

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Banking and Insurance

CS/CS/CS/HB 799 — Property Insurance

by Commerce Committee; State Administration and Technology Appropriations Subcommittee; Insurance and Banking Subcommittee; and Rep. Griffiths and others (CS/CS/SB 594 by Fiscal Policy Committee; Community Affairs Committee; and Senator Martin)

The bill provides that a property insurer's residential rate filing must allow for appropriate discounts for mitigation measures that reduce the potential for windstorm losses. The bill also adds wind uplift prevention to the list of windstorm mitigation measures undertaken by policyholders to reduce hurricane losses that must be evaluated for purposes of mitigation discounts on residential property insurance rate filings. Wind uplift occurs if the air pressure below the roofing system is higher than the air pressure above the roofing system.

The bill exempts condominium unit owner policies from the requirement that Citizens Property Insurance Corporation (Citizens) personal lines property coverage policyholders must maintain flood insurance. The bill provides technical revisions to provisions requiring Citizens personal lines policyholders to obtain flood insurance coverage to refer to dwelling replacement cost instead of the property value.

The bill provides that the limitation on rate increases normally imposed on Citizens' rates does not apply to policies where coverage for the risk insured by Citizens was last provided by an insurer determined by the Office of Insurance Regulation (OIR) to be unsound or placed into receivership due to impairment or insolvency. The bill provides that the limitation on Citizens' rates for non-primary residences (current law) and policies assumed from unsound insurers (proposed by the bill) applies on a year-over-year basis, rather than based on a fixed date.

The bill authorizes Citizens to adopt policy forms providing for claim disputes to be resolved in a proceeding before the Division of Administrative Hearings (DOAH). All such DOAH proceedings are subject to the award of attorney fees when the opposing party is sanctioned for bringing an unsupported claim or defense and pursuant to the offer of judgment statute, as if filed in the state courts. The bill provides that the applicable Florida Rules of Civil Procedure apply to any offer served pursuant to the offer of judgment statute, except that an offer may not be served earlier than 10 days after filing the request for hearing with the Division of Administrative Hearings and not later than 10 days before the date set for the final hearing.

The bill requires, that if an insurer requires an insured or applicant to have flood coverage when issuing a policy containing wind coverage, the insurer must verify that the insured or applicant has flood coverage. If the insurer fails to verify that the insured or applicant has flood coverage, the insurer may not deny a claim for wind solely because the insured does not have coverage for the peril of flood, unless flood coverage that was verified is not in force at the time of the loss.

The bill provides a \$750,000 nonrecurring appropriation from the Insurance Regulatory Trust Fund to the OIR to, in consultation with the Department of Business and Professional Regulation and the Florida Building Commission, conduct a wind-loss mitigation study to evaluate the

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windstorm loss relativities for construction features, including, but not limited to, wind uplift prevention, methods and devices to prevent water intrusion through the tracks of sliding glass doors, and those that enhance roof strength; roof covering performance; roof-to-wall strength; wall-to-floor-to-foundation strength; opening protections; and window, door, and skylight strength. The study must include, but need not be limited to, an analysis of developed hurricane loss data for hurricanes since June 1, 2018. The OIR may use a portion of the funds to contract separately with building code experts to implement the bill and adopt rules. The findings of the study must be reported to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Commissioner of Insurance Regulation no later than July 1, 2024.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 32-7; House 87-28