for taking appropriate  
 261 corrective action and may be subject to sanctions and penalties

23-00193B-13

2013166

262 pursuant to subsection (7) regardless of whether the insurer  
 263 contracts for performance of a function and regardless of the  
 264 insurer's compliance with sub-subparagraph a.

265 (h) An agent may not dissuade, or attempt to dissuade, a  
 266 consumer from:

267 1. Truthfully responding to an insurer's request for  
 268 confirmation of suitability information;

269 2. Filing a complaint; or

270 3. Cooperating with the investigation of a complaint.

271 (i) Sales made in compliance with FINRA requirements  
 272 pertaining to the suitability and supervision of annuity  
 273 transactions satisfy the requirements of this section. This  
 274 applies to FINRA broker-dealer sales of variable annuities and  
 275 fixed annuities if the suitability and supervision is similar to  
 276 those applied to variable annuity sales. However, this paragraph  
 277 does not limit the ability of the office or the department to  
 278 enforce, including investigate, the provisions of this section.  
 279 For this paragraph to apply, an insurer must:

280 1. Monitor the FINRA member broker-dealer using information  
 281 collected in the normal course of an insurer's business; and

282 2. Provide to the FINRA member broker-dealer information  
 283 and reports that are reasonably appropriate to assist the FINRA  
 284 member broker-dealer in maintaining its supervision system.

285 (6) RECORDKEEPING.—

286 (a) Insurers and agents must maintain or be able to make  
 287 available to the office or department records of the information  
 288 collected from the consumer and other information used in making  
 289 the recommendations that were the basis for insurance  
 290 transactions for 5 years after the insurance transaction is



23-00193B-13

2013166\_\_

291 completed by the insurer. An insurer may maintain the  
 292 documentation on behalf of its agent.

293 (b) Records required to be maintained under this subsection  
 294 may be maintained in paper, photographic, microprocess,  
 295 magnetic, mechanical, or electronic media, or by any process  
 296 that accurately reproduces the actual document.

297 (7) COMPLIANCE MITIGATION; PENALTIES.—

298 (a) An insurer is responsible for compliance with this  
 299 section. If a violation occurs because of the action or inaction  
 300 of the insurer or its agent which results in harm to a consumer,  
 301 the office may order the insurer to take reasonably appropriate  
 302 corrective action for the consumer and may impose appropriate  
 303 penalties and sanctions.

304 (b) The department may order:

305 1. An insurance agent to take reasonably appropriate  
 306 corrective action for a consumer harmed by a violation of this  
 307 section by the insurance agent, including monetary restitution  
 308 of penalties or fees incurred by the consumer, and impose  
 309 appropriate penalties and sanctions.

310 2. A managing general agency or insurance agency that  
 311 employs or contracts with an insurance agent to sell or solicit  
 312 the sale of annuities to consumers to take reasonably  
 313 appropriate corrective action for a consumer harmed by a  
 314 violation of this section by the insurance agent.

315 (c) In addition to any other penalty authorized under  
 316 chapter 626, the department shall order an insurance agent to  
 317 pay restitution to a consumer who has been deprived of money by  
 318 the agent's misappropriation, conversion, or unlawful  
 319 withholding of moneys belonging to the senior consumer in the

Page 11 of 14

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

23-00193B-13

2013166\_\_

320 course of a transaction involving annuities. The amount of  
 321 restitution required to be paid may not exceed the amount  
 322 misappropriated, converted, or unlawfully withheld. This  
 323 paragraph does not limit or restrict a person's right to seek  
 324 other remedies as provided by law.

325 (d) Any applicable penalty under the Florida Insurance Code  
 326 for a violation of this section shall be reduced or eliminated  
 327 according to a schedule adopted by the office or the department,  
 328 as appropriate, if corrective action for the consumer was taken  
 329 promptly after a violation was discovered.

330 (e) A violation of this section does not create or imply a  
 331 private cause of action.

332 (8) PROHIBITED CHARGES.—An annuity contract issued to a  
 333 senior consumer age 65 or older may not contain a surrender or  
 334 deferred sales charge for a withdrawal of money from an annuity  
 335 exceeding 10 percent of the amount withdrawn. The charge shall  
 336 be reduced so that no surrender or deferred sales charge exists  
 337 after the end of the 10th policy year or 10 years after the date  
 338 of each premium payment if multiple premiums are paid, whichever  
 339 is later. This subsection does not apply to annuities purchased  
 340 by an accredited investor, as defined in Regulation D as adopted  
 341 by the United States Securities and Exchange Commission, or to  
 342 those annuities specified in paragraph (4) (b).

343 (9) RULES.—The department may adopt rules to administer  
 344 this section.

345 Section 2. Subsection (4) of section 626.99, Florida  
 346 Statutes, is amended to read:

347 626.99 Life insurance solicitation.—

348 (4) DISCLOSURE REQUIREMENTS.—

Page 12 of 14

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

23-00193B-13

2013166

349 (a) The insurer shall provide to each prospective purchaser  
 350 a buyer's guide and a policy summary prior to accepting the  
 351 applicant's initial premium or premium deposit, unless the  
 352 policy for which application is made provides an unconditional  
 353 refund for ~~a period of~~ at least 14 days, or unless the policy  
 354 summary contains an offer of such an unconditional refund. In  
 355 these instances, the buyer's guide and policy summary must be  
 356 delivered with the policy or before ~~prior to~~ delivery of the  
 357 policy.

358 (b) With respect to fixed and variable annuities, the  
 359 policy must provide an unconditional refund for ~~a period of~~ at  
 360 least 21 ~~14~~ days. For fixed annuities, the buyer's guide must  
 361 ~~shall~~ be in the form ~~as~~ provided by the National Association of  
 362 Insurance Commissioners (NAIC) Annuity Disclosure Model  
 363 Regulation, until ~~such time as~~ a buyer's guide is developed by  
 364 the department, at which time the department guide must be used.  
 365 For variable annuities, a policy summary may be used, which may  
 366 be contained in a prospectus, until such time as a buyer's guide  
 367 is developed by NAIC or the department, at which time one of  
 368 those guides must be used. Unconditional refund means ~~If the~~  
 369 ~~prospective owner of an annuity contract is 65 years of age or~~  
 370 ~~older:~~

371 1. An unconditional refund of premiums paid for a fixed  
 372 annuity contract, including any contract fees or charges, must  
 373 be available for a period of 21 days; and

374 2. An unconditional refund for variable or market value  
 375 annuity contracts must be available for a period of 21 days. The  
 376 unconditional refund shall be equal to the cash surrender value  
 377 provided in the annuity contract, plus any fees or charges

Page 13 of 14

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

23-00193B-13

2013166

378 deducted from the premiums or imposed under the contract, or a  
 379 refund of all premiums paid. This subparagraph does not apply if  
 380 the prospective owner is an accredited investor, as defined in  
 381 Regulation D as adopted by the United States Securities and  
 382 Exchange Commission.

383 (c) The insurer shall attach a cover page to any annuity  
 384 ~~contract policy~~ informing the purchaser of the unconditional  
 385 refund period prescribed in paragraph (b). The cover page must  
 386 also provide contact information for the issuing company and the  
 387 selling agent, and the department's toll-free help line, ~~and any~~  
 388 ~~other information required by the department by rule.~~ The cover  
 389 page must also contain the following disclosures in bold print  
 390 and at least 12-point type, if applicable:

391 1. "PLEASE BE AWARE THAT THE PURCHASE OF AN ANNUITY  
 392 CONTRACT IS A LONG-TERM COMMITMENT AND MAY RESTRICT ACCESS TO  
 393 YOUR FUNDS."

394 2. "IT IS IMPORTANT THAT YOU UNDERSTAND HOW THE BONUS  
 395 FEATURE OF YOUR CONTRACT WORKS. PLEASE REFER TO YOUR POLICY FOR  
 396 FURTHER DETAILS."

397 3. "INTEREST RATES MAY HAVE CERTAIN LIMITATIONS. PLEASE  
 398 REFER TO YOUR POLICY FOR FURTHER DETAILS."

399 4. "A [PROSPECTUS AND POLICY SUMMARY] [BUYERS GUIDE] IS  
 400 REQUIRED TO BE GIVEN TO YOU."

401 The cover page is part of the policy and is subject to review by  
 402 the office pursuant to s. 627.410.

403 (d) The insurer shall provide a buyer's guide and a policy  
 404 summary to a ~~any~~ prospective purchaser upon request.

405 Section 3. This act shall take effect October 1, 2013.  
 406

Page 14 of 14

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

FEB 6, 2013  
Meeting Date

Topic PROPERTY INSURANCE Bill Number \_\_\_\_\_  
(if applicable)

Name W. L. BURT Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title CHAIRMAN & PRESIDENT, SECURITY FIRST INC

Address 140 SOUTH ATLANTIC AVE Phone 386-523-2300  
Street

ORMOND BEACH FLORIDA 32174 E-mail BURT@ORMONDE.COM  
City State Zip

Speaking:  For  Against  Information

Representing SECURITY FIRST INSURANCE COMPANY

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/13

*Meeting Date*

Topic Citizens Insurance; FHCF

Bill Number N/A  
*(if applicable)*

Name Jay Liles

Amendment Barcode N/A  
*(if applicable)*

Job Title Policy Consultant

Address P O Box 6870  
*Street*

Phone 850-294-5004

Tallahassee                      FL                      32314  
*City*                                      *State*                                      *Zip*

E-mail jliles@fwfonline.org

Speaking:     For     Against     Information

Representing Florida Wildlife Federation

Appearing at request of Chair:     Yes     No

Lobbyist registered with Legislature:     Yes     No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6

Meeting Date

Topic Tradewinds Mutual Concept

Bill Number \_\_\_\_\_  
*(if applicable)*

Name Jay Newman

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address 101 E. College Ave., Ste 303

Phone 284-7150

Street

Tallahassee FL 32311

City

State

Zip

E-mail jnewman@sawgrassmutual.com

Speaking:  For  Against  Information

Representing Tradewinds Mutual Concept

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/13

Meeting Date

Topic Property Ins Bill Work Product Bill Number \_\_\_\_\_  
(if applicable)

Name Gerald Wester Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address 101 E College Ave Phone 850 445 7256  
Street

Tallahassee, FL E-mail G.Wester@CapacityConsult.com  
City State Zip

Speaking:  For  Against  Information Section 11.

Representing ~~XXXX~~ American Ins Association

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/2013  
Meeting Date

Topic Propnut Bill Bill Number \_\_\_\_\_ (if applicable)  
Name Mark Delegal Amendment Barcode \_\_\_\_\_ (if applicable)  
Job Title Retained Counsel  
Address 215 S. Monroe #200 Phone \_\_\_\_\_  
*Street*  
Tallahassee FL 32301 E-mail \_\_\_\_\_  
*City State Zip*

Speaking:  For  Against  Information

Representing State Farm Florida Insurance Company

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

6 Feb 13

*Meeting Date*

Topic Annuities

Bill Number SB 166  
*(if applicable)*

Name Charles Milsted

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Associate State Director

Address 200 West College Avenue  
*Street*

Phone 850-577-5190

Tallahassee                      FL                      32301  
*City*                                      *State*                                      *Zip*

E-mail Cmilsted@aarp.org

Speaking:     For     Against     Information

Representing AARP

Appearing at request of Chair:     Yes     No

Lobbyist registered with Legislature:     Yes     No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/20/11)



THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-6-2013

Meeting Date

Topic \_\_\_\_\_

Bill Number SB 166  
*(if applicable)*

Name Paul Sanford

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address 106 S. Monroe St.

Phone 222-7200

*Street*  
Tallahassee, FL 32301  
*City State Zip*

E-mail paulsanf@cott.com

Speaking:  For  Against  Information

Representing FIC, ALLI

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/13

Meeting Date

Topic Annuities

Bill Number SB 106  
*(if applicable)*

Name Rebecca Matthews

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Deputy COS / Gov't Affairs Director

Address 200 E. Gaines St.

Phone (850) 413-5042

Street

Tallahassee, FL 32399

City

State

Zip

E-mail Rebecca.Matthews@flair.com

Speaking:  For  Against  Information

Representing Office of Insurance Regulation

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date \_\_\_\_\_

Topic ~~GARY FARMER~~ CITIZENS

Bill Number \_\_\_\_\_  
*(if applicable)*

Name GARY FARMER

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title ATTORNEY / PRESIDENT OF FJA

Address 218 N. MONROE ST

Phone (850) 224-9403

Street

TALLAHASSEE FL 32301

City

State

Zip

E-mail GARY@PATHTOJUSTICE.COM

Speaking:  For  Against  Information

Representing CONSUMERS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date \_\_\_\_\_

Topic Citizens

Bill Number \_\_\_\_\_  
*(if applicable)*

Name James Grazanella

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address \_\_\_\_\_  
*Street*

Phone \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing Capitol Preferred Ins Co

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/13

Meeting Date

Topic PPACA/DIP

Bill Number \_\_\_\_\_  
*(if applicable)*

Name Belinda Miller

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title General Counsel

Address 200 E. Gaines St.

Phone (850) 413-5002

Tallahassee, FL 32399  
City State Zip

E-mail belinda.miller@flor.com

Speaking:  For  Against  Information

Representing Office of Insurance Regulation

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/13  
Meeting Date

Topic Preliminary Impact Assessment

Bill Number N/A  
(if applicable)

Name Dr. Roy Spudeck

Amendment Barcode  
(if applicable)

Job Title Consultant

Address 200 E. Gaines St.

Phone 413-5069

Tallahassee, FL 32399  
City State Zip

E-mail ashlee.falco@flor.com

Speaking:  For  Against  Information

Representing OIR

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/13

Meeting Date

Topic Property Bill Discussion

Bill Number N/A  
*(if applicable)*

Name Kevin McCarty

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Commissioner

Address 200 E. Gaines St.

Phone (850) 413 - 5906

*Street*  
Tallahassee, FL 32399  
*City State Zip*

E-mail Kevin.McCarty@flor.com

Speaking:  For  Against  Information

Representing Office of Insurance Regulation

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/13

Meeting Date

Topic PIP - HB 119 Implementation

Bill Number N/A (if applicable)

Name Sondra Starnes

Amendment Barcode (if applicable)

Job Title Director of Property & Casualty Product Review

Address 200 E. Gaines St.

Phone (850) 413-5069

Street

Tallahassee, FL 32399

City

State

Zip

E-mail sondra.starnes@floriv.com

Speaking: For Against Information

Representing Office of Insurance Regulation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)



THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

6 FEB 2013  
Meeting Date

Topic PIP / MANDATORY BI

Bill Number \_\_\_\_\_  
*(if applicable)*

Name PAUL JESS

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address 218 S. MONROE ST  
*Street*  
TALLAHASSEE FL 32301  
*City State Zip*

Phone 224-9403

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing FLORIDA JUSTICE ASSOCIATION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

# CourtSmart Tag Report

**Room:** EL 110

**Case:**

**Caption:** Senate Banking and Insurance- 10:30 - 12:30 --Room 110 SOB

**Type:**

**Judge:**

**Started:** 2/6/2013 10:38:05 AM

**Ends:** 2/6/2013 12:29:05 PM

**Length:** 01:51:01

**10:38:34 AM** Meeting called to order by Chairman  
**10:38:42 AM** Roll call  
**10:42:04 AM** Opening remarks by Chairman  
**10:54:24 AM** Presentation on Citizens Property Insurance by Locke Burt  
**11:10:39 AM** Senator Clemens --question for Locke Burt  
**11:17:22 AM** Senator Margolis has question for Locke Burt on cutting commissions  
**11:18:52 AM** Chairman comments on agents who refer insurers to Citizens to cut or deny commissions to agents  
**11:20:27 AM** Senator Lee --question on why name brand insurance companies are not writing policies  
**11:25:58 AM** Follow up question by Senator Lee - how consumers can be aware of all insurance options  
**11:33:05 AM** Kevin McCarty, Commissioner - OIR -- Information on draft Property Bill  
**11:35:27 AM** Dr. Ray Spudeck, Consultant, representing OIR  
**11:47:02 AM** Comments by Chairman on language included in draft property bill  
**11:59:55 AM** Senator Detert -- request information be provided to cmte between vacation and rental property insurance  
**12:04:06 PM** Sen. Richter --explanation of SB 166  
**12:05:09 PM** Amd. #1 - w/o objection adopted  
**12:05:22 PM** Amd. 2 by Sen. Richter -- technical -- w/o objection--adopted  
**12:06:42 PM** Sen. Richter moves for CS  
**12:06:55 PM** Roll call on CS/SB 166 -- passed  
**12:13:19 PM** Presentation by James Graganella, Capital Preferred Insurance Comp.  
**12:21:25 PM** Chairman recognizes Staff Director Steve Burgess for explanation of draft Property Insurance Bill  
**12:28:42 PM** Motion to rise.