HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1495 Insurance
SPONSOR(S): Nelson
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Insurance, Business & Financial Affairs Policy Committee		Callaway	Cooper
2)	General Government Policy Council			
3)	Government Operations Appropriations Committee			
4)	Full Appropriations Council on General Government & Health Care			
5)				

SUMMARY ANALYSIS

The bill makes changes to the Florida Hurricane Catastrophe Fund (FHCF or fund) to reduce the exposure of the FHCF. The FHCF is a tax-exempt trust fund created after Hurricane Andrew as a form of reinsurance for residential property insurers. The fund reimburses insurers for a portion of their hurricane losses to residential property. For all residential property insurers, the FHCF must offer three options for reinsurance coverage. One of the three options is mandatory and thus must be purchased by all residential property insurers on their residential property exposure. One optional coverage, the Temporary Emergency Additional Coverage Options (TEACO), offers reinsurance for insurers below the mandatory coverage. The other, Temporary Increase In Coverage Limit Options (TICL) offers reinsurance for insurers above the mandatory coverage.

For the fund 2009-2010 contract year, which runs from June 1, 2009 – May 31, 2010, the fund faces a potential shortfall of approximately $19 billion, meaning the fund does not have sufficient liquidity to pay its potential claims. If the FHCF does not have enough money to pay its claims, assessments are levied against most property and casualty policyholders in Florida. Assessments, which could be up to 10 percent of premium, are levied for up to 30 years.

The FHCF's exposure reduction outlined in the bill is accomplished by an extension of the fund's TICL coverage until May 31, 2016 with an annual corresponding decrease in the percentage of reimbursement available from the fund under this option. Accordingly, insurers purchasing the TICL option will annually incur more of the claim losses reinsured with this coverage and thus will become less reliant on the FHCF for reimbursement of these losses.

The bill also makes changes to Citizens Property Insurance Corporation (Citizens). The rate freeze currently in place by law for Citizens' rates is allowed to expire but the resulting rate increases are limited to 10 percent on average statewide, 15 percent per rating territory, or 20 percent per individual policy. Citizens' rate increases are capped by these percentages until the rates are actuarially sound. Half of the funds generated by the Citizens' rate increases must be transferred to the Department of Financial Services for use by the My Safe Florida Home Program to fund hurricane mitigation grants. Citizens is also allowed to charge a 15 percent capital charge in its rates.

Rates for Citizens' policyholders should increase by a maximum of 20 percent per policy per year until Citizens' rates are actuarially sound. Rates for all residential property insurance policyholders will increase from June 1, 2010-May 31, 2016 due to the graduated reduction in the TICL coverage option. Eligible homeowners will be able to obtain state matching grants for installation of hurricane mitigation measures through the My Safe Florida Home Program due to the transfer of 50 percent of Citizens' rate increase funds to the program. Property insurance premiums for homeowners that install hurricane mitigation measures should decrease as a direct result of the installation.

The bill is effective on July 1, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida Hurricane Catastrophe Fund

Background

The Florida Hurricane Catastrophe Fund (FHCF or "fund") is a tax-exempt trust fund created after Hurricane Andrew as a form of reinsurance for residential property insurers.[1] The fund reimburses (reinsures) insurers for a portion of their hurricane losses to residential property. For all residential property insurers, the FHCF must offer three options for reinsurance coverage. One of the three options is mandatory and thus must be purchased by all residential property insurers on their residential property exposure. One optional coverage, the Temporary Emergency Additional Coverage Options (TEACO), offers reinsurance for insurers below the mandatory coverage. The other, Temporary Increase In Coverage Limit Options (TICL) offers reinsurance for insurers above the mandatory coverage. In addition to these three coverage options, the fund must offer specified insurers $10 million of additional reinsurance coverage. Also, the State Board of Administration (SBA) can offer another $4 billion of optional reinsurance for insurers above the TICL option of coverage.

The FHCF is administered by the SBA. Participating insurers choose a percentage level of reimbursement by the FHCF. By statute, insurers can select 45, 75, or 90 percent coverage reimbursement for losses that exceed its deductible/retention for each hurricane.[2] Most insurers choose the 90 percent reimbursement percentage.[3] This means once an insurer triggers FHCF coverage, 90 percent of its losses will be reimbursed by the FHCF, up to the insurer's limit of coverage. Insurers may purchase additional reinsurance in the private market to reimburse them for their hurricane losses in amounts not covered by the FHCF. Reinsurance in the private market can also be purchased for the coinsurance amount (e.g., 10 percent) that is the insurer's responsibility for the coverage provided by the FHCF.

Because the FHCF provides insurers an additional source of reinsurance to what is available in the private market, insurers are generally able to write more residential property insurance in the state than could otherwise be written. Because most reinsurance purchased through the FHCF is significantly less expensive than private reinsurance, the FHCF also acts to lower residential property insurance premiums for consumers.

[1] s. 215.555, F.S. (2008).
[2] s. 215.555(2)(e)2., F.S.
[3] http://fhcf.paragonbenfield.com/pdf/08fin_pre.pdf. (last viewed January 15, 2009).

The FHCF generally operates on a "contract year." The contract year runs from June 1st to May 31st of the next calendar year. The start of hurricane season coincides with the start of the fund's contract year.

Mandatory Coverage
For the fund mandatory coverage, the FHCF must charge insurers the "actuarially indicated" premium for the coverage provided, based on hurricane loss projection models found acceptable by the Florida Commission on Hurricane Loss Projection Methodology. Each insurer's "reimbursement premium" for this coverage is different, based on the insured value of the residential property it insures, their location, construction type, deductible amounts, and other factors.

Under current law, the maximum amount the FHCF must pay (the capacity) in any one year for the mandatory coverage is $15 billion, adjusted annually based on the percentage growth in fund exposure, but not to exceed the dollar growth in the cash balance of the fund.[4] The total industry retention for the mandatory coverage is $4.5 billion per hurricane, also adjusted annually based on the FHCF's exposure (regardless of any change in the FHCF's cash balance).[5]

For the current 2008-09 contract year (June 1, 2008 – May 31, 2009), the insurance industry as a whole has an aggregate retention of $6.88 billion for mandatory coverage, meaning the total of all individual insurer retentions/deductibles will hypothetically total to $6.88 billion per event, assuming all participating insurers reached their retention.[6] Although the insurance industry's aggregate deductible/retention totals $6.88 billion, loss recovery from the FHCF is based on an individual insurer meeting its own retention for mandatory coverage prior to losses being reimbursed. The industry aggregate retention for mandatory coverage is expected to grow to $7.23 billion for the 2009-2010 contract year.

As with the FHCF retention/deductible levels, every insurer participating in the FHCF has coverage based on its FHCF reimbursement premium. This is the maximum amount of property insurance claims the fund will reimburse the insurer for under the mandatory coverage. For mandatory coverage, the maximum amount of coverage is different for each insurer because it is linked directly to the amount of premiums the insurer pays to the FHCF. Thus, insurers that pay higher premiums to the FHCF have more mandatory coverage than those that pay lower premiums. For the current contract year (2008-2009), the insurance industry as a whole is covered for losses up to $16.53 billion by the mandatory coverage.[7] The mandatory coverage limit for the fund for the 2009-2010 contract year is expected to grow to $17 billion.

For the 2008-2009 fund contract year 196 insurers purchased the FHCF mandatory coverage. Consequently, the fund collected $996 million in premiums for providing $16.53 billion in mandatory coverage.[8]

Temporary Increase In Coverage Limit Options (TICL)[9]
In 2007, ch. 2007-1, L.O.F., increased the coverage limits of the fund for the 2007, 2008, and 2009 hurricane seasons by adding the Temporary Increase In Coverage Limit (TICL) options that allow an insurer to purchase its share of up to $12 billion in coverage, in $1 billion increments, above the mandatory fund coverage. For the 2008-2009 fund contract year, 132 insurers purchased the optional TICL coverage. Consequently, the fund provided $11.143 billion of the $12 billion maximum coverage in TICL coverage in return for $220 million in premiums. This coverage option expires by operation of law on May 31, 2010.

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[4] s. 215.555(4)(c)1., F.S.
[5] s. 215.555(2)(e)1., F.S.
[6] The retention is larger than the $4.5 billion prescribed by statute because the statute allows the retention to increase yearly as the FHCF's exposure increases.
[7] The capacity is larger than the $15 billion prescribed by statute because the statute allows the capacity to increase yearly as the FHCF's exposure increases, but limited by the FHCF's cash balance.
[8] http://fhcf.paragonbenfield.com/pdf/08fin_pre.pdf. (last viewed January 15, 2009).
[9] s. 215.555(17), F.S.

Temporary Emergency Additional Coverage Options (TEACO)[10]

The fund generally does not offer coverage below the industry retention (currently $6.88 billion) that an insurer must pay before being reimbursed, but the 2007 legislation required the fund to offer to insurers a total of $3 billion in Temporary Emergency Additional Coverage Options (TEACO) coverage below the retention, also limited to 2007, 2008, and 2009.[11] For the 2008-2009 fund contract year, no insurers purchased the optional TEACO coverage. This is the second consecutive year no insurers have purchased such coverage. This coverage option expires by operation of law on May 31, 2010.

Additional $10 Million Coverage Option for Specified Insurers[12]

The law also permits specified insurers to purchase an additional $10 million in coverage from the fund. The insurer's retention level for this coverage is different for each insurer as it is a percentage of the insurer's surplus. For the 2008-2009 contract year, this coverage reimburses the insurer for up to $10 million in losses from each of two hurricanes. For the 2008-2009 contract year, 22 qualifying insurers purchased the additional $10 million coverage option. Consequently, the fund provided $324 million in coverage for these companies in return for $81 million in premium. This coverage option expires by operation of law on May 31, 2010.

State Board of Administration Coverage Option[13]

The State Board of Administration (SBA) is authorized to offer insurers an additional $4 billion of coverage in excess of the TICL coverage. If this coverage is offered, it must be offered in $1 billion increments and provides reimbursement of up to $4 billion to insurers for losses in excess of the $12 billion TICL coverage. The SBA has never offered this coverage. This coverage option expires by operation of law on May 31, 2010.

Assessments

If the cash balance of the fund is not sufficient to cover losses, the law allows the issuance of revenue bonds, which are funded by emergency assessments on property and casualty policyholders.[14] The FHCF is authorized to levy emergency assessments against all property and casualty insurance premiums paid by policyholders (other than workers' compensation accident and health, federal flood and, until May 31, 2010, medical malpractice), including surplus lines policyholders, when reimbursement premiums and other fund resources are insufficient to cover the fund's obligations.[15] Annual assessments are capped at 6 percent of premium with respect to losses from any one year and a maximum of 10 percent of premium to fund hurricane losses from multiple years.[16] Revenue bonds issued by the FHCF may be amortized over a term up to 30 years. Thus, the FHCF may levy assessments for as long as 30 years. As of April 2008, the FHCF assessment base was $36.6 billion.

To date, the fund has reimbursed insurers $9.15 billion for property claims resulting from the 2004 and 2005 hurricane seasons, a third of the total property losses from the two hurricane seasons.[17] The fund had sufficient funds to reimburse insurers $3.95 billion due to the 2004 hurricanes. However, the fund had a deficit due to the 2005 hurricanes where the fund reimbursed insurers $5.20 billion for property claims. This deficit resulted in a 1% assessment for eight years against all property and casualty insurance policyholders subject to the assessment. The assessments were paid by insurers beginning January 1, 2007 and were passed through to policyholders. This is the first time the fund had to bond to cover a deficit since its creation in 1993.

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[10] s. 215.55(16), F.S.
[11] Insurers who purchase the TEACO coverage option can reinstate the coverage once so the coverage option actually totals $6 billion.
[12] s. 215.555(4)(a)4., F.S.
[13] s. 215.555(17)(h), F.S.
[14] s. 215.555(6)(a)1., F.S.; s. 215.555(6)(b)1., F.S.
[15] s. 215.555(6)(b)1., F.S.; s. 215.555(6)(b)(10), F.S.
[16] s. 215.555(6)(b)2., F.S.
[17] Presentation by the FHCF to the Insurance, Business & Financial Affairs Policy Committee on February 3, 2009.

Financial Status

<u>2008-2009 Contract Year Financial Status</u>[18]

The fund's **potential** liability for the 2008-2009 contract year which runs from June 1, 2008 to May 31, 2009 is the maximum amount the fund would have to reimburse insurers if all coverage options were purchased by insurers in the maximum amount and hurricane losses to insurers were large enough for the fund to have to reimburse the maximum amount for each coverage option. For the 2008-2009 contract year, the fund's maximum potential liability is $39.130 billion. This consists of $.600 billion for the $10 million coverage for specified insurers, $6 billion for the TEACO coverage option, $16.53 billion for the mandatory coverage, $12 billion for the TICL coverage option, and $4 billion for the SBA coverage option. Because the fund has $2.786 billion in cash, the fund would have to bond for $36.344 billion if it had to pay its maximum potential obligations in the 2008-2009 contract year.

Because insurers have already purchased coverage from the fund for the 2008-2009 contract season, the fund's **actual** liability can be calculated based on the coverages purchased by insurers. The maximum amount the fund would actually have to reimburse insurers during the 2008-2009 contract year is $27.997 billion. This consists of $.324 billion for the $10 million layer for specified insurers, $0 billion for the TEACO coverage option because no insurer bought this coverage, $16.530 billion for the mandatory coverage, $11.143 billion for the TICL coverage option, and $0 billion for the SBA coverage option because the SBA did not offer this coverage. Because the fund has $2.786 billion in cash, the fund would have to bond for $25.211 billion if it had to pay its maximum actual obligations in the 2008-2009 contract year.

To fund its actual obligations of approximately $28 billion for the 2008–2009 contract year, the fund has $6.3 billion in liquidity to reimburse insurers for claims. This liquidity consists of $2.8 billion in cash[19] and $3.5 billion in pre-event bonds. Losses above $6.3 billion ($2.8 billion cash plus $3.5 billion pre-event bonds) are intended to be financed through the issuance of revenue bonds. However, instability in the worldwide financial markets has greatly reduced the fund's ability to raise money through bonding. The October 2008 bonding estimates by the fund indicate the ability to borrow a maximum of only $3 billion via bond issues over the next year, assuming market conditions do not change.

Therefore, the fund has a maximum projected shortfall of approximately $6.7 billion for the mandatory coverage layer. For the TICL coverage option, the fund has a shortfall of $7.8 billion for the 2008-2009 contract year. The only source of funding for this coverage option is a $4 billion "put option" agreement with Berkshire Hathaway, Inc. that requires Berkshire Hathaway to purchase $4 billion of FHCF bonds paying 6.5 % interest if a hurricane causes losses exceeding $16 billion (essentially the mandatory layer of fund coverage). The fund paid $224 million for the put option, which expires on May 15, 2009. Because no insurer purchased TEACO coverage for the 2008-2009 contract year, the fund is not obligated to reimburse any monies for this coverage. Thus, the fund's obligation for the TEACO coverage is not calculated in the shortfall calculation. Additionally, the SBA did not offer the SBA coverage option thus the fund's obligations for this layer of coverage are not included in the shortfall calculation. In sum, for both the mandatory coverage and TICL coverage combined, the maximum projected shortfall is at least $14.5 billion. Thus, for the 2008-2009 contract year the fund has obligations that it likely cannot pay of at least $14.5 billion. The shortfall will only be realized, however, if hurricanes hit Florida before May 31, 2009 causing the fund to reimburse insurers in the maximum amount available from the fund.

<u>2009-2010 Contract Year Financial Status</u>[20]

Because insurers have not yet purchased coverage from the fund for the 2009-2010 contract year, only the fund's **potential** liability can be calculated. The fund would have to reimburse insurers $41.46 billion if all coverage options were purchased by insurers in the maximum amount and hurricane losses to insurers were large enough for the fund to have to reimburse its maximum amount. This maximum potential liability consists of $0 billion for the $10 million layer for specified insurers because this option

[18] Information about the fund's financial status was obtained from the fund's presentation to the Insurance, Business & Financial Affairs Policy Committee on February 3, 2009.

[19] The FHCF estimates it will collect $1.29 billion in premium for the 2008-2009 contract year.

[20] Information about the fund's financial status was obtained from the fund's presentation to the Insurance, Business & Financial Affairs Policy Committee on February 3, 2009.

expires on May 31, 2009 and thus is not available for the 2009-2010 contract year, $8.46 billion for the TEACO coverage option, $17 billion for the mandatory coverage, $12 billion for the TICL coverage option, and $4 billion for the SBA coverage option. Because the fund estimates it will have $4.07 billion in cash, the fund would have to bond for $37.39 billion if it had to pay its maximum potential obligations in the 2009-2010 contract year.

To fund its obligations for the 2009 - 2010 contract year which runs from June 1, 2009 through May 31, 2010, the fund expects to have $4.1 billion in cash, consisting of $2.8 billion carried over from the prior contract year and $1.3 billion in fund premiums from the 2009-2010 contract year. The fund also has $3.5 billion in pre-event revenue bonds available for use in 2009 to pay claims. The fund estimates it can bond for another $3 billion (post-event bond) if additional funds are needed to pay claims. Thus, the fund estimates it will have $10.6 billion available to pay claims from June 1, 2009 through May 31, 2010.

The fund's maximum reimbursement obligation for the 2009-2010 contract year for the mandatory layer alone is $17 billion. Thus, the fund is facing a potential shortfall of almost $7 billion for the mandatory layer. The fund will also have a shortfall of $12 billion for the TICL coverage. It is unlikely, however, that the fund will have any obligations at the TEACO level because it is anticipated no insurer will purchase this coverage as no insurer has purchased the coverage the past two years. It is also unlikely the fund will have any obligations for the SBA coverage as it is improbable the SBA will offer this coverage because the fund cannot fund the coverage with its current assessment authority. Accordingly, the fund's projected shortfall for the 2009-2010 contract year is the almost $7 billion in the mandatory coverage and $12 billion in the TICL coverage, for a total of approximately $19 billion.

If the financial markets improve in 2009 and 2010, the fund may be able to issue more post-event revenue bonds to alleviate more of the shortfall. The fund can also purchase risk transfer products, such as the put option purchased for the 2008-2009 contract year, to alleviate some of the shortfall. However, the fund's financial advisors do not believe it will be possible for the fund to issue revenue bonds or purchase risk transfer products to completely overcome the projected shortfall.

Effect of Proposed Changes to the Florida Hurricane Catastrophe Fund

The bill extends the TICL coverage option for six additional years, until May 31, 2016, but reduces the percentage amount the fund reimburses insurers for claims each contract year starting June 1, 2010. For the 2010-2011 contract year, the insurer can only choose to be reimbursed by the fund for 45 percent or 75 percent of its losses, rather than 45 percent, 75 percent, or 90 percent allowed under current law. For the 2011-2012 contract year the insurer's reimbursement level decreases to 45 percent or 65 percent; for the 2012-2013 contract year the level is 45 percent or 55 percent. The insurer can only be reimbursed 45 percent of its losses during the 2013-2014 contract year, 30 percent during the 2014-2015 contract year, and 15 percent during the 2015-2016 contract year. The TICL coverage option expires after the 2015-2016 contract year so will not be available to insurers as of June 1, 2016.

Citizens Property Insurance Corporation

Background

Citizens Property Insurance Corporation (Citizens) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.[21] It is not a private insurance company.[22]

Citizens was created by the Legislature in 2002 by the merger of two existing property insurance associations: The Florida Residential Property and Casualty Joint Underwriting Association (FRPCJUA) and the Florida Windstorm Underwriting Association (FWUA). The FRPCJUA provided full-coverage personal and commercial residential property policies in all counties of Florida while the

[21] Admitted market means insurance companies licensed to transact insurance in Florida.
[22] s. 627.351(6)(a)1., F.S.

FWUA provided personal and commercial residential property wind-only coverage in designated territories.

Citizens' book of business is divided into three separate accounts[23]:

1. Personal Lines Account (PLA) – Multiperil Policies
   Consists of homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners and similar policies. Fifty-six percent of the policies in the PLA are for property in Miami-Dade, Pinellas, Broward, Palm Beach, and Pasco counties.

2. Commercial Lines Account (CLA) – Multiperil Policies
   Consists of condominium association, apartment building and homeowner's association policies.

3. High-Risk Account (HRA) – Wind-only and Multiperil Policies
   Consists of personal lines wind-only policies, commercial residential wind-only policies and commercial non-residential wind-only policies issued in limited eligible coastal areas. In addition, in 2007, Citizens began offering personal and commercial residential multiperil policies in the limited coastal areas. Sixty-seven percent of the policies in the HRA are for property in Miami-Dade, Broward, Palm Beach, Sarasota, and Monroe counties.

As of February 28, 2009, Citizens provides property insurance to almost 1.1 million Florida homeowners and is the largest property insurer in Florida. Citizens writes 27 percent of the residential property insurance market in Florida. The number of policyholders in the three accounts are: PLA – 623,792, CLA – 9,697, and HRA – 432,815.[24] The number of polices written by Citizens declined in 2008 in all three accounts.[25]

Each Citizens' account is a separate statutory account and therefore has separate calculations of surplus and deficits. By statute, assets of each account may not be commingled or used to fund losses in another account.[26]

As originally created, applicants for coverage with Citizens were limited to those "applicants who are in good faith entitled, but are unable to procure insurance through the voluntary market," meaning if a homeowner could find property insurance coverage in the private market at any cost, the homeowner could not be insured by Citizens.[27] This eligibility rule for coverage with Citizens has been statutorily amended over time in response to availability and affordability of property insurance issues. Under current law, an applicant for coverage with Citizens is eligible even if the applicant has an offer of coverage from an insurer in the private market at its approved rates if the premium for that offer of coverage is more than 15% than the premium Citizens would charge for comparable coverage.[28]

Assessments
In the event Citizens incurs a deficit (i.e. its obligations to pay claims exceeds its capital plus reinsurance recoveries), it may levy assessments on most of Florida's property and casualty insurance policyholders in a specific sequence set by statute.[29] The three Citizens' accounts calculate deficits and resulting assessment needs independently.

Citizens Policyholder Assessments:[30] If Citizens incurs a deficit, Citizens will first levy assessments on its policyholders of up to 15% of premium per account in deficit for a maximum total of 45%. This assessment can be collected for twelve months. As with each of the assessments, this assessment only applies at the time a new policy is written or at renewal of existing Citizens policy. Thus, a

[23] s. 627.351(6)(b).2., F.S.
[24] https://www.citizensfla.com/ (last viewed on March 20, 2009).
[25] Presentation by Citizens to the Insurance, Banking, & Financial Services Policy Committee on February 3, 2009.
[26] s. 627.351(6)(b)2.b., F.S.
[27] s. 627.351(6)(a)1., F.S. (2002).
[28] s. 627.351(6)(c)5.a., F.S.
[29] s. 627.351(6)(b)3.a.,d., and i ., F.S.
[30] s. 627.351(6)(b)3.i., F.S.

policyholder that is insured by Citizens at the time of a hurricane loss causing a deficit in Citizens would be subject to the Citizens Policyholder Assessment only if the policyholder renewed with Citizens.

Regular Assessments:[31] Upon the exhaustion of the Citizens Policyholder Assessment for a particular account, Citizens may levy a regular assessment of up to 6% of premium or 6% of the deficit per account, for a maximum total of 18%. The regular assessment is levied on virtually all property and casualty policies in the state but is not levied on Citizens' policies. The assessment is also not levied on workers' compensation, medical malpractice, accident and health, crop or federal flood insurance policies. The assessment base for a regular assessment is approximately $33 billion, meaning the total premium of policies subject to the regular assessment is about $33 billion.[32] Mechanically, property casualty insurers with policies subject to the regular assessment "front" the assessment to Citizens and recover it from their policyholders at the issuance of a new policy or at renewal of existing policies. Thus, Citizens will collect funds raised by a regular assessment quickly after the assessment is levied, usually within 30 days after levy.

Emergency Assessments:[33] Upon the exhaustion of the Citizens Policyholder Assessment and regular assessment for a particular account, Citizens may levy an emergency assessment of up to 10% of premium or 10% of the deficit per account, for a maximum total of 30%. This assessment can be collected for as many years as is necessary to cure a deficit. Emergency assessments are levied on virtually all property and casualty policies in the state, including Citizens' own policies. However, this assessment is not levied on workers' compensation, medical malpractice, accident and health, crop or federal flood insurance policies. The assessment base for an emergency assessment is approximately $37 billion, meaning the total premium of policies subject to the assessment is about $37 billion.[34] Mechanically, property and casualty insurers with policies subject to the emergency assessment collect the assessment from policyholders at the issuance of a new policy or at renewal of existing policies and then remit the assessments periodically to Citizens. Thus, Citizens will not collect funds raised by an emergency assessment immediately after the assessment is levied.

Citizens paid losses of over $5.7 billion and handled over 310,000 claims as the result of the 2004 and 2005 hurricane seasons when eight hurricanes hit Florida in a two year period.[35] Citizens levied three assessments as a result of the 2004 and 2005 hurricanes.[36] Prior to the 2004 hurricane season, Citizens had a surplus of about $1.8 billion. Citizens' claims losses related to the 2004 hurricane season amounted to more than $2.4 billion, depleting its entire surplus and causing Citizens to incur a $516 million deficit. Thus, as a result of the 2004 hurricanes Citizens levied a one-time 6.8% regular assessment on property and casualty insurance companies and Citizens' policyholders.

Citizens started the 2005 hurricane season with approximately $187.7 million in surplus. Due to the 2005 hurricanes, Citizens sustained a deficit of almost $1.8 billion. In the 2006 Legislative Session, the Legislature appropriated $715 million to defray the Citizens' deficit associated with the 2005 hurricanes, making the deficit amount passed on to property owners in Florida over $887 million. As a result of the 2005 hurricanes, Citizens levied a one-time 2.04% regular assessment on insurance companies and Citizens' policyholders and an emergency assessment 1.4% for 10 years starting July 1, 2007.

Rates

The rates charged by Citizens for coverage have been frozen by law since January 2007.[37] The rates Citizens is currently charging for most types of coverage are based on the rates in effect in 2005 and are at least as high as the highest rate charged in 2005 by the Top 20 largest writers of residential property insurance in Florida, the rate standard in effect prior to January 2007.

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[31] s. 627.351(6)(b)3.a. and b., F.S.
[32] Presentation by Citizens to the Insurance, Banking, & Financial Services Policy Committee on February 3, 2009.
[33] s. 627.352(6)(b)3.d., F.S.
[34] Presentation by Citizens to the Insurance, Banking, & Financial Services Policy Committee on February 3, 2009.
[35] Presentation by Citizens to the Insurance, Banking, & Financial Services Policy Committee on February 3, 2009.
[36] These assessments were levied in accordance with prior law prescribing the mechanism and amount of Citizens' assessments.
[37] s. 627.351(5)(m)4., F.S.

Current law requires Citizens to make a rate filing for each line of insurance that it writes by July 15, 2009, for implementation no earlier than January 1, 2010.[38] The rate filing must reflect "actuarially sound" rates for Citizens. Upon receipt of Citizens' rate recommendations the Office of Insurance Regulation will set Citizens' rates within 45 days of the rate filing.[39]

According to Citizens' estimates, in order to achieve actuarially sound rates for personal residential property insured by the corporation, personal residential multi-peril policies will have an overall average statewide increase in excess of 40 percent, meaning individual policyholders will experience increases higher or lower than the statewide average estimate. These policies are written in the PLA and HRA accounts. Personal residential wind-only policies are estimated to have an overall average statewide increase in excess of 55 percent, meaning individual policyholders will experience increases higher or lower than the statewide average estimate.[40] These policies are written in the HRA account only.

According to Citizens' estimates, in order to achieve actuarially sound rates for commercial residential properties insured by the corporation, commercial residential multi-peril policies will have an overall average statewide increase in excess of 10 percent, meaning individual policyholders will experience increases higher or lower than the statewide average estimate. Commercial residential wind-only policies are estimated to have an overall average statewide increase in excess of 60 percent.[41]

According to Citizens' estimates, in order to achieve actuarially sound rates for commercial nonresidential properties insured by the corporation, these policies will have an overall average statewide increase in excess of 140 percent, meaning individual policyholders will experience increases higher or lower than the statewide average estimate.[42]

Financial Status

As of February 28, 2009, Citizens has almost 1.1 million policies for Florida property. Their exposure for these policies is almost $415 billion. Citizens collected a little over $2.2 billion in premium for these policies and exposure. The Citizens' account with the most exposure is the HRA with almost twice the exposure as the PLA, however, the account with the highest policy count is the PLA.

2009 Hurricane Season[43]

Citizens estimates it will have $2.63 billion in surplus in the PLA/CLA to pay claims that may occur during the 2009 hurricane season. This surplus is comprised of $2.27 billion in surplus carried over from 2008 and $353 million in projected net income for 2009. Citizens does not currently have any pre-event bonding in place to meet their needs for 2009 in the PLA/CLA. The maximum FHCF recoveries would total $3.48 billion. Citizens does not project the purchase of private reinsurance for the PLA/CLA for the 2009 hurricane season. Thus, for the 2009 hurricane season Citizens anticipates having a maximum of $6.103 billion to pay claims in the PLA/CLA before assessments would have to be levied. This translates into a one in 65-year probable maximum loss. For losses from $6.103 billion to $7.003 billion (1 in 65 year PML and 1 in 81 year PML), Citizens would levy a Citizens policyholder assessment of 30 percent against its policyholders, resulting in a cash influx of $.900 billion. In order for Citizens to have resources to pay losses that would result from a one in 100-year hurricane, regular assessments against most property and casualty policyholders, excluding Citizens' policyholders, would have to be

[38] s. 627.351(6)(m)5., F.S.

[39] The Office of Insurance Regulation does not set rates of insurers in the private market. Rather, an insurer files its rates and the Office reviews them and approves or disapproves the submitted rates.

[40] Information received from Citizens on March 17, 2009 on file with the Insurance, Business & Financial Affairs Policy Committee. The rate information are based only on data through 2007, are preliminary in nature, and are anticipated to change by the time the rate filing is made in July 2009. The rate indication was calculated using the RMS Model 6.0b because the results from the public hurricane model were not final even though the law requires Citizens to use the public model results as the minimum benchmark for determining the windstorm potion of Citizens' rates. In addition, the rate indication does not include non-catastrophe loss data and final loss development from 2008. This data will be included in the rate indication filed with the OIR in July 2009. The rate indication does not include the actual cost of private reinsurance that Citizens may purchase in 2009.

[41] Information received from Citizens on April 2, 2009. The caveats and qualifications on the data are the same as for the data relating to personal lines residential policies set forth in note 40.

[42] Information received from Citizens on April 2, 2009. The caveats and qualifications on the data are the same as for the data relating to personal lines residential policies set forth in note 40.

[43] Information on Citizens' financial status for the 2009 hurricane season is obtained from the presentation by Citizens to the Insurance, Business, & Financial Affairs Policy Committee on February 9, 2009 and from meeting materials for the Citizens' Board of Governors meeting on January 29, 2009.

levied for losses from $7.003 billion to $8.016 billion, the one in 81-year to 100-year probable maximum loss level.[44] This would bring in $1.013 billion to Citizens.

In the HRA, Citizens estimates it will have $1.69 billion in surplus to pay claims that may occur during the 2009 hurricane season, $1.33 billion in surplus carried over from 2008 and $364 million in projected net income for 2009. Citizens anticipates it will purchase private reinsurance for part of the HRA exposure so reinsurance recoveries in 2009 would include recoveries from private reinsurance and the Florida Hurricane Catastrophe Fund. The maximum FHCF recoveries in 2009 would be $6.68 billion and the maximum private reinsurance recovery would be $547 million. Thus, for the 2009 hurricane season Citizens has a maximum of $8.92 billion to pay claims in the HRA. The HRA's one in 100-year probable maximum loss is $14.867 billion. Thus, the HRA has funding to pay losses from a one in 48-year hurricane before assessments would have to be levied. For losses between $8.921 billion and $9.371 billion (1 in 48 year PML and 1 in 51 year PML), Citizens' policyholders would be surcharged 15 percent. This surcharge would result in $ 450 million. For losses between $9.371 billion and $11.391 billion (1 in 51 year PML and 1 in 67 year PML), regular assessments of 6 percent against most property and casualty policyholders would be levied, resulting in a cash influx of $2.02 billion for Citizens. For losses between $11.391 billion and $14.867 billion (1 in 67 year PML and 1 in 100 year PML), emergency assessments against most property and casualty policyholders, including Citizens' policyholders, would be levied. This would result in a $3.476 billion cash influx for Citizens and would require a .75% annual emergency assessment for 30 years.

Effect of Proposed Changes to Citizens Property Insurance Corporation

The bill requires Citizens to implement the actuarially sound rates that are effective as of January 1, 2010 in a graduated manner. Citizens cannot implement annual rate increases over 10 percent statewide average, 15 percent per rating territory, or 20 percent per single policy. Rate decreases in greater percentages, however, can be implemented. Citizens is confined to the 10 percent, 15 percent, and 20 percent rate increases until those rate increases make Citizens' rates actuarially sound. At that time, Citizens must implement actuarially sound rates in accordance with current law.

The bill also defines the term "actuarially sound rate" in regards to Citizens' rates. The definition prescribed requires Citizens to include a 15 percent capital charge in its rates in addition to whatever rate Citizens' needs to allow it to collect sufficient revenue to cover all expected losses and expected expenses.

The My Safe Florida Home Program

In 2006, the Legislature created the Florida Comprehensive Hurricane Damage Mitigation Program and appropriated $250 million to provide financial incentives to encourage residential property owners in Florida to retrofit their properties, making them less vulnerable to hurricane damage and helping decrease the cost of residential property and casualty insurance.[45] The program is now called "My Safe Florida Home (MSFH program) [46] and is administered by the Department of Financial Services (DFS). The intent of the program is to:

- Provide free home inspections for a least 400,000 site-built, single-family, residential properties; and
- Provide grants to as least 35,000 applicants before June 30, 2009.[47]

The DFS has established a three-prong approach to delivering mitigation to homeowners under the My Safe Florida Home Program: direct service through DFS, partnership with non-profit organizations, and partnership with local governments.

[44]The percentage of regular assessments that would have to be levied is unknown, but would be less than the 12 percent maximum allowed regular assessment.
[45]Chapter 2006-12, L.O.F. (CS/CS/SB 1980; s. 215.5586, F.S.) The unused funds appropriated to the program revert back to the state on June 30, 2009.
[46] The Program began operation on August 15, 2006.
[47] These goals were established in legislation enacted in 2007. (Chapter 2007-126, L.O.F.)

Inspections
The DFS, through the MSFH program, provides free home-retrofit inspections of site-built, single family, residential properties which are offered throughout the state. These inspections determine what mitigation measures are needed, what insurance premium discounts may be available and what improvements to existing properties are needed to reduce the property's vulnerability to hurricane damage. The DFS must contract with wind certification entities to provide the hurricane mitigation inspections.

After a home is inspected, inspectors generate a report that summarizes the results and identifies recommended improvements a homeowner may take to mitigate hurricane damage. The report also provides a range of cost estimates regarding recommended mitigation improvements; insurer-specific information regarding premium discounts correlated to the current mitigation features and recommended improvements; and a hurricane-resistance rating scale specifying the home's current and projected wind resistance.[48]

As of February 3, 2009, the MSFH program has processed 425,193 inspection applications and completed 391,103 free home inspections.[49] Over the life of the program, 400,000 inspections will be completed at a cost of $61.8 million.

Mitigation Grants
The DFS, through the MSFH Program, also provides mitigation grants to homeowners. Financial mitigation grants are used to encourage single-family, site-built, owner-occupied, residential property owners to retrofit their properties to make them less vulnerable to hurricane damage. To be eligible for a matching grant of up to $5,000 for persons who have obtained a completed inspection after May 1, 2007, a residential property must:

- Have a homestead exemption under chapter 196, F.S.;
- Be a dwelling with an insured value of $300,000 or less; homeowners who are low-income persons, as defined in s. 420.0004(10), F.S., are exempt from this requirement;
- Have undergone a hurricane mitigation inspection;
- Be located in the wind-borne debris region as defined in s. 1609.2, International Building Code (2006);[50] and
- Be a home for which the building permit application for initial construction was made before March 1, 2002.

When recommended by a hurricane mitigation inspection, grants may only be used for opening protections; exterior doors, including garage doors and brace gable ends. The DFS may require that improvements be made to all openings, including exterior doors and garage doors, as a condition of approving a grant application if DFS determines that improvements to less than all openings would not improve the structure's ability to withstand hurricane damage. Grants may also be used on previously inspected existing structures or a rebuilt home, however, the homeowner must be a low-income homeowner, must have a homestead exemption for that home prior to the hurricane, and must intend to rebuild the home as that homeowner's homestead. Further, low-income homeowners, as defined in s. 420.0004(10), F.S., are eligible for a grant of up to $5,000 and are not required to provide a matching amount to receive the grant.

As of February 3, 2009, the MSFH program has received 42,164 grant applications and awarded 31,229 grants for hurricane mitigation. Over the life of the program, MSFH program anticipates it will award a total of 36,100 grants. The total amount of grants awarded is estimated to be $147 million. No further grant money is available as all funding for the MSFH Program is encumbered.

[48] Chapter 2007-1, L.O.F., directed the Financial Services Commission to adopt a uniform home grading scale to grade the ability of a home to withstand the wind load from a sustained severe tropical storm or hurricane. The FSC adopted the home grading scale and worked in collaboration with the Office of Insurance Regulation, Department of Financial Services and Department of Community Affairs. It was effective on November 1, 2007. (Rule 69O-167.015, Fla. Administrative Code).
[49] Presentation by the Florida Department of Financial Services to the Government Operations Appropriations Committee on February 3, 2009.
[50] The "wind-borne debris" region is where the Florida Building Code requires new homes to have opening protections (shutters, etc.) and is where sustained winds of 120 mph or greater are likely to occur.

Effect of Proposed Changes to the My Safe Florida Home Program

Starting January 1, 2011, the bill requires Citizens to annually transfer 50 percent of the funds it receives from the graduated rate increases described above to the My Safe Florida Home Program for use as mitigation grants only. Mechanically, Citizens will transfer the required funds each year on January 1st to the General Revenue Fund which will transfer the funds to the Department of Financial Services for use by the MSFH Program. Citizens will stop transferring funds for use by the MSFH Program when the rates it charges are actuarially sound.

B. SECTION DIRECTORY:

Section 1: amends s. 215.555, F.S. relating to the Florida Hurricane Catastrophe Fund.

Section 2: amends s. 627.351(6), F.S. relating to Citizens Property Insurance Corporation.

Section 3: creates an unnumbered section of law requiring specified funds to be transferred from the General Revenue Fund to the Insurance Regulatory Trust Fund in the Department of Financial Services for use by the My Safe Florida Home Program for mitigation grants.

Section 4: provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The My Safe Florida Home Program will receive funds for the Program from the rate increases of Citizens.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Rates for Citizens' policyholders will increase by a maximum of 20 percent per policy per year until the rates are actuarially sound. Rates for Citizens' policyholders have been frozen since January 2007.

Rates for all residential property insurance policyholders will increase due to the graduated reduction in the TICL coverage option. TICL coverage is sold to insurance companies at a substantially lower rate than the rate charged by the private reinsurance market for the same coverage. Thus, as the TICL coverage is reduced and insurance companies have to buy private reinsurance to replace the TICL coverage, the insurance company's reinsurance costs will increase and will be passed through to policyholders in the form of higher rates and resulting premiums.

Eligible homeowners will be able to obtain state matching grants for installation of hurricane mitigation measures through the My Safe Florida Home Program due to the transfer of 50 percent of Citizens' rate increase funds to the program. Property insurance premiums for homeowners that install hurricane mitigation measures should decrease as a direct result of the installation. The amount of decrease will vary among homeowners and will depend, in part, on which mitigation measure is installed.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None provided in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.