

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

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

**MEETING DATE:** Tuesday, January 14, 2014

**TIME:** 2:00 —4:00 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, Negrón, Richter, and Ring

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 416</b> Simpson (Similar H 129)	Sinkhole Coverage; Requiring Citizens Property Insurance Corporation to submit a biannual report on the number of residential sinkhole policies requested, issued, and declined; establishing a Citizens Sinkhole Stabilization Repair Program for sinkhole claims; requiring policies to include specified deductible amounts for sinkhole loss coverage, etc.  BI      01/14/2014 Temporarily Postponed AGG AP	Temporarily Postponed
2	<b>SB 444</b> Galvano (Similar H 271)	Workers' Compensation; Revising powers of the Department of Financial Services relating to compliance with and enforcement of workers' compensation coverage requirements; revising requirements for the release of stop-work orders; revising rate formulas related to the determination of compensation for disability and death, etc.  BI      01/14/2014 Favorable AGG AP	Favorable Yeas 10 Nays 0
3	<b>SB 490</b> Garcia (Similar H 401)	Motor Vehicle Liability Policy Requirements; Extending the period during which the policy may be cancelled by the insurer; specifying minimum limits for such policy; deleting a provision requiring an insured who obtains additional coverage to obtain a new 6-month noncancelable policy, etc.  BI      01/14/2014 Favorable TR AP	Favorable Yeas 10 Nays 0
4	<b>SB 424</b> Lee (Similar H 255)	Discriminatory Insurance Practices; Providing that unfair discrimination on the basis of gun ownership in the provision of personal lines property or personal lines automobile insurance is a discriminatory insurance practice, etc.  BI      01/14/2014 Fav/2 Amendments CJ AP	Fav/2 Amendments (554246, 965502) Yeas 9 Nays 1

**COMMITTEE MEETING EXPANDED AGENDA**

Banking and Insurance

Tuesday, January 14, 2014, 2:00 —4:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	<b>Workshop</b> - Discussion and testimony only on the following (no vote to be taken):		
	Citizens Property Insurance Corporation		Discussed
	Discussion of Proposed Legislation		

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Other Related Meeting Documents

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/14/14

Meeting Date

Sinkhole

Bill Number SB 416

Nicole Vinson, Esq.

Amendment Barcode

Job Title

Address 777 Starbuck Island Blvd Suite 950

Phone 813-415-8758

Tampa FL

33602

State

Zip

E-mail NVINSON@melinlawgroup.com

Speaking:  For

Against

Information

Representing Melin Law Group and Fla. 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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

01/14/14  
Meeting Date

Topic Sinkhole Managed Repair Program Bill Number 50414 (if applicable)  
Name Dan Sumner Amendment Barcode \_\_\_\_\_ (if applicable)  
Job Title General Counsel  
Address 2312 Killiam Center Blvd. Bldg. A Phone 519.3757  
Tallahassee E-mail \_\_\_\_\_  
City State Zip

Speaking:  For  Against  Information

Representing Citizens Property Insurance Corporation

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

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THE FLORIDA SENATE

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1-14-14

Meeting Date

Topic CPIC MANAGED REPAIR

416

Bill Number

(if applicable)

Name JOHN THOMPSON

Amendment Barcode

(if applicable)

Job Title HOMEOWNER ADVOCATE

Phone 352.345-5488

Address PO Box 12249

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BROOKSVILLE FL 34606

Speaking:  For  Against  Information

Representing \_\_\_\_\_

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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1-14-14  
Meeting Date

Topic Amended Re Pair Bill Number SB 416 (if applicable)

Name Rose Pardo Amendment Barcode \_\_\_\_\_ (if applicable)

Job Title Advisor

Address 1075 Overland Dr Phone 352-686-5183

Spring Hill FL 34608  
City State Zip

Speaking:  For  Against  Information

Representing \_\_\_\_\_

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/14/14 Meeting Date

Topic Sinkholes Bill Number SB 416 (if applicable)

Name Carolyn Johnson Amendment Barcode (if applicable)

Job Title Policy Director

Address 120 S Brorugh St Phone 521-1235

Tallahassee FL 32311 E-mail cjohnson@flcourts.com State Zip

Speaking: [X] For [ ] Against [ ] Information

Representing FL chamber of commerce

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

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**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.)

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

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BILL: SB 416

INTRODUCER: Senator Simpson

SUBJECT: Sinkhole Coverage

DATE: January 10, 2014

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Knudson	BI	<b>Pre-meeting</b>
2.			AGG	
3.			AP	

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**I. Summary:**

SB 416 directs Citizens to establish the Citizens Sinkhole Stabilization Repair Program (Program). The bill states that the program is being created because the public interest is served by the performance of sinkhole repairs. All covered sinkhole loss claims made on a Citizens policy will be governed by the Program as of March 31, 2015. The Program must be managed by Citizens or a third-party administrator.

Under the Program, stabilization repair contractors are approved by Citizens to participate in the program if they meet statutory requirements. Approved stabilization repair contractors must contract with Citizens to perform stabilization repairs for a fixed price.

Each covered sinkhole loss claim is submitted to the approved stabilization contractors who have the opportunity to submit itemized offers to Citizens to the stabilization repairs recommended in the engineering report. Citizens then provides a list of contractors to the policyholder, based on quality, cost-effectiveness, and other criteria. The policyholder has 30 days to select a listed contractor. If the policyholder does not make a selection within 30 days, Citizens shall select the contractor. If an approved stabilization repair contractor does not offer to perform repairs within policy limits, Citizens may either resubmit the loss to the program or pay up to the policy limits to the policyholder.

Repairs must be warranted by the stabilization repair contractor for at least 5 years. The policyholder's sole remedy is the specific performance of sinkhole stabilization repairs in a dispute with Citizens over the method or extent of stabilization repairs. Citizens' liabilities under the Repair Program are limited to the policyholder's policy limits.

The bill also requires each residential insurance policy that provides coverage for sinkhole loss to include a deductible of 1 percent, 2, percent, 5 percent, or 10 percent of the policy dwelling limits.

## II. Present Situation:

### Sinkhole Insurance

Insurers offering property insurance must make available to policyholders, for an appropriate additional premium, sinkhole coverage for losses on any structure, including personal property contents.<sup>1</sup> Sinkhole coverage includes repairing the home, stabilizing the underlying land, and foundation repairs.<sup>2</sup> Insurance companies must also provide coverage for catastrophic ground cover collapse.<sup>3</sup> Insurers may restrict catastrophic ground cover collapse and sinkhole loss coverage to the principal building as defined in the insurance policy.<sup>4</sup> An insurer may require a property inspection prior to issuing sinkhole loss coverage.<sup>5</sup> Residential property insurance policies may include deductibles applicable to sinkhole losses of 1 percent, 2, percent, 5 percent, or 10 percent of the policy dwelling limits and must provide a corresponding premium discount with each deductible amount.<sup>6</sup> All Citizens sinkhole loss policies, however, have a 10 percent deductible.<sup>7</sup>

Sinkhole coverage is payable when a “sinkhole loss” occurs.<sup>8</sup> A sinkhole loss is defined in statute as structural damage to the covered building, including the foundation, caused by sinkhole activity.<sup>9</sup> Five distinct types of damage constitute structural damage, and each type of damage is tied to standards contained in the Florida Building Code or used in the construction industry.<sup>10</sup> “Sinkhole activity” is the settlement or systematic weakening of the earth supporting the covered building that results from contemporaneous movement or raveling of soils, sediments, or rock into subterranean voids created by the effect of water on a limestone or similar rock formation.<sup>11</sup> Accordingly, in order for the policyholder to obtain policy benefits for sinkhole loss, the insured structure must sustain structural damage that is caused by sinkhole activity.

Sinkhole insurance claims increased substantially both in number and cost over the past 2 decades and most dramatically from 2009 to 2011.<sup>12</sup> According to data submitted in 2011 by 211

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<sup>1</sup> S. 627.706(1)(b), F.S.

<sup>2</sup> See s. 627.706(5), F.S. Contents coverage is also available and, if included, paid in accordance with policy terms

<sup>3</sup> S. 627.706(1)(a), F.S. Catastrophic ground cover collapse refers to extreme damage in which a property is essentially destroyed and uninhabitable. A catastrophic ground cover collapse occurs when geological activity causes the abrupt collapse of the ground cover, a depression in the ground cover clearly visible to the naked eye, structural damage to the covered building and its foundation, and the insured structure being condemned and ordered to be vacated by the governmental entity authorized to give such an order.

<sup>4</sup> S. 627.706(1)(c), F.S.

<sup>5</sup> S. 627.706(a)(b), F.S.

<sup>6</sup> *See id.*

<sup>7</sup> Citizens Property Insurance Corporation, *Sinkhole Loss Coverage Frequently Asked Questions for Policyholders*, pg. 5. [https://www.citizensfla.com/shared/faqs/SinkholeFAQs\\_for\\_Consumers.pdf](https://www.citizensfla.com/shared/faqs/SinkholeFAQs_for_Consumers.pdf) (Last accessed by Banking and Insurance Staff on January 13, 2014).

<sup>8</sup> See s. 627.707(5), F.S.

<sup>9</sup> S. 627.706(2)(j), F.S.

<sup>10</sup> S. 627.706(2)(k), F.S.

<sup>11</sup> S. 627.706(2)(i), F.S.

<sup>12</sup> See Office of Insurance Regulation, *Report on Review of the 2010 Sinkhole Data Call*, (Nov. 8, 2010).

[http://www.floir.com/siteDocuments/Sinkholes/2010\\_Sinkhole\\_Data\\_Call\\_Report.pdf](http://www.floir.com/siteDocuments/Sinkholes/2010_Sinkhole_Data_Call_Report.pdf) (Last accessed by Banking and Insurance Staff on January 13, 2014).

property insurers to the Office of Insurance Regulation (OIR), the insurers' total reported claims increased from 2,360 in 2006 to 6,694 in 2010, totaling 24,671 claims throughout that period.<sup>13</sup> Total sinkhole claim costs for these insurers amounted to approximately \$1.4 billion for the same period.<sup>14</sup>

The 2011 Legislature enacted legislation in (CS/CS/CS/SB 408) to address the large increases in sinkhole policyholder premiums and losses.<sup>15</sup> The 2011 reform bill changed the definition of structural damage that is used to determine if a sinkhole loss occurred, revised the process for investigating sinkhole losses, and enacted a number of reforms aimed at reducing fraud and unnecessary costs related to sinkhole loss coverage.

### **Investigation of Sinkhole Claims**

The 2011 legislative sinkhole reforms substantially revised the statutory process for investigating sinkhole claims in s. 627.707, F.S.<sup>16</sup> The process requires the insurer to determine whether the building has incurred structural damage that has been caused by sinkhole activity.<sup>17</sup> Coverage for sinkhole loss is not available if structural damage is not present or sinkhole activity is not the cause of structural damage. The new process is as follows:

*Initial Inspection & Structural Damage Determination:* Upon receipt of a claim for sinkhole loss, the insurer must inspect the policyholder's premises to determine if there has been structural damage which may be the result of sinkhole activity.<sup>18</sup> This inspection will often require the insurer to retain a professional engineer to evaluate whether the insured building has incurred structural damage as defined by statute.

*Sinkhole Testing:* The insurer is required to engage a professional engineer or professional geologist to conduct sinkhole testing pursuant to s. 627.7072, F.S., if the insurer confirms that structural damage exists and is either unable to identify a valid cause of the structural damage or discovers that the structural damage is consistent with sinkhole loss.<sup>19</sup> If coverage is excluded under the policy even if sinkhole loss is confirmed, then the insurer is not required to conduct sinkhole testing.<sup>20</sup>

*Notice to the Policyholder:* The insurer must provide written notice to the policyholder detailing what the insurer has determined to be the cause of damage (if the determination has been made) and a statement of the circumstances under which the insurer must conduct sinkhole testing.<sup>21</sup> The policyholder must also be notified of his or her right to demand sinkhole testing and the circumstances under which the policyholder may incur costs associated with testing.<sup>22</sup>

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<sup>13</sup> See *id.* at pg. 5.

<sup>14</sup> See *id.*

<sup>15</sup> Ch. 2001-39, L.O.F.

<sup>16</sup> See fn. 15.

<sup>17</sup> S. 627.707(1), F.S.

<sup>18</sup> See *id.*

<sup>19</sup> S. 627.707(2), F.S.

<sup>20</sup> See *id.*

<sup>21</sup> S. 627.707(3), F.S.

<sup>22</sup> See *id.*

*Authorization to Deny Sinkhole Claim:* Insurers deny the claim upon a determination that there is no sinkhole loss.<sup>23</sup>

*Policyholder Demand for Sinkhole Testing:* The policyholder may demand sinkhole testing in writing within 60 days after receiving a claim denial if the insurer denies the claim without performing sinkhole testing and coverage would be available if a sinkhole loss is confirmed (i.e. the claim denial was not issued due to policy conditions or exclusions of coverage and instead was based the failure of the loss to meet the definition of sinkhole loss).<sup>24</sup> However, if the policyholder requests such testing, it must pay the insurer 50 percent of the sinkhole testing costs up to \$2,500.<sup>25</sup> If the requested testing confirms a sinkhole loss the insurer must reimburse the testing costs to the policyholder.<sup>26</sup>

### **Payment of Sinkhole Claims**

If a covered building suffers a sinkhole loss or catastrophic ground cover collapse, the insured must repair such damage in accordance with the insurer's professional engineer's recommended repairs.<sup>27</sup> However, if repairs cannot be completed within policy limits, the insurer has the option to either pay to complete the recommended repairs or tender policy limits without a reduction for any repair expenses already incurred.<sup>28</sup> The insurer may limit payment to the actual cash value of the sinkhole loss not including below-ground repair techniques until the policyholder enters into a contract for the performance of building stabilization repairs.<sup>29</sup>

The two most commonly recommended stabilization techniques are grouting and underpinning.<sup>30</sup> Under the grouting procedure, a grout mixture (either cement-based or a chemical resin that expands into foam) is injected into the ground to stabilize the subsurface soils to minimize further subsidence damage by increasing the density of the soils beneath the building as well as sealing the top of the limestone surface to minimize future raveling.<sup>31</sup> Underpinning consists of steel piers drilled or pushed into the ground to stabilize the building's foundation.<sup>32</sup> One end of the steel pipe connects to the foundation of the structure with the other end resting on solid limestone. Underpinning repairs, when performed, are usually combined with grouting.

The contract for below-ground repairs must be made in accordance with the recommendations set forth in the insurer's sinkhole report issued pursuant to s. 627.7073, F.S., and must be entered into within 90 days after the policyholder receives notice that the insurer has confirmed coverage for sinkhole loss.<sup>33</sup> The time period is tolled if either party invokes neutral evaluation.

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<sup>23</sup> S. 627.707(4)(a), F.S.

<sup>24</sup> S. 627.707(4)(b), F.S.

<sup>25</sup> S. 627.707(4)(b)2., F.S.

<sup>26</sup> S. 627.707(4)(b)3., F.S.

<sup>27</sup> S. 627.707(5), F.S.

<sup>28</sup> See *id.*

<sup>29</sup> S. 627.707(5)(a), F.S.

<sup>30</sup> Citizens Property Insurance Corporation, Sinkhole Repairs: Underpinning and Grouting, (Oct. 30, 2012).

<https://www.citizensfla.com/shared/sinkhole/documents/GroutVersusUnderpinning.pdf> (Last accessed by Banking and Insurance Staff on January 13, 2014).

<sup>31</sup> See *id.*

<sup>32</sup> See *id.*

<sup>33</sup> See s. 627.707(5)(b), F.S.

Stabilization and all other repairs to the structure and contents must be completed within 12 months after the policyholder enters into the contract for repairs unless the insurer and policyholder mutually agree otherwise, the claim is in litigation, or the claim is in neutral evaluation, appraisal or mediation.<sup>34</sup>

### **Sinkhole Claims – Citizens Property Insurance Corporation**

The number of Citizens Property Insurance Corporation (Citizens) sinkhole claims is dropping in the aftermath of the 2011 sinkhole reforms. Citizens' sinkhole claim activity had increased from 1590 claims in 2009 to 4,605 in 2011.<sup>35</sup> After the legislative reforms, new Citizens sinkhole claims dropped to 2386 in 2012 and a projected 900 claims in 2013, an estimated 80 percent drop in claims from 2011.<sup>36</sup>

Citizens' sinkhole claim activity from 2009 to 2013 is concentrated in Hernando, Hillsborough, Pasco, and Pinellas counties.<sup>37</sup> Miami-Dade, Broward, and Palm Beach counties also produced a significant number of sinkhole claims and had generally higher percentages of claims filed on sinkhole policies.<sup>38</sup> Approximately 90 percent of sinkhole claim litigation is from claims on properties located in Hernando, Pasco, and Hillsborough counties. A sample of 204 sinkhole claims in litigation by Citizens on August 31, 2013, indicated that over 56 percent of such claims are in litigation over issues related to Citizens efforts to repair the damaged property.

Though the costs associated with Citizens sinkhole loss claims has decreased, such claims continue to negatively affect the financial stability of Citizens and private market insurers.<sup>39</sup> Increased sinkhole claim losses has often made residential property insurance increasingly unaffordable or unavailable for consumers.

The Citizens Board of Governors considered the creation of a sinkhole stabilization managed repair program at its December 12, 2003 meeting.<sup>40</sup> The program would be similar to the program that would be created if SB 416 becomes law, with the primary difference being that Citizens policyholders would not be required to participate. Citizens solicited sinkhole repair

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<sup>34</sup> See *id.*, and s. 627.707(5)(d), F.S.

<sup>35</sup> Citizens Property Insurance Corporation, *Litigation Analysis*, pg. 8. (October 2013). <http://miamiherald.typepad.com/files/corrected-citizens-litigation-analysis---final---oct-11-2013.pdf> (Last accessed by Banking and Insurance Staff on January 13, 2014).

<sup>36</sup> See *id.*

<sup>37</sup> The total number of sinkhole claims in these counties from January 1, 2009 to August 31, 2013 are: Hernando County (4947), Pasco County (2,817), Hillsborough (2,180), Pinellas (1,039). The percentage of sinkhole policies in each county that experienced a claim during this period is 3 percent in Hernando County, 6 percent in Pasco County, 5 percent in Hillsborough County, and 10 percent in Pinellas County.

<sup>38</sup> Miami-Dade had 419 sinkhole claims, but 19 percent of sinkhole policies in that county had a sinkhole claim from January 1, 2009 to August 31, 2013. Broward County had 291 claims on 14 percent of sinkhole policies and Palm Beach County had 114 claims on 10% of sinkhole policies.

<sup>39</sup> Citizens, in its 2014 Rate Filing Kit, detailed that the indicated rate change for sinkhole coverage was for an increase of 451 percent in Hernando County, 177 percent in Pasco County, and 235 percent in Hillsborough County. [http://static-lobbytools.s3.amazonaws.com/press/59997\\_citizens\\_2014\\_rate\\_kit.pdf](http://static-lobbytools.s3.amazonaws.com/press/59997_citizens_2014_rate_kit.pdf) (Last accessed by Banking and Insurance Staff on January 13, 2014).

<sup>40</sup> Citizens Property Insurance Corporation, Action Item Summary: Sinkhole Stabilization Managed Repair Program (Dec. 13, 2013). [https://www.citizensfla.com/bnc\\_meet/docs/500/05Ab\\_AI\\_Sinkhole\\_MRP\\_12\\_13\\_13.pdf](https://www.citizensfla.com/bnc_meet/docs/500/05Ab_AI_Sinkhole_MRP_12_13_13.pdf) (Last accessed by Banking and Insurance Staff on January 13, 2014).

contractors who would participate in the managed repair program through an initial Invitation to Bid (ITB No. 13-0020) and subsequently issued an additional Invitation to Bid (ITB No. 13-0028) for additional vendors dated January 8, 2014. Citizens' staff recommended that the Citizens' Claims Committee approve and recommend to the Board of Governors that Citizens' staff pursue contracts with vendors that would allow the implementation of a sinkhole stabilization managed repair program.<sup>41</sup> Such contracts would not exceed \$50 million. Citizens' staff noted that the vendor contracts would not cause additional expenses because vendors will be paid through the claims indemnity process.<sup>42</sup>

In an effort to settle sinkhole claim disputes over the method of sinkhole repairs, Citizens began in December 2013 sending letters to hundreds of its policyholders who are disputing the repair recommendations on their sinkhole claims.<sup>43</sup> The letters are targeted to policyholders who have a confirmed sinkhole loss for which the professional engineer who verified a sinkhole loss has recommended grouting repairs but not underpinning. The letters encourage policyholders to have the necessary repair work completed in accordance with the engineer's recommendations. Citizens is also encouraging policyholders to resolve differing engineering opinions through the neutral evaluation process in s. 627.7074, F.S. Citizens estimates that of its 2,100 disputed sinkhole claims, 1,329 deal with disagreements over repair methods.<sup>44</sup>

### III. Effect of Proposed Changes:

#### **Citizens Sinkhole Stabilization Repair Program [s. 627.351(6)(ff), F.S.]**

**Section 1** directs Citizens to establish the Citizens Sinkhole Stabilization Repair Program (Program). The bill states that the program is being created because the public interest is served by the performance of sinkhole repairs. All covered sinkhole loss claims made on a Citizens policy will be governed by the Program as of March 31, 2015. The Program must be managed by Citizens or a third-party administrator.

Under the Program, stabilization repair contractors are approved by Citizens to participate in the program if they meet statutory requirements. Approved stabilization repair contractors must contract with Citizens to perform stabilization repairs for a fixed price.

Each covered sinkhole loss claim is submitted to the approved stabilization contractors who have the opportunity to submit itemized offers to Citizens to the stabilization repairs recommended in the engineering report. Citizens then provides a list of contractors to the policyholder, based on quality, cost-effectiveness, and other criteria. The policyholder has 30 days to select a listed contractor. If the policyholder does not make a selection within 30 days, Citizens shall select the contractor. If an approved stabilization repair contractor does not offer to perform repairs within policy limits, Citizens may either resubmit the loss to the program or pay up to the policy limits to the policyholder.

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<sup>41</sup> See *id.*

<sup>42</sup> See *id.*

<sup>43</sup> Citizens Property Insurance Corporation, *Citizens Chairman: Settlement Proposal Benefits Consumers*, (Press Release Dated Dec. 12, 2013). <https://www.citizensfla.com/shared/press/articles/135/12.12.2013.pdf> (Last accessed by Banking and Insurance Staff on January 13, 2014).

<sup>44</sup> See *id.*

Repairs must be warranted by the stabilization repair contractor for at least 5 years. The policyholder's sole remedy is the specific performance of sinkhole stabilization repairs in a dispute with Citizens over the method or extent of stabilization repairs. Citizens' liabilities under the Repair Program are limited to the policyholder's policy limits.

The following provides a detailed explanation of the provisions of the Repair Program:

**Prohibition against Requiring Citizens Policyholders to Advance Sinkhole Repair Costs [s. 627.351(6)(ff)2.a., F.S.]**

Citizens is prohibited from requiring a policyholder from advancing the cost of sinkhole repairs.

**Stabilization Repair Contractor - Qualification Requirements [s. 627.351(6)(ff)2.b., F.S.]**

Each stabilization repair contractor approved by Citizens must be qualified based on the following criteria:

- Experience in stabilizing sinkhole activity pursuant to requirements established by Citizens;
- Certification as a contractor under s. 489.113(1), F.S.;
- Demonstrating the capacity to be bonded and actually providing required performance, surety, or other bonds, which may be supplemented by additional requirements;
- Demonstrating the ability to meet insurance coverage required by Citizens, including commercial general liability and workers' compensation insurance;
- Maintaining a valid drug-free workplace program; and
- Other requirements established by Citizens.

**Stabilization Repair Contract [s. 627.351(c)(ff)2.d., F.S.]**

Citizens must develop a standard stabilization repair contract that requires:

- The stabilization repair contractor to be paid a fixed price to complete the stabilization repairs identified in the engineering report;
- The stabilization repair contractor to post a payment bond in favor of Citizens for each project assigned and to post a performance bond in favor of Citizens in the amount of the total cost of all fixed-price repairs annually awarded to the contractor;
- The stabilization repair contractor must provide a warranty of at least 5 years to the policyholder. The warranty must be secured by a third-party surety;
- The engineer must monitor the performance of stabilization repairs and confirm their completion and that no further repairs are required;
- The stabilization repair contract must perform any additional repairs found necessary by the engineer. The repairs must be performed at no cost to the policyholder or Citizens;

**Process for Selection of Stabilization Repair Contractors [s. 627.351(c)(ff)2.e., F.S.]**

Citizens must establish a process for the selection of a stabilization repair contractor that includes:

- An opportunity for all stabilization repair contractors within the Citizens stabilization repair pool to submit an offer to perform the repairs recommended in the engineering report. The offer must include an itemized statement of work.
- Citizens must review the contractors' offers and provide the policyholder with a list of stabilization repair contractors. Citizens may include contractors on the list based on quality, cost-effectiveness, and other criteria.
- The policyholder has 30 days to select a stabilization repair contractor. If the policyholder does not select a contractor within 30 days, Citizens does.
- If no contractors offer to perform stabilization repairs or all such offers exceed the policy limit, Citizens may resubmit the property to the repair process. Alternatively, Citizens may pay the policyholder an amount up to the policy limits on the structure.

**Citizens Liability Under the Sinkhole Stabilization Repair Program [s. 627.351(6)(ff)3. and 4., F.S.]**

The bill limits Citizens legal responsibilities under the stabilization repair program. Citizens is not responsible for serving as a stabilization repair contractor. Citizens' obligations under the repair program are not an election to repair by Citizens and do not create a new contractual relationship between a policyholder and Citizens.

Citizens is not obligated to the policyholder for more than the policy limits.

**Specific Performance of Repairs Policyholder's Sole Remedy [s. 627.351(6)(ff)6., F.S.]**

If a dispute arises between a policyholder and Citizens regarding the type of stabilization repairs or their extent, the policyholder's sole remedy is the specific performance of repairs.

**Repairs Other Than Sinkhole Stabilization [s. 627.351(6)(ff)5. and 7., F.S.]**

Citizens must pay for repairs other than sinkhole stabilization to the structure and contents in accordance with the terms of the policyholder's insurance policy. The sinkhole repair program statute does not prohibit Citizens from establishing managed repair programs for other repairs to the structure in accordance with the terms of the insurance policy.

**The Repair Program Supersedes the Statutory Process for the Investigation and Payment of Sinkhole Loss Claims [s. 627.351(6)(ff)8., F.S.]**

The sinkhole repair program statute supersedes the provisions of s. 627.707(5)(a)-(d), F.S., which contain the statutory criteria for the investigation and payment of sinkhole loss claims.

**Citizens Reports on Residential Sinkhole Loss Coverage [s. 627.351(6)(ee), F.S.]**

Citizens must submit a report to the OIR detailing the requests it receives for residential sinkhole loss coverage. The report must be submitted at least once every 6 months. Citizens must report the number of requests for residential sinkhole loss coverage received, the number of sinkhole loss coverage requests accepted or declined, and Citizens' reasons for declining requests for residential sinkhole coverage.

**Deductibles for Sinkhole Loss Coverage [s. 627.706(1), F.S.]**

**Section 2** amends s. 627.706(1), F.S., to require that each residential insurance policy that provides coverage for sinkhole loss must include a deductible of 1 percent, 2, percent, 5 percent, or 10 percent of the policy dwelling limits.

**Effective Date**

**Section 3** provides an effective date of July 1, 2014.

**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:**

Citizens policyholders only remedy under this bill will be limited to the specific performance of sinkhole repairs. Citizens' policyholders may benefit from the quick performance of repairs. If sinkhole loss costs are reduced by the program, premium increases for Citizens sinkhole insurance may be reduced.

**C. Government Sector Impact:**

Citizens' staff has recommended to the Citizens Board of Governors the pursuit of vendor to serve as sinkhole repair contractors for the purpose of establishing a sinkhole stabilization managed repair program. Vendors would be paid through the claim indemnity process (i.e. for repairs performed) and thus Citizens staff does not consider the vendor contracts an additional expense to Citizens.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 627.351, 627.706

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.

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

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By Senator Simpson

18-00198C-14

2014416\_\_

1 A bill to be entitled  
 2 An act relating to sinkhole coverage; amending s.  
 3 627.351, F.S.; requiring Citizens Property Insurance  
 4 Corporation to submit a biannual report on the number  
 5 of residential sinkhole policies requested, issued,  
 6 and declined; providing legislative intent and  
 7 establishing a Citizens Sinkhole Stabilization Repair  
 8 Program for sinkhole claims; providing definitions;  
 9 prohibiting the corporation from requiring a  
 10 policyholder to advance payment for repairs provided  
 11 under the program; providing requirements and  
 12 procedures for contractors who conduct stabilization  
 13 repairs; providing requirements and terms for  
 14 contracts between the corporation and such  
 15 contractors; specifying additional parameters with  
 16 respect to the program; amending s. 627.706, F.S.;  
 17 requiring policies to include specified deductible  
 18 amounts for sinkhole loss coverage; providing an  
 19 effective date.

20  
 21 Be It Enacted by the Legislature of the State of Florida:

22  
 23 Section 1. Paragraph (ee) of subsection (6) of section  
 24 627.351, Florida Statutes, is amended, present paragraphs (ff)  
 25 through (hh) of that subsection are redesignated as paragraphs  
 26 (gg) through (ii), respectively, and a new paragraph (ff) is  
 27 added to that subsection, to read:

28 627.351 Insurance risk apportionment plans.-  
 29 (6) CITIZENS PROPERTY INSURANCE CORPORATION.-

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

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30 (ee) At least once every 6 months, the corporation shall  
 31 submit a report to the office disclosing:  
 32 1. The total number of requests received for residential  
 33 sinkhole loss coverage;  
 34 2. The total number of policies issued for residential  
 35 sinkhole loss coverage;  
 36 3. The total number of requests declined for residential  
 37 sinkhole loss coverage; and  
 38 4. The reasons for declining requests for residential  
 39 sinkhole loss coverage ~~The office may establish a pilot program~~  
 40 ~~to offer optional sinkhole coverage in one or more counties or~~  
 41 ~~other territories of the corporation for the purpose of~~  
 42 ~~implementing s. 627.706, as amended by s. 30, chapter 2007 1,~~  
 43 ~~Laws of Florida. Under the pilot program, the corporation is not~~  
 44 ~~required to issue a notice of nonrenewal to exclude sinkhole~~  
 45 ~~coverage upon the renewal of existing policies, but may exclude~~  
 46 ~~such coverage using a notice of coverage change.~~  
 47 (ff) The Legislature finds that it is in the public  
 48 interest that sinkhole loss claims be resolved by stabilizing  
 49 the land and structure and making repairs to the foundation of  
 50 the damaged structure. Therefore, the corporation shall  
 51 establish the Citizens Sinkhole Stabilization Repair Program for  
 52 the purpose of making stabilization repairs. By March 31, 2015,  
 53 any claim against a corporation policy that covers residential  
 54 sinkhole loss must be included in and governed by the repair  
 55 program.  
 56 1. As used in this paragraph, the term:  
 57 a. "Engineering report" means the report issued pursuant to  
 58 s. 627.7073(1).

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

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59 b. "Recommendation of the engineer" means the  
60 recommendation of the engineer engaged by the corporation and  
61 issued pursuant to s. 627.7073(1)(a)5.

62 c. "Stabilization repairs" means stabilizing the land and  
63 structure and making repairs to the foundation of the damaged  
64 structure.

65 d. "Stabilization repair contractor" means a contractor who  
66 makes stabilization repairs.

67 2. The repair program shall be managed by the corporation  
68 or a third-party administrator and include the following  
69 components:

70 a. The policyholder may not be required to advance payment  
71 for repairs.

72 b. Stabilization repairs must be conducted by a  
73 stabilization repair contractor selected from an approved  
74 stabilization repair contractor pool procured by the corporation  
75 pursuant to an open and transparent process. Each contractor  
76 within the pool must be qualified and approved by the  
77 corporation based on criteria that include the following  
78 requirements:

79 (I) The stabilization repair contractor corporate entity  
80 must demonstrate experience in the stabilization of sinkhole  
81 activity pursuant to requirements established by the  
82 corporation.

83 (II) The stabilization repair contractor must be certified  
84 as a contractor pursuant to s. 489.113(1).

85 (III) The stabilization repair contractor must demonstrate  
86 capacity to be bonded and provide performance, surety, or other  
87 bonds as described in this section which may be supplemented by

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88 additional requirements as determined by the corporation.

89 (IV) The stabilization repair contractor must demonstrate  
90 that it meets insurance coverage requirements, including, but  
91 not limited to, commercial general liability and workers'  
92 compensation, established by the corporation.

93 (V) The stabilization repair contractor must maintain a  
94 valid drug-free workplace program.

95 (VI) Such other requirements as may be established by the  
96 corporation.

97 c. Pursuant to the stabilization repair program, qualified  
98 stabilization repair contractors shall be selected from the  
99 approved stabilization contractor pool to conduct stabilization  
100 repairs pursuant to a fixed-price contract between the  
101 contractor and the corporation. Such contracts are not subject  
102 to s. 627.351(6)(e) or s. 287.057. Pursuant to the terms of the  
103 contract, the selected contractor is solely responsible for the  
104 performance of all necessary stabilization repairs specified in  
105 the engineering report and the recommendations of the engineer.

106 d. The corporation shall develop a standard stabilization  
107 repair contract for the purpose of conducting stabilization  
108 repairs on all properties within the program. At a minimum, the  
109 contract must require:

110 (I) The assigned stabilization repair contractor to  
111 complete all stabilization repairs identified in the engineering  
112 report based on a fixed price.

113 (II) Each stabilization repair contractor to post a payment  
114 bond in favor of the corporation as obligee for each project  
115 assigned and to post a performance bond, secured by a third-  
116 party surety, in favor of the corporation as obligee, in a

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117 principal amount equal to the total cost of all fixed-price  
 118 contracts annually awarded to that contractor.

119 (III) The stabilization repair contractor to provide a  
 120 warranty, secured by a third-party surety, to the policyholder  
 121 which covers all repairs provided by the stabilization repair  
 122 contractor for at least 5 years after completion of the  
 123 stabilization repairs.

124 (IV) That, throughout the course of the stabilization  
 125 repairs performed by the contractor, the engineer monitor the  
 126 property and confirm that stabilization has been satisfactorily  
 127 completed and that no further stabilization is necessary to  
 128 remedy the damage identified in the engineering report and the  
 129 recommendations of the engineer.

130 (V) That, if the engineer concludes that additional  
 131 stabilization repairs are necessary to complete the repairs  
 132 specified in the engineering report and the recommendations of  
 133 the engineer, the stabilization repair contractor perform  
 134 additional stabilization repairs at no cost to the corporation  
 135 or the policyholder. The contract must also contain provisions  
 136 specifying the remedy and sanctions for failing to perform the  
 137 additional repairs.

138 e. The corporation shall enter into contracts with  
 139 qualified stabilization repair contractors to perform repairs  
 140 pursuant to a process that requires all of the following  
 141 components:

142 (I) Within 30 days after the completion of the engineering  
 143 report, the report must be identified on a list that is made  
 144 available to all stabilization repair contractors within the  
 145 pool.

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146 (II) The corporation shall select a stabilization repair  
 147 contractor from the pool pursuant to a selection process  
 148 established by the corporation for assigning a contractor to  
 149 perform repairs for each property within the program. The  
 150 selection process must include all of the following:

151 (A) All stabilization repair contractors within the pool  
 152 are provided an opportunity to submit an offer to perform the  
 153 stabilization repairs recommended in the engineering report.  
 154 Such offer must include an itemized statement of work.

155 (B) The corporation shall review the offers and provide the  
 156 policyholder with a list of stabilization repair contractors.  
 157 The corporation may reserve the right to include any or all  
 158 contractors on the list based upon quality, cost-effectiveness,  
 159 and such other criteria as the corporation determines  
 160 appropriate.

161 (C) The policyholder has up to 30 days to select a  
 162 contractor from the list. If the policyholder fails to make a  
 163 selection within 30 days, the corporation shall make the  
 164 selection.

165 (D) If no stabilization repair contractor submits an offer  
 166 to perform the stabilization repairs for a property within the  
 167 program, or all offers are above the policyholder's policy  
 168 limit, the corporation may enter the property into the selection  
 169 process again or may pay the policyholder an amount up to the  
 170 policy limits on the structure.

171 3. The corporation is not responsible for serving as a  
 172 stabilization repair contractor. The corporation's obligations  
 173 under the repair program are not an election to repair by the  
 174 corporation and therefore do not imply or create a new

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175 contractual relationship with the policyholder.

176 4. The corporation's liability related to repair activity  
 177 pursuant to the sinkhole stabilization program and all other  
 178 repairs to the structure conducted in accordance with the terms  
 179 of the policy is no greater than the policy limits on the  
 180 structure.

181 5. This paragraph does not prohibit the corporation from  
 182 establishing a managed repair program for other repairs to the  
 183 structure in accordance with the terms of the policy.

184 6. If a dispute arises between the corporation and the  
 185 policyholder as to the nature or extent of stabilization repairs  
 186 to be conducted under the program, the sole remedy for resolving  
 187 such disputes is specific performance.

188 7. The corporation shall pay for other repairs to the  
 189 structure and contents in accordance with the terms of the  
 190 policy.

191 8. This paragraph supersedes s. 627.707(5)(a)-(d).

192 Section 2. Subsection (1) of section 627.706, Florida  
 193 Statutes, is amended to read:

194 627.706 Sinkhole insurance; catastrophic ground cover  
 195 collapse; definitions.—

196 (1) ~~(a)~~ An Every insurer authorized to transact property  
 197 insurance in this state must provide coverage for a catastrophic  
 198 ground cover collapse.

199 ~~(a)~~ (b) The insurer shall make available, for an appropriate  
 200 additional premium, coverage for sinkhole losses on any  
 201 structure, including the contents of personal property contained  
 202 therein, to the extent provided in the form to which the  
 203 coverage attaches. The insurer may require an inspection of the

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204 property before issuance of sinkhole loss coverage.

205 (b) A policy for residential property insurance ~~must~~ may  
 206 include a deductible ~~for amount applicable to~~ for sinkhole loss  
 207 ~~losses~~ equal to 1 percent, 2 percent, 5 percent, or 10 percent  
 208 of the policy dwelling limits, with appropriate premium  
 209 discounts offered with each deductible amount.

210 (c) The insurer may restrict catastrophic ground cover  
 211 collapse and sinkhole loss coverage to the principal building,  
 212 as defined in the applicable policy.

213 Section 3. This act shall take effect July 1, 2014.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

1-14-14

Meeting Date

Topic Workers Compensation

Bill Number 444  
*(if applicable)*

Name Tom Stahl

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

Job Title Executive Director

Address 116 S. Monroe St.  
*Street*

Phone 850-681-6265

Tallahassee FL 32301  
*City State Zip*

E-mail tstahl@fuba.org

Speaking:  For  Against  Information

Representing FUBA - Florida United Business 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.**

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)

1/14/2014  
Meeting Date

Topic Workers Comp

Bill Number SB 444  
*(if applicable)*

Name Logan McFaddin

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

Job Title Director, Legislative Affairs, CFO's office

Address 400 N Monroe St

Phone (850) 413-2963

*Street*

Tallahassee FL 32399

*City*

*State*

*Zip*

E-mail logan.mcfaddin@myfloridacfo.com

Speaking:  For  Against  Information

Representing CFO Atwater

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)

1-14-14

Meeting Date

Topic Worker's Compensation

Bill Number SB-444  
(if applicable)

Name JIM BRAINERD

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

Job Title Attorney

Address 2814 Rabbit Hill Road

Phone 850 508 6716

Street

Tallahassee, FL 32308

City

State

Zip

E-mail BRAINERDLAW@  
curncast.net

Speaking:  For  Against  Information

Representing Florida Association of Insurance Agents

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**  
**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: SB 444

INTRODUCER: Senator Galvano

SUBJECT: Workers' Compensation

DATE: January 11, 2014      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	<b>Favorable</b>
2.	_____	_____	AGG	_____
3.	_____	_____	AP	_____

**I. Summary:**

- SB 444 amends provisions relating to the administration and enforcement of Florida's Workers' Compensation Law by the Department of Financial Services (DFS). Presently, if an employer fails to comply with coverage requirements, the DFS is required to issue a stop-work order (SWO) within 72 hours of determining noncompliance. The SWO requires the employer to cease all business operations immediately. Additionally, an employer is assessed a penalty equal to 1.5 times the amount the employer would have paid in workers' compensation premiums for all periods of noncompliance during the preceding 3-year period or \$1,000, whichever is greater. The SWO remains in effect until the employer secures appropriate coverage and the DFS issues (1) an order releasing the SWO (for employers that have paid the assessed penalty); or (2) an order of conditional release (for employers that have agreed to pay the penalty in installments pursuant to a payment agreement schedule with the DFS). The bill amends provisions related to SWOs and associated penalties as follows:
- Extends the number of days for an employer to provide requested records to the DFS from 5 to 10 days or be subject to an SWO.
- Authorizes the DFS to issue an order of conditional release from an SWO to an employer that has secured appropriate coverage if the employer pays \$1,000 as a down payment on the assessed penalty and agrees to pay the remainder of the penalty in periodic installments pursuant to a payment agreement schedule with the DFS or to pay the remaining penalty in full. The bill authorizes an immediate reinstatement of the SWO if the employer does not pay the full penalty or enters into a payment agreement within 28 days after service of the SWO upon the employer. The bill repeals a required employer reporting requirement for a probationary period.
- Credits the initial payment of premium made by the employer to secure coverage against the assessed penalty for not having coverage for an employer that has not previously been issued a SWO. The bill provides for minimum assessment of a \$1,000 penalty if the calculated

penalty after the credit is applied is less than \$1,000. The bill also specifies documentation that an employer must submit to the DFS.

- Revises the penalty for failing to have required coverage. The bill reduces the look-back period for failure to comply with coverage requirements from 3 to 2 years and increases the penalty multiplier from 1.5 to 2 times the amount of unpaid premiums.

The bill also codifies a recent court decision regarding the calculation of workers' compensation indemnity benefits to allow the payment of such benefits at either 66.67 percent or the current 66 2/3 percent of the employee's average weekly wage. This change would not have a fiscal impact since it reflects current procedures used by carriers. The remaining provisions of the bill are expected to have a negligible fiscal impact.

## II. Present Situation:

### Coverage Requirements

The Division of Workers' Compensation within the Department of Financial Services is responsible for administering ch. 440, F.S., including the enforcement of coverage requirements. Whether an employer is required to have workers' compensation insurance depends upon the employer's industry and the number of employees. Employers may secure coverage by purchasing a workers' compensation insurance policy or qualifying as a self-insurer.<sup>1</sup>

An employer in the non-construction industry that employs 4 or more part of full time employees must secure insurance.<sup>2</sup> An employer engaged in the construction industry must secure workers' compensation insurance if it employs one or more part or full time employees.<sup>3</sup> No more than three officers of a corporation or members of a limited liability company, who are engaged in the construction industry, may elect to be exempt from this requirement, if certain conditions are met.<sup>4</sup> Corporate officers and members of a non-construction LLC can elect to be exempt from workers' compensation coverage requirements.<sup>5</sup>

An employer may secure the workers' compensation coverage for his or her employees by entering into an employee leasing arrangement. In a traditional employee leasing arrangement, an employee leasing company will enter into an arrangement with an employer under which all or most of the client's workforce is employed by the leasing company and leased to the client company.<sup>6</sup> The employer must notify the employee leasing company of the names of covered employees.

### Enforcement of Coverage Requirements

If an employer fails to comply with workers' compensation coverage requirements, the DFS must issue a stop-work order (SWO) within 72 hours of determining noncompliance.<sup>7</sup> The SWO,

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<sup>1</sup> Section 440.38, F.S.

<sup>2</sup> Section 440.02(17)(b)2, F.S.

<sup>3</sup> *Id.*

<sup>4</sup> Section 440.05, F.S.

<sup>5</sup> *Id.*

<sup>6</sup> The Board of Employee Leasing Companies within the Department of Business and Professional Regulation license and regulate employee leasing companies pursuant to Part XI of chapter 468, F.S. Temporary help arrangements are excluded from the definition of employee leasing. (s. 468.520, F.S.)

<sup>7</sup> Section 440.107, F.S.

requires the employer to cease all business operations. The SWO, remains in effect until the employer secures appropriate coverage and the DFS issues an order releasing the SWO (for employers that have paid the assessed penalty); or an order of conditional release (for employers that have agreed to pay the penalty in installments pursuant to a payment agreement schedule with the DFS). Additionally, employers are assessed a penalty equal to 1.5 times what the employer would have paid in workers' compensation premiums for all periods of non-compliance during the preceding 3-year period or \$1,000, whichever is greater. Thus, for penalty calculation purposes, the employer must provide 3 years of business records. Some employers are often unable to quickly provide all records required to calculate the penalty. The SWO remains in effect and the employer cannot conduct business until the DFS has calculated the penalty.

A SWO is issued for the following violations: failure to obtain workers' compensation insurance; materially understating or concealing payroll; materially misrepresenting or concealing employee duties to avoid paying the proper premium; materially concealing information pertinent to the calculation of an experience modification factor; and failure to produce business records within 5 days of receipt of a written request from the DFS.<sup>8</sup> As a condition of release from a SWO, the DFS may require an employer to file periodic reports for up to 2 years to document the employer's continued compliance with coverage requirements.

#### **Workers' Compensation Indemnity Benefits**

Workers' compensation indemnity (monetary) benefits are payable to employees who miss at least 8 days of work due to a covered (compensable) injury. Indemnity benefits are payable retroactively from the first day of disability (to include compensation for the first seven days missed) to employees who miss more than 21 days of work due to a compensable injury.<sup>9</sup> Such benefits are generally payable at 66 2/3 percent of the employee's average weekly wage (AWW), up to the maximum weekly benefit established by law.<sup>10</sup>

In a 2013 case, an employer had calculated the compensation rate for a claimant by multiplying the AWW by .66667 (or \$529.48). The Judge of Compensation Claims (JCC) calculated the compensation rate by multiplying the AWW by .6667 (or \$529.50). On appeal, the First District Court of Appeal held that the JCC erred in requiring the employer to pay more than 66 2/3 of the AWW, namely \$529.47.<sup>11</sup>

### **III. Effect of Proposed Changes:**

#### **Enforcement of Coverage Requirements**

The bill allows employers an additional 5 business days (10 days total) to produce records requested by the DFS before the issuance of a stop-work order.

The bill revises penalty for failure to comply with coverage requirements by increasing the penalty multiplier from 1.5 to 2 times the unpaid premiums and reducing the penalty period from the preceding 3 years to the prior 2 years.

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<sup>8</sup> *Id.*

<sup>9</sup> Section 440.12(1), F.S.

<sup>10</sup> Section 440.15, F.S.

<sup>11</sup> *Escambia County School District v. Vickery-Orso*, 109 So. 3d 1242 (Fla 1st DCA 2013).

The DFS is authorized to issue a conditional release of a SWO if the employer has obtained coverage, paid a \$1,000 down payment and agrees to either pay the remaining penalty or enter into a periodic payment agreement. The bill authorizes an immediate reinstatement of the SWO if the employer does not pay the full penalty or enters into a payment agreement within 28 days after service of the SWO upon the employer. The bill repeals a required employer reporting requirement for a probationary period.

The bill provides for a credit of the initial payment of workers' compensation insurance premium against the full amount of the penalty for employers who have not been previously issued a SWO. The employer is required to provide the DFS with documentation that the employer has secured the payment of compensation and proof of payment to the carrier. If an employer secures coverage through an employee leasing company, the bill requires the employer to provide the DFS with a written attestation by a representative from the employee leasing company that the employer has entered into an employee leasing contract, the dollar amount attributable to the initial payment of estimated workers' compensation premium for the employer, and proof of payment to the employee leasing company. The bill provides for assessment of a minimum \$1,000 penalty against an employer if the calculated penalty after the credit is applied is less than \$1,000.

#### **Calculation of Compensation**

The bill addresses the Escambia decision by authorizing employers to pay compensation at either 66 2/3 percent or 66.67 percent of the AWW. The latter calculation produces a slightly higher compensation rate for injured employees and removes the need for employers/carriers that have been paying benefits at 66.67 percent of the AWW to incur additional costs associated with modifying their payment procedures.

The bill is effective July 1, 2014.

#### **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 bill allows employers 5 additional days to produce records requested by the DFS before the issuance of a SWO.

The bill revises the employer penalty for not having coverage by reducing the look-back period from the preceding 3 years to 2 years for purposes of calculating the penalty; however it increases the penalty multiplier from 1.5 to 2 times the amount an employer would have paid in premium.

If an employer has not been previously issued a SWO, the bill provides for a credit of the initial payment of premium made to secure coverage against the assessed penalty, thereby decreasing the amount of the penalty to be paid by the employer.

The codification of the 66.67 percent compensation rate reflects current carrier claims payment procedures; so, there is no impact.<sup>12</sup>

**C. Government Sector Impact:**

According to the DFS, revising the coverage non-compliance penalty will have a negligible impact on the Workers' Compensation Administration Trust Fund.<sup>13</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 440.107, 440.15, and 440.16.

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<sup>12</sup> Department of Financial Services, *Senate Bill 444 Fiscal Analysis* (December 6, 2013) (on file with the Senate Banking and Insurance Committee).

<sup>13</sup> *Id.*

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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

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By Senator Galvano

26-00355A-14

2014444\_\_

A bill to be entitled

An act relating to workers' compensation; amending s. 440.107, F.S.; revising powers of the Department of Financial Services relating to compliance with and enforcement of workers' compensation coverage requirements; revising requirements for the release of stop-work orders; revising penalties; amending ss. 440.15 and 440.16, F.S.; revising rate formulas related to the determination of compensation for disability and death; providing an effective date.

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

Section 1. Paragraphs (a), (d), and (e) of subsection (7) of section 440.107, Florida Statutes, are amended to read:

440.107 Department powers to enforce employer compliance with coverage requirements.—

(7) (a) Whenever the department determines that an employer who is required to secure the payment to his or her employees of the compensation provided for by this chapter has failed to secure the payment of workers' compensation required by this chapter or to produce the required business records under subsection (5) within 10 ~~5~~ business days after receipt of the written request of the department, such failure shall be deemed an immediate serious danger to public health, safety, or welfare sufficient to justify service by the department of a stop-work order on the employer, requiring the cessation of all business operations. If the department makes such a determination, the department shall issue a stop-work order within 72 hours. The

Page 1 of 8

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

26-00355A-14

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order shall take effect when served upon the employer or, for a particular employer worksite, when served at that worksite. In addition to serving a stop-work order at a particular worksite which shall be effective immediately, the department shall immediately proceed with service upon the employer which shall be effective upon all employer worksites in the state for which the employer is not in compliance. A stop-work order may be served with regard to an employer's worksite by posting a copy of the stop-work order in a conspicuous location at the worksite. The order shall remain in effect until the department issues an order releasing the stop-work order upon a finding that the employer has come into compliance with the coverage requirements of this chapter and has paid any penalty assessed under this section. The department may issue an order of conditional release from a stop-work order to an employer upon a finding that the employer has complied with the coverage requirements of this chapter, paid a penalty of \$1,000 as a down payment, and has agreed to remit periodic payments of the remaining penalty amount pursuant to a payment agreement schedule with the department or pay the remaining penalty amount in full. If an order of conditional release is issued, failure by the employer to pay the penalty in full or enter into a payment agreement with the department within 28 days after service of the stop-work order upon the employer, or to meet any term or condition of such penalty payment agreement, shall result in the immediate reinstatement of the stop-work order and the entire unpaid balance of the penalty shall become immediately due. ~~The department may require an employer who is found to have failed to comply with the coverage requirements of~~

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

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59 ~~s. 440.38 to file with the department, as a condition of release~~  
 60 ~~from a stop-work order, periodic reports for a probationary~~  
 61 ~~period that shall not exceed 2 years that demonstrate the~~  
 62 ~~employer's continued compliance with this chapter. The~~  
 63 ~~department shall by rule specify the reports required and the~~  
 64 ~~time for filing under this subsection.~~

65 (d)1. In addition to any penalty, stop-work order, or  
 66 injunction, the department shall assess against any employer who  
 67 has failed to secure the payment of compensation as required by  
 68 this chapter a penalty equal to 2 1-5 times the amount the  
 69 employer would have paid in premium when applying approved  
 70 manual rates to the employer's payroll during periods for which  
 71 it failed to secure the payment of workers' compensation  
 72 required by this chapter within the preceding 2-year 3-year  
 73 period or \$1,000, whichever is greater. For employers who have  
 74 not been previously issued a stop-work order, the department  
 75 shall allow the employer to receive a credit for the initial  
 76 payment of the estimated annual workers' compensation policy  
 77 premium, as determined by the carrier, to be applied to the  
 78 penalty. Before the department applies the credit to the  
 79 penalty, the employer must provide the department with  
 80 documentation reflecting that the employer has secured the  
 81 payment of compensation pursuant to s. 440.38 and proof of  
 82 payment to the carrier. In order for the department to apply a  
 83 credit for an employer that has secured the payment of  
 84 compensation by entering into an employee leasing contract with  
 85 a licensed employee leasing company, the employer must provide  
 86 the department with a written attestation by a representative  
 87 from the employee leasing company that the employer has entered

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

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88 into an employee leasing contract, the dollar amount  
 89 attributable to the initial payment of the estimated workers'  
 90 compensation premium for the employer, and proof of payment to  
 91 the employee leasing company. The \$1,000 penalty shall be  
 92 assessed against the employer even if the calculated penalty  
 93 after the credit has been applied is less than \$1,000.

94 2. Any subsequent violation within 5 years after the most  
 95 recent violation shall, in addition to the penalties set forth  
 96 in this subsection, be deemed a knowing act within the meaning  
 97 of s. 440.105.

98 (e) When an employer fails to provide business records  
 99 sufficient to enable the department to determine the employer's  
 100 payroll for the period requested for the calculation of the  
 101 penalty provided in paragraph (d), for penalty calculation  
 102 purposes, the imputed weekly payroll for each employee,  
 103 corporate officer, sole proprietor, or partner shall be the  
 104 statewide average weekly wage as defined in s. 440.12(2)  
 105 multiplied by 2 1-5.

106 Section 2. Paragraph (a) of subsection (1), paragraph (a)  
 107 of subsection (2), and paragraph (a) of subsection (4) of  
 108 section 440.15, Florida Statutes, are amended to read:

109 440.15 Compensation for disability.—Compensation for  
 110 disability shall be paid to the employee, subject to the limits  
 111 provided in s. 440.12(2), as follows:

112 (1) PERMANENT TOTAL DISABILITY.—

113 (a) In case of total disability adjudged to be permanent,  
 114 66 2/3 or 66.67 percent of the average weekly wages shall be  
 115 paid to the employee during the continuance of such total  
 116 disability. ~~Ne Compensation is not shall be~~ payable under this

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

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117 section if the employee is engaged in, or is physically capable  
118 of engaging in, at least sedentary employment.

119 (2) TEMPORARY TOTAL DISABILITY.—

120 (a) Subject to subsection (7), in case of disability total  
121 in character but temporary in quality, 66 2/3 or 66.67 percent  
122 of the average weekly wages shall be paid to the employee during  
123 the continuance thereof, not to exceed 104 weeks except as  
124 provided in this subsection, s. 440.12(1), and s. 440.14(3).  
125 Once the employee reaches the maximum number of weeks allowed,  
126 or the employee reaches the date of maximum medical improvement,  
127 whichever occurs earlier, temporary disability benefits shall  
128 cease and the injured worker's permanent impairment shall be  
129 determined.

130 (4) TEMPORARY PARTIAL DISABILITY.—

131 (a) Subject to subsection (7), in case of temporary partial  
132 disability, compensation shall be equal to 80 percent of the  
133 difference between 80 percent of the employee's average weekly  
134 wage and the salary, wages, and other remuneration the employee  
135 is able to earn postinjury, as compared weekly; however, weekly  
136 temporary partial disability benefits may not exceed an amount  
137 equal to 66 2/3 or 66.67 percent of the employee's average  
138 weekly wage at the time of accident. In order to simplify the  
139 comparison of the preinjury average weekly wage with the salary,  
140 wages, and other remuneration the employee is able to earn  
141 postinjury, the department may by rule provide for payment of  
142 the initial installment of temporary partial disability benefits  
143 to be paid as a partial week so that payment for remaining weeks  
144 of temporary partial disability can coincide as closely as  
145 possible with the postinjury employer's work week. The amount

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146 determined to be the salary, wages, and other remuneration the  
147 employee is able to earn shall in no case be less than the sum  
148 actually being earned by the employee, including earnings from  
149 sheltered employment. Benefits ~~are shall be~~ payable under this  
150 subsection only if overall maximum medical improvement has not  
151 been reached and the medical conditions resulting from the  
152 accident create restrictions on the injured employee's ability  
153 to return to work.

154 Section 3. Paragraph (b) of subsection (1) and subsection  
155 (3) of section 440.16, Florida Statutes, are amended to read:  
156 440.16 Compensation for death.—

157 (1) If death results from the accident within 1 year  
158 thereafter or follows continuous disability and results from the  
159 accident within 5 years thereafter, the employer shall pay:

160 (b) Compensation, in addition to the above, in the  
161 following percentages of the average weekly wages to the  
162 following persons entitled thereto on account of dependency upon  
163 the deceased, and in the following order of preference, subject  
164 to the limitation provided in subparagraph 2., but such  
165 compensation shall be subject to the limits provided in s.  
166 440.12(2), shall not exceed \$150,000, and may be less than, but  
167 shall not exceed, for all dependents or persons entitled to  
168 compensation, 66 2/3 or 66.67 percent of the average wage:

169 1. To the spouse, if there is no child, 50 percent of the  
170 average weekly wage, such compensation to cease upon the  
171 spouse's death.

172 2. To the spouse, if there is a child or children, the  
173 compensation payable under subparagraph 1. and, in addition, 16  
174 2/3 or 16.67 percent on account of the child or children.

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175 However, when the deceased is survived by a spouse and also a  
 176 child or children, whether such child or children are the  
 177 product of the union existing at the time of death or of a  
 178 former marriage or marriages, the judge of compensation claims  
 179 may provide for the payment of compensation in such manner as  
 180 may appear to the judge of compensation claims just and proper  
 181 and for the best interests of the respective parties and, in so  
 182 doing, may provide for the entire compensation to be paid  
 183 exclusively to the child or children; and, in the case of death  
 184 of such spouse, 33 1/3 or 33.33 percent for each child. However,  
 185 upon the surviving spouse's remarriage, the spouse shall be  
 186 entitled to a lump-sum payment equal to 26 weeks of compensation  
 187 at the rate of 50 percent of the average weekly wage as provided  
 188 in s. 440.12(2), unless the \$150,000 limit provided in this  
 189 paragraph is exceeded, in which case the surviving spouse shall  
 190 receive a lump-sum payment equal to the remaining available  
 191 benefits in lieu of any further indemnity benefits. ~~In no case~~  
 192 ~~shall~~ A surviving spouse's acceptance of a lump-sum payment does  
 193 not affect payment of death benefits to other dependents.

194 3. To the child or children, if there is no spouse, 33 1/3  
 195 or 33.33 percent for each child.

196 4. To the parents, 25 percent to each, such compensation to  
 197 be paid during the continuance of dependency.

198 5. To the brothers, sisters, and grandchildren, 15 percent  
 199 for each brother, sister, or grandchild.

200 (3) ~~If where~~, because of the limitation in paragraph  
 201 (1) (b), a person or class of persons cannot receive the  
 202 percentage of compensation specified as payable to or on account  
 203 of such person or class, there shall be available to such person

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204 or class that proportion of such percentage as, when added to  
 205 the total percentage payable to all persons having priority of  
 206 preference, will not exceed a total of said 66 2/3 or 66.67  
 207 percent, which proportion shall be paid:

208 (a) To such person; or

209 (b) To such class, share and share alike, unless the judge  
 210 of compensation claims determines otherwise in accordance with  
 211 the provisions of subsection (4).

212 Section 4. This act shall take effect July 1, 2014.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

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

Topic Non cancellable policies

Bill Number 490  
*(if applicable)*

Name Doug Bell

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

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

Address 215 S. Monroe  
*Street*  
Tall. FL  
*City State Zip*

Phone 222-3533

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

Speaking:  For  Against  Information

Representing Progressive Ins.

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)

1-14-14

Meeting Date

Topic Motor Vehicle Liability

Bill Number 5B490  
*(if applicable)*

Name Donovan Brown

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

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

Address 215 S. Monroe St. Suite 700

Phone 545-8864

*Street* Tall FL 32301

E-mail 5452  
donovan.brown@pci.net

*City* Tall *State* FL *Zip* 32301

Speaking:  For  Against  Information

Representing PCI

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**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: SB 490

INTRODUCER: Senator Garcia

SUBJECT: Motor Vehicle Liability Policy Requirements

DATE: January 10, 2014

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Knudson	BI	<b>Favorable</b>
2.			TR	
3.			AP	

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**I. Summary:**

SB 490 extends the underwriting period from 30 to 60 days for non-cancellable coverage required to reinstate driving privileges revoked or suspended for driving under the influence (DUI). During the underwriting period the policy is effective but the insurer may cancel the policy. The bill also allows the insured to change the coverage amounts under such policies without requiring the policy to be cancelled, so long as at least the minimum required coverage amounts are maintained.

**II. Present Situation:**

**Motor Vehicle Financial Responsibility Requirements – Motor Vehicle Insurance**

Every owner or registrant of a motor vehicle<sup>1</sup> required to be registered and licensed in this state must maintain financial security continuously throughout the registration or licensing period.<sup>2</sup> Most owners or registrants of a motor vehicle maintain financial security through a motor insurance policy. Under Florida law, each motor vehicle insurance policy must provide Personal Injury Protection (PIP) benefits of \$10,000 and Property Damage (PD) liability coverage of \$10,000/\$20,000.<sup>3</sup>

Each insurer must report the cancellation or nonrenewal of a motor vehicle insurance policy to the Department of Highway Safety and Motor Vehicles (DHSMV) within 10 days after the processing date or effective date of each cancellation or nonrenewal.<sup>4</sup> The insurer must also

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<sup>1</sup> Other than a motor vehicle used as a school bus defined in s. 1006.25, F.S., or limousine.

<sup>2</sup> S. 627.733(1), F.S.

<sup>3</sup> S. 627.736(1), F.S., and s. 324.022, F.S.

<sup>4</sup> S. 324.0221(1), F.S.

report to the DHSMV the issuance of a motor vehicle insurance policy to a named insured not previously insured by the insurer during that calendar year within 10 days.<sup>5</sup>

### **Noncancelable Motor Vehicle Insurance**

The DHSMV must suspend, after notice and an opportunity to be heard, the registration and driver's license of any owner or registrant of a motor vehicle for failure to maintain a motor vehicle insurance policy providing the minimum required PIP and PD coverage.<sup>6</sup> A suspended driver's license or registration may be reinstated by obtaining the minimum required motor vehicle insurance and upon payment to the DHSMV of a nonrefundable reinstatement fee of \$150 for the first reinstatement, \$250 for the second reinstatement, and \$500 for each subsequent reinstatement during the 3 years following the first reinstatement. A person reinstating her or his insurance must secure noncancelable coverage as described in ss. 324.021(8), 324.023, and 627.7275(2), F.S. and present proof that the coverage is in force and maintain proof of coverage for 2 years.

Every owner or operator who, regardless of adjudication of guilt, has been found guilty of or entered a plea of guilty or nolo contendere to a charge of driving under the influence (DUI) under s. 316.193, F.S., must maintain a motor vehicle insurance policy<sup>7</sup> that provides Bodily Injury (BI) liability coverage of \$100,000/\$300,000 and PD coverage of \$50,000.<sup>8</sup> These higher limits must be carried for a minimum of 3 years. If the owner or operator has not been convicted of driving under the influence or a felony traffic offense for a period of 3 years from the date of reinstatement of driving privileges for a violation of s. 316.193, F.S., the owner or operator is not subject to this requirement.

A noncancelable insurance policy must be issued for at least 6 months and, as to the minimum coverage requirements, is not cancelable by the insured for any reason or by the insurer after a period not to exceed 30 days during which the insurer must complete underwriting of the policy.<sup>9</sup> After the insurer has completed underwriting the policy within the 30-day period, the insurer must notify the DHSMV that the policy is in full force and effect and the policy is not cancelable for the remainder of the policy period.<sup>10</sup> Coverage is in effect while the insurer is completing the underwriting of the policy.<sup>11</sup>

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 627.7275, F.S., extending the underwriting period from 30 to 60 days for non-cancellable coverage required to reinstate driving privileges revoked or suspended for committing a DUI offense. This will allow insurers additional time to properly complete underwriting, during which the insurer may cancel the policy. The longer underwriting period

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<sup>5</sup> *See Id.*

<sup>6</sup> S. 324.0221(2), F.S.

<sup>7</sup> The owner or operator may, as an alternative to obtaining insurance, furnishing a certificate of self-insurance showing a deposit of at least \$350,000 cash in accordance with s. 324.161, F.S.

<sup>8</sup> S. 324.023

<sup>9</sup> S. 627.7275(2), F.S.

<sup>10</sup> S. 627.7275(2)(b), F.S.

<sup>11</sup> *See id.*

will also extend from 30 to 60 days the period of time that lapses before an insurer reports to the DHSMV that noncancelable coverage is in full force and effect and cannot be cancelled.

The bill also allows the insured to change the coverage amounts under such policies without requiring the policy to be cancelled, so long as at least the minimum required coverage amounts are maintained.

**Section 2** provides an effective date of July 1, 2014.

**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:

None.

C. Government Sector Impact:

The DHSMV estimates that approximately 370 hours of computer programming at a total cost of \$20,800.00, will be needed to implement the changes required by this bill, as follows:

- ISA: 270 hours at \$40.00 per hour for a subtotal of \$10,800.00.
- Contractors: 100 hours at \$100 per hour for a subtotal of \$10,000.00.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 627.7275 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.

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

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By Senator Garcia

38-00531B-14

2014490\_\_

A bill to be entitled

An act relating to motor vehicle liability policy requirements; amending s. 627.7275, F.S.; extending the period during which the policy may be cancelled by the insurer; specifying minimum limits for such policy; deleting a provision requiring an insured who obtains additional coverage to obtain a new 6-month noncancelable policy; providing an effective date.

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

Section 1. Subsection (2) of section 627.7275, Florida Statutes, is amended to read:

627.7275 Motor vehicle liability.—

(2)(a) Insurers writing motor vehicle insurance in this state shall make available, subject to the insurers' usual underwriting restrictions:

1. Coverage under policies as described in subsection (1) to an any applicant for private passenger motor vehicle insurance coverage who is seeking the coverage in order to reinstate the applicant's driving privileges in this state if ~~when~~ the driving privileges were revoked or suspended pursuant to s. 316.646 or s. 324.0221 due to the failure of the applicant to maintain required security.

2. Coverage under policies as described in subsection (1), which also provides liability coverage for bodily injury, death, and property damage arising out of the ownership, maintenance, or use of the motor vehicle in an amount not less than the limits described in s. 324.021(7) and conforms to the

Page 1 of 3

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38-00531B-14

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requirements of s. 324.151, to an any applicant for private passenger motor vehicle insurance coverage who is seeking the coverage in order to reinstate the applicant's driving privileges in this state after such privileges were revoked or suspended under s. 316.193 or s. 322.26(2) for driving under the influence.

(b) The policies described in paragraph (a) shall be issued for ~~a period of~~ at least 6 months and, as to the minimum coverages required under this section, may shall not be cancelable ~~cancelable~~ by the insured for any reason or by the insurer after 60 a period not to exceed 30 days, during which period the insurer is completing the ~~must complete~~ underwriting of the policy. After the insurer has completed underwriting the policy within the 30-day period, the insurer shall notify the Department of Highway Safety and Motor Vehicles that the policy is in full force and effect and is the policy shall not be cancelable for the remainder of the policy period. A premium shall be collected and the coverage is shall be in effect for the 60-day 30-day period during which the insurer is completing the underwriting of the policy whether or not the person's driver license, motor vehicle tag, and motor vehicle registration are in effect. Once the noncancelable provisions of the policy become effective, the coverages for bodily injury, property damage, and personal injury protection may not be reduced below the minimum limits required under s. 324.021 or s. 324.023 coverage or risk shall not be changed during the policy period ~~and the premium shall be nonrefundable. If, during the pendency of the 2-year proof-of-insurance period required under s. 324.0221 or during the 3-year proof-of-financial~~

Page 2 of 3

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38-00531B-14

2014490\_\_

59 responsibility required under s. 324.131, whichever is  
60 applicable, the insured obtains additional coverage or coverage  
61 for an additional risk or changes territories, the insured must  
62 obtain a new 6-month noncancelable policy in accordance with the  
63 provisions of this section. However, if the insured must obtain  
64 a new 6-month policy and obtains the policy from the same  
65 insurer, the policyholder shall receive credit on the new policy  
66 for any premium paid on the previously issued policy.

67 (c) This subsection controls to the extent of any conflict  
68 with any other section.

69 (d) An insurer issuing a policy subject to this section may  
70 cancel the policy if, during the policy term, the named insured,  
71 or any other operator, who resides in the same household or  
72 customarily operates an automobile insured under the policy, has  
73 his or her driver ~~driver's~~ license suspended or revoked.

74 (e) ~~Nothing in~~ This subsection does not require ~~requires~~ an  
75 insurer to offer a policy of insurance to an applicant if such  
76 offer would be inconsistent with the insurer's underwriting  
77 guidelines and procedures.

78 Section 2. This act shall take effect July 1, 2014.

TESTIFY LAST PLEASE

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

1-14-2014

SB-424  
Amendments

Bill Number

Date

MARION HAMMER

Phone 772-9518

P.O. Box 1387

E-mail

TALLAHASSEE FL 32302

Job Title

Zip

State

City

Speaking:  For  Against  Information  Appearing at request of Chair

Subject

Representing NRA & UNIFIED SPORTSMEN OF FLORIDA

Lobbyist registered with Legislature:  Yes  No

Pursuant to s. 11.061, Florida Statutes, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.  
If designated employee: Time: from \_\_\_\_ .m. to \_\_\_\_ .m.

THE FLORIDA SENATE

APPEARANCE RECORD

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

Jan 14 2011  
*Meeting Date*

Topic \_\_\_\_\_

Bill Number SB 424  
*(if applicable)*

Name TIM MEENAN

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

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

Phone 850 681-6710

Address 204 S. MONTE ST.  
FALLASSSEE FL 32301  
*Street City State Zip*

E-mail TIM@BLANKLAW.COM

Speaking:  For  Against  Information

Representing NATIONWIDE 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**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

---

BILL: SB 424

INTRODUCER: Senator Lee

SUBJECT: Discriminatory Insurance Practices

DATE: January 12, 2014

REVISED: 1/14/14

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	<b>Fav/2 amendments</b>
2.			CJ	
3.			AP	

---

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

AMENDMENTS - Significant amendments were recommended

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**I. Summary:**

SB 424 provides that it is an unfair discriminatory practice for a personal lines property or automobile insurer to:

- Refuse to issue, renew, or cancel a policy or charge an unfairly discriminatory rate based on the lawful ownership, possession, or use of a firearm by the applicant, insured, or a household member of the applicant or insured.
- Disclose the lawful ownership or possession of firearms of an applicant, insured, or household member of the applicant or insured to a third party or an affiliated entity of the insurer unless the insurer discloses to the applicant the need for the disclosure, and the applicant or insured expressly consents or “opts in” to the disclosure. This provision would significantly expand a consumer’s ability to protect the privacy of information provided to an insurer. Under current law, a consumer may opt-out on disclosures to nonaffiliated third parties with some exceptions; however, no opt-out applies with respect to affiliates.

If an insurer engages in these discriminatory practices prohibited under part IX, of ch. 626, F.S., the insurer would be subject to fines and other administrative actions by the Office of Insurance Regulation.

**II. Present Situation:**

**Regulation of Property and Automobile Insurance in Florida**

Personal residential property (homeowners) insurance generally provides coverage of a dwelling, other structures, contents, loss of use, personal liability (bodily injury or property damage for which the policyholder or others covered by the policy are deemed liable), and medical payments to others. Florida drivers are required to purchase both personal injury protection and property damage liability insurance.<sup>1</sup>

The Office of Insurance Regulation (OIR)<sup>2</sup> is responsible for the regulation and oversight of insurers and other risk-bearing entities. These activities include licensing, rates, policy forms, market conduct examinations, and solvency.<sup>3</sup> Upon receipt of a rate filing, the OIR reviews the filing to determine if a proposed rate is excessive, inadequate, or unfairly discriminatory, which is prohibited pursuant to s. 627.062, F.S. A rate is deemed “unfairly discriminatory” as to a risk or group of risks if the application of premium discounts, credits, or surcharges among such risks does not bear a reasonable relationship to the expected loss and expense experience among the various risks.

Part IX of ch. 626, F.S., entitled Unfair Insurance Trade Practices, defines and prohibits unfair methods of competition and unfair or deceptive acts or practices and provides penalties and enforcement authority to the respective regulator, the Department of Financial Services or the OIR.<sup>4</sup> Section 626.9541, F.S., defines activities that are deemed as unfair methods of competition and unfair or deceptive acts or practices and are prohibited and are subject to penalties under s. 626.9521, F.S. Except as provided in s. 626.9521(3), F.S., any person violating any provision of part IX, is subject to a fine in an amount not greater than \$5,000 for each nonwillful violation and not greater than \$40,000 for each willful violation.<sup>5</sup> Fines imposed against an insurer may not exceed \$20,000 for all nonwillful violations arising out of the same action or an aggregate amount of \$200,000 for all willful violations arising out of the same action.<sup>6</sup>

Professional staff of the Banking and Insurance Committee requested information from the OIR regarding the use of firearm ownership information as an underwriting factor by the top 5 writers of homeowners’ insurance.<sup>7</sup> According to the OIR, only one of these companies addressed firearm ownership in the underwriting guidelines.<sup>8</sup> Citizens does not use firearm ownership in

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<sup>1</sup> See sections 324.022 F.S., and 627.733, F.S.

<sup>2</sup> Section 20.121(3), F.S. The Financial Services Commission, composed of the Governor, Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, oversees the OIR, and is the agency head for purposes rulemaking.

<sup>3</sup> Insurance agents and agencies are regulated by the Department of Financial Services. (Section 20.121, F.S.)

<sup>4</sup> Section 626.9561, F.S. The department regulates insurance agents and agencies under part I, ch. 626, F.S., and are subject to part IX of ch. 626, F.S.

<sup>5</sup> Section 626.9521(2), F.S.

<sup>6</sup> Section 626.9521, F.S., also contains enhanced penalties for specified violations of s. 626.9541, F.S.

<sup>7</sup> According to the latest Quasar ranking dated 3<sup>rd</sup> quarter 2013, the top 5 writers of HO-3 (owners) policies are Citizens, State Farm Florida Insurance Company, Universal Property and Casualty Insurance Company, St. Johns Insurance Company, and United Property and Casualty Insurance Company.

<sup>8</sup> E-mail from K. Kees, Office of Insurance Regulation (January 10, 2013) (on file with the Senate Committee on Banking and Insurance). The manual of the United Property and Casualty Company addresses “dangerous firearms including, but not limited to, assault-type and rapid-fire weapons, except for game hunting rifles or shotguns.

the underwriting process<sup>9</sup> and the Citizens Clearinghouse<sup>10</sup> application does not contain questions about firearm ownership.

### **Florida Firearm Regulations**

Chapter 790, F.S., governs the regulation of firearms and weapons. Section 790.25, F.S., prescribes the requirements for the lawful ownership, possession, and use of firearms and other weapons. Section 790.001, F.S., defines the term “firearm” to mean “any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun. The term “firearm” does not include an antique firearm unless the antique firearm is used in the commission of a crime.”

### **State and Federal Insurance Information Privacy Laws**

The federal Gramm-Leach-Bliley Act<sup>11</sup> requires a financial institution to provide notice to its customers about its privacy policies and generally prohibits a financial institution from sharing nonpublic personal information<sup>12</sup> about individuals with nonaffiliated third parties without giving customers an opportunity to opt out.<sup>13</sup> Such annual notices provided to consumers disclose the categories of information collected and how the institution shares information with affiliates as well as with nonaffiliated third parties. The Act broadly defines the term, “financial institution,” to mean any institution in the business of engaging in financial activities.<sup>14</sup> Examples of activities that are financial in nature include lending, investing, safeguarding money, insuring and acting as principal, agent, or broker. The Act requires insurers and other others to comply with regulatory standards to protect the security and confidentiality of consumer information. These federal provisions do not supersede, alter, or affect any state law except to the extent such state law is inconsistent with these provisions. A state law is not considered inconsistent with the federal provisions if the protection that such state law affords any consumer is greater than the protection provided under the federal Act.<sup>15</sup>

Two provisions of the insurance code address the Act’s provisions relating to privacy and disclosure of information. Section 626.025, F.S, requires insurance agents to comply with specified insurance code provisions and any other licensing requirement, restriction, or prohibition designated as a consumer protection by the Chief Financial Officer, but not inconsistent with the requirements of Subtitle C of the federal Gramm-Leach-Bliley Act.

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<sup>9</sup> E-mail from C. Bunker of Citizens Property Insurance. (January 6, 2014) (on file with the Senate Committee on Banking and Insurance)

<sup>10</sup> In 2013, the Florida Legislature created a clearinghouse for Citizens to divert insurance from Citizens to the private market. The law requires all new applications and all renewals for personal residential property insurance in Citizens to be submitted to the clearinghouse in order to determine if the policy can be written or renewed by an insurer in the private market within the premium eligibility restrictions. [Ch. 2013-60, L.O.F.]

<sup>11</sup> Pub. Law No. 106-102, H. Rept. 106-434.

<sup>12</sup> This term includes personally identifiable financial information provided by a consumer to a financial institution; resulting from any transaction with the consumer or any service performed for the consumer; or otherwise obtained by the financial institution.

<sup>13</sup> 15 U.S.C. ss. 6801-6809.

<sup>14</sup> 12 U.S.C. 1843(k).

<sup>15</sup> The Federal Trade Commission on its own motion or upon the petition of any interested party would make this determination. (16 C.F.R. s. 313.17)

Section 626.9651, F.S. requires the Department of Financial Services and the Financial Services Commission (as agency head of the OIR) to adopt rules governing the use of a consumer's nonpublic personal and financial health information.

### **III. Effect of Proposed Changes:**

The bill amends s. 626.9541, F.S., by providing that it is unfair discriminatory practice, and therefore a prohibited act under part IX of chapter 626, F.S., for a personal lines property or personal lines automobile insurer to:

- Refuse to issue, renew, or cancel a policy or charge an unfairly discriminatory rate based on the lawful ownership, possession, or use of a firearm by the applicant, insured, or a household member of the applicant or insured. Under current law, the use of an unfairly discriminatory rate is prohibited.
- Disclose the lawful ownership or possession of firearms of an applicant, insured, or household member of the applicant or insured to a third party or an affiliated entity unless the insurer discloses to the applicant or insured the specific need to disclose the information and the applicant or insured expressly consents to the disclosure. Currently, insurers and other specified entities are allowed to share information with affiliates (no "opt-out"); however, consumers have the right to "opt-out" of disclosures to nonaffiliated third parties, subject to some exceptions.

The bill is effective July 1, 2014.

### **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:**

To the extent an applicant or insured who lawfully owns, possesses, or uses a firearm and has had his or her coverage previously denied, nonrenewed, or cancelled due to such lawful firearm ownership, possession, or use, this bill could provide additional coverage

options. Information about lawful gun ownership collected by an insurer could not be shared with affiliates or third parties without the express consent or “opt-in” by the insured or applicant.

The bill would prohibit insurers from denying, nonrenewing, or cancelling coverage or charging unfairly discriminatory rates based on the lawful ownership, possession, or use of a firearm and would authorize the OIR to impose penalties on insurers that engage in this practice.

To the extent an insurer collects and shares information regarding lawful gun ownership, an insurer may incur indeterminate administrative costs revising its notice and disclosure process to comply with the “opt-in” and notice requirements required of the bill.

Currently, an insurer is required to provide a consumer with an opportunity to opt-out of disclosures with nonaffiliated third parties (with some exceptions); however, and no opt-out applies with respect to disclosures to affiliates.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

It is unclear how the provisions of the bill would be interpreted or implemented with the existing requirements under s. 790.338(7), F.S., which prohibits an insurer that issues any type of coverage pursuant to ch. 627, F.S., from denying coverage, increasing premiums, or otherwise discriminating against any insured or applicant for insurance on the basis of or upon reliance upon the lawful ownership, possession or storage of a firearm or ammunition. An insurer is authorized to consider the fair market value of firearms or ammunitions in the setting of premiums for scheduled personal property coverage.

**VIII. Statutes Affected:**

This bill substantially amends section 626.9541 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

**Barcode 554246 by Banking and Insurance on January 14, 2014:**

Specifies that the provisions of the bill do not prevent an insurer from charging a supplemental premium that is not unfairly discriminatory for a separate rider voluntarily

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requested by an insurance applicant to insure a firearm or firearm collection above the standard policy coverage.

**Barcode 965502 by Banking and Insurance on January 14, 2014**

Specifies that the provisions of the bill do not prevent an insurer from sharing information with its licensed agent when a separate rider has been voluntarily requested by the policyholder or prospective policyholder to insure a firearm or firearm collection whose value exceeds the standard policy limit.

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

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By Senator Lee

24-00321A-14

2014424\_\_

1 A bill to be entitled  
 2 An act relating to discriminatory insurance practices;  
 3 amending s. 626.9541, F.S.; providing that unfair  
 4 discrimination on the basis of gun ownership in the  
 5 provision of personal lines property or personal lines  
 6 automobile insurance is a discriminatory insurance  
 7 practice; providing an effective date.  
 8  
 9 Be It Enacted by the Legislature of the State of Florida:  
 10  
 11 Section 1. Paragraph (g) of subsection (1) of section  
 12 626.9541, Florida Statutes, is amended to read:  
 13 626.9541 Unfair methods of competition and unfair or  
 14 deceptive acts or practices defined.—  
 15 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE  
 16 ACTS.—The following are defined as unfair methods of competition  
 17 and unfair or deceptive acts or practices:  
 18 (g) *Unfair discrimination.*—  
 19 1. Knowingly making or permitting ~~any~~ unfair discrimination  
 20 between individuals of the same actuarially supportable class  
 21 and equal expectation of life, in the rates charged for a any  
 22 life insurance or annuity contract, in the dividends or other  
 23 benefits payable thereon, or in any other term or condition of  
 24 ~~the terms and conditions~~ of such contract.  
 25 2. Knowingly making or permitting ~~any~~ unfair discrimination  
 26 between individuals of the same actuarially supportable class,  
 27 as determined at the ~~original~~ time of initial issuance of the  
 28 coverage, and essentially the same hazard, in the amount of  
 29 premium, policy fees, or rates charged for a any policy or

Page 1 of 3

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

24-00321A-14

2014424\_\_

30 contract of accident, disability, or health insurance, in the  
 31 benefits payable thereunder, in ~~any of~~ the terms or conditions  
 32 of such contract, or in any other manner whatever.  
 33 3. For a health insurer, life insurer, disability insurer,  
 34 property and casualty insurer, automobile insurer, or managed  
 35 care provider to underwrite a policy, or refuse to issue,  
 36 reissue, or renew a policy, refuse to pay a claim, cancel or  
 37 otherwise terminate a policy, or increase rates based upon the  
 38 fact that an insured or applicant who is also the proposed  
 39 insured has made a claim or sought or should have sought medical  
 40 or psychological treatment in the past for abuse, protection  
 41 from abuse, or shelter from abuse, or that a claim was caused in  
 42 the past by, or might occur as a result of, any future assault,  
 43 battery, or sexual assault by a family or household member upon  
 44 another family or household member as defined in s. 741.28. A  
 45 health insurer, life insurer, disability insurer, or managed  
 46 care provider may refuse to underwrite, issue, or renew a policy  
 47 based on the applicant's medical condition, but may ~~shall~~ not  
 48 consider whether such condition was caused by an act of abuse.  
 49 For purposes of this section, the term "abuse" means the  
 50 occurrence of one or more of the following acts:  
 51 a. Attempting or committing assault, battery, sexual  
 52 assault, or sexual battery;  
 53 b. Placing another in fear of imminent serious bodily  
 54 injury by physical menace;  
 55 c. False imprisonment;  
 56 d. Physically or sexually abusing a minor child; or  
 57 e. An act of domestic violence as defined in s. 741.28.  
 58

Page 2 of 3

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

24-00321A-14

2014424\_\_

59 This subparagraph does not prohibit a property and casualty  
60 insurer or an automobile insurer from excluding coverage for  
61 intentional acts by the insured if such exclusion ~~is does~~ not  
62 constitute an act of unfair discrimination as defined in this  
63 paragraph.

64 4. For a personal lines property or personal lines  
65 automobile insurer to:

66 a. Refuse to issue, reissue, or renew a policy; cancel or  
67 otherwise terminate a policy; or charge an unfairly  
68 discriminatory rate in this state based on the lawful use,  
69 possession, or ownership of a firearm by the insurance  
70 applicant, insured, or a household member of the applicant or  
71 insured.

72 b. Disclose the lawful ownership or possession of firearms  
73 of an insurance applicant, insured, or household member of the  
74 applicant or insured to a third party or an affiliated entity of  
75 the insurer unless the insurer discloses to the applicant or  
76 insured the specific need to disclose the information and the  
77 applicant or insured expressly consents to the disclosure.

78 Section 2. This act shall take effect July 1, 2014.



940218

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/14/2014	.	
	.	
	.	
	.	

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

**Senate Amendment**

Between lines 77 and 78  
insert:

This subparagraph does not prevent an insurer from charging a supplemental premium that is not unfairly discriminatory for a separate rider voluntarily requested by the insurance applicant to insure a firearm or a firearm collection whose value exceeds the standard policy coverage, nor does the subparagraph prevent



940218

11 the sharing of information between an insurance company and its  
12 licensed insurance agent, for the purposes of underwriting and  
13 issuing such coverage.



554246

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/14/2014	.	
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The Committee on Banking and Insurance (Lee) recommended the following:

**Senate Amendment**

Between lines 77 and 78  
insert:

This subparagraph does not prevent an insurer from charging a supplemental premium that is not unfairly discriminatory for a separate rider voluntarily requested by the insurance applicant to insure a firearm or a firearm collection whose value exceeds the standard policy coverage.



965502

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/14/2014	.	
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	.	
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The Committee on Banking and Insurance (Lee) recommended the following:

**Senate Amendment**

Between lines 77 and 78  
insert:

For purposes of underwriting and issuing insurance coverage,  
this subparagraph does not prevent the sharing of information  
between an insurance company and its licensed insurance agent  
when a separate rider has been voluntarily requested by the  
policyholder or prospective policyholder to insure a firearm or



965502

11 a firearm collection whose value exceeds the standard policy  
12 coverage.

**Senate Banking and Insurance  
2014 Citizens Proposals**

- 1. Allow Citizens 18 months to develop and establish a Citizens Clearinghouse for commercial residential policies.**
  - Private market insurers are very active in writing commercial residential policies that insure newer buildings with a replacement cost greater than \$10 million.
  - Citizens estimates 5-15 percent of its current commercial residential policies would be attractive to the private market.
  - A commercial clearinghouse would help enforce the 15 percent eligibility requirement under s. 627.351(6)(c)5.b., F.S., which applies to new applicants.
  
- 2. Stair-step Citizens commercial residential eligibility at no more than \$10 million per building.**
  - 5.4 percent of Citizens commercial residential policies insure buildings greater than \$5 million.
    - Less than \$5 million – 94.6 percent (64,850 buildings)
    - \$5 million up to \$10 million – 4.3 percent (2,918 buildings)
    - \$10 million up to \$15 million – 0.4 percent (243 buildings)
    - \$15 million up to \$20 million – 0.2 percent (153 buildings)
    - \$20 million up to \$25 million – 0.1 percent (99 buildings)
    - \$25 million and greater – 0.5 percent (323 buildings)
  - These 5.4 percent accounts for 47 percent of exposure and 39 percent of probable maximum loss.
  
- 3. Remove from the glide-path all commercial non-residential policies.**
  - There are 21,467 policies insuring 30,480 buildings.
  - The total exposure is \$14.27 billion and the 1-100 PML is \$1.175 billion.
  - There has been a 42 percent drop in policy count since 2007.
  - Average commercial non-residential wind-only policy is 24.3 percent below actuarially sound.
  - Average commercial non-residential multi-peril policy in the Coastal account is 73.5 percent below actuarially sound.
  - Average commercial non-residential multi-peril policy in the Commercial Lines Account is right around being actuarially sound.
  
- 4. Shift 5 percent of the Citizens Policyholder Surcharge from the Personal Lines Account to the Coastal Account.**
  - The Citizens Policyholder Surcharge is paid for by EVERY Citizens policyholder regardless of which account their policy is in.
  - Each of the three accounts can surcharge up to 15 percent for a total liability to a Citizens policyholder of 45 percent.
  - The Personal Lines account on average is 3.7 percent below actuarially sound and the Coastal Account is on average 24.1 percent below actuarially sound.
  - Shifting 5 percent to the Coastal Account does not reduce or increase the total liability of 45 percent to a Citizens policyholder.
  - Shifting the 5 percent does give more protection to the non-citizens policy holders who are liable for up to 12 percent of the Coastal Account deficits.

**Senate Banking and Insurance  
2014 Citizens Proposals**

**5. Allow surplus lines carriers to participate in the Citizens clearinghouse.**

- In 2012 the Senate passed HB CS/CS/HB245 allowing surplus lines insurers to participate in Citizens depopulation programs.
- The bill required OIR to verify each surplus lines insurer participating had:
  - ✓ \$50 million in reserves, \$35 million more than currently required.
  - ✓ A.M. Bests rating of A- or better.
  - ✓ Provided coverage for two 1-100 year storms in the same season.
  - ✓ Required additional disclosures to the consumer.
- In this proposal any offer from a surplus lines insurer made through the clearinghouse would not make a policy ineligible for coverage with Citizens.

1           627.35181 Citizens Property Insurance Corporation  
2 commercial residential policyholder eligibility clearinghouse  
3 program.—

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

5           (a) "Corporation" means Citizens Property Insurance  
6 Corporation.

7           (b) "Eligible Insurer" means admitted and surplus lines  
8 insurers under Ch. 626, F.S.

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

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

17           (e) "Program" means the commercial clearinghouse created  
18 under this section.

19           (2) In order to confirm eligibility with the corporation  
20 and to enhance access of new applicants for coverage and  
21 existing policyholders of the corporation to offers of coverage  
22 from eligible insurers, the corporation shall establish a  
23 program for commercial lines residential risks in order to  
24 facilitate the diversion of ineligible applicants and existing  
25 policyholders from the corporation into the voluntary insurance  
26 market.

27           (3) The corporation board shall establish the clearinghouse  
28 program as an organizational unit within the corporation. The  
29 program shall have all the rights and responsibilities in

30 carrying out its duties as a licensed general lines agent, but  
31 may not be required to employ or engage a licensed general lines  
32 agent or to maintain an insurance agency license to carry out  
33 its activities in the solicitation and placement of insurance  
34 coverage. In establishing the program, the corporation may:

35 (a) Require all new applications, and all policies due for  
36 renewal, to be submitted for coverage to the program in order to  
37 facilitate obtaining an offer of coverage from an eligible  
38 insurer before binding or renewing coverage by the corporation.

39 (b) Employ or otherwise contract with individuals or other  
40 entities for appropriate administrative or professional services  
41 to effectuate the plan within the corporation in accordance with  
42 the applicable purchasing requirements under s. 627.351.

43 (c) Enter into contracts with any eligible insurers wishing  
44 to participate in the program and accept an appointment by such  
45 insurer.

46 (d) Provide funds to operate the program. Insurers and  
47 agents participating in the program are not required to pay a  
48 fee to offset or partially offset the cost of the program or use  
49 the program for renewal of policies initially written through  
50 the clearinghouse.

51 (e) Develop an enhanced application that includes  
52 information to assist private insurers in determining whether to  
53 make an offer of coverage through the program.

54 (4) Any eligible insurer may participate in the program;  
55 however, participation is not mandatory for any insurer.  
56 Insurers making offers of coverage to new applicants or renewal  
57 policyholders through the program:

58 (a) May not be required to individually appoint any agent

59 whose customer is underwritten and bound through the program.  
60 Notwithstanding s. 626.112, insurers are not required to appoint  
61 any agent on a policy underwritten through the program for as  
62 long as that policy remains with the insurer. Insurers may, at  
63 their election, appoint any agent whose customer is initially  
64 underwritten and bound through the program. In the event an  
65 insurer accepts a policy from an agent who is not appointed  
66 pursuant to this paragraph, and thereafter elects to accept a  
67 policy from such agent, the provisions of s. 626.112 requiring  
68 appointment apply to the agent.

69 (b) Must enter into a limited agency agreement with each  
70 agent that is not appointed in accordance with paragraph (a) and  
71 whose customer is underwritten and bound through the program.

72 (c) Must enter into its standard agency agreement with each  
73 agent whose customer is underwritten and bound through the  
74 program when that agent has been appointed by the insurer  
75 pursuant to s. 626.112.

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

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

81 (f) Must pay to the producing agent a commission equal to  
82 that paid by the corporation or the usual and customary  
83 commission paid by the insurer for that line of business,  
84 whichever is greater.

85 (5) Notwithstanding s. 627.3517, any applicant for new  
86 coverage from the corporation is not eligible for coverage from  
87 the corporation if provided an offer of coverage from an

88 eligible insurer through the program at a premium that is at or  
89 below the eligibility threshold established in s.  
90 627.351(6)(c)5.b. Whenever an offer of coverage for a commercial  
91 lines residential risk is received for a policyholder of the  
92 corporation at renewal from an eligible insurer through the  
93 program, if the offer is equal to or less than the corporation's  
94 renewal premium for comparable coverage, the risk is not  
95 eligible for coverage with the corporation. In the event an  
96 offer of coverage for a new applicant is received from an  
97 eligible insurer through the program, and the premium offered  
98 exceeds the eligibility threshold contained in s.  
99 627.351(6)(c)5.b., the applicant or insured may elect to accept  
100 such coverage, or may elect to accept or continue coverage with  
101 the corporation. In the event an offer of coverage for a  
102 commercial lines residential risk is received from an eligible  
103 insurer at renewal through the program, and the premium offered  
104 is more than the corporation's renewal premium for comparable  
105 coverage, the insured may elect to accept such coverage, or may  
106 elect to accept or continue coverage with the corporation.  
107 Section 627.351(6)(c)5.b.(I) does not apply to an offer of  
108 coverage from an authorized insurer obtained through the  
109 program.

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

113 (a) Are granted and must maintain ownership and the  
114 exclusive use of expirations, records, or other written or  
115 electronic information directly related to such applications or  
116 renewals written through the corporation or through an insurer

117 participating in the program, notwithstanding s.  
118 627.351(6)(c)5.b.(I)(B) and (II)(B). Such ownership is granted  
119 for as long as the insured remains with the agency or until sold  
120 or surrendered in writing by the agent. Contracts with the  
121 corporation or required by the corporation must not amend,  
122 modify, interfere with, or limit such rights of ownership. Such  
123 expirations, records, or other written or electronic information  
124 may be used to review an application, issue a policy, or for any  
125 other purpose necessary for placing such business through the  
126 program.

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

130 (c) May accept an appointment from any insurer  
131 participating in the program.

132 (d) May enter into either a standard or limited agency  
133 agreement with the insurer, at the insurer's option.

134 Applicants ineligible for coverage in accordance with  
135 subsection (5) remain ineligible if their independent agent is  
136 unwilling or unable to enter into a standard or limited agency  
137 agreement with an insurer participating in the program.

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

141 (a) Must maintain ownership and the exclusive use of  
142 expirations, records, or other written or electronic information  
143 directly related to such applications or renewals written  
144 through the corporation or through an insurer participating in  
145 the program, notwithstanding s. 627.351(6)(c)5.b.(I)(B) and

146 (II) (B). Contracts with the corporation or required by the  
147 corporation must not amend, modify, interfere with, or limit  
148 such rights of ownership. Such expirations, records, or other  
149 written or electronic information may be used to review an  
150 application, issue a policy, or for any other purpose necessary  
151 for placing such business through the program.

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

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

158 (d) May enter into a limited servicing agreement with the  
159 insurer making an offer of coverage, and only after the  
160 exclusive agent's insurer has approved the limited servicing  
161 agreement terms. The exclusive agent's insurer must approve a  
162 limited service agreement for the program for any insurer for  
163 which it has approved a service agreement for other purposes.

164 Applicants ineligible for coverage in accordance with  
165 subsection (8) remain ineligible if their exclusive agent is  
166 unwilling or unable to enter into a standard or limited agency  
167 agreement with an insurer making an offer of coverage to that  
168 applicant.

169 (9) Submission of an application for coverage by the  
170 corporation to the program does not constitute the binding of  
171 coverage by the corporation, and failure of the program to  
172 obtain an offer of coverage by an insurer may not be considered  
173 acceptance of coverage of the risk by the corporation.

174 (10) The program may not include commercial nonresidential

175 policies.

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

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

184 1. Is identified by the insurer as proprietary business  
185 information and is intended to be and is treated by the insurer  
186 as private in that the disclosure of the information would cause  
187 harm to the insurer, an individual, or the company's business  
188 operations and has not been disclosed unless disclosed pursuant  
189 to a statutory requirement, an order of a court or  
190 administrative body, or a private agreement that provides that  
191 the information will not be released to the public;

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

195 3. Includes, but is not limited to:

196 a. Trade secrets.

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

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

204 of risks with the insurer.

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

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

209 2. Pursuant to a court order; or

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

215 (c) This subsection is subject to the Open Government  
216 Sunset Review Act in accordance with s. 119.15 and shall stand  
217 repealed on October 2, 2019, unless reviewed and saved from  
218 repeal through reenactment by the Legislature.

1 627.351(6)(c)

2 18. May provide such limits of coverage as the board  
3 determines, consistent with the requirements of this subsection.

4 a. Effective January 1, 2015, a commercial lines  
5 residential structure that has a replacement cost of \$20 million  
6 or more is not eligible for coverage by the corporation. Such  
7 buildings insured by the corporation on December 31, 2014, may  
8 continue to be covered by the corporation until the end of the  
9 policy term. The office shall approve the method used by the  
10 corporation for valuing the replacement cost for the purposes of  
11 this subparagraph.

12 b. Effective January 1, 2016, a commercial lines  
13 residential structure that has a replacement cost of \$15 million  
14 or more is not eligible for coverage by the corporation. Such  
15 buildings insured by the corporation on December 31, 2015, may  
16 continue to be covered by the corporation until the end of the  
17 policy term.

18 c. Effective January 1, 2017, a commercial lines  
19 residential structure that has a replacement cost of \$10 million  
20 or more is not eligible for coverage by the corporation. Such  
21 buildings insured by the corporation on December 31, 2016, may  
22 continue to be covered by the corporation until the end of the  
23 policy term.

1 627.351(6)(n)

2 6. Beginning on or after January 1, 2015~~–2010~~, and  
3 notwithstanding the board's recommended rates and the office's  
4 final order regarding the corporation's filed rates under  
5 subparagraph 1., the corporation shall annually implement a rate  
6 increase which, except for commercial non-residential and  
7 sinkhole coverage, does not exceed 10 percent for any single  
8 policy issued by the corporation, excluding coverage changes and  
9 surcharges.

1 627.351(6)(b)3

2 i. In 2008 or thereafter, upon a determination by the board  
3 of governors that an account has a projected deficit, the board  
4 shall levy a Citizens policyholder surcharge against all  
5 policyholders of the corporation.

6 (I) The surcharge shall be levied as a uniform percentage  
7 of the premium for the policy of up to 10 percent for a deficit  
8 in the personal lines account, 15 percent~~of~~ for a deficit in  
9 the commercial lines account and 20 percent for a deficit in the  
10 coastal account. Funds from such premium shall be used to offset  
11 the deficit per each account. ~~such premium, which funds shall be~~  
12 ~~used to offset the deficit.~~

1           627.3518 Citizens Property Insurance Corporation  
2 residential policyholder eligibility clearinghouse program.— The  
3 purpose of this section is to provide a framework for the  
4 corporation to implement a clearinghouse program by January 1,  
5 2014.

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

7           (a) "Corporation" means Citizens Property Insurance  
8 Corporation.

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

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

17           (d) "Program" means the clearinghouse created under this  
18 section.

19           (e) "Surplus Lines" means an eligible insurer under s.  
20 626.918, F.S. Before participating in the program the Office of  
21 Insurance Regulation must determine that the surplus lines  
22 insurer meets the following requirements:

23           I. Maintains surplus of \$50 million on company or pooled  
24 basis;

25           II. Maintains an A.M. Best Financial Strength Rating of A-  
26 or better;

27           III. Maintains reserves, surplus, reinsurance, and  
28 reinsurance equivalents sufficient to cover the insurer's 100-  
29 year probable maximum hurricane loss at least twice in a single

30 hurricane season.

31 (2) In order to confirm eligibility with the corporation  
32 and to enhance access of new applicants for coverage and  
33 existing policyholders of the corporation to offers of coverage  
34 from authorized and surplus lines insurers, the corporation  
35 shall establish a program for personal residential risks in  
36 order to facilitate the diversion of ineligible applicants and  
37 existing policyholders from the corporation into the voluntary  
38 insurance market. The corporation shall also develop appropriate  
39 procedures for facilitating the diversion of ineligible  
40 applicants and existing policyholders for commercial residential  
41 coverage into the private insurance market and shall report such  
42 procedures to the President of the Senate and the Speaker of the  
43 House of Representatives by January 1, 2014.

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

52 (a) Require all new applications, and all policies due for  
53 renewal, to be submitted for coverage to the program in order to  
54 facilitate obtaining an offer of coverage from an authorized or  
55 surplus lines insurer before binding or renewing coverage by the  
56 corporation.

57 (b) Employ or otherwise contract with individuals or other  
58 entities for appropriate administrative or professional services

59 to effectuate the plan within the corporation in accordance with  
60 the applicable purchasing requirements under s. 627.351.

61 (c) Enter into contracts with any authorized or surplus  
62 lines insurer to participate in the program and accept an  
63 appointment by such insurer.

64 (d) Provide funds to operate the program. Insurers and  
65 agents participating in the program are not required to pay a  
66 fee to offset or partially offset the cost of the program or use  
67 the program for renewal of policies initially written through  
68 the clearinghouse.

69 (e) Develop an enhanced application that includes  
70 information to assist private insurers in determining whether to  
71 make an offer of coverage through the program.

72 (f) For personal lines residential risks, require, before  
73 approving all new applications for coverage by the corporation,  
74 that every application be subject to a period of 2 business days  
75 when any insurer participating in the program may select the  
76 application for coverage. The insurer may issue a binder on any  
77 policy selected for coverage for a period of at least 30 days  
78 but not more than 60 days.

79 (4) Any authorized or surplus lines insurer may participate  
80 in the program; however, participation is not mandatory for any  
81 insurer. Insurers making offers of coverage to new applicants or  
82 renewal policyholders through the program:

83 (a) May not be required to individually appoint any agent  
84 whose customer is underwritten and bound through the program.  
85 Notwithstanding s. 626.112, insurers are not required to appoint  
86 any agent on a policy underwritten through the program for as  
87 long as that policy remains with the insurer. Insurers may, at

88 their election, appoint any agent whose customer is initially  
89 underwritten and bound through the program. In the event an  
90 insurer accepts a policy from an agent who is not appointed  
91 pursuant to this paragraph, and thereafter elects to accept a  
92 policy from such agent, the provisions of s. 626.112 requiring  
93 appointment apply to the agent.

94 (b) Must enter into a limited agency agreement with each  
95 agent that is not appointed in accordance with paragraph (a) and  
96 whose customer is underwritten and bound through the program.

97 (c) Must enter into its standard agency agreement with each  
98 agent whose customer is underwritten and bound through the  
99 program when that agent has been appointed by the insurer  
100 pursuant to s. 626.112.

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

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

106 (f) Must pay to the producing agent a commission equal to  
107 that paid by the corporation or the usual and customary  
108 commission paid by the insurer for that line of business,  
109 whichever is greater.

110 (5) Notwithstanding s. 627.3517, any applicant for new  
111 coverage from the corporation is not eligible for coverage from  
112 the corporation if provided an offer of coverage from an  
113 authorized insurer through the program at a premium that is at  
114 or below the eligibility threshold established in  
115 s. 627.351(6)(c)5.a. Whenever an offer of coverage for a  
116 personal lines risk is received for a policyholder of the

117 corporation at renewal from an authorized insurer through the  
118 program, if the offer is equal to or less than the corporation's  
119 renewal premium for comparable coverage, the risk is not  
120 eligible for coverage with the corporation. In the event an  
121 offer of coverage for a new applicant is received from an  
122 authorized or surplus lines insurer through the program, and the  
123 premium offered exceeds the eligibility threshold contained in  
124 s. 627.351(6)(c)5.a., the applicant or insured may elect to  
125 accept such coverage, or may elect to accept or continue  
126 coverage with the corporation. In the event an offer of coverage  
127 for a personal lines risk is received from an authorized or  
128 surplus lines insurer at renewal through the program, and the  
129 premium offered is more than the corporation's renewal premium  
130 for comparable coverage, the insured may elect to accept such  
131 coverage, or may elect to accept or continue coverage with the  
132 corporation. Section 627.351(6)(c)5.a.(I) does not apply to an  
133 offer of coverage from an authorized insurer obtained through  
134 the program. An applicant for coverage from the corporation  
135 who was declared ineligible for coverage at renewal by the  
136 corporation in the previous 36 months due to an offer of  
137 coverage pursuant to this subsection shall be considered a  
138 renewal under this section if the corporation determines that  
139 the authorized insurer making the offer of coverage pursuant to  
140 this subsection continues to insure the applicant and increased  
141 the rate on the policy in excess of the increase allowed for the  
142 corporation under s. 627.351(6)(n)6.

CITIZENS PROPERTY INSURANCE CORPORATION  
2312 KILLEARN CENTER BLVD., BUILDING A  
TALLAHASSEE, FLORIDA 32309



TELEPHONE: (850) 513-3700 FAX: (850) 513-3903

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January 13, 2014

The Honorable David Simmons  
District 10, The Florida Senate  
406 Senate Office Building  
404 South Monroe Street  
Tallahassee FL 32399-1100

Chairman Simmons,

Thank you for the opportunity to appear before the Senate Banking and Insurance committee on January 8. I am submitting this letter pursuant to your request for comment on the proposals currently under consideration by the committee. I share your commitment in identifying solutions that will make measurable gains in reducing the size of Citizens, spread storm risk away from the taxpayers of Florida, and do so without affecting the availability of quality property insurance for Florida buyers.

Our comments below address the proposals by number:

**Proposal #1 – Commercial-Residential Clearinghouse**

This initiative was enacted in SB 1770 last year and supported widely across the insurance and economic community, and Citizens is excited to report it is nearing fruition. A fully automated platform for “shopping” homeowners’ multi-peril policies on the open market, in near real-time as they are submitted to Citizens, is scheduled to “go live” on January 27 with five participating insurers. More insurers will be added regularly every few weeks; for example, six more insurers are scheduled for a March 10 release. In all, twenty insurers have signed contracts to participate and are developing technology and workflow to come online throughout 2014. What is especially exciting is that these insurers are in growth mode and actively writing new business all over Florida; the first five insurers wrote 17% of all new policies in the state in the last 12 months, and the twenty signed insurers together wrote over 40%. Renewals of existing Citizens customers will also be subjected to clearinghouse shopping beginning in the second quarter of 2014, and we expect the program to function as an effective way to keep policies out of Citizens that have affordable insurance options in the private market.

We submitted a report on the feasibility of a clearinghouse for commercial-residential properties (e.g. condominium association buildings) to you as required by SB 1770 at the end of 2013. We believe these properties are susceptible to a clearinghouse shopping approach, but that the workflow will be somewhat different. Insurance procurement for these risks is too complex to be fully automated, because policies typically insure multiple buildings at separate locations, and larger buildings are individually rated (A-rated) rather than class-rated using a standardized rate manual. However, a semi-automated platform, with some manual review of insurance applications during a waiting period, can be developed to achieve

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Chris Gardner, Chairman, Orange County  
Gary Aubuchon, Lee County • Juan Cocuy, Palm Beach County • Don Glisson, Jr., Duval County  
Tom Lynch, Palm Beach County • Freddie Schinz, Okaloosa County • John Wortman, St. Johns County  
Barry Gilway, President/CEO and Executive Director

the same outcomes as those of the Personal Lines Clearinghouse. We believe a commercial-residential clearinghouse could go live in approximately 18 months.

In contrast to personal lines, the private market for these properties is more concentrated among a few insurers – Citizens holds 43% market share, but the three largest private insurers hold market share of over 40% as well. However, these insurers are actively writing new business, and in fact have helped Citizens reduce its commercial-residential building count by over 50% in the past six years. They tend to focus on buildings with high insured values, such as coastal condominium towers, and well-engineered construction, which has implications for your other proposals discussed below.

Importantly, this part of the Citizens exposure represents low-hanging fruit for a return to the private market for several reasons. First, these properties contribute disproportionately to our storm risk, at less than 2% of our policy count, but well over 20% of our Probable Maximum Loss (PML, a benchmark scientific measure of storm risk, a hurricane loss amount that could be exceeded any year with a chance of 1%) and \$93 billion of Citizens' \$330 billion in insured value. Second, insurers specializing in this type of property are well-capitalized, highly skilled in evaluating the engineering of such structures, and aggressively pursue policies with high premiums per building. Even if only 5% to 15% of Citizens commercial-residential policies were kept out by the clearinghouse, the reduction of taxpayer risk would be significant and sustainable.

In short, we believe that additional legislative authority is required to allow us to implement the commercial-residential clearinghouse and that it would be feasible and effective under specified conditions.

#### **Proposal #1 (second part) – Eligibility Step-Down**

Again, some brief background. A step-down in the maximum insured value making a building eligible for Citizens was enacted for Coastal Account homeowners policies in SB 1770. The Board of Governors reduced the maximum Coastal policy size from \$2 million to \$1 million in 2012, and nearly all oversized policies over the maximum value have run off successfully. SB 1770 requires that we build on that success by stepping down maximum eligibility to \$700,000 in main structure insured value over the next three years.

Commercial-residential is the only product line in which Citizens currently has no maximum eligible insured value. We insure many buildings with values of tens of millions of dollars, located directly in harm's way during a hurricane. Legislative direction would assist Citizens in filing rules with the Office and determining the step-down that represents a balanced approach to reducing exposure in this product line. As you note, a step-down from an initial \$25 million maximum to an eventual \$5 million maximum over several years would eventually affect only about 5% of buildings, but would reduce Citizens' storm risk (for the commercial-residential book) by nearly 40%, or nearly \$2 billion. This reduction translates nearly dollar-for-dollar into reduced policyholder assessment risk in a large storm.

We should clarify one key point – any step-down will be much more straightforward to implement as a simple maximum eligible insured value, not a requirement that Citizens write up to a specified amount of insurance on a larger building. The latter would require development of a “first loss” rating plan that does not currently exist, and the Office would be required, absent other law changes, to establish those new rates for Citizens. Further, the market outcome may be that Citizens remains an insurer of the first layer of loss on these buildings (albeit with less total exposure), creating confusion for associations and their agents with multiple policies in force, and undercutting the benefits of reducing Citizens' policy count and market footprint.

Rate adequacy for commercial-residential buildings varies widely for several historical reasons. First, the multi-peril program and wind-only Coastal programs were inherited from two different predecessor entities – the FRPCJUA and FWUA (windpool), respectively. The contracts, rules, and rating plans differed greatly, and still do. Second, due to the “glide path” law limiting Citizens’ maximum annual rate increases to 10%, rate inadequacy persists in both programs, is more severe in the Coastal wind-only program, and will be perpetuated for several more years absent changes to the law. On average, multi-peril rates are close to adequate except in pockets around the state, but wind-only rates should be approximately half again as high as they are now.

### **Proposal #2 – Actuarially Sound Rates for Commercial Non-Residential Policies**

Citizens currently maintains both a multi-peril non-residential commercial program limited to the first \$2.5 million in insured value, and a similar wind-only program limited to the first \$1 million in insured value. As with commercial-residential, the combination of two historical markets of last resort, plus the glide path law, have resulted in widespread and persistent rate inadequacy in both programs. However, in contrast, the “first loss” commercial programs, the rate inadequacy is concentrated near the coast. As you note, on average the rates should be about 25% higher for wind-only policies and in some cases, over 75% higher for multi-peril policies in coastal areas.

The vast bulk of Citizens’ commercial non-residential exposure (about \$12 billion) and storm risk (about \$1.1 billion in PML) is in the wind-only program.

Implementation of a higher glide path (higher maximum annual percentage rate change than 10%) or its elimination altogether is a straightforward actuarial and operational exercise at Citizens, for two reasons. First, actuarially sound rates are calculated for every product line separately – the imposition of the 10% annual cap is actually the final step before submission to the Office. Said differently, we know what the sound rates should be and can impose a different cap each year, or no cap at all, if directed by the Legislature. Second, rates are calculated separately by product line, so a change in commercial non-residential rates does not have financial or operational effects on other product lines.

Finally, it is important to note that commercial non-residential buildings do not qualify for reimbursement by the Florida Hurricane Catastrophe Fund (Cat Fund). Citizens is the largest customer of the Cat Fund, at approximately 30% of its coverage, and the Cat Fund provides a crucial source of liquidity and financial stability for Citizens after large hurricane events. This exposure is fully funded by Citizens, and losses fall directly to the bottom line toward potential deficits and assessments.

### **Proposal #6 – Clearinghouse Threshold for Higher Value Homes**

SB 1770 provides that any offer to personal lines new business, for comparable coverage, that entails a premium less than 15% greater than the analogous Citizens premium makes the policy ineligible for Citizens. In contrast, any offer to a renewal policy shopped in the clearinghouse must receive a comparable offer that is at or lower than Citizens premium to become ineligible for Citizens. The Legislature could change either of these thresholds, and could change the threshold only for policies that exceed a certain proposed insured value; you proposed \$300,000. As you note, there are hundreds of thousands of policies above this threshold. However, the Legislature should be clear regarding whether the threshold applies to main structure coverage (Coverage A) only, or to the entire coverage amount combined for structures, contents, and loss of use.

One of the first steps in gathering data to shop a policy in the clearinghouse is the estimation of the home’s replacement cost. This replacement cost is calculated using Citizens’ cost estimation platform and is the basis of the comparative premium calculations across Citizens and all participating insurers. A

legislative threshold could be implemented in the clearinghouse by applying a comparison threshold that depends on the estimated replacement cost calculated by Citizens. This is the only criteria available to Citizens for the implementation of such a change.

In short, at legislative direction, it is feasible for Citizens to implement an estimated replacement cost threshold for an alternative premium comparison and potential ineligibility for higher value homes in the automated clearinghouse, though legislative intent should be carefully specified.

#### **Proposal #5 – Glide Path Eligibility for Higher Value Homes**

In the clearinghouse environment, increasing the maximum annual rate change for higher value homes would also eventually make more policies ineligible for Citizens, because a higher Citizens premium would mean that private market quotes compare more favorably to Citizens premium either upon renewal or at the submission of a new application. Even in the absence of a current clearinghouse environment, as with wind-only dwelling policies that will be added to the clearinghouse over time, a higher Citizens premium may encourage the consumer to shop in the open market directly or with the consumer's agent.

Citizens is not in a position to comment on issues of fairness, or to provide data on incomes or residency status. This data is not used in the application or underwriting process by either Citizens or private insurers. It is true that the average coverage amount on coastal wind-only policies is significantly higher than the corresponding average on statewide multi-peril policies.

However, as noted above, it is feasible to implement a rating plan that routes a home above an insured value threshold (you proposed \$400,000) to a rate table containing actuarially sound rates not capped by the glide path. The routing would require some systems changes, and could be implemented with the January 2015 cycle of rate changes. Citizens makes annual rate filings and the Office establishes our rates on this annual schedule. Once again, the Legislature should specify the applicability of the threshold carefully with respect to structure or combined total coverage, product lines, and the like.

#### **Proposal #4 – Re-Allocate Citizens Policyholder Surcharge**

As you note, current law imposes a first assessment of up to 15% of annual premium on Citizens policyholders only, and possibly in each account separately (the Personal Lines Account, Commercial Lines Account, and Coastal Account could all have Plan Year Deficits in the same year) before the next tiers of assessments would be imposed on insurers ("regular assessments" of up to 2% of premium in the Coastal Account only) or directly on policyholders ("emergency assessments" of up to 10% of premium per year in each account with a deficit). Importantly, all Citizens policyholders pay the surcharge for the deficit in any account – not just policyholders holding a policy in the account incurring a deficit. Therefore, changing the distribution of the Citizens Policyholder Surcharge to a maximum of 10% in the PLA and maximum of 20% in the Coastal Account, and retaining the 15% maximum in the CLA, would leave the total potential surcharge at 45%, but raise the burden of assessments to all Citizens policyholders if there is a deficit in (only) the Coastal Account. If multiple accounts incurred a deficit, all Citizens policyholders would still pay assessments, then all Florida policyholders would be affected by the remaining deficit due to the recoupment of regular assessments by insurers, and the pass-through of emergency assessments to them.

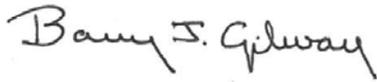
As this change affects the post-funding of hurricanes rather than the pre-funding of insurance losses through premiums and reinsurance, there would be no direct impact on the clearinghouse or premium shopping in the open market. However, some consumers do consider assessment burden when determining whether to seek a Citizens policy, and some may be incented to make decisions to take

private market policies even when they remain eligible for Citizens. Agents often make consumers aware of this risk as well.

Lastly, questions were raised at the January 8 meeting regarding the benefits of allowing surplus lines insurers to participate in the clearinghouse and other Citizens programs to reduce its size. We note that there has been a robust debate regarding surplus lines participation, both at the legislative level and at the Citizens Board of Governors. Many pros and cons have been discussed, many of which are outside our scope for comment. Ultimately, we do not have authority to evaluate the financial strength, market conduct, or business models of surplus lines insurers – that authority rests with the Office.

We appreciate the opportunity to comment on your proposals and look forward to providing insight on Citizens issues as you continue to work toward optimal public policy regarding Citizens' role in Florida's property insurance market.

Respectfully,

A handwritten signature in black ink that reads "Barry J. Gilway". The signature is written in a cursive, slightly slanted style.

Barry Gilway  
President/CEO and Executive Director

cc: Members of the Senate Banking and Insurance Committee

# **Citizens Property Insurance Corporation**

## **Senate Banking & Insurance Committee – Response to data Request**

January 3, 2014



# Response to Legislative Requests

- Commercial Products
  - Fast facts
  - Exposure and storm risk
- Commercial Residential
  - Contributions to exposure and storm risk
  - Market share
  - Analysis of building total insured value >\$5M and >\$10M
  - Rate adequacy
- Commercial Non-Residential
  - Contributions to exposure
  - Rate adequacy
- Personal Lines
  - Occupancy and residency issues
  - Total insured value in \$100K bands
  - Multi-Peril non-catastrophe historic loss ratios by account
  - Wind-Only average premium
  - Wind-Only new business policy count

# Citizens Commercial Lines Fast Facts

## Commercial-Residential

- Citizens writes unlimited insured values for qualifying policies
- Commercial-residential, at about \$4.1B, is over 20% of Citizens' probable maximum loss (PML), a.k.a. storm risk in a 100-year scenario
- Citizens is a dominant insurer in commercial-residential with over 40% share, though trending downward as several private market insurers are active
- The predominant occupancy is condominium associations
- Citizens attracts older, smaller, and less wind-resistive buildings - but the large buildings we insure impact storm risk disproportionately
- Wind-only commercial-residential policies are the most underpriced (actuarially speaking)
- Rate need is consistent around the state, should be generally 20-70% higher than current rates depending on the property's features

## Commercial Non-Residential

- Citizens writes only the first \$1 million of wind-only (Coastal, inherited from FWUA) or \$2.5 million of multi-peril (statewide, as authorized in 2007 by HB1A) coverage
- Commercial non-residential contributes over \$1B to Citizens storm risk
- Hard to gauge market share in non-residential because of light regulation and reporting
- Citizens inland multi-peril commercial rates are generally actuarially reasonable, but wind-only and Coastal policies are significantly underpriced

# Commercial Lines are Disproportionate Contributors to Citizens Exposure and Storm Risk

	PML (000s)	Exposure (000s)
Non-Coastal Commercial Residential Multi-Peril	\$1,088,140	\$35,857,156
Coastal Commercial Residential Multi-Peril	\$751,724	\$12,855,967
Non-Coastal Commercial Non-Residential Multi-Peril	\$75,162	\$1,756,637
Coastal Commercial Non-Residential Multi-Peril	\$32,118	\$365,349
Coastal Commercial Residential Wind-Only	\$2,324,435	\$44,575,147
Coastal Commercial Non-Residential Wind-Only	\$1,072,314	\$12,159,995

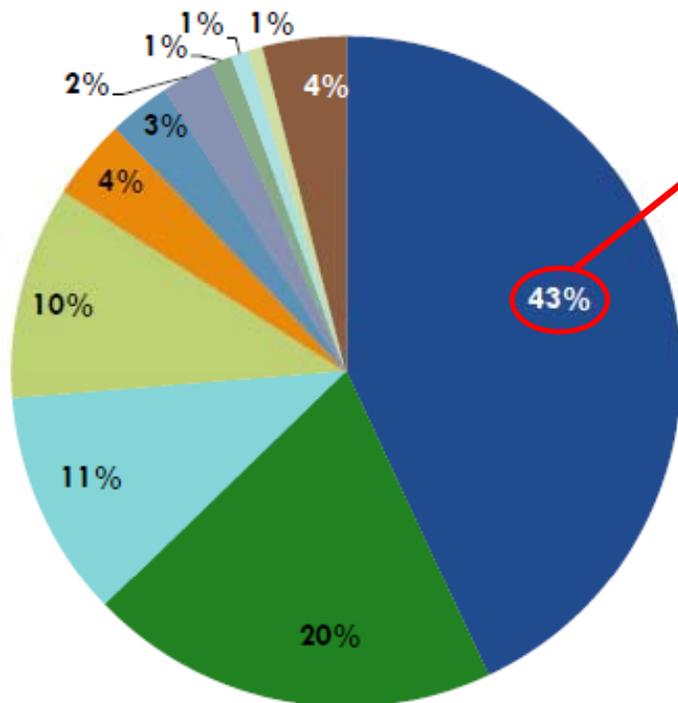
	PML (000s)	Exposure (000s)
Commercial Residential Multi-Peril	\$1,772,346	\$48,713,124
Commercial Residential Wind-Only	\$2,324,435	\$44,575,147
<b>TOTAL Commercial Residential Lines</b>	<b>\$4,065,058</b>	<b>\$93,288,271</b>
Commercial Non-Residential Multi-Peril	\$103,514	\$2,121,986
Commercial Non-Residential Wind-Only	\$1,072,314	\$12,159,995
<b>TOTAL Commercial Non-Residential Lines</b>	<b>\$1,150,748</b>	<b>\$14,281,980</b>

**Notes:**

- 1) Data as of 09/30/2013 for Commercial products only
- 2) PMLs represent Citizens modeled loss in a single storm with a 1% chance of exceeding this loss each year.
- 3) PMLs are not additive across product lines because multiple lines will be impacted in any one storm. Totals are true combined PMLs.

**Commercial Residential:  
A Major Contributor to Exposure and Storm Risk**

# Citizens is the Dominant Commercial-Residential Insurer, but Others are Growing



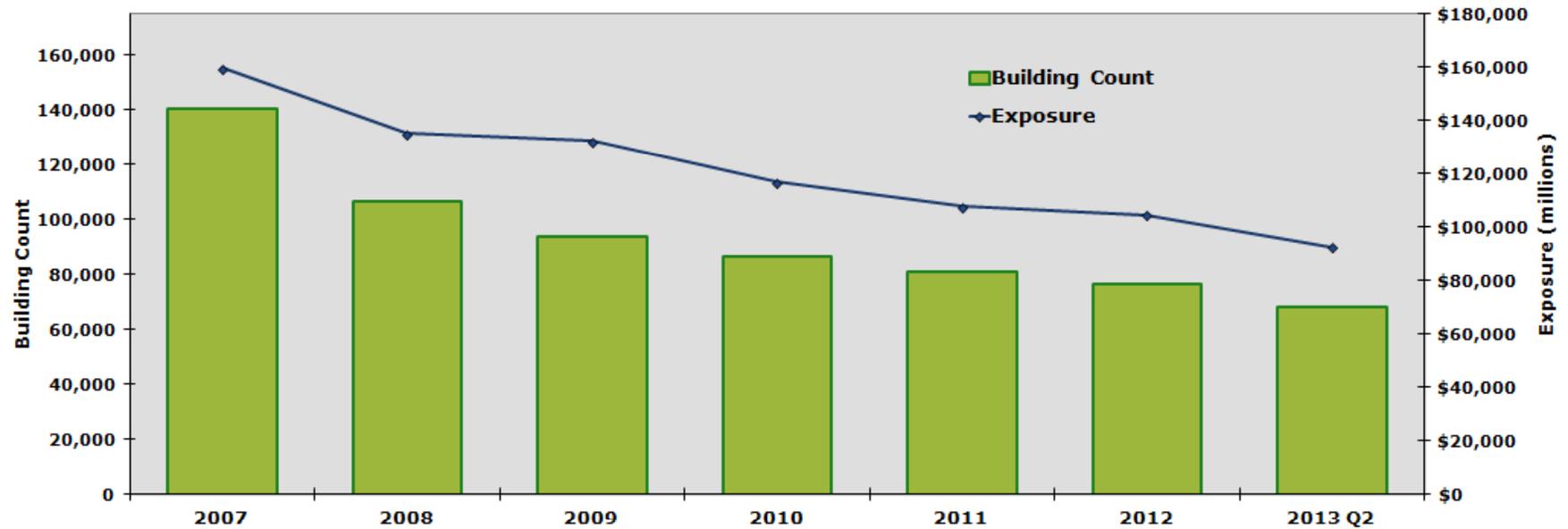
Carrier	Total Insured Value
Citizens Property Insurance Corporation	\$92,738,142,474
American Coastal Insurance Company	\$42,740,093,177
QBE Insurance Corporation	\$23,480,071,933
American Capital Assurance Corp.	\$22,157,936,645
Weston Insurance Company	\$8,464,492,746
State Farm Florida Insurance Company	\$6,372,605,563
Philadelphia Indemnity Insurance Company	\$5,427,746,215
Service Insurance Company	\$2,214,743,000
Nova Casualty Company	\$1,783,177,848
Sunshine State Insurance Company	\$1,555,923,161
All Other	\$8,681,736,157
<b>Totals - All Carriers</b>	<b>\$215,616,668,919</b>

OIR QUASR Data as of 06/30/2013

- Citizens Property Insurance Corporation
- American Coastal Insurance Company
- QBE Insurance Corporation
- American Capital Assurance Corp.
- Weston Insurance Company
- State Farm Florida Insurance Company
- Philadelphia Indemnity Insurance Company
- Service Insurance Company
- Nova Casualty Company
- Sunshine State Insurance Company
- All Other

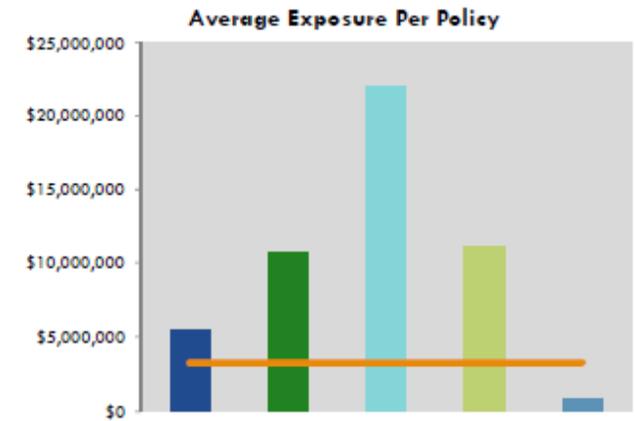
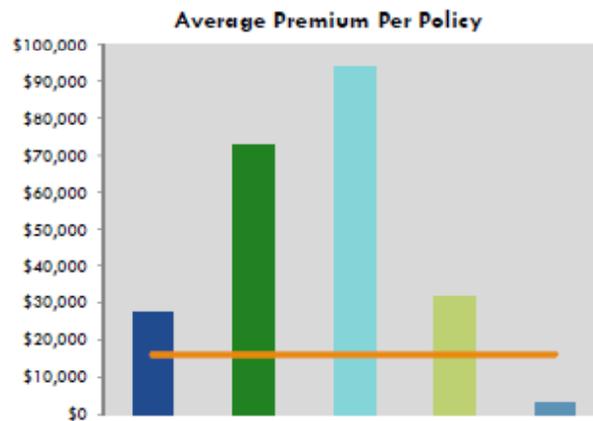
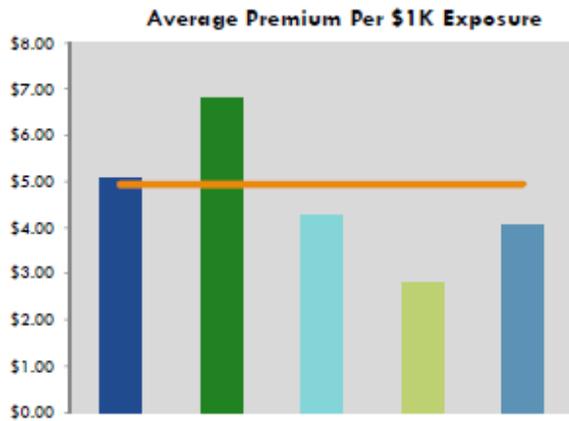
# Commercial-Residential Historical Market Share

(Data as of 06/30/2013)



	Coastal Account			Commercial Lines Account			Total		
	Number of Policies	Number of Buildings	Exposure <sup>1</sup> (millions)	Number of Policies	Number of Buildings	Exposure <sup>1</sup> (millions)	Number of Policies	Number of Buildings	Exposure <sup>1</sup> (millions)
2007	17,346	45,744	\$83,588	11,158	94,715	\$76,298	28,504	140,459	\$159,885
2008	15,887	43,266	\$80,075	8,810	63,354	\$55,134	24,697	106,620	\$135,209
2009	15,049	41,011	\$82,089	8,355	52,523	\$50,236	23,404	93,534	\$132,325
2010	14,440	40,797	\$74,778	7,323	45,504	\$42,107	21,763	86,301	\$116,885
2011	13,815	38,644	\$68,923	6,961	42,180	\$38,929	20,776	80,824	\$107,853
2012	13,139	37,166	\$66,711	6,602	39,637	\$38,052	19,741	76,803	\$104,764
2013 Q2	10,961	31,594	\$56,789	6,189	36,476	\$35,949	17,150	68,070	\$92,738
% Change from 2012 to 2Q 2013	-16.6%	-15.0%	-14.9%	-6.3%	-8.0%	-5.5%	-13.1%	-11.4%	-11.5%

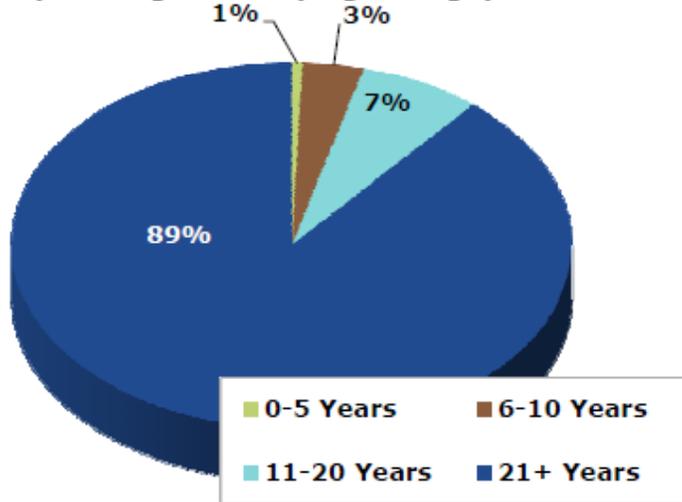
# Commercial-Residential Premium and Policies



Carrier	Policies Inforce	Premium	Exposure	Average Premium Per \$1,000 Exposure	Average Premium Per Policy	Average Exposure Per Policy
Citizens Property Insurance Corporation	17,150	\$470,490,957	\$92,738,142,474	\$5.07	\$27,434	\$5,407,472
American Coastal Insurance Company	3,975	\$290,108,649	\$42,740,093,177	\$6.79	\$72,983	\$10,752,225
Q&E Insurance Corporation	1,071	\$100,414,172	\$23,480,071,933	\$4.28	\$93,757	\$21,923,503
American Capital Assurance Corp.	1,981	\$62,173,579	\$22,157,936,645	\$2.81	\$31,385	\$11,185,228
All Other	41,934	\$139,931,444	\$34,500,424,690	\$4.06	\$3,337	\$822,732
<b>Total Market</b>	<b>66,111</b>	<b>\$1,063,118,801</b>	<b>\$215,616,668,919</b>	<b>\$4.93</b>	<b>\$16,081</b>	<b>\$3,261,434</b>

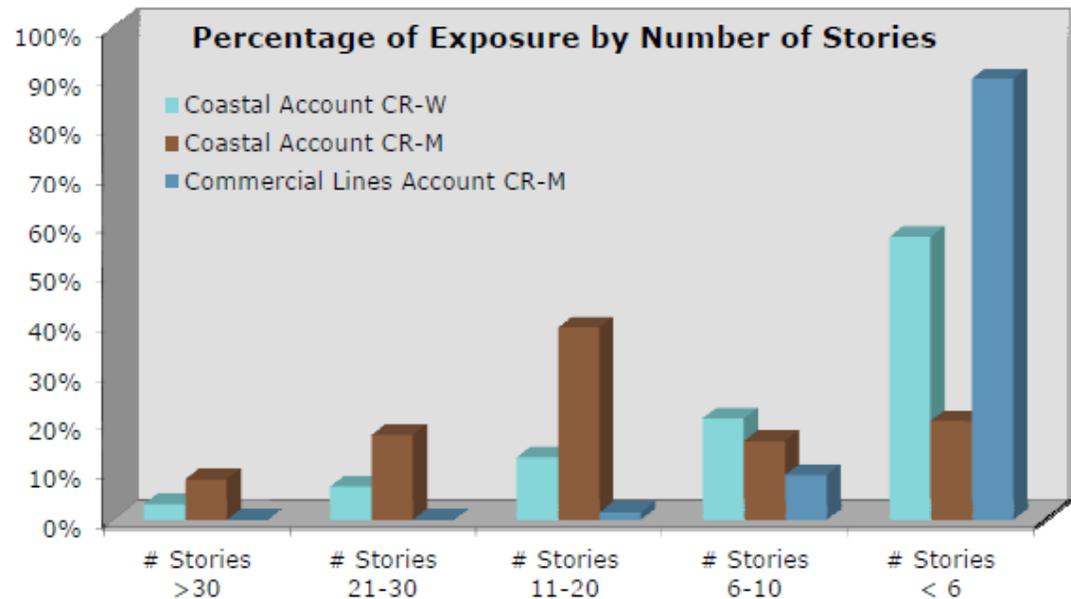
# Commercial-Residential Buildings are Generally Older and Smaller, But Towers Contribute Most to Exposure

(Building Count by Age Range)



89% of all commercial residential buildings were built before 1992.

Only 1% of all commercial residential buildings are taller than 10 stories but account for 20% of total exposure for all commercial residential buildings.



Number of Stories	Coastal Account CR-W	Coastal Account CR-M	Commercial Lines Account CR-M
> 30	3.1%	8.2%	0.0%
21 to 30	6.6%	17.1%	0.0%
11 to 20	12.5%	39.1%	1.4%
6 to 10	20.5%	15.9%	9.0%
< 6	57.3%	19.8%	89.5%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

# Commercial Residential Multi-Peril and Wind-Only Total Insured Value Ranges

Total Insured Value Range at Building Level	Building Count	Total Insured Value (\$'s in millions)	Building Level Premium (\$'s in millions)
\$25,000,000 +	323	\$14,820	\$83
\$20,000,000 to \$24,999,999	99	\$2,194	\$12
\$15,000,000 to \$19,999,999	153	\$2,625	\$14
\$10,000,000 to \$14,999,999	243	\$2,968	\$15
\$5,000,000 to \$9,999,999	2,918	\$20,659	\$55
\$4,999,999 and Less	64,850	\$49,136	\$246
<b>Total</b>	<b>68,586</b>	<b>\$92,402</b>	<b>\$426</b>

**Notes:**

- 1) Excludes special class risks. All commercial residential special class items are in the range below \$5 million with a total insured value of \$886,707,625.
- 2) CLA CRM includes 325 x-wind buildings consisting of: 14 buildings with total insured value of \$99,246,100 in the \$5 to \$9.9 range; 311 buildings with total insured value of \$227,519,900 in the \$4.9 and less range.
- 3) Building level premium is before policy level surcharges and includes FHCF build up premium in addition to building and contents premium.
- 4) Excludes buildings in policies tagged for takeout.
- 5) Data as of 09/30/2013

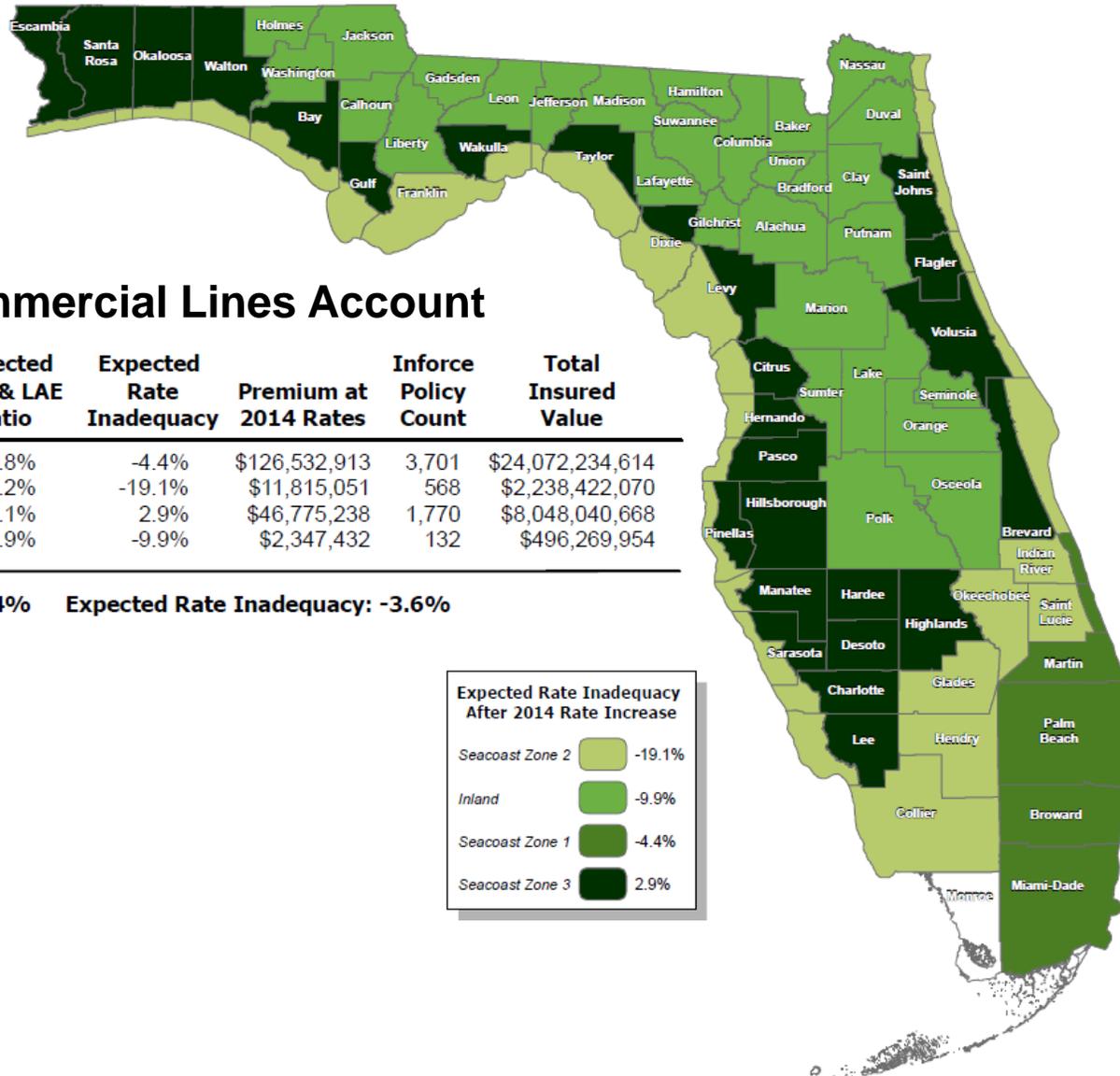
# Commercial Residential Multi-Peril and Wind-Only Exposure Could Be Reduced by a Total Insured Value Cap of \$5M or \$10M

(\$'s in millions)	Total Inforce	\$5 Million Cap		\$10 Million Cap	
	Commercial Residential	Buildings with Total Insured Value >= \$5 M	% Reduction in Commercial Residential	Buildings with Total Insured Value >= \$10 M	% Reduction in Commercial Residential
<b>Building Count</b>	68,586	3,736	5%	818	1%
<b>Total Insured Value</b>	\$92,402	\$43,266	47%	\$22,607	24%
<b>Building Level Premium</b>	\$426	\$180	42%	\$125	29%
<b>1 in 100 Yr PML</b>	\$4,065	\$1,594	39%	\$925	23%

**Notes:**

- 1) Building Count, Total Insured Value, and Building Level Premium exclude special class risks. All commercial residential special class items are in the range below \$5 million with total a total insured value of \$886,707,625.
- 2) 1 in 100 Yr PML represents single event distribution, does not include a factor for LAE, and does include special class risks.
- 3) The 1 in 100 Yr PML is computed using AIR CLASIC/2 v15 including demand surge, excluding storm surge, 50K Event Set Weighted 1/3 long-term & 2/3 Warm Sea catalog.
- 4) Data as of 09/30/2013

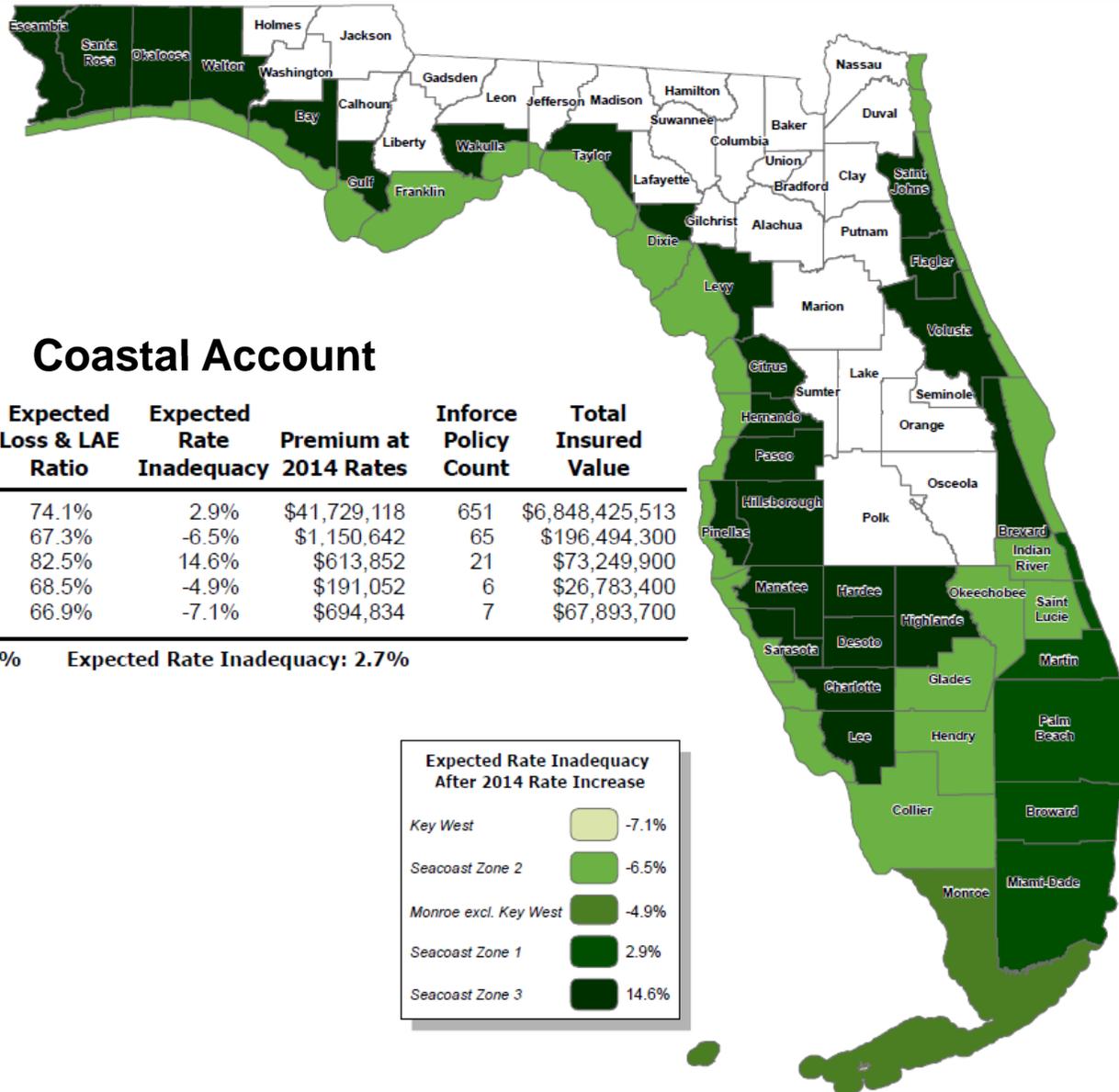
# Statewide (CLA) Commercial Residential Multi-Peril Rates are Generally Near Adequate...



**Notes:**

- 1) Excludes A-Rated Policies
- 2) Data as of 06/30/2013

# ...as are Coastal Account Commercial Residential Multi-Peril Rates



## Coastal Account

Territory	Expected Loss & LAE Ratio	Expected Rate Inadequacy	Premium at 2014 Rates	Inforce Policy Count	Total Insured Value
Seacoast Zone 1	74.1%	2.9%	\$41,729,118	651	\$6,848,425,513
Seacoast Zone 2	67.3%	-6.5%	\$1,150,642	65	\$196,494,300
Seacoast Zone 3	82.5%	14.6%	\$613,852	21	\$73,249,900
Monroe excl. Key West	68.5%	-4.9%	\$191,052	6	\$26,783,400
Key West	66.9%	-7.1%	\$694,834	7	\$67,893,700

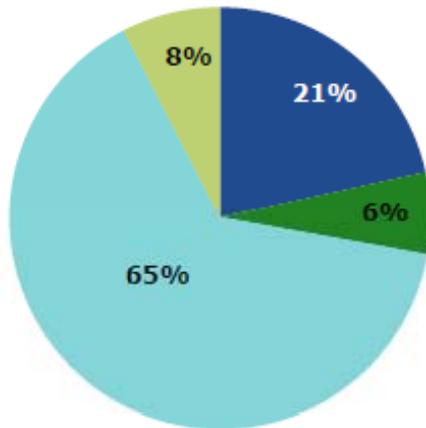
**Total: Loss & LAE: 73.9%      Expected Rate Inadequacy: 2.7%**

### Notes:

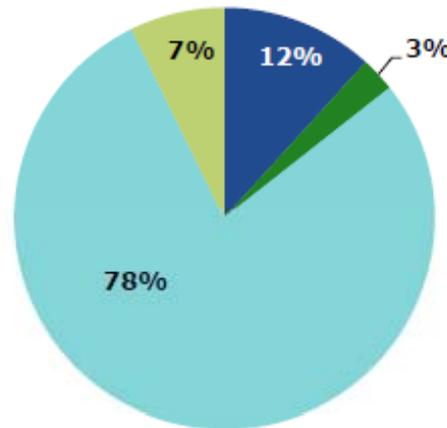
- 1) Excludes A-Rated Policies
- 2) Data as of 06/30/2013

# Commercial Residential Wind-Only is About Half of Citizens Total C-R Exposure...

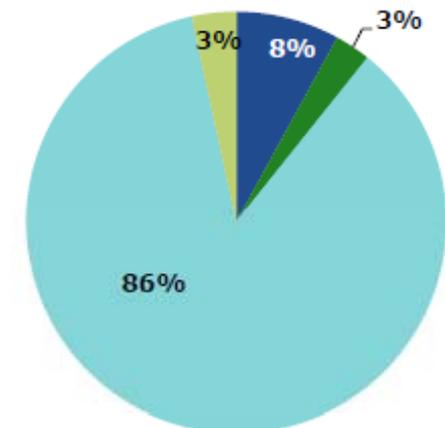
Building Count



Inforce Premium



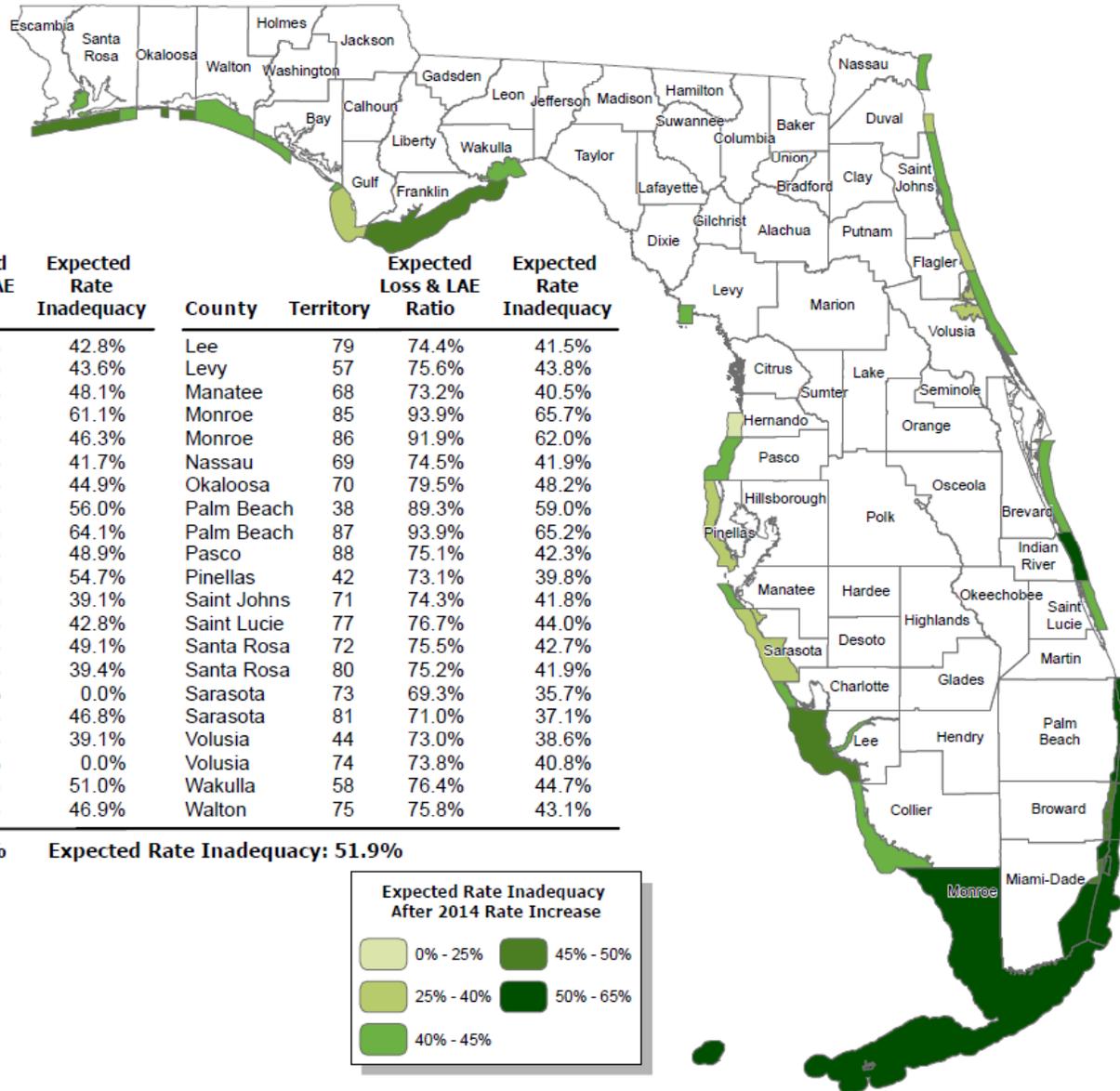
Total Insured Value



■ Apartment Bldg. ■ Homeowners Assn. ■ Condo Assn. ■ Other Comm. Res.

	Apartment Bldg.	Homeowners Assn.	Condo Assn.	Other Comm. Res.	Total
Policy Count	3,750	300	5,320	741	10,111
Building Count	6,301	1,847	18,932	2,214	29,294
Inforce Premium	\$23,469,666	\$5,309,149	\$156,859,097	\$14,572,063	\$200,209,975
Total Insured Value	\$3,531,037,871	\$1,229,858,896	\$37,969,999,599	\$1,513,491,738	\$44,244,388,104

# ...And Commercial Residential Wind-Only Rates are Severely Inadequate All Over Florida



**Notes:**

- 1) Excludes A-Rated Policies
- 2) Data as of 06/30/2013

# Commercial Residential Wind-Only Rate Adequacy Breakdown

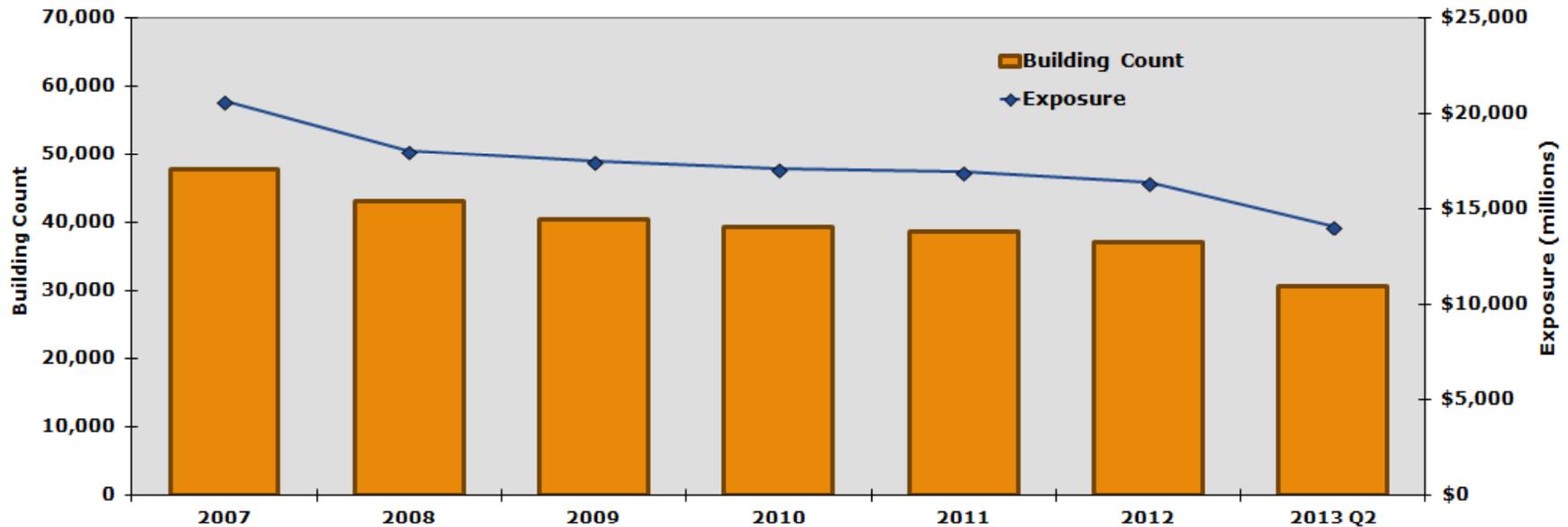
Indicated Total Rate Change Range		Inforce Policy Count	Inforce Premium (at 2014 Rate Level)	Average Inforce Premium (at 2014 Rate Level)	Expected Projected Loss & LAE Ratio	Expected Rate Need Using 2014 Rates	Total Insured Value
Minimum	Maximum						
Below	20%	699	\$721,336	\$1,032	62.3%	17.9%	\$ 129,550,274
20%	30%	3,074	\$4,856,162	\$1,580	67.3%	26.8%	\$ 794,437,350
30%	40%	3,432	\$26,649,362	\$7,765	70.4%	34.5%	\$ 5,111,567,162
40%	50%	3,354	\$46,582,327	\$13,889	77.7%	45.0%	\$ 11,412,261,468
50%	60%	630	\$11,635,300	\$18,469	83.0%	52.9%	\$ 2,744,327,760
60%	70%	2,787	\$60,221,905	\$21,608	93.5%	65.5%	\$ 12,827,736,991
70%	Above	1,490	\$702,230	\$471	177.7%	189.7%	\$ 73,364,888
<b>TOTAL</b>		<b>15,466</b>	<b>\$151,368,621</b>	<b>\$9,787</b>	<b>83.2%</b>	<b>51.9%</b>	<b>\$ 33,093,245,893</b>

**Notes:**

- 1) Excludes A-Rated Policies
- 2) Data as of 06/30/2013

**Commercial Non-Residential:  
A Questionable Market for Citizens**

# Commercial Non-Residential Building Count and Exposure Has Been Stable in Recent Years

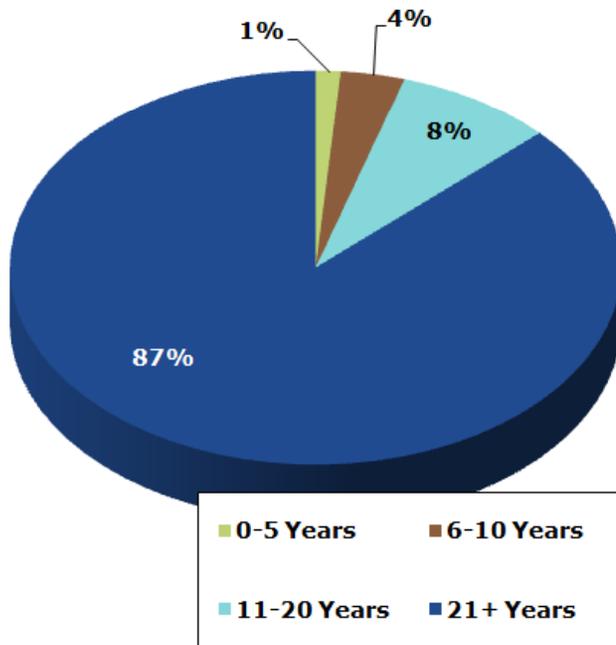


	Coastal Account			Commercial Lines Account			Total		
	Number of Policies	Number of Buildings	Exposure (millions)	Number of Policies	Number of Buildings	Exposure (millions)	Number of Policies	Number of Buildings	Exposure (millions)
2007	35,397	45,919	\$19,665	1,750	1,750	\$1,018	37,147	47,669	\$20,683
2008	32,166	42,227	\$17,675	760	760	\$323	32,926	42,987	\$17,998
2009	29,539	39,149	\$16,552	771	1,194	\$921	30,310	40,343	\$17,473
2010	28,248	37,585	\$15,794	1,130	1,659	\$1,312	29,378	39,244	\$17,105
2011	27,042	36,473	\$15,230	1,413	2,041	\$1,656	28,455	38,514	\$16,885
2012	25,455	34,675	\$14,537	1,544	2,262	\$1,790	26,999	36,937	\$16,327
2013 Q2	19,910	28,193	\$12,327	1,557	2,287	\$1,755	21,467	30,480	\$14,082
<b>% Change from 2012 to 2Q 2013</b>	<b>-21.8%</b>	<b>-18.7%</b>	<b>-15.2%</b>	<b>0.8%</b>	<b>1.1%</b>	<b>-2.0%</b>	<b>-20.5%</b>	<b>-17.5%</b>	<b>-13.7%</b>

# Commercial Non-Residential Buildings Are Generally Older, Wind-Only Policies

Age Range	Building Count
0-5 Years	401
6-10 Years	1,033
11-20 Years	2,556
21+ Years	26,490
<b>Total</b>	<b>30,480</b>

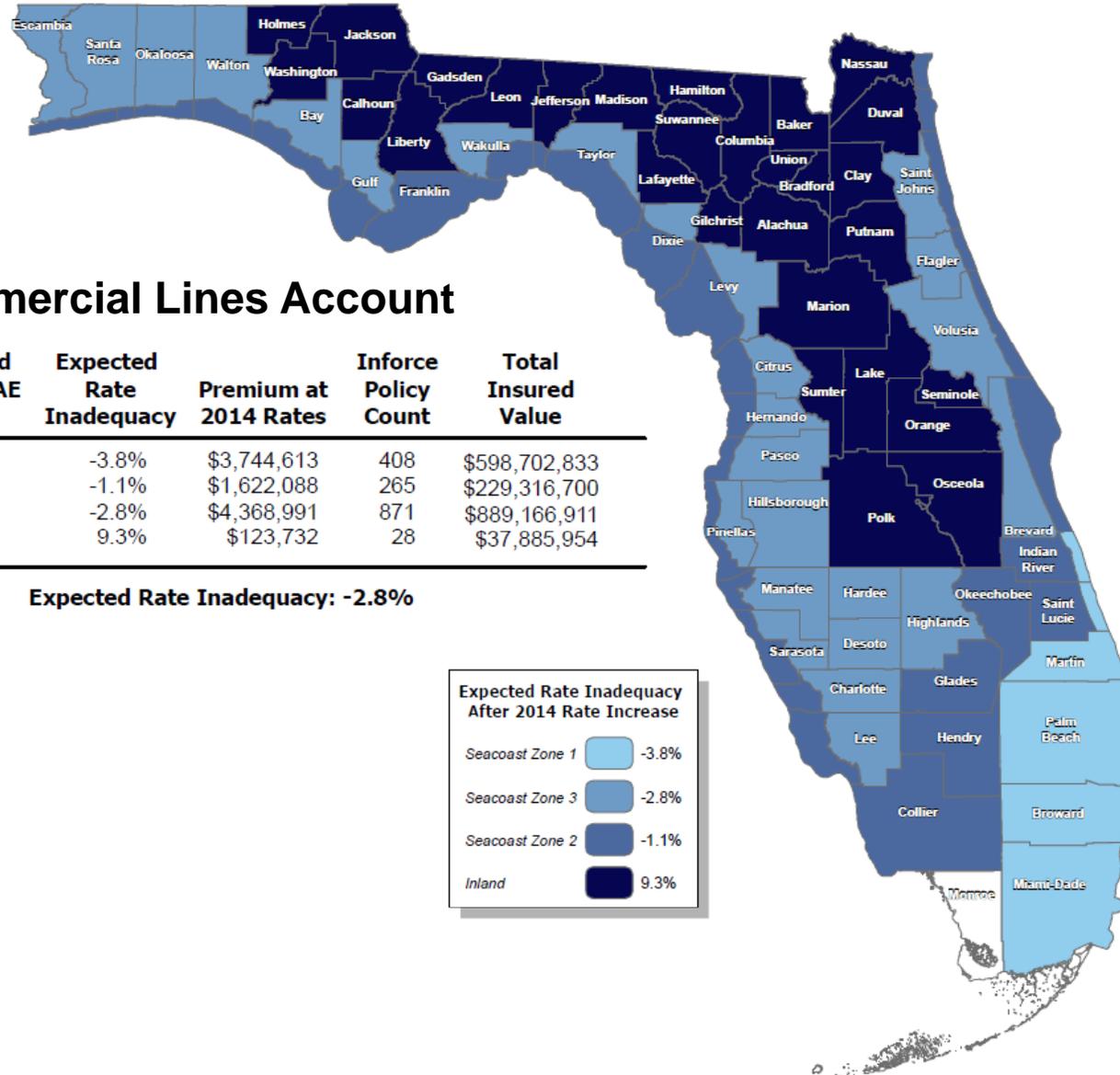
Building Count by Age Range



		Structure Coverage Range		
		\$1,000,000 and Less	\$1,000,001 to \$2,500,000	TOTAL
Commercial Non-Residential MULTI-PERIL	Building Count	1,986	622	2,608
	Exposure	\$908,345,298	\$1,193,058,100	\$ 2,101,403,398
Commercial Non-Residential WIND-ONLY	Building Count	27,869	3	27,872
	Exposure	\$11,928,910,853	\$5,800,000	\$ 11,934,710,853
Commercial Non-Residential TOTAL	Building Count	29,855	625	30,480
	Exposure	\$ 12,837,256,151	\$ 1,198,858,100	\$ 14,036,114,251

Data as of 06/30/2013

# Commercial Non-Residential Multi-Peril Rates Are Generally Close to Adequate, Except Along Coast

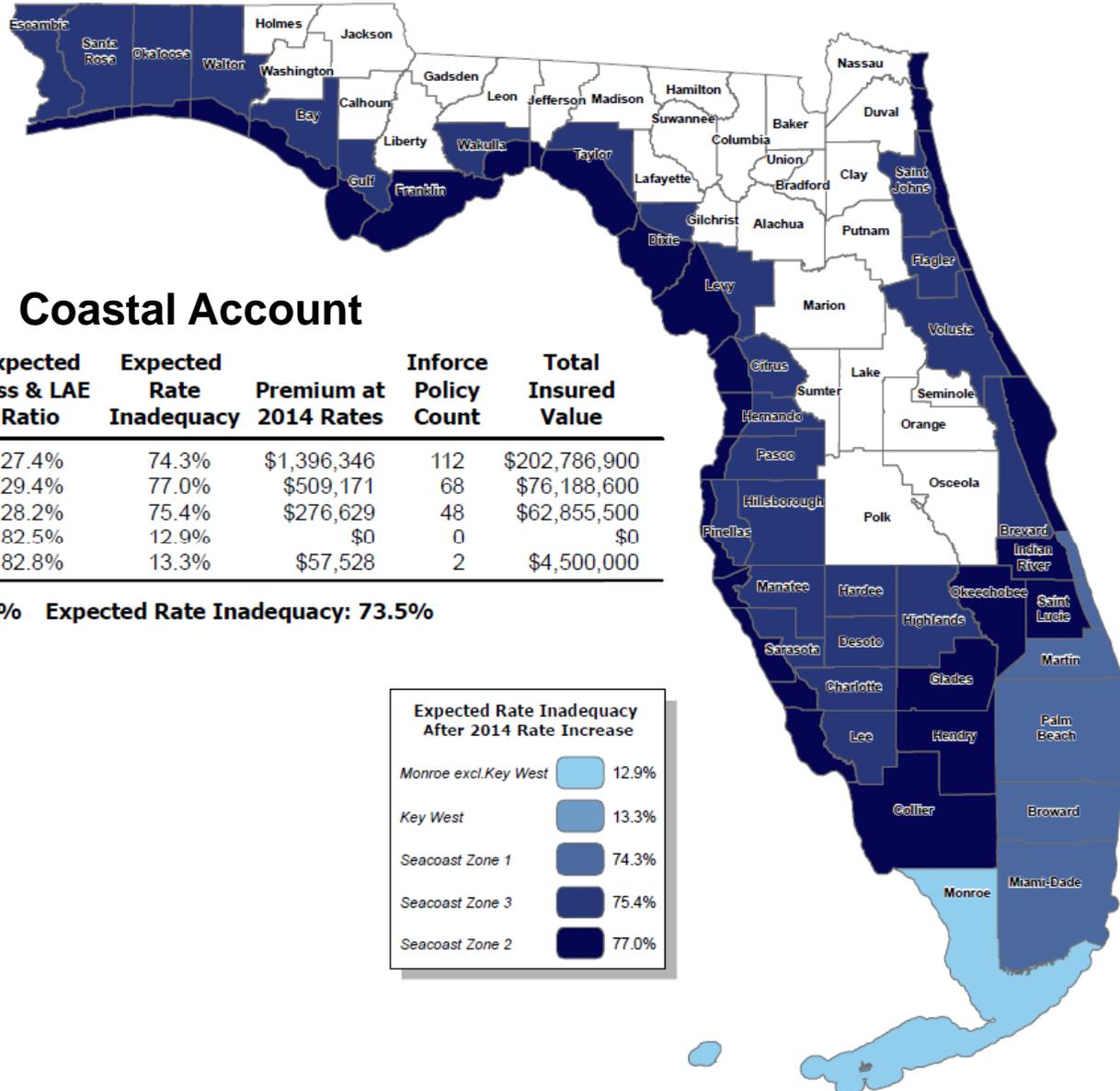


## Commercial Lines Account

Territory	Expected Loss & LAE Ratio	Expected Rate Inadequacy	Premium at 2014 Rates	Inforce Policy Count	Total Insured Value
Seacoast Zone 1	70.3%	-3.8%	\$3,744,613	408	\$598,702,833
Seacoast Zone 2	72.3%	-1.1%	\$1,622,088	265	\$229,316,700
Seacoast Zone 3	71.1%	-2.8%	\$4,368,991	871	\$889,166,911
Inland	79.9%	9.3%	\$123,732	28	\$37,885,954

**Total: Loss & LAE: 71.1%    Expected Rate Inadequacy: -2.8%**

# Commercial Non-Residential Coastal Multi-Peril Rates Should be 70-80% Higher (ex-Monroe)

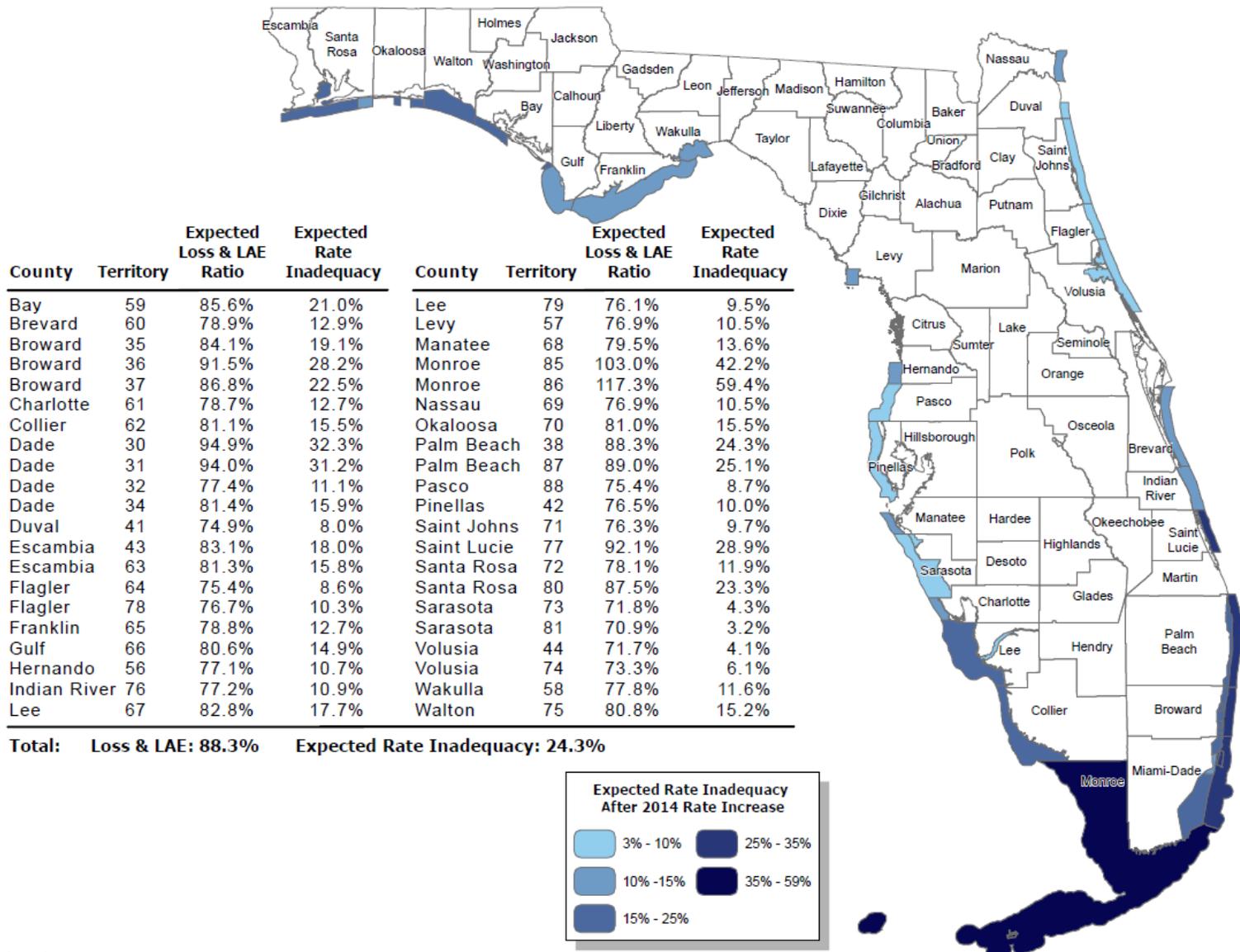


## Coastal Account

Territory	Expected Loss & LAE Ratio	Expected Rate Inadequacy	Premium at 2014 Rates	Inforce Policy Count	Total Insured Value
Seacoast Zone 1	127.4%	74.3%	\$1,396,346	112	\$202,786,900
Seacoast Zone 2	129.4%	77.0%	\$509,171	68	\$76,188,600
Seacoast Zone 3	128.2%	75.4%	\$276,629	48	\$62,855,500
Monroe excl. Key West	82.5%	12.9%	\$0	0	\$0
Key West	82.8%	13.3%	\$57,528	2	\$4,500,000

**Total: Loss & LAE: 126.8% Expected Rate Inadequacy: 73.5%**

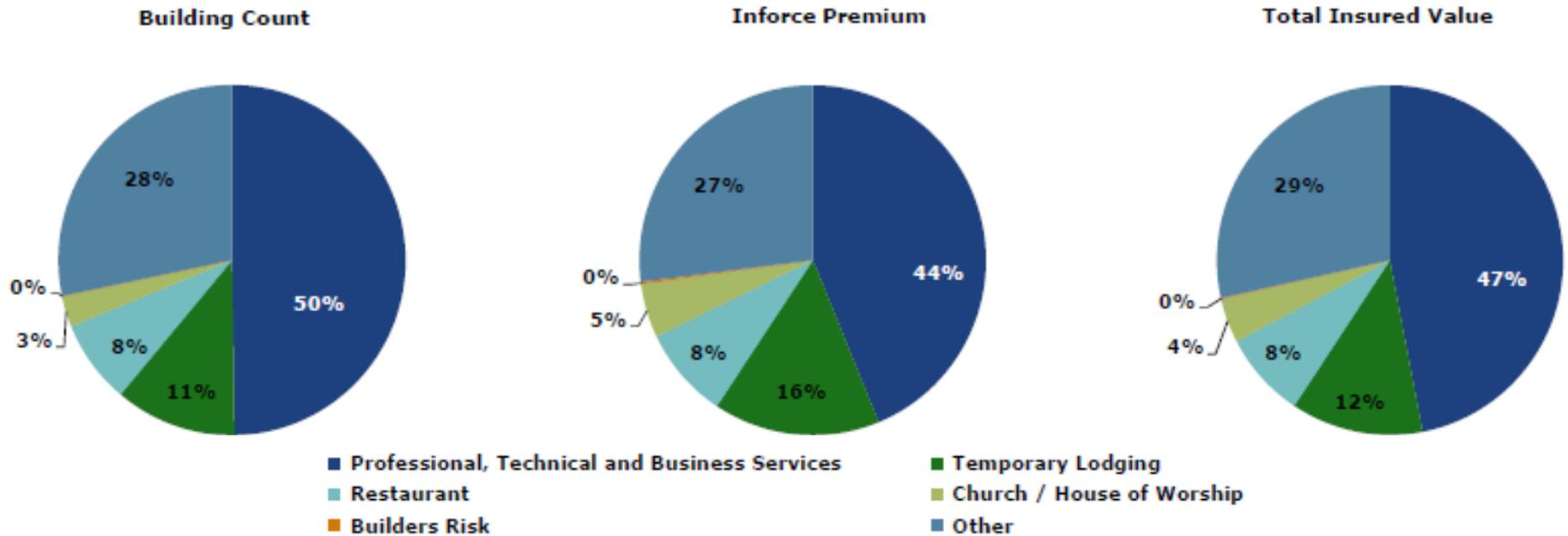
# Commercial Non-Residential Wind-Only Rates Should be 5-30% Higher in Most Areas



# Commercial Non-Residential Wind-Only Rate Adequacy Breakdown

Indicated Total Rate Change Range		Inforce Policy Count	Inforce Premium (at 2014 Rate Level)	Average Inforce Premium (at 2014 Rate Level)	Expected Projected Loss & LAE Ratio	Expected Rate Need Using 2014 Rates	Total Insured Value
Minimum	Maximum						
Below	0%	0	\$0	\$0	0.0%	0.0%	\$ -
0%	10%	2,529	\$6,778,856	\$2,680	72.0%	4.5%	\$ 1,512,484,851
10%	20%	7,963	\$31,434,606	\$3,948	81.1%	15.6%	\$ 4,763,095,338
20%	30%	6,742	\$27,582,561	\$4,091	88.2%	24.2%	\$ 3,768,310,375
30%	40%	1,074	\$6,548,505	\$6,097	94.7%	32.1%	\$ 686,431,935
40%	50%	787	\$6,904,024	\$8,773	103.0%	42.2%	\$ 610,478,457
50%	Above	621	\$6,861,080	\$11,048	117.3%	59.4%	\$ 593,909,897
<b>TOTAL</b>		<b>19,716</b>	<b>\$86,109,630</b>	<b>\$4,368</b>	<b>88.3%</b>	<b>24.3%</b>	<b>\$ 11,934,710,853</b>

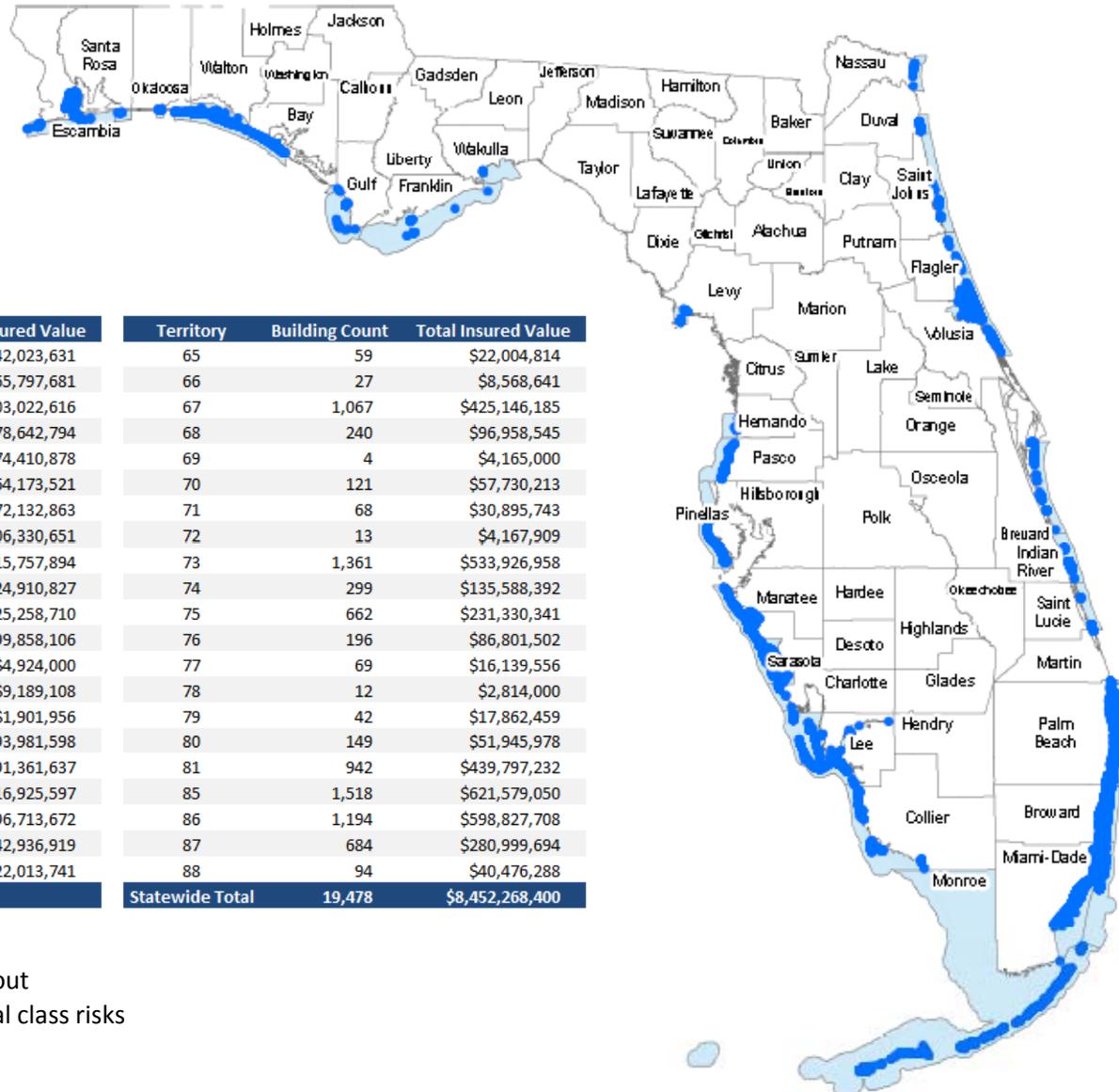
# Commercial Non-Residential Wind-Only Counts, Premium and Insured Value



	Professional, Technical and Business Services	Temporary Lodging	Restaurant	Church / House of Worship	Builders Risk	Other	Total
Policy Count	11,418	1,074	1,890	500	14	4,785	19,681
Building Count	13,873	3,158	2,151	793	14	7,883	27,872
Inforce Premium	\$33,906,906	\$12,041,372	\$6,582,487	\$3,839,240	\$174,281	\$20,889,799	\$77,434,085
Total Insured Value	\$5,629,419,562	\$1,479,176,562	\$956,106,633	\$492,180,700	\$12,835,776	\$3,411,311,280	\$11,981,030,513

# Commercial Non-Residential Wind-Only

## Where are the Buildings Located?



Territory	Building Count	Total Insured Value	Territory	Building Count	Total Insured Value
30	1,014	\$542,023,631	65	59	\$22,004,814
31	431	\$165,797,681	66	27	\$8,568,641
32	1,467	\$703,022,616	67	1,067	\$425,146,185
34	1,977	\$878,642,794	68	240	\$96,958,545
35	2,561	\$1,074,410,878	69	4	\$4,165,000
36	565	\$264,173,521	70	121	\$57,730,213
37	2,474	\$1,072,132,863	71	68	\$30,895,743
38	4,523	\$1,906,330,651	72	13	\$4,167,909
41	43	\$15,757,894	73	1,361	\$533,926,958
42	762	\$324,910,827	74	299	\$135,588,392
43	1,199	\$525,258,710	75	662	\$231,330,341
44	707	\$299,858,106	76	196	\$86,801,502
56	13	\$4,924,000	77	69	\$16,139,556
57	40	\$9,189,108	78	12	\$2,814,000
58	7	\$1,901,956	79	42	\$17,862,459
59	546	\$193,981,598	80	149	\$51,945,978
60	477	\$191,361,637	81	942	\$439,797,232
61	35	\$16,925,597	85	1,518	\$621,579,050
62	460	\$196,713,672	86	1,194	\$598,827,708
63	108	\$42,936,919	87	684	\$280,999,694
64	69	\$22,013,741	88	94	\$40,476,288
<b>Statewide Total</b>			<b>19,478</b>		<b>\$8,452,268,400</b>

### Notes:

- 1) Excludes risks tagged for takeout
- 2) Building Count excludes special class risks
- 3) Data as of 09/30/2013

# **Personal Lines Occupancy and Residency Issues**

# Personal Lines Policies Occupancy Types

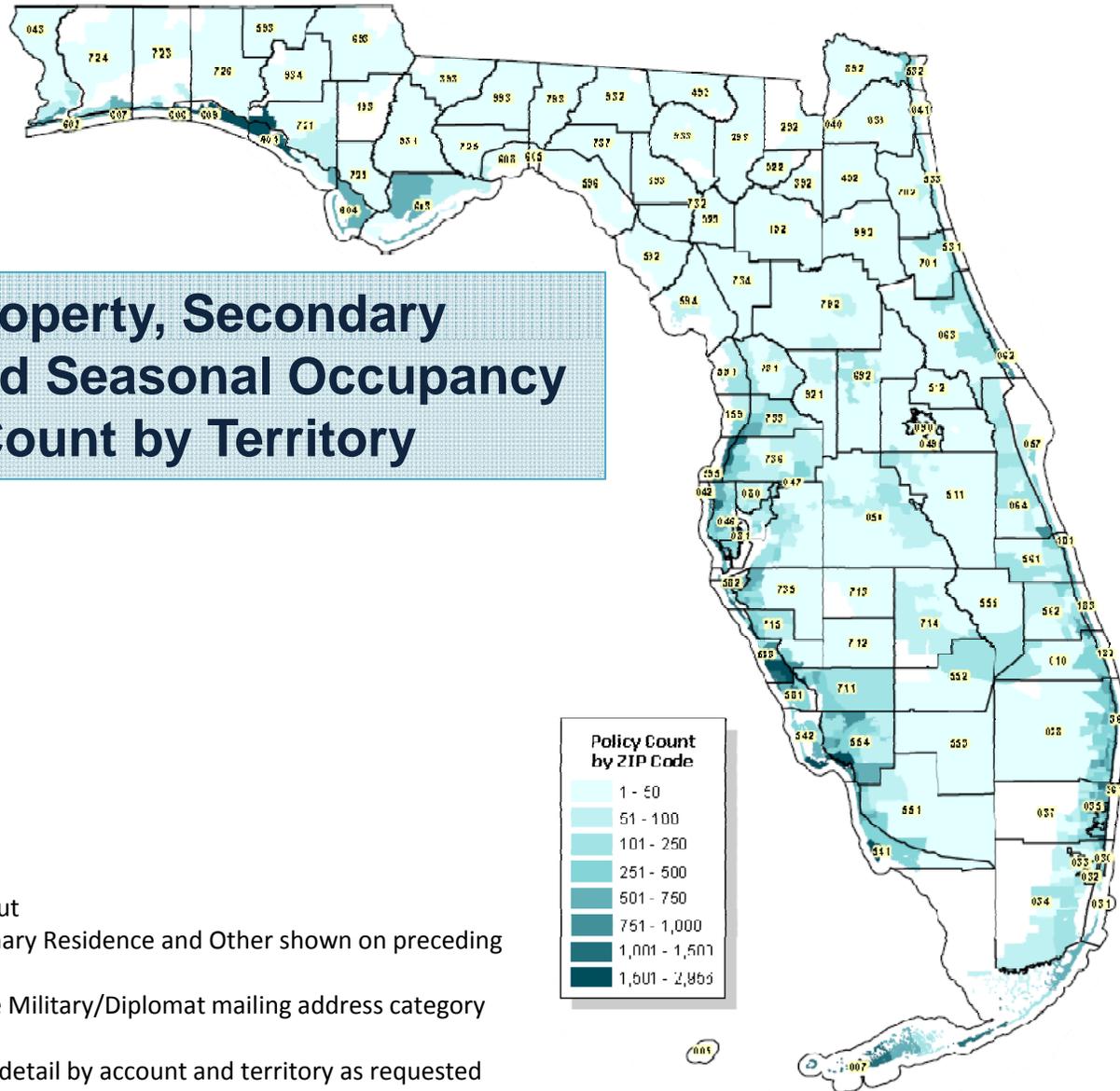
Citizens could adjust Seasonal surcharge or institute surcharges by occupancy type as written

Personal Lines Owner Occupied and Not Owner Occupied as of 8/31/13												
Policy Form	Primary Residence		Rental Property		Secondary Residence		Seasonal		Other		Total	
	Policy Count	Rate Need at 2014 Rates	Policy Count	Rate Need at 2014 Rates	Policy Count	Rate Need at 2014 Rates	Policy Count	Rate Need at 2014 Rates	Policy Count	Rate Need at 2014 Rates	Policy Count	Rate Need at 2014 Rates
Dwelling (DP1, DP3, and DW2)	6,139	6.0%	280,950	9.9%	3,224	7.5%	15,530	12.2%	97	0.1%	305,940	9.9%
Homeowners (HO3, HO8, and HW2)	551,528	11.5%	0	N/A	11,703	8.3%	13,745	32.5%	11	-8.0%	576,987	11.9%
Renters (HO4, HW4, MHO4, and MHW4)	18,738	N/A	0	N/A	116	N/A	124	N/A	0	N/A	18,978	N/A
Condo Owners (HO6 and HW6)	76,716	14.6%	40,478	12.3%	16,589	-0.7%	24,515	24.8%	0	N/A	158,298	14.3%
Mobile Home (MDP1, MHO3, MD1, and MW2)	65,106	N/A	21,114	N/A	6,572	N/A	35,758	N/A	34	N/A	128,584	N/A
<b>Total for all Forms</b>	<b>718,227</b>	<b>11.6%</b>	<b>342,542</b>	<b>10.0%</b>	<b>38,204</b>	<b>5.7%</b>	<b>89,672</b>	<b>26.0%</b>	<b>142</b>	<b>-0.3%</b>	<b>1,188,787</b>	<b>11.6%</b>
<b>% of Total</b>	<b>60.4%</b>		<b>28.8%</b>		<b>3.2%</b>		<b>7.5%</b>		<b>0.0%</b>		<b>100.0%</b>	

## Notes:

- 1) Excludes risks tagged for takeout and DP1 rate need
- 2) "Other" category includes Farms, Ranches, and properties under construction
- 3) Seasonal category includes seasonal 3-6 months, seasonal > 6 months, and seasonal rental

# Personal Lines Policies Occupancy Types Around Florida for Non-Florida Mailing Addresses



## Rental Property, Secondary Residence, and Seasonal Occupancy Policy Count by Territory

### Notes:

- 1) Excludes risks tagged for takeout
- 2) Excludes the categories of Primary Residence and Other shown on preceding exhibit
- 3) Excludes the 435 policies in the Military/Diplomat mailing address category
- 4) Data as of 08/31/2013
- 5) Supplemental exhibit provides detail by account and territory as requested

# Personal Lines Policies Mailing Address

Issues with using policyholder's mailing address to determine if customer is a FL resident

- Mailing address is not indicative of FL residency
- Post office boxes distort results and are difficult to exclude
- Premium can be paid by someone else other than the insured

Mailing Address Categories	8/31/13 Policy Count	Percent of Total	Rate Need at 2014 Rates
Florida Mailing Address	998,601	84.0%	10.8%
<i>Mailing Matches Property Address</i>	728,970	73.0%	10.3%
<i>Mailing Does Not Match Property Address</i>	269,631	27.0%	12.8%
US Mailing Address (not FL)	163,979	13.8%	19.0%
Outside of US (not Military/Diplomat)	25,772	2.2%	13.2%
Military/Diplomat	435	0.0%	8.9%
<b>Total</b>	<b>1,188,787</b>	<b>100.0%</b>	<b>11.6%</b>

# Personal Lines Policies by Insured Value (\$'s in 000's)

Total Insured Value Ranges	PLA PRM			Coastal PRM			Coastal PRW		
	Policy Count	Total Insured Value	Premium (with surcharges)	Policy Count	Total Insured Value	Premium (with surcharges)	Policy Count	Total Insured Value	Premium (with surcharges)
\$100,000 and Less	594	\$53,651,342	\$673,009	94	\$8,461,088	\$124,157	54	\$4,889,386	\$42,891
\$100,001 to \$200,000	87,099	\$14,831,580,436	\$152,024,971	14,963	\$2,564,603,379	\$33,414,889	13,617	\$2,331,341,421	\$17,501,248
\$200,001 to \$300,000	161,268	\$39,718,391,088	\$348,640,404	25,987	\$6,378,007,869	\$72,871,714	37,656	\$9,447,471,595	\$61,727,413
\$300,001 to \$400,000	77,790	\$26,651,150,221	\$200,744,794	12,030	\$4,132,879,304	\$43,100,793	30,928	\$10,754,770,523	\$64,606,670
\$400,001 to \$500,000	26,113	\$11,495,166,450	\$80,357,499	5,013	\$2,212,099,392	\$22,726,531	19,856	\$8,821,622,066	\$51,477,994
\$500,001 to \$600,000	9,126	\$4,954,607,934	\$33,895,151	2,157	\$1,175,805,691	\$12,041,619	11,423	\$6,236,963,341	\$35,538,900
\$600,001 to \$700,000	4,269	\$2,754,985,218	\$18,504,260	1,186	\$769,788,683	\$7,766,685	7,688	\$4,980,637,911	\$27,883,911
\$700,001 to \$800,000	1,755	\$1,303,366,052	\$9,079,951	521	\$386,751,907	\$3,760,292	4,276	\$3,185,302,060	\$17,393,642
\$800,001 to \$900,000	964	\$814,726,531	\$5,470,087	333	\$281,951,220	\$2,562,879	3,285	\$2,787,958,488	\$14,765,019
\$900,001 to \$1,000,000	629	\$596,809,039	\$4,027,090	210	\$200,102,775	\$1,896,927	2,846	\$2,705,904,132	\$13,706,868
\$1,000,001 to \$1,100,000	395	\$410,404,240	\$2,804,485	169	\$176,664,576	\$1,651,658	2,058	\$2,145,030,107	\$10,315,395
\$1,100,001 to \$1,200,000	175	\$201,481,838	\$1,309,302	103	\$118,729,868	\$956,972	1,274	\$1,463,184,546	\$6,376,755
\$1,200,001 to \$1,300,000	121	\$150,800,832	\$919,773	78	\$97,036,251	\$743,836	1,320	\$1,649,696,061	\$6,825,278
\$1,300,001 to \$1,400,000	90	\$120,868,256	\$730,477	67	\$89,876,190	\$688,870	1,287	\$1,730,929,831	\$7,016,591
\$1,400,001 to \$1,500,000	29	\$41,845,008	\$237,973	14	\$20,304,828	\$196,932	154	\$220,381,414	\$906,480
\$1,500,001 +	16	\$25,304,776	\$126,235	5	\$8,222,620	\$59,838	120	\$200,881,608	\$785,143
<b>Total</b>	<b>370,433</b>	<b>\$104,125,139,261</b>	<b>\$859,545,461</b>	<b>62,930</b>	<b>\$18,621,285,641</b>	<b>\$204,564,592</b>	<b>137,842</b>	<b>\$58,666,964,490</b>	<b>\$336,870,198</b>

## Notes:

- 1) Excludes risks tagged for takeout
- 2) The total insured value is the sum of coverages A through D. Policies where the primary structure (coverage A) is valued over \$1 Million are in the process of being non-renewed.
- 3) Data as of 09/30/2013

# Wind-Only vs. Multi-Peril

# Non-Wind Loss Ratios for HO-3 Multi-Peril Policies are Highest in South Florida and Sinkhole Alley

## Loss Ratio Excluding Hurricane and Sinkhole Perils

Territory	County Name	Territory Description	Personal Lines Account		Coastal Account	
			Calendar Year Non-Sinkhole Loss Ratio	Policy Count <small>(inforce as of 09/30/13)</small>	Calendar Year Non-Sinkhole Loss Ratio	Policy Count <small>(inforce as of 09/30/13)</small>
30	<b>Miami-Dade</b>	Miami Beach	23%	82	29%	522
31		Coastal Region	45%	56	19%	441
32		Miami	52%	7,579	31%	1,674
33		Hialeah	<b>84%</b>	<b>10,212</b>	n/a	0
34		Remainder of County excluding Hialeah, Miami, and Miami Beach	66%	76,384	56%	18,725
595	<b>Pasco</b>	Coastal Region	62%	354	18%	5,937
736		Remainder of County	23%	27,530	0%	22
35	<b>Broward</b>	Hollywood & Ft. Lauderdale	50%	5,984	24%	4,403
361		Coastal Region	14%	31	17%	347
37		Remainder of County excluding Hollywood and Ft. Lauderdale	51%	44,994	33%	7,784
542	<b>Lee</b>	Coastal Region	29%	71	7%	591
554		Remainder of County	43%	2,925	9%	303
<b>Statewide Total</b>			<b>41%</b>	<b>370,433</b>	<b>33%</b>	<b>62,930</b>

### Notes:

- 1) Calendar Year Loss Ratio includes bulk reserves
- 2) Calendar Year Non-Sinkhole Loss Ratio excludes hurricane and sinkhole claims; includes wind portion of premium but excludes sinkhole portion of premium
- 3) Losses from 01/01/2011 to 09/30/2013
- 4) Territories with the largest loss ratios are in bold text; other territories within each county are shown for perspective

# Average Premium for Wind-Only Policies

Homeowners (HW-2) average premium = \$2,045

- 60% of HW-2 policy premiums are between \$895 and \$2,895

Condominium Unit Owner (HW-6) average premium = \$703

- 60% of HW-6 policy premiums are between \$236 and \$928

Dwelling (DW-2) average premium = \$1,522

- 60% of DW-2 policy premiums are between \$633 and \$2,175

**Notes:**

- 1) Average premium does not include surcharges
- 2) Data as of 09/30/2013
- 3) Supplemental exhibit contains data by territory

# Citizens Writes New Wind-Only Policies at a Pace Consistent with Real Estate Market Activity

Personal Residential Wind Only		
Calendar Year	New Business Policy Count	% Change
2011	26,730	
2012	28,399	6%
2013	28,028	-1%



# Depopulating Commercial Coastal Risks from Citizens

Presented by Michael Lyons  
President & CEO  
Weston Insurance Company

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# About Weston Insurance Co

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- Weston Insurance Company (“**Weston**”) is an admitted, Florida-domiciled property insurance company, located in Coral Gables, Florida.
- Weston’s initial surplus was \$50 million, raised entirely from private sources.
- Weston focuses specifically on wind-only insurance, insuring losses from windstorms (i.e. hurricanes, tropical storms, tornadoes) and hail.
- Weston began writing insurance in Florida on December 21, 2012.
- Primarily through take-outs from Citizens’ Coastal Account, Weston has rapidly achieved a meaningful market presence in Florida:
- Weston currently has 24,500 policyholders in Florida, in-force premium of approx. \$105 million and insures approx. \$20 billion of exposure:
  - Commercial Residential: 62.0%
  - Personal Residential: 28.6%
  - Commercial Non-Residential: 9.4%
- Weston’s rates match those of Citizens’ Coastal Account wind-only program.



# Citizens' CRM Program

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- Citizens Property Insurance Corporation (“**Citizens**”) writes coverage for commercial residential properties in the Coastal Account through 2 separate programs:
  - The Commercial Residential Wind-Only (“**CRW**”) program
  - The Commercial Residential Multi-Peril (“**CRM**”) program
- CRM program was formed in 2007 by the Florida state legislature, so Citizens could provide basic perils coverage (Group I: e.g. fire, lightning, sprinkler leakage) to commercial residential properties, in addition to windstorm & hail coverage.
- CRM program contains just 900 policies, but has \$12.7 billion exposure to loss.
- Average CRM policy is for a large condo assoc.: \$14.1 million replacement value
- 94% of the CRM program exposure is in Dade, Broward and Palm Beach counties.



# The Private Market

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- Through the CRM program, Citizens offers basic perils (Group I perils) coverage for commercial residential risks **despite** there being a robust and competitive private insurance market for these risks.
- Pricing in the private insurance market for commercial basic perils coverage is at or near an historical low point.
- Weston was able to identify 6 insurance carriers rated “A” or higher by AM Best **AND** with at least \$1.5 billion of surplus, actively quoting and offering basic perils coverage for large, coastal commercial residential properties in Florida.
- The private insurance market writes commercial basic perils (Group I) coverage at practically the same rates as Citizens.
- Weston writes commercial wind-only coverage at the **exact same rates** as Citizens, and has targeted for takeout and/or quoted in the open market up to 20% of the exposure currently in the CRM program.
- Why then are Citizens’ CRM policies not moving into the private insurance market?



# The CRM Program Issue

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- Citizens is effectively offering package discounts through its CRM program: adding coverage for additional perils to a commercial wind-only policy results in lower premiums.
- Weston's underwriters rated policies representing 13.6% of the Coastal Account CRM program's exposure, and found for those policies sampled, a CRM policy costs 16.5% less than the combination of a Weston wind-only policy (or a Citizens' CRW program wind-only policy) + a private market basic perils policy:
- Taking a Citizens CRW wind-only policy and **adding** coverage for sinkhole losses to the Group II perils coverage results in a 16.4% rate **decrease** (in the CRM program).

## **Citizens CRW Program**

Group II coverages: Windstorm & Hail

Group II premium: \$0.618 / \$100

## **Citizens CRM Program**

Group II coverages: Windstorm & Hail + **Sinkhole**

Group II premium: \$0.517 / \$100

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# Recommendation

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- Subsequent to a Technical Bulletin released November 6, 2013, the CRM program now offers 15%+ discounts for policies dropping sinkhole coverage, increasing the rate arbitrage between the CRW and CRM programs for Group II perils coverage:
- Therefore, taking the same sampled policies described previously and **dropping** coverage for sinkhole losses results in a further 15%+ rate **decrease**:

## **Citizens CRW Program**

Group II coverages: Windstorm & Hail

Group II premium: \$0.618 / \$100

## **Citizens CRM Program**

Group II coverages: Windstorm & Hail

Group II premium: \$0.439 / \$100

- Thus, private market insurers would need to offer basic perils (Group I) coverage for **negative** premium in order to be competitive with Citizens' CRM program.
- We believe it would be appropriate for the legislature to eliminate the CRM program.



# THANK YOU



THE FLORIDA SENATE

APPEARANCE RECORD

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

1/14/14 Meeting Date

Topic Citizens Bill Number (if applicable)

Name Michael Lyons Amendment Barcode (if applicable)

Job Title CEO

Address 2525 Ponce de Leon Blvd Phone 888.800.5002

City Coral Gables State FL Zip 33143 E-mail Michael.Lyons@weston-ins.com

Speaking: For Against Information

Representing Weston 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)

01/11/11  
Meeting Date

Topic Citizens Proposals Bill Number N/A (if applicable)  
Name Barry Silberman Amendment Barcode \_\_\_\_\_ (if applicable)  
Job Title President (CEO) LED  
Address \_\_\_\_\_ Phone 513 3757  
Street Tallahassee City \_\_\_\_\_ State FL Zip \_\_\_\_\_  
E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing Citizens Proposals - Senate

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.

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# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:  
Appropriations, *Chair*  
Banking and Insurance  
Rules

SELECT COMMITTEE:  
Select Committee on Indian River Lagoon  
and Lake Okeechobee Basin, *Chair*  
Select Committee on Patient Protection  
and Affordable Care Act, *Chair*

JOINT COMMITTEE:  
Joint Legislative Budget Commission,  
*Alternating Chair*

SENATOR JOE NEGRON  
32nd District

January 9, 2014

Chairman David Simmons  
Senate Banking and Insurance Committee  
320 Knott  
Tallahassee, FL 32399

Re: Excused Absence Request

Dear Chairman Simmons:

This letter shall serve as my formal request for an excused absence from the Senate Banking and Insurance Committee Meeting on Tuesday, January 14, 2014. This absence is necessary as I have a previously scheduled event in my district.

Thank you for your consideration of this request.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Joe Negron".

Joe Negron  
State Senator  
District 32

JN/cl

c: James Knudson, Staff Director

REPLY TO:

3500 SW Corporate Parkway, Suite 204, Palm City, Florida 34990 (772) 219-1665 FAX: (772) 219-1666  
 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

DON GAETZ  
President of the Senate

GARRETT RICHTER  
President Pro Tempore



**2:53:41 PM** Senator Margolis - would like to see 2 comparable proposals  
**2:55:24 PM** Senator Simmons - very competitive market  
**2:55:54 PM** Senator Clemens - do we have a sense of where bldgs are located geographically  
**2:57:51 PM** Senator Simmons what is the portion of the market (above \$10 million)  
**2:58:33 PM** Senator Richter - interested in seeing commercial residential  
**3:00:24 PM** Senator Simmons - Lets defer on this issue until next meeting when they have information  
**3:00:55 PM** Proposal #3 - Remove from the glide path all commercial non-residential policies and restore actuarially sound rates  
**3:01:21 PM** Barry Gilway  
**3:03:22 PM** Senator Simmons - What is the potential liability of Citizens  
**3:04:02 PM** Senator Lee - what is the avg. policy premium in this category  
**3:05:37 PM** Senator Lee - how an increase in insurance would decrease property value  
**3:07:56 PM** Senator Simmons - residential policy holders being assessed for commercial property owners  
**3:09:30 PM** Proposal #4 - Shift 5 % of the Citizens Policyholder Surcharge from the Personal Lines Account to the Coastal Account  
**3:11:42 PM** Barry Gilway comments  
**3:12:59 PM** Senator Simmons  
**3:15:08 PM** Senator Margolis - coastal area properties will be devalued  
**3:18:04 PM** Senator Detert comments  
**3:18:07 PM** Senator Clemens comments  
**3:18:36 PM** Senator Montford comments  
**3:20:13 PM** Senator Hays comments  
**3:21:18 PM** Senator Simmons  
**3:23:08 PM** Senator Margois comments  
**3:24:31 PM** Senator Simmons  
**3:26:38 PM** Senator Lee  
**3:29:43 PM** Senator Simmons  
**3:30:30 PM** Senator Richter  
**3:30:48 PM** Tab 1 - SB 416 - Sentor Simpson  
**3:31:04 PM** Questions  
**3:32:04 PM** Senator Hays - various deductables must be offered  
**3:33:32 PM** Senator Hays wants significant preventative measures before it hits the floor  
**3:34:17 PM** Senator Clemens - consumer protections?  
**3:36:28 PM** Senator Clemens followup (are there only going to be certain people allowed to do this work)  
**3:38:32 PM** Senator Clemens - issues about levels of how they will pay this out  
**3:39:28 PM** Senator Detert comments regarding protecting the consumers  
**3:42:02 PM** Senator Lee - remedies chg'd  
**3:43:24 PM** Senator Lee  
**3:50:34 PM** Senator Ring - what percent of sinkhole in the state are in your district  
**3:51:55 PM** Senator Diaz de la Portilla - how was 5 year warranty arrived at  
**3:52:46 PM** Senator Simmons need to come back next week  
**3:54:03 PM** Senator Diaz de la Portilla  
**3:54:46 PM** Senator Diaz de la Portilla - look at the consumer side of this and recourse  
**3:55:26 PM** Senator Margolis comments re taking care of Citizens Policy holders but not others  
**3:57:20 PM** Senator Diaz de la Portilla  
**3:57:34 PM** Move to rise - Senator Margolis