

**STORAGE NAME:** h1815.fs  
**DATE:** April 2, 1997

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
FINANCIAL SERVICES  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 1815 (PCB FS 97-03 (revised))  
**RELATING TO:** Property insurance  
**SPONSOR(S):** Committee on Financial Services and Representative Safley & others  
**STATUTE(S) AFFECTED:** Chapters 215, 624, 626, and 627, F.S.  
**COMPANION BILL(S):** CS/SB 794 (s)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) FINANCIAL SERVICES YEAS 12 NAYS 0
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**I. SUMMARY:**

Florida's private sector market for homeowners' insurance and other forms of residential property insurance has been unstable since 1992, when Hurricane Andrew caused more than \$16 billion in insured losses. For the last four years, private-sector homeowners' insurance generally has been unavailable in some areas of the state and has, in all areas of the state, been far more difficult to obtain than in the years prior to Hurricane Andrew. As homeowners' insurance has become less available, it has also become more expensive.

In addition to clarifications and other technical changes to current law, the bill:

allocates Florida Hurricane Catastrophe Fund mitigation funding to state agencies.

revises provisions relating to Residential Property and Casualty Joint Underwriting Association (RPCJUA) and Florida Windstorm Underwriting Association (FWUA) financial matters.

adds the Insurance Consumer Advocate and two consumer representatives to the board of directors of the FWUA.

creates additional eligibility requirements for FWUA coverage, and a temporary freeze of FWUA geographic expansion.

creates additional geographic requirements for RPCJUA take-out plans.

extends current ratemaking standards for the RPCJUA, and applies similar standards to the FWUA.

creates procedures and disclosures for bonding by the FWUA and RPCJUA.

revises hurricane deductibles to limit the scope of the mandatory offer of a \$500 hurricane deductible, and to raise the maximum hurricane deductible to 5% for commercial lines-residential coverage with mandatory offers of 3% and 4%.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Florida's private sector market for homeowners' insurance and other forms of residential property insurance has been unstable since 1992, when Hurricane Andrew struck the state and caused more than \$16 billion in insured losses. For the last four years, private-sector homeowners' insurance generally has been unavailable in some areas of the state and has, in all areas of the state, been far more difficult to obtain than in the years prior to Hurricane Andrew. As homeowners' insurance has become less available, it has also become more expensive. According to the Department of Insurance, department-approved homeowners' premiums have risen by a statewide average of 88 percent since Hurricane Andrew.

The decrease in availability has been driven by insurers' perceived need to reduce their exposures in hurricane-prone areas, either to protect solvency or to protect profitability. The increases in premiums have been driven by new assumptions about the cost of hurricanes based on Andrew and other recent hurricanes.

The Legislature's response to the crisis in availability and affordability of residential property insurance has included:

creation of the Residential Property and Casualty Joint Underwriting Association (RPCJUA) to act as a homeowners' insurer of last resort throughout the state.

expansion of geographic eligibility for the Florida Windstorm Underwriting Association (FWUA), a windstorm insurer of last resort that was created by law in 1970 to provide windstorm-only coverage in limited coastal areas.

provision of funding for the FWUA and RPCJUA. To the extent that premiums charged by the FWUA and RPCJUA are not sufficient to pay claims, the associations may assess insurance companies to cover the deficit, and insurance companies may pass these assessments through to their policyholders. When the deficit exceeds a specified amount, multi-year assessments known as "emergency assessments" are collected by insurers from their policyholders. These assessments support lines of credit, revenue bonds, and other financing mechanisms.

efforts to slow the growth of the RPCJUA, and incentives to encourage insurance companies to provide coverage to replace RPCJUA coverage.

creation of the Florida Hurricane Catastrophe Fund as a tax-exempt, insurer-funded reinsurance pool which will reimburse insurers for a portion of their losses from major hurricanes, and, beginning with the 1997-1998 fiscal year, the use of a portion of Catastrophe Fund investment income as a dedicated funding source for hurricane loss mitigation programs.

creation of the Florida Commission on Hurricane Loss Projection Methodology to evaluate the reliability of computer models proposed to be used in rate filings to project insurers' catastrophic losses.

creation of several temporary bodies to make legislative recommendations, including the Legislative Working Group on Residual Property Insurance Markets, which issued its recommendations for changes to the RPCJUA and FWUA laws on December 13, 1996.

creation of separate deductibles for windstorm or hurricane losses. Subject to a number of exceptions, the statute specifies minimum and maximum wind or hurricane deductibles and requires insurers to offer at least a \$500 wind or hurricane deductible and a wind or hurricane deductible equal to 2 percent of the insured value of the property. The purposes of increased wind or hurricane deductibles are to give consumers a means of reducing insurance costs and to reduce demands on the limited insurance capacity available for Florida hurricanes.

Specific aspects of the present situation addressed by the bill are discussed in the Section-by-Section Analysis, below.

**B. EFFECT OF PROPOSED CHANGES:**

In addition to numerous clarifications and other technical changes to current law, the bill:

allocates to specified state agencies the portion of Florida Hurricane Catastrophe Fund investment income that is a dedicated revenue source for hurricane loss mitigation.

revises provisions relating to RPCJUA and FWUA financial matters.

adds the Insurance Consumer Advocate and two consumer representatives to the board of directors of the FWUA.

creates additional eligibility requirements for FWUA coverage, and a temporary freeze of FWUA geographic expansion.

creates additional geographic requirements for RPCJUA take-out plans.

extends current ratemaking standards for the RPCJUA, and applies similar standards to the FWUA.

provides procedures for insurers' recoupment of residual market deficit assessments.

creates procedures and disclosures for bonding by the FWUA and RPCJUA.

creates a coordinating council to provide for exchange of information between the FWUA and the RPCJUA.

revises the mandatory offers of personal lines-residential hurricane deductibles to eliminate the requirement of an offer of a \$500 hurricane deductible except in the case of a primary residence subject to a low-income mortgage.

revises hurricane deductibles for commercial lines-residential (condominium association, apartment building, etc.) coverage to raise the maximum deductible to

5% of the insured value (from 3%) and to require offers of 3% and 4% hurricane deductibles.

These changes, and the other changes proposed in the bill, are discussed in more detail in the Section-by-Section Analysis, below.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The bill requires the Department of Community Affairs to adopt rules governing evaluations of the wind resistance of homes that would be funded by the Florida Windstorm Underwriting Association.

The bill also clarifies that current law regarding arbitration of disputes between insurers and the Department of Insurance over rate filings apply to the Florida Windstorm Underwriting Association and the Residential Property and Casualty Joint Underwriting Association.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The bill requires the Florida Windstorm Underwriting Association to identify areas of the state with the greatest wind risk to residential properties and make recommendations for future mitigation expenditures.

The bill requires the Florida Windstorm Underwriting Association and the Residential Property and Casualty Joint Underwriting Association to provide standards in their plans of operation for selection of financial services providers and bond underwriters.

(3) any entitlement to a government service or benefit?

Not applicable.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No; however, the bill may reduce the potential for assessments against insurers and policyholders by the Florida Windstorm Underwriting Association and the Residential Property and Casualty Joint Underwriting Association.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

Yes. Restrictions on eligibility for Florida Windstorm Underwriting Association, and rate standards for both the FWUA and the Residential Property and Casualty Joint Underwriting Association may reduce the extent to which persons insured by the residual market entities are subsidized by persons insured in the voluntary market.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Not applicable; the bill does not propose any government benefits.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes. The bill increases the flexibility available to insurers with respect to deductibles, and increases the choices available for condominium associations and other commercial lines-residential risks.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Not applicable.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

Not applicable.

- (4) Are families required to participate in a program?

Not applicable.

- (5) Are families penalized for not participating in a program?

Not applicable.

- b. Does the bill directly affect the legal rights and obligations between family members?

Not applicable.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

Not applicable.

- (2) service providers?

Not applicable.

- (3) government employees/agencies?

Not applicable.

**D. SECTION-BY-SECTION RESEARCH:**

**Section 1** amends s. 215.555, F.S., relating to the Florida Hurricane Catastrophe Fund. Current law requires, beginning with the 1997-1998 fiscal year, that the Legislature annually appropriate a portion of the fund's investment income to hurricane loss mitigation programs. The minimum appropriation is \$10 million, and the maximum appropriation is 35 percent of the fund's investment income. Current law does not specify how the appropriation is to be divided among various projects or recipients.

The bill would require that these moneys be appropriated in a manner that will maximize potential reductions in hurricane damage while minimizing costs. Moneys would be required to be allocated as follows:

Eighty-five percent would go to the Department of Community Affairs (DCA) for programs to improve the wind resistance of residences, including loan subsidies, grants, and demonstration projects; cooperative programs with local governments, the Federal Government, and the Insurance Institute for Property Loss Reduction; and other efforts to prevent or reduce the cost of rebuilding after a disaster. Eligibility for loan subsidies and other direct assistance would be limited to FWUA policyholders. No more than 25 percent of the total value of the loan subsidies and direct assistance could be awarded on the basis of the recipient's income. At least 10 percent of the loan subsidies and direct assistance would be used for mobile homes. Actions taken by property owners pursuant to these loan subsidies and other forms of direct assistance would not constitute a change, addition, or improvement to homestead property requiring a reassessment under Chapter 193, F.S. The DCA would be required to develop these programs in consultation with an advisory council. Funds appropriated under this authorization would not be allowed to supplant other funding sources of the DCA.

Five percent would go to the Insurance Consumer Advocate to educate and inform consumers about actions that they can take to reduce their property insurance costs. Before expending these funds, consultation with the DCA would be required. Funds

appropriated under this authorization would not be allowed to supplant other funding sources of the Insurance Consumer Advocate.

Ten percent would go to the State University System for research and development of hurricane loss mitigation devices and techniques and for calculation of potential loss reductions for use in insurers' rate filings. Before expending these funds, consultation with the DCA would be required.

The DCA would be required to provide an annual report and accounting of these activities to the Legislature beginning in 1999.

**Section 2** amends s. 624.4071, F.S., relating to special purpose homeowners' insurance companies. In 1996, the Legislature created a package of procedural and substantive incentives, including exemption from residual market emergency assessments, for new homeowners' insurance companies. ("Regular" assessments are one-year assessments on insurers which may be passed through to policyholders, and "emergency" assessments are multi-year assessments that are collected from policyholders by insurers.) Implementation of this law was suspended because the exemption from emergency assessments constituted an act of default on the RPCJUA's \$1.5 billion line of credit. (Exemptions from regular assessments do not affect the total to be collected, but exemptions from emergency assessments reduce the total to be collected.) The bill would amend this law to remove the availability of exemptions from emergency assessments as an incentive.

**Section 3** amends s. 626.752, F.S., relating to an insurer's ability to accept risks from an agent not appointed to represent the insurer. The bill would delete a reference to the market assistance plan to conform the law to other statutory changes related to RPCJUA depopulation.

**Section 4** amends s. 627.0628, F.S., relating to the Florida Commission on Hurricane Loss Projection Methodology. Currently, the findings of the commission are admissible and relevant in Department of Insurance review of a rate filing and in subsequent administrative or judicial review, but the findings are not binding on the department. The bill would clarify that the findings are also admissible and relevant in an arbitration proceeding.

**Section 5** amends s. 627.0629, F.S., relating to residential property insurance rate filings. The bill would allow an insurer to implement discounts of up to 10 percent on mobile home premiums if the mobile home owner provides evidence of a current inspection of the mobile home's tie-downs that certifies that the tie-downs have been properly installed and are in good condition.

The bill would allow the Florida Windstorm Underwriting Association (FWUA) to create an inspection program that would provide a homeowners' insurance applicant with funds to conduct an evaluation of the wind resistance of the home, recommendations for retrofits to improve wind resistance, and an estimate of the cost of the recommended retrofits. The evaluations would be governed by rules of the DCA. The FWUA would be required to identify areas of the state with the greatest wind risk to residential properties and annually recommend to the DCA target areas for evaluations and for inclusion in the mitigation programs under Section 1 of the bill.



Under current law, insurance companies are allowed to reflect in their rate filings any premiums that they pay to the Florida Hurricane Catastrophe Fund, but controversies have arisen over whether the Catastrophe Fund premiums may be treated as a surcharge to policyholders or are to be included in the catastrophic portion of an insurer's base rate in the same manner as reinsurance. The Catastrophe Fund Law requires Catastrophe Fund premiums to be treated the same as reinsurance, and the Rating Law allows insurers to fully recoup these payments in their premiums. The bill would require any rate filing that includes Catastrophe Fund-related adjustments also to include a complete calculation of the insurer's catastrophic load.

A key factor in determining an insurer's catastrophic load is its probable maximum loss (PML). PML is the highest expected loss from a given peril at a given probability. For example, if an insurer has a 100-year probable maximum loss from hurricanes of \$1 billion, this means that \$1 billion is the highest loss the insurer expects from a hurricane the probability of which is 1 percent. The bulk of an insurer's catastrophic load typically reflects the cost of obtaining reinsurance or other capital resources to cover the difference between the insurer's average annual loss and its PML. The bill would require that the 100-year PML be considered the standard in determining an insurer's catastrophic needs.

**Section 6** amends s. 627.351, F.S., relating to the Florida Windstorm Underwriting Association (FWUA) and the Residential Property and Casualty Joint Underwriting Association (RPCJUA).

Florida Windstorm Underwriting Association

*Retention of surplus:* current law provides for the distribution of FWUA surplus to insurers in proportion to their market share; however, in 1995, the FWUA stopped distributing surplus and has instead retained the surplus for payment of future claims (as the RPCJUA is required to do by law). The bill would require the FWUA to retain surplus for the payment of future claims and would prohibit distribution of surplus to insurers.

*Board membership:* Current law is silent on the membership of the FWUA board of directors. The plan of operation provides for a 12-member board selected by and representing various elements of the insurance industry. The bill would expand the membership to 15 and would require that three of the members be the Insurance Consumer Advocate and two consumer representatives appointed by the Insurance Commissioner. Terms of current board members would not be affected.

*Exemption from FWUA assessments as an incentive for RPCJUA depopulation:* Current law is silent on the issue of whether the FWUA board may grant exemptions from FWUA assessments as an incentive to induce an insurer to take over policies from the RPCJUA, but such exemptions have been a part of RPCJUA take-out plans approved by the DOI. The bill would authorize the FWUA board to grant exemptions as an incentive to RPCJUA depopulation, but would require that at least 60 percent of the policies removed from the RPCJUA under the take-out plan cover properties located in Dade, Broward, and Palm Beach Counties.

*Rates:* There are currently no specific requirements applicable to FWUA rates, while specific requirements exist for the RPCJUA. In order to assure that residual market

rates are not competitive with the "voluntary" (i.e., traditional private sector) market, and to assure that the residual market is in fact a last resort, the RPCJUA law requires that the average RPCJUA rate in a given county match the highest average DOI-approved rate charged in that county by the 20 insurers with the largest homeowners' market share (for mobile home policies, the rate must match the highest rate of the top 5 insurers). The bill would create similar requirements for the FWUA effective January 1, 1999. The differences from the current RPCJUA law are: the rates would be no lower than (rather than equal to) the target rates, the comparisons with the voluntary market would be based on the median property value in the county rather than the same value in all counties, and a weighted average would be used when a county encompasses several rating territories. These requirements would be phased in over a two-year period, with at least half of the rate change occurring in 1999.

*Rate arbitration:* In 1996, the Legislature provided for binding arbitration as an alternative to administrative challenges of DOI actions on rate filings. The bill clarifies that the FWUA may avail itself of arbitration.

*Market equalization surcharges:* Residual market entities such as the FWUA and RPCJUA are not subject to deficit assessments by other residual market entities, and they do not levy assessments on their own policyholders. In order to assure that assessments do not give residual market policyholders an advantage relative to voluntary market policyholders (who ultimately pay residual market assessments), the RPCJUA law requires a surcharge on RPCJUA policyholders to match any assessment levied by the RPCJUA. The bill would apply the same requirement to the FWUA, and would specify that the amount of the surcharge must reflect both FWUA assessments and RPCJUA assessments.

*Applicant eligibility:* Currently, any property located in an FWUA-eligible geographic area is eligible for FWUA coverage, even if the property owner could obtain coverage in the voluntary market. By contrast, an offer from an admitted insurer at approved rates disqualifies an applicant or policyholder from RPCJUA coverage, and if the RPCJUA obtains an offer while the policy is in effect, it may terminate its policy on 30 days' notice. The bill would apply the same disqualification standards to the FWUA. The bill would also require the FWUA to adopt standards for determining when a risk is so hazardous as to be uninsurable, as is currently required of the RPCJUA.

The bill would also allow the FWUA to establish different eligibility requirements and procedures in different areas of the state, but these requirements could not provide for an effective date of coverage later than the date of a closing when the coverage is sought in connection with a transfer of real property.

*Geographic eligibility:* In 1996, the Legislature amended the standards for geographic expansion of the FWUA. As a result, the department extended eligibility to portions of Palm Beach and Pasco Counties in November, 1996, and held a hearing on expansion into Martin County in January, 1997. The bill would prohibit further expansion of FWUA eligibility until October 1, 1998, except that the department would be able to finalize action on the Martin County petition.

*Civil immunity:* The bill would immunize member insurers, board members, agents, and employees of the FWUA, and the DOI, from civil liability for actions taken under the FWUA law. The immunity would not cover breach of an insurance contract or any willful tort.

*Clarification and technical revision of financial matters:* The bill would also make numerous technical changes, either to conform the law to current practice and the current plan of operation, or to facilitate ongoing financial arrangements of the FWUA. These clarifications and technical changes address such areas as: assessment process, assessment base, prohibition of exemption from emergency (but not regular) assessments, bonding authority (including the authority to issue bonds without a triggering weather event), and creditors' rights.

#### Residential Property and Casualty Joint Underwriting Association (RPCJUA)

*Exemptions from assessments:* The bill would prohibit exemptions from RPCJUA emergency assessments. The bill would also place a three-year limit on any exemption from regular assessments, but would, with DOI approval, provide for an extension for another one or two years for an insurer that guaranteed an additional one or two years of renewability for policies removed from the RPCJUA.

*General authority for depopulation:* There are two sources of statutory authority for RPCJUA depopulation incentives: s. 627.351(6)(g)3., F.S., which is a broad authorization, and s. 627.3511, F.S., which contains detailed standards and requirements. Among the provisions of s. 627.3511 is a requirement that at least 40 percent of the policies in a take-out plan be from Dade, Broward, and Palm Beach Counties, or that 30 percent be from those counties and an additional 50 percent be from other coastal counties. The bill would apply the same geographic requirements to take-out plans under the general depopulation authority of this section. The bill would also allow a commercial lines-residential property to be taken out of the RPCJUA during the term of the RPCJUA policy, rather than only upon expiration of the policy; the same provision currently applies to personal lines-residential properties.

*Market equalization surcharge:* The RPCJUA's current market equalization surcharge reflects assessments by the RPCJUA but not by the FWUA, with the result that the RPCJUA policyholder is given an advantage relative to a voluntary market policyholder when both the RPCJUA and FWUA levy assessments. The bill would include FWUA assessments in the calculation of the RPCJUA market equalization surcharge.

*Rates:* The current formula for RPCJUA rates expires at the end of 1997. The formula requires that the average RPCJUA rate in a given county must match the highest average DOI-approved rate charged in that county by one of the 20 insurers with the largest homeowners' market share (for mobile home policies, the rate must match the highest rate of the top 8 insurers). The bill: would continue this formula indefinitely for personal lines policies, except that the mobile home comparison would consider only the top 5 insurers; provide that the rates must be *no lower than* rather than *the same as* the target rates; provide that these changes do not require any currently-approved rate to be reduced; and would reflect current practice by applying the general rating law, s. 627.062, F.S., to commercial lines policies.

*Rate arbitration:* In 1996, the Legislature provided for binding arbitration as an alternative to administrative challenges of DOI actions on rate filings. The bill clarifies that the RPCJUA may avail itself of arbitration.

*Applicant eligibility:* The bill would also allow the RPCJUA to establish different eligibility requirements and procedures in different areas of the state, but these requirements could not provide for an effective date of coverage later than the date of a closing when the coverage is sought in connection with a transfer of real property.

*Clarification and technical revision:* The bill would also make numerous technical changes, either to conform the law to current practice and the current plan of operation, or to facilitate ongoing financial arrangements of the RPCJUA. These clarifications and technical changes address such areas as: applicant eligibility, limits on emergency assessments, prohibition of exemption from emergency (but not regular) assessments, bonding authority (including the authority to issue bonds without a triggering weather event), civil immunity, and creditors' rights.

**Section 7** amends s. 627.3511, F.S., relating to RPCJUA depopulation. The bill would provide:

That take-out may occur upon cancellation or expiration of an RPCJUA policy (current law refers only to expiration), and that if an insurer assumes an RPCJUA policy, it must guarantee 3 years' coverage unless canceled for reasons unrelated to hurricanes (current practice).

That an exemption can be extended for another 1 or 2 years with DOI approval if the insurer guarantees another 1 or 2 years of renewability.

That policy acquisition costs are subtracted from the amount of unearned premium that JUA must pay an assuming insurer.

That the current provision that a producing agent may retain the full commission on a policy when it is removed from the RPCJUA before it expires does not apply if the RPCJUA policy has been in force for 30 days or less.

That escrowed bonus payments remain the property of the RPCJUA until they are released from escrow (thereby delaying the recipient's tax liability for the bonus payments until they are released). The bill would also revise the provision that allows a minority-owned insurer to apply up to half of its bonus to its minimum surplus requirement, so that the minority-owned insurer could exempt that amount from escrow; in addition, the DOI would no longer be able to request that the RPCJUA approve the minority-owned insurer's take-out proposal before DOI issues a certificate of authority.

That current provisions relating to take-out plans for condominium association policies also apply to other forms of commercial lines residential policies (such as apartment building policies).

**Section 8** amends s. 627.3512, F.S., relating to insurers' recoupment of residual market deficit assessments. In 1995, the Legislature clarified existing practice by providing that

an insurer could pass its residual market (i.e., any joint underwriting association) assessments through to its policyholders by including a separate assessment factor in a rate filing. Rulemaking to implement this provision was halted in early 1997, when the DOI withdrew a proposed rule that it had published in the November 15, 1996 Florida Administrative Weekly. The withdrawal was apparently the result of controversies over aspects of the proposed rule relating to recoupment of premiums paid to the Florida Hurricane Catastrophe Fund, rather than the proposed residual market recoupment rules. The bill would incorporate the substance of the proposed rule into the residual market recoupment statute.

The bill would require the insurer to calculate separate assessment percentage factors for personal lines-residential policies and for commercial lines-residential policies. The insurer would be required to file these calculations with the DOI at least 15 days before applying the assessment factors. The DOI review would be limited to verification of the arithmetic calculations in the filing, and would be required to be completed within 15 days after filing. An insurer could not use an assessment factor more than 3 percentage points higher than the statewide average assessment percentage; any amounts not recovered because of this limitation could be recovered in subsequent years. This restriction would limit the impact of recoupments on policyholders of insurers that have been reducing their exposure.

**Section 9** creates s. 627.3513, F.S., relating to standards for sale of bonds by the FWUA and the RPCJUA.

The bill requires the FWUA and RPCJUA plans of operation to specify the method of selecting bond underwriters and financial service providers. The bill also requires the disclosure of: expenses to be incurred by the managing underwriter; the names, addresses, and compensation of finders; the amount of underwriting spread; management fees; other fees, bonuses, or compensation to be paid by the managing underwriter; the name and address of each financial advisor or managing underwriter; and any other disclosure the FWUA or RPCJUA board may require. Finders' fees would be prohibited unless disclosed.

**Section 10** creates s. 627.3516, F.S., to create the residual property insurance market coordinating council. The Legislative Working Group on Residual Property Insurance Markets recommended that communication between the FWUA and the RPCJUA be improved. The bill would create a 5-member coordinating council consisting of the Insurance Consumer Advocate as chair, representatives of insurance interests from the FWUA and RPCJUA boards, and representatives of non-insurance interests from the FWUA and RPCJUA boards. In addition to providing for exchange of information and plans, the coordinating council would also be required to submit its recommendations for merger of the FWUA and the RPCJUA to the Legislature by January 1, 1998.

**Section 11** amends s. 627.4025, F.S., relating to the definition of "residential coverage." Currently, condominium association policies, condominium unit owners' policies, and similar policies are included within the definition of "residential coverage." The bill would clarify that the term also includes cooperative unit owners' policies, cooperative association policies, and policies covering the common elements of homeowners' associations.

**Section 12** amends s. 627.701, F.S., relating to deductibles. Currently, the general requirement is that an insurer must offer a personal lines residential policyholder a choice of deductibles applicable to wind or hurricane losses, including both a \$500 deductible and a deductible equal to 2 percent of the policy dwelling limits. There are several exceptions to the mandatory offer requirements. The bill would provide that an insurer is required to make a \$500 hurricane deductible available only with respect to a primary residence that is subject to a low-income mortgage. A low-income mortgage is available to a household with an income no higher than 80 percent of the median household income, either in the state or in the county as determined by the lender.

The bill would also revise an exception to the \$500 offer requirement for properties valued between \$100,000 and \$250,000. For such properties, an insurer is currently exempt from the \$500 requirement if it guarantees two years of renewability, but it still must offer a deductible equal to 2 percent of dwelling limits. The bill would allow an insurer to offer a deductible of *up to* 2 percent of dwelling limits in this situation. The bill also corrects a cross reference in a provision adopted in 1996 relating to deductibles for mobile homes.

Current law has no mandatory offers of deductibles with respect to commercial residential policies (i.e., policies covering condominium associations and apartment buildings, and similar policies), but specifies that the maximum wind or hurricane deductible is 3 percent of the insured value. The bill would allow an insurer to offer a commercial residential policyholder a hurricane deductible of up to 5 percent of the insured value if the insurer also offers a hurricane deductible equal to 3 percent and one equal to 4 percent. The insurer would be required to make the offer of the 3 percent and 4 percent deductibles at each renewal of the policy.

**Section 13** provides that the act takes effect upon becoming a law.

### III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

#### A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

See above.

4. Total Revenues and Expenditures:

See above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Provisions requiring that premiums charged by the Florida Windstorm Underwriting Association (FWUA) and Residential Property and Casualty Joint Underwriting Association (RPCJUA) match the highest DOI-approved voluntary market rates could increase premiums paid to these entities if their rates are not currently at the top of the market. However, to the extent that such changes reduce the associations' potential for deficits and deficit assessments, the change reduces the potential costs to voluntary market insurers and voluntary market policyholders.

2. Direct Private Sector Benefits:

Limitations on eligibility for FWUA policies would slow the growth of the FWUA and thereby reduce the potential for FWUA assessments.

Revisions of mandatory offers of hurricane deductibles and of maximum hurricane deductibles for commercial lines-residential risks could increase the amount of available catastrophic insurance capacity.

The requirement that all RPCJUA take-out plans include specified percentages of policies from Dade, Broward, and Palm Beach Counties may improve the likelihood that take-out plans will reduce the RPCJUA's probable maximum hurricane loss.

3. Effects on Competition, Private Enterprise and Employment Markets:

The provisions relating to rates of the FWUA and RPCJUA should reduce the likelihood that either of these insurers of last resort is competitive with the voluntary insurance market.

D. FISCAL COMMENTS:

Section 1 of the bill specifies how moneys from the Florida Hurricane Catastrophe Fund which are a dedicated funding source for hurricane loss mitigation would be allocated among various agencies, but does not appropriate those moneys or affect the amount of moneys available for appropriation.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON FINANCIAL SERVICES:

Prepared by:

Legislative Research Director:

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Leonard Schulte

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Stephen Hogge