

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Banking and Insurance Committee

BILL: CS/SB 1488

SPONSOR: Banking and Insurance Committee and Senator Garcia

SUBJECT: Property Insurance

DATE: April 7, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Deffenbaugh</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Fav/CS</u>
2.	_____	_____	<u>JU</u>	<u>Withdrawn</u>
3.	_____	_____	<u>GA</u>	_____
4.	_____	_____	<u>WM</u>	<u>Withdrawn</u>
5.	_____	_____	<u>RC</u>	<u>Withdrawn</u>
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 1488 makes changes to the laws related to property insurance, primarily affecting residential property insurance, as follows:

Florida Hurricane Catastrophe Fund (FHCF) -- Lowers the “retention” or amount of residential hurricane losses that insurers must meet to be reimbursed from the FHCF, from \$4.96 billion to \$4.5 billion per hurricane, for the 2005 contract year. Reduces the retention to one-third of the full retention for the third and each additional hurricane in a year (in order of loss magnitude).

Low-interest loan program for hurricane loss mitigation -- Requires the Department of Community Affairs to establish a low-interest loan program, by subsidizing or guaranteeing private sector loans, for homeowners to retrofit their homes to reduce hurricane losses, beginning in FY 2006-07. For FY 2005-06, up to \$1 million of the \$10 million annually appropriated to DCA from the FHCF could be used for establishing a pilot project in one or more counties.

Insurance Rating Law

- Repeals the law that allows an insurer to submit a rate filing to an arbitration panel after it has been disapproved by the Office of Insurance Regulation (OIR);
- Requires a public hearing for property insurance rate filings exceeding 15 percent;
- Provides that hurricane loss models approved by the Florida Commission on Hurricane Loss Projection Methodology are admissible and relevant in a rate proceeding only if OIR and the insurance consumer advocate have access to all aspects of the model;
- Requires OIR to propose to the Legislature, by January 15, 2006, a standard territory rating plan for residential property insurance, but not to be implemented unless authorized by further act of the Legislature;

- Prohibits an insurer from recouping more than 1 year of reimbursement premium paid to the FHCF at a time.

Public Hurricane Loss Model -- Requires insurers to report loss and exposure data for developing and updating the public hurricane loss model.

Citizens Property Insurance Corporation ("Citizens")

- Changes appointments to the board of governors from 7 appointed by the Chief Financial Officer (CFO), to 2 members each appointed by the Governor, CFO, President of the Senate, and Speaker of the House or Representatives (8 total);
- Limits personal lines dwelling coverage to \$1 million;
- Limits rate increases in Citizens to 5 percent for personal lines residential policies (including wind-only policies), issued or renewed from July 1, 2005 until July 1, 2006.
- Requires that rates for Citizens shall be actuarially sound and not excessive, inadequate, or unfairly discriminatory, rather than the highest average rate in a county compared to the 20 leading insurers in the state, for those areas where OIR determines that a reasonable degree of competition does not exist;
- Requires Citizens to create a Market Accountability Advisory Committee to report at each board meeting, with members appointed by agent associations, insurers, OIR, the Citizens board, a realtor association, and a bankers association.
- Requires the Auditor General to conduct an operational audit of Citizens.

Standard Personal Lines Residential Policies -- Requires the CFO to appoint an advisory committee to develop standard personal lines policies to submit to the Legislature by January 15, 2006, but insurers would not be required to offer a standard policy unless required by further act of the Legislature.

Disapproval of Policy Forms -- Authorizes OIR to disapprove a policy form for property and casualty insurance if it contains provisions that are unfair or inequitable, contrary to the public policy of this state, or that encourage misrepresentation.

Checklist of Coverage -- Requires that insurers provide a checklist of coverage for personal lines residential policies, on a form adopted by the Financial Services Commission, including whether certain specified risks are covered, premium discounts, deductibles, replacement cost or actual cash value coverage, etc.

Hurricane Deductibles --

- Increases the maximum allowable deductible for personal lines residential policies from 5 percent to 10 percent of the dwelling limits;
- Requires insurers to offer deductibles of 1 percent, 2 percent, 5 percent, and 10 percent of dwelling limits for personal lines residential policies, rather than just 2 percent;
- Requires that the dollar amount of a percentage deductible be specified.

Law and Ordinance Coverage -- Requires insurers to offer coverage in homeowners policies equal to 50 percent of dwelling limits for the additional costs to meet applicable building codes, as an option to the 25 percent coverage that must currently be offered or provided.

Replacement Cost Coverage -- Requires that if a loss is insured for replacement cost, the insurer must pay the replacement costs without holdback of any depreciation in value, whether or not the insured replaces or repairs the dwelling or property.

Mediation Program -- Provides a penalty for insurers failing to notify claimants of their right to mediation.

Valued Policy Law (Mierzwa) -- In response to a recent district court opinion, provides legislative intent that the valued policy law is not intended to require an insurer to pay for a loss caused by a peril other than the covered peril.

Sinkhole claims -- Revises the law on sinkhole claims to:

- Allow an insurer to initially deny a sinkhole claim without conducting a professional test under certain circumstances, subject to the right of the policyholder to demand a test;
- Allow insurers to make payment directly to the persons performing the repairs;
- Require the Department of Business and Professional Regulation (DPBR) to certify persons as engineers and professional geologists for purposes of making sinkhole inspections and recommendations, to be randomly selected by DFS upon a request by a policyholder or insurer for a sinkhole inspection;
- Require, for a verified sinkhole loss, that insurers pay to stabilize the land and building and to repair the foundation of the building in accordance with the recommendations of the engineer and the geologist;
- Provide that the findings and recommendations of the engineer or geologist are presumed correct, unless rebutted by clear and convincing evidence in a civil proceeding;
- Require that reports of testing on paid sinkhole claims be filed by the insurer with the clerk of the court who must record the report with the title or deed for that property.

Notice of Premium Discounts for Hurricane Loss Mitigation -- Requires insurers to notify applicants and policyholders of the availability and amount of premium discounts and credits for fixtures and construction techniques that reduce the amount of loss in a windstorm.

Timely Payment of Claims -- Requires property insurers to pay, deny, or request additional information on claims within 30 days, subject to a 10 percent annual interest penalty.

Coverage for Hurricane-Damaged Homes -- Prohibits an insurer from canceling or nonrenewing a residential property insurance policy covering a dwelling damaged by a hurricane until 60 days after the dwelling has been repaired, with certain exceptions.

Additional Staffing for Insurance Consumer Advocate -- Appropriates \$350,000 from the Insurance Regulatory Trust Fund and 4 positions to the Office of the Consumer Advocate appointed by the CFO.

This bill substantially amends the following sections of the Florida Statutes: 215.555, 215.559, 627.062, 627.0628, 627.0629, 627.351, 627.411, 627.4133, 627.4143, 627.701, 627.706, 627.707, 627.7011, and 627.7015.

The bill creates the following sections of the Florida Statutes: 627.06291, 627.40951, 627.7071, 627.7072, 627.7073, 627.711, and 627.712.

II. Present Situation:

The 2004 Hurricane Season

Hurricanes Charlie, Frances, Ivan, and Jeanne struck Florida within a 45-day period between August 13 and September 26, 2004, causing extensive damage throughout the state. The Governor issued orders declaring a state of emergency during this period and the President of the United States declared most of Florida a federal disaster area.

As of March 29, 2005, insurance companies have reported to OIR that 1.7 million property insurance claims have been filed for the four hurricanes and that insurers have paid \$16.4 billion in total claims payments. The companies estimate that the total expected gross property loss will reach \$22.8 billion. This figure includes residential, commercial (business), and auto losses, but not National Flood Insurance Program losses. But, this amount also includes the amount of losses below the deductible (not paid by the insurer), estimated at \$3.1 billion for residential deductibles alone, plus an unreported amount of deductibles for non-residential policies.

Joint Select Committee on Hurricane Insurance

On January 5, 2005, the Senate President and House Speaker appointed the Joint Select Committee on Hurricane Insurance and directed it to study all aspects of the property insurance market that promote the availability and affordability of coverage, but to focus on particular issues related to hurricane deductibles, the Florida Hurricane Catastrophe Fund (FHCF), and Citizens Property Insurance Corporation (Citizens). The Joint Select Committee issued its final report and recommendations on February 25, 2005.¹ The recommendations were as follows:

Hurricane Deductibles and Consumer Disclosures

- 1) Retain the mandatory annual hurricane deductible for homeowners policies and other personal lines residential policies, rather than making the annual deductible an option for such policies.
- 2) Require insurers to offer both an annual hurricane deductible and a per event deductible to condominium associations and other commercial residential policies.
- 3) Petition Congress to allow for hurricane savings accounts so that residential policyholders can save money, tax-free, to cover deductible expenses, repair costs, or to strengthen their home, recognizing that implementation may be long-term.
- 4) The Legislature should consider requiring insurers to offer hurricane deductibles of 1, 3, 5, 7, and 10 percent of policy limits, in addition to the 2 percent deductible that must currently be offered. Recognizing that requiring insurers to offer lower deductibles may have a negative impact on the financial capacity of insurers to write policies, the Legislature should consider linking this requirement to other means for increasing the capacity of insurers to write policies, such as lowering the retention for insurers to be reimbursed by the Florida Hurricane Catastrophe Fund (addressed below).

¹ The final report is available at: <http://www.flsenate.gov/data/committees/joint/jshi/finalreport.pdf>

- 5) Require insurers to compute and prominently display the actual dollar value of percentage hurricane deductibles on the declarations page of the insurance policy and on the premium renewal notice.
- 6) Require residential property insurers to provide a standard disclosure form to be signed by applicants and policyholders, adopted by rule by the Financial Services Commission, that explains in easily understood terms what is covered and what is not covered, principal limitations on coverage, the method for determining the value of damage or loss, and options available for different types or amounts of coverage.

Florida Hurricane Catastrophe Fund

- 7) Lower the retention in the FHCF, primarily to address multiple hurricanes within the same year.
- 8) Further study the premium structure for the FHCF to determine whether additional premiums should be charged to reduce the likelihood of bonding.

Citizens Property Insurance Corporation

- 9) The Legislature should begin a complete reexamination and study of the statutory requirements and operation of Citizens Property Insurance Corporation and give specific consideration to the following issues:
 - a. Whether appointments to the Board of Governors of Citizens, who are all currently appointed by the Chief Financial Officer, should be divided among additional state officers and whether the criteria for board membership should be revised.
 - b. Whether the bonuses paid by Citizens to carriers taking policies out of Citizens provide a cost-effective means of reducing Citizens' potential liability.
 - c. Whether the "Consumer Choice" law should be repealed or amended to assure that Citizens serves as the insurer of last resort, so that a policyholder would not be eligible for coverage from Citizens if an offer of coverage is made by an authorized insurer at approved rates, regardless of whether the current agent of record is willing or able to be appointed by the insurer.
 - d. Whether the rates for Citizens should be based on actuarial soundness rather than compared to rates for other insurers, in areas where a reasonable level of competition does not exist.
 - e. Whether coverage should be limited to \$1 million for personal lines, windstorm-only policies in the High Risk Account, as currently limited for multiperil personal lines policies in the Personal Lines Account.
 - f. Whether Citizens has hired an adequate level of permanent claims and adjusting staff in addition to outsourcing its claims adjusting to independent adjusting firms.
 - g. Consider any legislative recommendations made by the Task Force on Policyholder Services and Relations for Citizens Property Insurance Corporation.
 - h. Require the Office of the Auditor General to conduct an Operational Audit of Citizens regarding its customer service, claims handling, accessibility of policyholder information to the agent of record, takeout programs, and financing arrangements. The audit should contain policy alternatives for legislative consideration.
 - i. Whether Citizens should be required to implement specific programs to address problems of communication and service to agents and policyholders, such as

establishing an independent advisory committee and providing web-based access to policyholder information.

Hurricane Loss Mitigation

- 10) Require insurers to clearly notify homeowners about the availability and amount of premium discounts for hurricane loss mitigation along with an explanation of what a homeowner must do to qualify for these discounts.
- 11) Appropriate mitigation funds from the Florida Hurricane Catastrophe Fund to subsidize low-interest loans to consumers to retrofit structures to mitigate hurricane damage, for structures built before the new building codes took effect.
- 12) Improve methods of reducing the amount of damage caused by hurricanes. This will include evaluating whether the building code should be strengthened and/or have the geographic boundaries of the high speed wind zone expanded. There should also be evaluations of other methods of strengthening new and existing structures, including but not limited to, possible tax incentives and additional insurance discounts.

Hurricane Loss Models

- 13) Amend s. 627.0628(3), F.S., to provide that the Office of Insurance Regulation and the Insurance Consumer Advocate must have access to all of the assumptions and components used in developing a hurricane loss model found to be acceptable by the Florida Commission on Hurricane Loss Projection Methodology, in order for the findings and factors of the model to be admissible and relevant in consideration of an insurer's rate filing. Provide an exemption from the Public Records law and Public Meetings law for any trade secret information related to a proprietary hurricane loss model.
- 14) Require residential property insurers and licensed rating and advisory organizations that compile loss data to timely report residential hurricane loss data to the Office of Insurance Regulation for transmission to the type I center at a state university under contract with the OIR for the development and updating of the Public Hurricane Model, subject to administrative fines for non-compliance. Provide that company specific data submitted is a trade secret and is exempt from the public records law and that the OIR is responsible for maintaining the confidentiality of such information.
- 15) The Legislature should appropriate adequate funds for the annual maintenance and updating of the Public Hurricane Model.

Other Issues

- 16) Non-renewals of damaged homes -- Codify the emergency rule approved by the Financial Services Commission to prohibit insurers from canceling or non-renewing a homeowner's policy until 60 days after repairs to damages caused by a hurricane are completed.
- 17) Construction Fee Schedule -- Statutorily require that a schedule of reasonable ranges of construction costs be adopted by rule in the event of a natural disaster for guidance to insurers, contractors, and policyholders for repair of damaged property, including temporary mitigation measures.
- 18) Staffing and Funding for Insurance Consumer Advocate -- The Legislature should evaluate the staffing, powers, and funding of the Office of the Insurance Consumer Advocate to determine if increases or strengthening is needed.

- 19) Loyalty Provision -- The Legislature should consider and study the impact of restricting an insurer's right to cancel or non-renew a policyholder who has been insured for at least 5 years without any claims.
- 20) Valued Policy Law (*Mierzwa*) -- The Legislature should consider amending the valued policy law (s. 627.702, F.S.) to clarify that a property insurer is responsible to pay only for that portion of damage to a structure which is caused by a peril insured under the property insurance policy and is not required to pay for damage caused by excluded perils; thereby clarifying that the Fourth DCA opinion in *Mierzwa v. Florida Windstorm Underwriting Association* was incorrect.
- 21) Sinkhole Coverage -- The Legislature should continue to study the sinkhole liability exposure issue and consider any recommendations made by the sinkhole study to be submitted by Florida State University.

Florida Hurricane Catastrophe Fund

Overview -- The Florida Hurricane Catastrophe Fund (FHCF or Fund) was created in 1993 after Hurricane Andrew as a form of mandatory reinsurance for residential property insurers.² All insurers who write residential property insurance in Florida are required to buy coverage from the FHCF to reimburse them for a portion of their residential hurricane losses. The Fund is a tax-exempt state fund administered by the State Board of Administration (SBA) that provides an additional source of reinsurance to insurers that is much less expensive than private reinsurance. This generally enables insurers to write more residential coverage in Florida than could otherwise be written and acts to lower premiums for consumers.

Retention -- Each insurer must have hurricane losses that exceed its "retention" or deductible, before it is reimbursed from the Fund. The law, as amended in 2004, establishes a \$4.5 billion retention for all insurers combined for each hurricane, beginning with the June 1, 2004 contract year, subject to an annual growth factor equal to the percentage increase in the Fund's exposure. Separate retentions are calculated for each insurer based on the insurer's percentage share of total premiums paid to the Fund.

Coverage Limits -- The FHCF reimburses insurers above their retention for 90 percent, 75 percent, or 45 percent of their residential losses, as selected by the insurer. The maximum amount the FHCF is required to pay is \$15 billion for 2004, subject to the same annual growth factor as the retention, except that the limit cannot increase more than the dollar growth in the Fund's cash balance. Each insurer's recovery in any year is limited to its percentage share of the total \$15 billion (or greater) limit, equal to the insurer's percentage of total Fund premiums. However, if capacity remains after all insurers have been fully reimbursed, the Fund must reimburse Citizens Property Insurance Corporation, the state insurer of last resort, for its reimbursable losses exceeding its share of the \$15 billion limit.

Premiums -- Each insurer pays a reimbursement premium approved by the SBA, which must be 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, and a premium formula developed by an independent consultant hired by the SBA. Each insurer's reimbursement premium is based on the insured value of its residential

² Section 215,555, F.S.

policies, their location, construction type, deductible amounts, and other factors. For 2004, FHCF premiums paid by insurers totaled \$616 million.

Funding; Assessments -- If the cash balance of the FHCF is insufficient to meet its obligations, the SBA is authorized to issue revenue bonds funded by emergency assessments levied as surcharges against all property and casualty insurance premiums paid by policyholders, other than for workers' compensation and, until June 1, 2007, medical malpractice, and including surplus lines policyholders. Annual assessments (never yet levied) are capped at 6 percent of premium for losses from any 1 year and 10 percent of premium for losses from multiple years.

Current Financial Status; Impact of 2004 Hurricanes -- For the 2004 contract year, the FHCF had a year-end balance of \$6.12 billion, before losses. As a result of the hurricanes, the Fund is expected to reimburse insurers approximately \$3 billion, or about one-half of its \$6.12 billion cash balance; therefore, bonding will not be necessary. However, the loss estimates for the FHCF are still preliminary and have continued to increase from earlier estimates. A total of 186 insurers reported losses to the Fund, but only 133 are expected to have losses in excess of their retention for at least one hurricane and trigger FHCF coverage. Of these, 55 companies are expected to exhaust their limits of FHCF recovery.

For the 2005 contract year, the FHCF will have a year-end cash balance of approximately \$3.5 to \$3.8 billion, assuming no hurricane losses or further changes to the law. This includes amounts estimated for 2005 premium revenue, investment income, appropriations for the multiple deductible reimbursement program and hurricane mitigation, and additional reserves for 2004 losses. Since the cash balance is less than the prior year, the maximum reimbursement remains at \$15 billion for 2005. This exposes the FHCF to potential bonding and assessment liability of about \$11.2 to \$11.5 billion beyond its cash balance. The total industry retention will increase from \$4.5 billion to \$4.96 billion per hurricane for 2005, due to the increase in the Fund's exposure, which is primarily a function of total insured value of residential property.

Citizens Property Insurance Corporation

Overview -- In 2002, the Florida Legislature created Citizens Property Insurance Corporation (Citizens) which combined the then existing Florida Residential Property and Casualty Joint Underwriting Association (RPCJUA) and the Florida Windstorm Underwriting Association (FWUA).³ Citizens is the state's "insurer of last resort" and a property is eligible for coverage with Citizens only if there is no other offer from an authorized insurer.

Board of Governors -- Citizens operates under the direction of a 7-member Board of Governors, all appointed by the Chief Financial Officer (CFO) for 3-year terms, representing geographically diverse regions of the state. The CFO also appoints a technical advisory board to provide information and advice to the Board of Governors.

Types of Coverage -- Citizens offers three types of insurance in three separate accounts: 1) Personal Lines Account (PLA) which provides coverage statewide for homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners and similar policies; 2)

³ Section 627.351(6), F.S.

Commercial Lines Account (CLA) covering condominium associations, apartment buildings and homeowners associations statewide; and 3) High-Risk Account (HRA) which provides windstorm-only policies for residential and non-residential (commercial) risks in designated areas near the coast which met prior statutory criteria. In these HRA “wind only” territories, private insurers are allowed to sell property insurance policies that exclude windstorm coverage. This HRA territorial boundaries cannot be expanded, but they must be reduced on February 1, 2007, in order to reduce the HRA’s probable maximum loss or PML for a 100-year storm to 25 percent below its “benchmark” 100-year PML of February 1, 2001.

Policy Count and Exposure -- As of February 28, 2005, Citizens provided coverage to 805,198 policyholders, making Citizens the second largest insurer in Florida. The numbers of policyholders in the three accounts are: PLA -- 345,774; CLA -- 3,641; and HRA -- 455,783. The buildings and contents insured by these policies combine for about \$197 billion in insured value. Citizens projections for the 2005 hurricane season are that the HRA is exposed to a \$7.6 billion probable maximum loss (PML) for a 100-year storm, and the combined PLA/CLA faces an additional \$2 billion 100-year PML.

Limits of Coverage -- Although not specified by statute, Citizens currently has a maximum policy limit of \$1 million for homeowner policies issued in its Personal Lines Account. This account also limits coverage to \$100,000 for mobile homes, \$200,000 for condominium units, and \$100,00 for tenants policies. However, there is no upper limit for residential (wind-only) policies issued the High Risk Account (HRA). At year end 2004, of the 453,765 policies in the HRA, about 3,500 policies had limits in excess of \$1 million. Citizens estimates that its probable maximum loss in 2004 in the HRA was \$6.7 billion, which would have been reduced by \$700 million, or 10.4 percent, if personal residential policies risks above \$1 million were excluded.

Premiums -- In order to assure that Citizens rates are not competitive with the voluntary market, the current law requires that rates for its Personal Lines Account be actuarially sound and that its average rates for each county must be no lower than the average rates charged by the insurer that had the highest average rate in that county among the 20 insurers (5 insurers for mobile home coverage) with the greatest direct written premium in the state for that line of business. For its High Risk Account (wind-only policies), the law more generally requires that Citizens rates be actuarially sound and not be competitive with approved rates charged by authorized insurers. Citizens and OIR were required to jointly develop a wind-only ratemaking methodology to meet this purpose, for rates effective on or after July 1, 2004. The wind-only rate methodology that was developed uses a variation of the “Top 20” approach mandated for personal residential multi-peril policies.

Additional Funding; Deficit Assessments -- Generally, if Citizens does not have adequate funds to pay claims in any of its three accounts, it may levy regular assessments for each such account against property insurers, including surplus lines insurers, up to 10 percent of each insurer’s net written premium from the prior year for subject lines of business. Insurers are then permitted to recoup this assessment in future rate filings. This assessment base has about \$7.5 billion in premium, so a one-time regular assessment would generate about \$750 million for each account. If that is not sufficient, Citizens may issue revenue bonds funded by multi-year emergency assessments collected by insurers as premium surcharges on all property insurance policyholders

in the state, generally limited to 10 percent of premium, or 10 percent of the deficit, whichever is greater.

Citizens must purchase reinsurance from the Florida Hurricane Catastrophe Fund and must use its “best efforts to procure catastrophe reinsurance at reasonable rates as determined by the board of governors.” Citizens has never purchased reinsurance other than its FHCF coverage.

Impact of 2004 Hurricanes; Current Financial Status -- For the 2004 storms, Citizens losses are currently estimated at about \$2.4 billion, of which about \$1.6 billion were incurred in the High Risk Account. Pending final audit results for 2004, Citizens estimates that the HRA has a 2004 year-end deficit of about \$527 million. This may require about a 7 percent, one-time regular assessment on property insurers to fund this deficit, which the insurer may then recoup from its policyholders. For example, this would be about a \$70 surcharge for a policy with a \$1,000 annual premium. Even though Citizens purchased reinsurance from the Florida Hurricane Catastrophe Fund, its residential losses for each hurricane were below the \$950 million per-storm retention for the HRA, so Citizens was not reimbursed by the Fund.

For its other two accounts combined, the PLA/CLA, Citizens has an estimated 2004 year-end surplus of about \$172 million, so assessments do not appear to be necessary for these accounts. All of these estimates are still preliminary as losses continue to develop and final audits are completed.

Citizens reports that about 118,000 claims have been filed for the four hurricanes, of which about 95 percent have been settled. However, many claims payments were delayed due primarily to problems Citizens encountered in securing an adequate number of claims adjusters. In response to consumer complaints in this regard, the CFO has appointed the Task Force on Policyholder Services and Relations to Citizens Property Insurance Corporation (Task Force) to make recommendations to Citizens for improving customer service and returning policies to the private insurance market. The Joint Select Committee on Hurricane Insurance also heard testimony regarding problems with communication and customer service to insurance agents and policyholders by Citizens.

Depopulation of Citizens; Take-Out Bonuses -- The current law expresses legislative intent to provide a variety of financial incentives to encourage the replacement of policies written in Citizens with policies written by authorized insurers at approved rates. There is specific authority for Citizens, as there was for the RPCJUA, to pay a “take-out bonus” to insurers of up to \$100 for each policy removed from Citizens, under certain conditions.⁴ However, Citizens, like the RPCJUA before it, has implemented greater bonuses under conditions approved by its board and the OIR, based on a broader grant of authority to adopt programs and incentives for the reduction of both new and renewal writings.⁵ Most recently, Citizens has provided a take-out bonus ranging from 12.5 to 25 percent of the premium for policies removed, subject to requirements for taking out a specified minimum number of policies and a specified minimum percentage in Miami-Dade, Broward, or Palm Beach counties. Insurers are required to insure a take-out policy

⁴ Section 627.3511, F.S.

⁵ Section 627i.351(6)(g)3., F.S.

for three years as a condition of receiving the bonus, which is held in an escrow account until that time.

Citizens reports that as of March 25, 2005, Citizens and the former RPCJUA have paid 27 different insurers a total of \$119 million to take out slightly more than 1 million policies. An additional \$67.5 million is currently held in escrow for six insurers taking out an additional 267,075 policies that have not yet been insured for three years. Citizens reports that in 2004 alone, four insurance companies removed 158,416 policies from Citizens.

One of the challenges to depopulating Citizens is the “Consumer Choice” law, enacted in 2002, when Citizens was created. The prior RPCJUA law provided that a policyholder was not eligible for coverage if an offer of coverage was made by an authorized insurer at approved rates. But, the Consumer Choice law provides that a Citizens policyholder who receives an offer of coverage may remain in Citizens if the current agent of that insured is “unable or unwilling to become appointed for the takeout insurer.” This is less disruptive to a Citizens policyholder and his agent and allows for a smoother transition to a take-out company, if the agent is appointed, but Citizens reports that the law also operates to reduce the number of policies taken out.

Hurricane Deductibles

The Legislature authorized the use of separate, percentage hurricane deductibles for residential policies in 1993 after Hurricane Andrew. Section 627.701, F.S., establishes the maximum and minimum hurricane deductibles that are allowable and mandates that insurers offer hurricane deductibles of specified amounts. The Legislature’s expressed purpose in allowing for higher hurricane deductibles is to limit premium increases and to increase the availability of coverage.

The law generally requires insurers to offer homeowners a hurricane deductible of 2 percent of the dwelling limits, but for homes valued under \$100,000, the insurer must also offer a \$500 hurricane deductible. About 76 percent of the homes in Florida have a 2 percent hurricane deductible. For example, a home insured for \$200,000, would have a \$4,000 deductible for hurricane damage. For homes valued at \$100,000 or greater, insurers generally do not offer a homeowner a hurricane deductible lower than the 2 percent deductible that must be offered, but some insurers do so. Insurers are generally allowed to offer hurricane deductibles as high as 5 percent of policy limits, but are prohibited from offering higher amounts, except for homes valued in excess of \$500,000 for which no maximum limit applies. About 5 percent of the homes in Florida have a 5 percent deductible. The following table summarizes the current law.

**Current Requirements for Residential Hurricane Deductibles
(s. 627.701, F.S.)**

Dwelling Limits	Minimum Deductible Allowed	Maximum Deductible Allowed**	Specific Mandatory Offerings
0-\$24,999	\$250.00	2%	None
\$25,000-50,000	\$250.00	2%	\$500 & 2%
\$50,001-99,999	\$500.00	2%	\$500 & 2%
\$100,000-249,999	\$500.00	5%	2% (and \$500*)
\$250,000-500,000	\$500.00	5%	2%
\$500,001 and up	\$500.00	Unlimited	2%

*For houses valued between \$100,000 and \$250,000, an insurer is not required to offer the \$500 deductible if it guarantees it will not nonrenew to reduce potential loss from hurricanes for one additional renewal period. As interpreted by OIR, this guarantee had to be provided for only one renewal period, after April 1, 1996, and thereafter the insurer is no longer required to offer the \$500 deductible (s. 627.701(3)(b), F.S.; OIR interpretation provided to committee staff.)

**Commercial Residential Policies: For all values, a 5 percent maximum deductible is allowed for condominium association and cooperative association policies and a 10 percent maximum deductible is allowed for other commercial lines residential policies (e.g., apartment buildings). The insurer must offer a 3 percent deductible. (s. 627.701(8), F.S.).

“Grandfather” Exception: Notwithstanding the hurricane deductible limits summarized above:

- An insurer may require higher deductibles than shown above if a risk was covered on August 24, 1992, under a policy having a higher deductible than allowed by the above limits. (s. 627.701(3)(a), F.S.)
- An insurer is not required to offer either the \$500 or 2 percent deductible with respect to a deductible program lawfully in effect on June 14, 1995, or any similar deductible program, that requires a minimum deductible amount of at least 2 percent of policy limits. (s. 627.701(3)(b)2, F.S.)

Mobile Homes: Hurricane deductibles for a mobile home property insurance policy:

- may not exceed 5 percent of the property value if the property is subject to any liens, and
- may not exceed 10 percent of the property value if the property is not subject to any liens.

Other Perils (non-hurricane): Policies must offer a \$500 deductible for all perils other than hurricane. (s. 627.701(6), F.S.)

Mandatory Annual Hurricane Deductibles -- Legislation enacted in the 2004 Special Session A requires that for residential property insurance policies issued or renewed on or after May 1, 2005, the hurricane deductible must be applied on an annual basis to all hurricanes that occur during the calendar year, rather than to each hurricane.⁶ However, insurers are allowed to apply the “other perils” deductible, which is typically \$500, or the remaining amount of the hurricane deductible, whichever is greater, to a loss for each subsequent hurricane that year.

The new law applies to both personal lines residential policies (homeowners, mobile homeowners, etc.) and commercial residential policies (condominium associations, apartment buildings, etc.). Although the premium impact on personal lines policies is expected to be small (about 1 to 3 percent), it is likely to be much greater for condominium association policies.

⁶ Chapter 2004-480, L.O.F.

On March 18, 2005, the Senate passed CS/SB 1486 (in House Messages) which provides that the mandatory annual deductible would be limited to personal lines residential policies issued on or after May 1, 2005. For commercial residential policies issued or renewed on or after January 1, 2006, the insurer would be required to offer the policyholder the option of an annual hurricane deductible and a hurricane deductible that applies to each hurricane.

Property Insurance Rating Law; Hurricane Loss Models

Rate Filing Standards and Procedures --Property and casualty insurers are required to file rates for approval with OIR either 90 days before the proposed effective date (“file and use”) or 30 days after the rate filing is implemented (“use and file”).⁷ Under the file and use option, OIR must finalize its review by issuing a notice of intent to approve or disapprove within 90 days after receipt of the filing; otherwise the filing is deemed approved. Under the “use and file” option, an insurance company may be ordered by OIR to refund to the policyholder that portion of the rate found by OIR to be excessive.

The OIR may disapprove a rate filing if it determines such rates to be “excessive, inadequate, or unfairly discriminatory” as these terms are defined. The law specifies numerous factors which the OIR must consider in making this determination.

If OIR disapproves a rate filing, the insurer may request an administrative hearing under the Administrative Procedures Act (ch. 120, F.S., A.P.A.). Under the APA, a formal adversarial hearing is held before a State Administrative Law Judge (ALJ) of the Division of Administrative Hearings. Once the hearing is completed, the ALJ has 30 days to issue a recommended order to OIR. The recommended order contains findings of fact and conclusions of law as found by the ALJ. The OIR has 90 days to issue a final order which may reject or modify the conclusions of law contained in the recommended order. However, OIR’s final order may not substitute findings of facts contained in the recommended order which were supported by competent substantial evidence. An insurer may then appeal OIR’s final order to the First District Court of Appeal.

Arbitration -- In 1996, the law was amended to allow property and casualty insurers to request binding arbitration of a rate filing as an alternative to an administrative hearing.⁸ After OIR issues a notice of intent to disapprove a rate filing, the insurer may request arbitration before a panel of three arbitrators. One arbitrator is selected by the insurer, one by OIR, and the third is chosen by the two other arbitrators. An arbitrator must be certified by the American Arbitration Association and may not be the employee of any insurance company or insurance regulator. The procedures of the Arbitration Code (chapter 682, F.S.) apply, and the costs of arbitration are paid by the insurer. The decision of the panel, which must be made within 90 days, constitutes the final approval of a rate filing.

There is no appeal of the arbitration panel’s decision to a higher court. However, either party may apply to the circuit court to vacate or modify the panel’s decision under limited conditions. In general, grounds for vacating include corruption or fraud, evident partiality by a neutral

⁷ Section 627.062, F.S.

⁸ The arbitration option is not available for private passenger motor vehicle insurance rate filings, which are subject to a different rating law in s. 627.0651, F.S. Also, the medical malpractice legislation enacted in 2003 provided that medical malpractice insurers were no longer permitted to use the arbitration process (ch. 2003-416, L.O.F.).

arbitrator, and action beyond the arbitrators' powers or jurisdiction. Grounds for modification include miscalculations, errors as to form, and actions on matters not submitted for arbitration. Upon initiation of arbitration, the insurer waives all rights to challenge the action of OIR under the APA or any other law; however, these rights are restored to the insurer if the arbitrators fail to act within 90 days after initiation of arbitration.

According to OIR, as of October, 2004, 103 rate filings have been disapproved since the inception of arbitration in 1996. Of these 103 disapprovals, 11 had an arbitration hearing and decision. OIR states that it prevailed in only one case. In four cases, the insurer's requested rate change was approved by the arbitration panel. In the remaining six cases the panel's decision was an amount between those of the two parties. According to OIR, during this same period, very few insurers have litigated their rate filings under the APA. The vast majority of those insurers either settle their rate disputes with OIR or withdraw their filing.

Rating Territories -- Property and casualty insurers establish rating territories for which a territorial rating factor will apply to increase, decrease, or leave unchanged, the base rate charged by the insurer. The insurer must demonstrate to the OIR that the application of the territorial rating factors will not result in a rate that is unfairly discriminatory, so that the factor bears a reasonable relationship to the expected loss and expense experience amount the various risk within that territory. Each insurer is permitted to establish its own territories, based on these standards. Generally, OIR does not require an insurer to justify its territorial rating factors in each rate filing, but will periodically require an insurer to do so.

Public Hearings -- The current law provides that OIR must hold a public hearing on a residential property insurance -- rate filing that exceeds 25 percent, if the filing is based on data from a computer model.

Hurricane Loss Models -- In 1995 the Legislature established the Florida Commission (Commission) on Hurricane Loss Projection Methodology to serve as an independent body within the State Board of Administration.⁹ The Commission's role is to adopt findings relating to the accuracy or reliability of the methods, standards, principles, models and other means used to project hurricane losses. The membership of the Commission is designed to equip it with expertise in fulfilling its mission. The members include experts in insurance finance, statistics, computer system design, and meteorology appointed by the CFO who are full-time faculty members in the State University System, an actuary member from the FHCF Advisory Council, an actuary employed with a property and casualty insurer appointed by the CFO, an actuary employed by OIR, the Executive Director of Citizens, the senior employee responsible for FHCF operations, the Insurance Consumer Advocate, and the Director of Emergency Management of DCA. The Commission sets standards for loss projection methodology and examines the methods employed in proprietary hurricane loss models used by private insurers in setting rates to determine whether they meet the Commission standards.

Since the law does not provide any exemption from the Public Records Law or Public Meetings Law, the entire Commission is not able to examine, have possession of, or specifically discuss all of the various assumptions and components used in developing the various private industry

⁹ Section 627i.0628, F.S.

models. Private modeling companies consider certain information a trade secret that could be subject to disclosure to competitors if provided to the Commission. Instead, the Commission uses a staff of five experts made up of a meteorologist, an engineer, an actuary, a statistician, and a computer scientist known as the "Professional Team" to conduct on-site reviews of proprietary models and to report back to the Commission as to their conclusions. Representatives from OIR have also been provided access to different proprietary models, but are not permitted to disclose the proprietary aspects of the models. There are currently four private hurricane loss models that have been determined by the Commission to meet its standards and found acceptable.

The law provides that an insurer may use in its rate filing hurricane loss models found by the commission to be accurate or reliable and that such findings are admissible and relevant in consideration of the rate filing by OIR or on any arbitration or administrative or judicial review.

Public Hurricane Loss Model -- The state authorized and initially funded the development of a public hurricane loss projection model, pursuant to the 2000 General Appropriations Act.¹⁰ The model is required to be designed in accordance with the standards set by the Florida Commission on Hurricane Loss Projection Methodology. The Department of Insurance was appropriated \$2.5 million to contract with the State University System, which contract was entered with the International Hurricane Research Center at Florida International University. Subsequent annual appropriations of about \$300,000 per year have been made to further the development of the public model. The process of developing and testing the public model has reportedly been slowed by the failure of some insurance companies to timely provide insurance policy and claims data. The model has been developed, is currently being tested and externally reviewed, and is expected to be completed and released by May 2005. However, the model will continue to require updating and maintenance as required for private models, particularly if it must continue to meet the standards of the Commission, which are also subject to revision, and to gather data from the 2004 storms.

Consumer Advocate -- Current law requires the CFO to appoint a consumer advocate to represent the general public before DFS and OIR.¹¹ The consumer advocate reports directly to the CFO, but is not otherwise under the authority of the department. The powers of the consumer advocate include recommending to the DFS or OIR the commencement of any proceeding or action; appearing in any proceeding or action before the DFS or OIR, or before the Division of Administrative Hearings relating to subject matter under the jurisdiction of the department or office. The powers also include examination of rate and form filings submitted to the office, hiring consultants as necessary to aid in the review process, and recommending to DFS or OIR any position the consumer advocate deems to be in the public interest. The consumer advocate must prepare an annual budget for presentation to the Legislature by the DFS, which must be adequate to carry out the duties of the office.

The current consumer advocate, who has been in his current position for approximately 1 year, has intervened in the workers' compensation rate filing made on behalf of all carriers, but has not otherwise intervened in another rate filing. In addition to the consumer advocate, the office is staffed with one attorney, two analysts, and an administrative assistant.

¹⁰ Section 2226 of ch. 2000-166, L.O.F.

¹¹ Section 627.0613, F.S.

Hurricane Loss Mitigation

Hurricane Mitigation Premium Credits -- Since 2003, insurers have been required to provide premium credits or discounts for residential property insurance for properties on which construction techniques had been installed which reduce the amount of loss in a windstorm.¹² These construction techniques include roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protection, and window, door, and skylight strength, etc. Individual credits generally range from 3 to 25 percent and a fully mitigated home can qualify for total credits ranging from 20 to 42 percent off its wind insurance premium. Typically, policyholders are responsible for substantiating to their insurers the existence of loss mitigation features in order to qualify, often requiring some sort of certification or inspection. Insurers may allow homeowners to self-certify some features such as roof shape or number of stories, but require an engineer, building inspector, architect, or licensed building contractor to certify the more technical features such as roof deck attachment. Current Florida law does not require insurers to notify their insureds about credits or discounts for making wind mitigation improvements to their homes.

Hurricane Loss Mitigation Programs -- The law directs the Legislature to annually appropriate at least \$10 million from the FHCF, but no more than 35 percent of the investment income from the prior fiscal year for hurricane loss mitigation programs.¹³ Actual annual legislative appropriations have ranged from the minimum \$10 million to \$30 million. The Hurricane Loss Mitigation Program (HLMP) within the Department of Community Affairs (DCA) was created in 1999, with an annual appropriation of \$10 million from the FHCF, to fund programs for improving the wind resistance of residences and mobile homes to prevent or reduce losses or reduce the costs of rebuilding after a disaster.¹⁴ Three (\$3) million from the HLMP is statutorily directed to retrofitting public facilities to be used as hurricane shelters while the remaining \$7 million, is appropriated for the Residential Construction Mitigation Program (RCMP) administered by DCA and statutorily allocated as follows:

- 40 percent (\$2.8 million) is used to inspect and improve tie-downs for mobile homes;
- 10 percent (\$700,000) is directed to the Type I Center of the State University System dedicated to hurricane research, e.g., Florida International University; and
- The remainder (50 percent or \$3.5 million) is generally directed to programs developed by the DCA with advice from an Advisory Council to help prevent or reduce losses to residences and mobile homes or to reduce the cost of rebuilding after a disaster.

One of the programs funded by the \$3.5 million allocation directs grants targeting homes in the Governor's designated Front Porch communities to provide hazard mitigation upgrades to low-to-moderate income homes. Currently, the RCMP does not have any low-interest loan programs.

Valued Policy Law (*Mierzwa*)

Florida's valued policy law provides that "[i]n the event of the total loss of any building...located in this state and insured by any insurer as to a covered peril...the insurer's

¹² Section 627.0629(1), F.S.

¹³ Section 215.555(7), F.S.

¹⁴ Section 215.559, F.S.

liability, if any, under the policy for such total loss shall be in the amount of money for which such property was so insured as specified in the policy.”¹⁵ In *Mierzwa v. Florida Windstorm Underwriting Association*¹⁶, a home damaged by both wind and flood damage was declared a total loss by application of a local ordinance. The FWUA policy insured only the wind risk and not the flood risk, which was insured under a separate policy. But, the court ruled that if an insurer has any liability at all for damages for a structure that is a total loss, under the valued policy law that insurer must pay policy limits. This applied in a situation where the application of a local ordinance that causes the structure to be deemed a total loss. Additionally, any attempt by the insurer to use an insurance clause that would require the apportionment of damages between insurance carriers is not permissible according to the court because such a clause would be contrary to the valued policy law.

Sinkhole Claims

Nationwide, property insurance policies typically exclude coverage for “earth movement.” But, in Florida, every authorized insurer must make available coverage for insurable sinkhole losses on any structure and the personal property contained within it.¹⁷ Even though the coverage must be “made available”, insurers include sinkhole coverage within their policies, apparently because it would lead to adverse selection if offered as an option, i.e., only those in sinkhole prone areas would elect the coverage. As defined:

*“Sinkhole loss” means actual physical damage to the property covered arising out of or caused by sudden settlement or collapse of the earth supporting such property only when such settlement or collapse results from subterranean voids created by the action of water on a limestone or similar rock formation.*¹⁸

The Florida law also requires insurers to meet minimum standards of investigation upon receipt of a claim for a sinkhole loss.¹⁹ The insurer must make an inspection of the premises to determine if there has been physical damage to the structure that might be the result of sinkhole activity. If the inspection shows such damage or if the structure is located in close proximity to a structure in which sinkhole damage has been verified, the insurer cannot deny the claim without further professional inspection and analysis. To deny the claim, the insurer must obtain a written certification by an individual qualified to determine the existence of sinkhole activity, stating that the cause of the claim is not sinkhole activity, and that the analysis conducted was of sufficient scope to eliminate sinkhole activity as the cause of damage within a reasonable professional probability. If the written certification states that the cause was not sinkhole activity, the policyholder must reimburse the insurer for 50 percent of the cost of the analysis, up to \$2,500, but only if the policyholder submitted the sinkhole claim “without good faith grounds.” It is reportedly very rare, if at all, for a policyholder to be found to have made a sinkhole claim in bad faith and be required to pay for any part of the cost of the inspection.

An insurer is prohibited from nonrenewing a policy on the basis of claims for sinkhole damage or clay shrinkage unless the total claims payments exceed the policy limits or the insured does

¹⁵ Section 627.702, F.S.

¹⁶ 877 So.2d 774 (Fla. 4th DCA 2004)

¹⁷ Section 627.706, F.S.

¹⁸ Section 627.706(3), F.S.

¹⁹ Section 627.707, F.S.

not repair the structure in accordance with the engineering recommendations upon which the payment under the policy was based.²⁰

In 2004, in response to reports of increasing sinkhole claims, policy cancellations due to paying policy limits on sinkhole claims, and insurers refusing to issue new policies in sinkhole prone areas, the Legislature commissioned a study by Florida State University, under the direction of OIR, of the feasibility and cost-benefit of a Florida Sinkhole Insurance Facility and other matters related to affordability and availability of sinkhole insurance. The report was submitted on April 1, 2005, as required (i.e., one week ago). The study found that the number of paid sinkhole claims increased from 348 in 1999 to 1,108 in 2003 while total claims payments for sinkholes increased from \$22.4 million in 1999 to \$65 million in 2003. For this five-year period (which had no hurricane claims), there were a total of 2,509 paid sinkhole claims, representing 1 percent of all claims paid by insurers, but the \$219.2 million paid for sinkhole claims accounted for 16.2 percent of total claims payments.

Citizens Property Insurance Corporation has had a significant increase in policies from the Tampa Bay area, increasing from 1,012 policies at the end of 2001, or 1 percent of its personal lines policies, to 146,901 policies, or 33 percent of its personal lines policies by November, 2004. This is believed to primarily be due to private insurance companies refusing or limiting coverage in this area due to the sinkhole exposure.

The FSU sinkhole study lists option for the Legislature to consider, including keeping coverage for sinkholes in homeowners' policies and to required insurers to develop a separate rate for sinkholes; creating a state facility to act a s direct insurer, including the handling of claims; and creating a state facility to act as a reinsurer to cover sinkhole losses of private insurer policies. The cost to the state of operating a direct insurer was estimated to be about 19.9 million, compared to about \$1.8 million to operate a reinsurance facility. Given that the risk is unlike the multi-billion catastrophic nature of potential hurricane losses, the study generally concluded that the sinkhole facility would probably not have a shortfall in funds if rates are conservatively set.

III. Effect of Proposed Changes:

Section 1. Florida Hurricane Catastrophe Fund (FHCF) -- Amends s. 215.555, F.S., to provide that the "retention" or amount of residential hurricane losses that insurers must meet to be reimbursed from the FHCF, would be set at \$4.5 billion for all insurers combined, beginning with the 2005 contract year. This is the retention that the current law provides for the 2004 contract year, which increases to \$4.96 billion for 2005 under the current law, due to the annual adjustment for the percentage growth in the Fund's exposure for covered policies (primarily due to the increased value of property insured). Therefore, the bill, in effect, eliminates the growth factor for 2005 and reduces the retention from \$4.96 billion to \$4.5 billion for 2005. For subsequent years, the same growth factor would continue to apply.

The bill also provides that for insurers that have losses from multiple hurricanes in a contract year, the full retention would apply to each of the two hurricanes resulting in the largest losses for that insurer, and would be reduced to one-third of the full retention for all other hurricanes.

²⁰ Section 627.707(2), F.S.

The lowered retention will enable insurers to recover reimbursement from the FHCF at a lower level of hurricane losses, particularly for a third or subsequent hurricane within the same year, substituting for the insurer needing to expend its own capital or to purchase private reinsurance for this coverage. Insurers will be required to pay higher premiums to the SBA for this additional coverage, estimated to be a 4.88 percent premium increase, but this is a much lower rate than would be paid to a private reinsurer for this coverage. This also exposes the Fund to a greater likelihood of being triggered to make reimbursement payments and of being required to issue bonds to fund its obligations. A rough estimate provided by the actuarial consultant to the SBA is that the probability of any insurer triggering coverage from the FHCF will drop from about once every 9.9 years to once every 9.2 years, and the probability of the FHCF being required to issue bonds drops from about once every 16 years to once every 15 years.

Section 2. Hurricane Loss Mitigation Program (Low-interest Loan Program) -- Amends s. 215.559, F.S., to require the Department of Community Affairs (DCA) to establish a low-interest loan program by fiscal year 2006-2007 for homeowners and mobile homeowners to retrofit their homes to reduce hurricane losses. Funding would be used to subsidize or guaranty private sector loans and DCA would be authorized to enter contracts with financial institutions for this purpose. The DCA must establish the criteria and standards of the program and report to the Legislature by January 1, 2006. For fiscal year 2005-06, up to \$1 million of the \$10 million that is currently annually appropriated to DCA from the Florida Hurricane Catastrophe Fund could be used for a pilot project for the program. Certain other agencies are required to assist the DCA in establishing the program. Rule making authority is provided to DCA.

The amounts up to \$1 million that may be used in FY 05-06 to fund the low-interest loan pilot project would come from the \$3.5 million in hurricane loss mitigation funds required to be appropriated to DCA that are not directed to a particular program (unless more than \$10 million is appropriated to DCA for hurricane mitigation.)

Section 3. Property and Casualty Insurance Rating Law -- Amends s. 627.062, F.S., to make the following changes to the rating law for property and casualty insurers:

- 1) Repeals the provisions that allow an insurer to submit a rate filing to an arbitration panel for final disposition after the filing has been disapproved by OIR. The insurer would still be permitted to demand an administrative hearing under s. 120.57, F.S.
- 2) Requires OIR to propose a standard rating territory plan to the Legislature to be used by all insurers for residential property insurance. The expressed purpose is to enhance the ability of consumers to compare premiums and to increase the accuracy and usefulness of rate-comparison information provided by OIR. The plan must be submitted by OIR to the President of the Senate and the Speaker of the House of Representatives by January 15, 2006, but would not be implemented unless authorized by further act of the Legislature.
- 3) Prohibits a residential property insurer from recouping more than 1 year of reimbursement premium paid to the Florida Hurricane Catastrophe Fund at a time.

Section 4. Florida Commission on Hurricane Loss Projection Methodology -- Amends s. 627.0628, F.S., relating to hurricane loss projection models that are found to be accurate or reliable by the Florida Commission on Hurricane Loss Projection Methodology. Currently, insurers may use in rate filings those models found to be accurate or reliable by the commission and such findings are “admissible and relevant” in consideration of the rate filing by the OIR or in any rate proceeding. Under the bill, the findings would be admissible and relevant only if OIR and the consumer advocate appointed by the Department of Financial Services have access to all of the assumptions and factors that were used in developing the model and are not precluded from disclosing such information in a rate proceeding.

Section 5. Public Hearings for Rate Filings -- Amends s. 627.0629, F.S., to require a public hearing for any residential property insurance rate filing that exceeds 15 percent, rather than 25 percent as currently required, if the filing is based on a computer model.

Section 6. Reports of Hurricane Data for Public Model -- Creates s. 627.06291, F.S., to require residential property insurers and licensed rating and advisory organizations that compile loss data to report residential hurricane loss and exposure data to OIR or to the state university under contract with OIR (Florida International University) for the purpose of developing, maintaining, and updating a public hurricane model for hurricane loss projections.

Section 7. Citizens Property Insurance Corporation (“Citizens”) -- Amends s. 627.351, F.S., to make the following changes related to Citizens:

- 1) Revises appointments to the board of governors of Citizens to delete the requirement that the Chief Financial Officer (CFO) appoint all 7 members and, instead, to require that the Governor, CFO, President of the Senate, and Speaker of the House or Representatives each appoint 2 members to the board (8 total), effective August 1, 2005. At least 1 of the 2 members appointed by each of these state officials must have demonstrated expertise in insurance. The executive director and senior managers would be hired by the board, as recommend by the CFO, rather than by the CFO directly, and would serve at the pleasure of the board, rather than the CFO. The executive director would employ other staff subject to approval by both the board and the CFO, rather than the CFO alone.
- 2) Provides that dwelling limits for any personal lines policy may not exceed \$1 million and that a residential structure valued in excess of \$1 million is not eligible for coverage. This would primarily affect personal lines residential structures insured in the High Risk Account (wind-only) of Citizens, for which there is no maximum policy limit. Citizens currently insurers about 3,500 policies that have limits in excess of \$1 million in this account. The current plan of operation of Citizens currently has a \$1 million limit for homeowners insured in the Personal Lines Account (multiperil coverage).
- 3) Limits premium increases to 5 percent for personal lines residential policies (including wind-only policies) issued or renewed between July 1, 2005, and June 30, 2006. The 5 percent limit is subject to adjustment for coverage changes and seasonal occupancy surcharges. (Previously approved rate filings had effective dates prior to July 1, 2005, primarily February 1 and April 1, 2005, so some policies will be subject to the full rate

- increases of these rate filings, but others will be limited to 5 percent, depending on the date the policy is issued or renewed.)
- 4) Provides an exception to the current requirement that the rates for Citizens for personal lines policies not be competitive with the private market. For the Personal Lines Account, the current requirement that Citizens charge the highest average rates in the county compared to the 20 insurers with the greatest written premium in the state would no longer apply in any county for which OIR determines that a reasonable degree of competition does not exist for personal lines policies. Similarly, the current requirement that Citizens ensure that its rates for personal lines policies in the High-Risk Account (windstorm only) are not competitive with the private market would not apply in any county for which OIR determines that a reasonable degree of competition does not exist for personal lines residential policies in the area of that county eligible for wind-only coverage. In such counties, for both accounts, Citizens would be required to charge rates that are actuarially sound and not excessive, inadequate, or unfairly discriminatory and be subject to the rating law (s. 627.062, F.S.) that applies to all property and casualty insurers. The Financial Services Commission may adopt rules establishing criteria for determining whether a reasonable degree of competition exists for personal lines residential policies. Beginning October 1, 2005, and each 6 months thereafter, OIR must determine and identify those counties for which a reasonable degree of competition does not exist.
 - 5) Requires Citizens to establish a Market Accountability Advisory Committee, to report at each board meeting on insurance market issues in order to assist in developing awareness of customer and agent service levels in relationship to the voluntary market. Ten members would be appointed, consisting of 3 appointed by the 3 largest property and casualty insurance agents independent trade associations, 3 appointed by the 3 insurers writing the largest voluntary market share of residential insurance, 1 representative of OIR, 1 consumer insured by Citizens appointed by the board, 1 appointed by the Florida Association of Realtors, and 1 appointed by the Florida Bankers Association.

Section 8. Standard Personal Lines Residential Policies -- Creates s. 627.40951, F.S., to require the CFO to appoint an advisory committee to develop standard personal lines policies and checklists and to submit its recommendations for approval to the President of the Senate and the Speaker of the House by January 15, 2006. Insurers would not be required to offer the standard policy unless required by further act of the Legislature. The committee must develop policy language for coverage that represents general industry standards for comprehensive coverage.

Section 9. Grounds for Disapproval of Policy Forms -- Amends s. 627.411, F.S., to authorize OIR to disapprove a policy form for property and casualty insurance if it contains provisions that are unfair or inequitable, contrary to the public policy of this state, or that encourage misrepresentation. Currently, OIR may disapprove a health insurance policy form under these grounds.

Section 10. --Prohibited Cancellation of Coverage for Hurricane-Damaged Homes -- Amends .s. 627.4133, F.S., to provide that upon a declaration of an emergency and the filing of

an order by the Commissioner of Insurance Regulation, an insurer may not cancel or nonrenew a residential property insurance policy covering a dwelling which has been damaged as a result of a hurricane or wind loss for a period of 60 days after the dwelling has been repaired. This provision codifies an emergency order that was issued by OIR for the 2004 storms. Exceptions are provided to allow for cancellation or nonrenewal, subject to specified notice requirements, for non-payment of premium, material misstatement or fraud related to the claim; if the insurer can demonstrate that the insured has unreasonably caused a delay in the repair of the dwelling; or if the insurer has paid policy limits and offers the insured a builder's risk policy that would cover the property until completion of repairs. These provisions also apply to residential property damaged as a result of the 2004 storms.

Section 11. Checklist of Coverage -- Amends s. 627.4143, F.S., to require that insurers provide a checklist of coverage for homeowners, mobile homeowners, dwelling, and condominium unit owners policies. The checklist must be on a form adopted by the Financial Services Commission, by rule, that must indicate that it was adopted by the commission. The checklist must contain a list of standard provisions that may typically be included and whether or not they are included. The bill specifies certain coverages that must be on the checklist, but the rules may include others.

Section 12. Hurricane Deductibles -- Amends s. 627.701, F.S., to make the following changes related to hurricane deductibles:

- 1) Increases the maximum allowable deductible for personal lines residential policies from 5 percent to 10 percent of the dwelling limits, with certain exceptions.
- 2) Requires insurers to offer deductibles of 1 percent, 2 percent, 5 percent, and 10 percent of dwelling limits for personal lines residential policies, with certain exceptions, for policies issued or renewed on or after January 1, 2006. Currently, insurers must offer a 2 percent deductible, with certain exceptions. (The current law and the bill would also generally require that insurers offer a \$500 deductible for policies with limits of less than \$100,000.)
- 3) The maximum deductible and mandatory deductible offers specified above would also apply to mobile homes. (Currently, mobile homes are subject to a maximum deductible of 5 percent if there is a lien, and 10 percent if there is not a lien, and the mandatory offer of deductibles do not apply.)
- 4) Policyholders would be required to select the deductible among the amounts offered. Disclosure requirements are added to advise the policyholder that higher deductibles result in lower premiums but will also result in higher out-of-pocket expenses. For each percentage deductible, the form must include the dollar amount of the deduction which will result.

Section 13. Law and Ordinance Coverage; Replacement Cost Coverage -- Amends s. 627.7011, F.S., as follows:

- 1) Requires insurers to offer coverage in homeowners policies for the additional costs necessary to meet applicable building codes (“law and ordinance” coverage) that provides an additional 50 percent of the dwelling limits. This would be an option to the 25 percent law and ordinance coverage that must currently be offered. Currently, an insurer must either offer the 25 percent law and ordinance coverage or provide it in the policy. Under the bill, this would still be true, but the 50 percent law and ordinance coverage must also be offered, applicable to policies issued or renewed on or after October 1, 2006.
- 2) Requires that if there is a loss for which a dwelling or personal property is insured on the basis of replacement costs, the insurer must pay the replacement costs without reservation or holdback of any depreciation in value, whether or not the insured replaces or repairs the dwelling or property. Currently, policies that provide replacement cost coverage typically provide initial payment for the depreciated value, with the remainder of the replacement cost paid after the policyholder submits receipts for the repair or replacement.

Section 14. Mediation Program for Resolving Property Insurance Disputes -- Amends s. 627.7015, F.S., which establishes a mediation program administered by DFS to help parties resolve property insurance claims for personal lines policies. The bill provides that if an insurer fails to comply with the current requirement to notify a first-party claimant of his or her right to participate in the mediation program, that the insured is not required to submit to a contractual loss appraisal process of property loss damage as a precondition to filing a legal action against the insurer. This is the current penalty that applies to an insurer if the insurer requests the mediation and the results are rejected by either party.

Section 15. Valued Policy Law (Mierzwa) -- Amends s. 627.702, F.S., to provide legislative intent regarding the valued policy law. The bill provides that the legislative intent of this law is not to require an insurer to pay for a loss caused by a peril other than the covered peril, and that when a loss was caused in part by a covered peril and in part by a noncovered period, the insurer’s liability is limited to the percentage of loss caused by the covered peril. (See, also, Section 24 for further legislative intent on this section.)

In effect, this would reverse the holding of the decision in *Mierzwa v. Florida Windstorm Underwriting Association*, described in Present Situation, above. This generally means that if a total loss was caused by the combination of a covered peril, such as windstorm, and a non-covered peril, such as flood, that the insurer’s liability would be limited to the percentage of loss caused by the covered peril. By using the term “percentage” the Legislature indicates its intent that an insurer’s liability is limited to its percentage or pro rata share of a “constructive total loss” that occurs due to application of a local building ordinance that requires a partially damaged home to be rebuilt to code.

Sections 16 - 20. -- Sinkhole Coverage

Section 16. Sinkhole Insurance; Definitions - Amends s. 627.706, F.S. to revise definitions related to sinkhole claims. A new definition of “sinkhole loss” specifies that the building coverage applies only to the reasonable costs to stabilize the land if possible and building if

necessary and to repair the damage to the foundation and building, subject to the coverage and terms of the policy. A definition is added for “sinkhole activity,” to mean settlement or systematic weakening of the earth supporting such property only when such settlement or systematic weakening results from naturally occurring movement or raveling of soils, sediments, or rock material into subterranean voids created by the effect of water on a limestone similar rock formation. Definitions are also added for “engineer,” and “professional geologist.” that are relevant to the requirements in the subsequent sections for investigation of sinkhole claims.

Section 17. amends s. 627.707, F.S., to revise the standards for investigation of sinkhole claims by insurers. Currently, upon receipt of a sinkhole claim, an insurer must obtain a written certification from a qualified individual that the cause of the claim is not sinkhole activity. As amended, the insurer must make an initial inspection and provide written notice to the policyholder of: 1) its determination, if any, of the cause of damage, 2) the circumstances under which the insurer is required to engage an engineer and a geologist to inspect and make recommendations regarding repair, and 3) the right of the policyholder to request the Department of Financial Services (DFS) to appoint an engineer and a geologist.

The insurer would be required to engage an engineer and a geologist as provided in s. 627.7072 (Section 19) to determine the cause of the loss if: 1) the insurer is unable to identify the cause of loss or discovers damage consistent with sinkhole loss; or 2) the policyholder demands testing. If the insurer determines there is no sinkhole loss (without a professional inspection) it may deny the claim. In that case, the policyholder may demand testing, if communicated to the insurer in writing within 60 days of the claims denial.

If a sinkhole loss is verified, the insurer must pay to stabilize the land and building and repair the foundation of the building in accordance with the recommendations of the engineer and the geologist as provided under s. 627.7073, F.S. The insurer must pay for other repairs to the structure and contents in accordance with the terms of the policy. The insurer may make payment directly to the persons performing the stabilization and foundation repairs. The insurer has no liability for the work performed unless it agrees to such liability in writing.

If the insurer obtains written certification pursuant to s. 627.7073 (Section 20) that there is no sinkhole loss or that the cause of the damage was not sinkhole activity, the same cost sharing provision of current law applies. That is, the policyholder must reimburse the insurer for 50 percent of the cost, up to \$2,500, but only if the policyholder submitted the sinkhole claim without good faith grounds and the insurer informs the policyholder (in writing, under the bill) of this potential liability.

Section 18 creates s. 627.7071 to require the Department of Business and Professional Regulation (DPBR) to certify persons as engineers and professional geologists qualified to identify sinkholes and to make recommendations for remediation of sinkhole damage, which list shall be forward to the Department of Financial Services. Upon request by an insurer or policyholder, DFS must randomly select up to 3 engineers and 3 geologists, and the policyholder and the insurer may each reject any one engineer and one geologist. DPBR and DFS may adopt rules to implement this section.

Section 19. creates s. 627.7072, F.S., to require the engineer and professional geologist to perform such tests as sufficient, in their professional opinion, to determine the presence or absence of sinkhole loss and to make recommendations regarding building stabilization. Testing must be conducted in compliance with appropriate standards as determined by rule of DFS.

Section 20. creates s. 627.7073, F.S., to require the engineer or professional geologist to issue a report and certification to the insurer and policyholder, including a recommendation for stabilizing the land and building and repairing the foundation. The finding, opinions and recommendations of the engineer or geologist are presumed correct, unless rebutted by clear and convincing evidence in a civil proceeding. Insurers that pay sinkhole claims must file a copy of the report and certification with the clerk of the court and the clerk must record the report and certification with the certificate of title or deed for that property, with filing and recording costs paid by the insurer.

Section 21. Notice of Premium Discounts for Hurricane Loss Mitigation -- Creates s. 627.711, F.S., to require that before issuing a personal lines residential policy and as part of each premium renewal notice, the insurer must provide written notice to the applicant and the policyholder, on a form approved by OIR, of the availability and amount of the premium discounts and credits for fixtures and construction techniques that reduce the amount of loss in a windstorm. Insurers are currently required to provide such premium credits and discounts pursuant to s. 627.0629(1), F.S.

Section 22. Timely Payment of Claims -- Creates s. 627.712, F.S., regarding timely payment of claims for property insurance policies. Currently, s. 626.9541, F.S., provides that it is an unfair or deceptive act or practice for an insurer “failing to affirm or deny full or partial coverage of claims, and as to partial coverage, the dollar amount or extent of coverage, or failing to provide a written statement that the claim is being investigated, upon the written request of the insured within 30 days after proof of loss statements have been completed.”

The bill would require that within 30 days after receipt of a claim under a property insurance policy, the insurer must pay that portion for which the policyholder has submitted all information required for payment under the policy; provide a written denial for that portion which the insurer determines is not covered, including the specific reasons; and specify the additional information that the policyholder must submit in order for any remaining amount of the claim to be paid. Within 30 days after receipt of the additional information, the insurer must either pay or deny the claim. All overdue payments would be subject to a 10 percent annual interest payment.

The bill provides that following a hurricane or other natural disaster, the requirements of this section are subject to such exceptions as may be provided by rule of the Financial Services Commission or order of OIR.

Section 23. Audit of Citizens by Auditor General -- Requires the Office of the Auditor General to conduct an operational audit of Citizens regarding its customer service, claims handling, accessibility of policyholder information to the agent of record, take-out programs, and financing arrangements, including legislative recommendations.

Section 24. Additional Legislative Intent for Changes to Valued Policy Law -- Provides that the amendment to s. 627.702, F.S., in Section 14, above, is remedial in nature and intended to clarify the intent of that section. Although this does not expressly provide that the amendment is retroactive, it may have that result.

Section 25. Additional Staffing of the Office of the Consumer Advocate -- Appropriates \$350,000 from the Insurance Regulatory Trust Fund and 4 additional FTE positions in the Office of the Consumer Advocate within the Department of Financial Services.

Section 26. Effective Date -- Provides that except as otherwise expressly provided in this act, the act shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

A separate public records bill, CS/SB 1488, provides a public records exemption related to this bill.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Florida Hurricane Catastrophe Fund

Lowering the retention in the FHCF exposes the Fund to a greater likelihood of paying reimbursements to insurers and of expending its cash surplus and issuing revenue bonds, funded by assessments on most property and casualty insurance policyholders. But the difference is not great, since the change in the retention is modest. A rough estimate provided by the actuarial consultant to the SBA is that the probability of triggering coverage from the FHCF will drop from about once every 9.9 years to once every 9.2 years, and the probability of bonding will drop from about once every 16 years to once every 15 years.

Citizens Property Insurance Corporation

Different provisions of the bill have a mixed impact on exposing Citizens to losses and potential deficit assessments on property insurers and policyholders:

The prohibition on insuring residential dwellings valued in excess of \$1 million will reduce the exposure of Citizens. Citizens estimates that its probable maximum loss in 2004 in the High Risk Account (wind-only) was \$6.7 billion, which would have been reduced by \$700 million, or 10.4 percent, if personal residential policies above \$1 million were excluded.

Property insurers and policyholders in the state will be subject to greater exposure to assessments for deficits due to the limitations on rates that are charged by Citizens. See, Private Sector, below, regarding the impact of the premium rate changes for Citizens.

B. Private Sector Impact:

Florida Hurricane Catastrophe Fund

By lowering the retention in the FHCF, the bill may provide additional capacity to insurers to write residential property insurance in Florida, due to substituting less expensive FHCF coverage for private reinsurance. Insurers would be provided significantly greater coverage in years with three or more hurricanes, lessening the need for insurers to financially plan for this event via private reinsurance. The SBA estimates that the reimbursement premiums for the FHCF will increase by 4.88 percent due to this provision. But, other than for multiple storm coverage, the bill does not provide insurers a greater layer of coverage from the FHCF. The layer of coverage simply “drops down” since the maximum dollar amount of recovery for an insurer remains the same (i.e., the insurer’s same share of the \$15 billion limit). But, private reinsurance is much more expensive at the low end, below the retention, than at the high end, so the net impact should be cheaper reinsurance. This will negatively impact private reinsurers.

Citizens Property Insurance Corporation

Citizens policyholders obtaining new or renewal policies between July 1, 2005 and June 30, 2006, would have premium increases limited to 5 percent, subject to premium adjustments for coverage changes. Since rate increases have already been approved with earlier effective dates (generally February 1, and April 1, 2005), some policyholders will be required to pay the full rate increase and some will be limited to 5 percent, depending on the date of policy issuance or renewal. The 5 percent limitation may result in a rate that is inadequate or not actuarially sound and will decrease the premium revenue of Citizens and increase the chance and size of potential deficits. It may also make it less likely that an insurer in the voluntary market will offer coverage at a rate below the rate charged by Citizens.

The impact on rates is unknown of requiring Citizens to charge actuarially sound rates, rather than the highest average rates in the county compared to the top 20 insurers, in those areas where OIR determines a reasonable degree of competition does not exist. Rates in some areas determined to be non-competitive would be decreased if an actuarially sound rate is below the rate computed by the top 20 formula. But, in other non-competitive areas the actuarially sound rate may be at or above the top 20 rate and would not be decreased. Representatives of Citizens state that it has previously used the top 20 rating formula for establishing its rates, rather than determining if its actuarial indications would result in an even higher rate, until its most recent rate filing to reflect

Citizens' sinkhole exposure. These representatives further state that it is planning to use its actuarial indications for its next rate filing, which is expected to result in proposed rates in some areas being greater than which results from using the top 20 formula. This could still be the result in non-competitive areas under the provisions of this bill, even though it would not be caused by the bill itself.

It is not known which counties or areas would be determined by OIR to lack a reasonable degree of competition. But, OIR reports that as of June 30, 2004, Citizens writes 93 percent of the total policies in Monroe County that include wind coverage and writes 48 percent of the total policies in Dade County that include wind coverage. Since this includes policies being renewed, it may understate the lack of competition for new policies.

Policyholders of homes valued in excess of \$1 million will be ineligible for coverage from Citizens. If coverage is not available from an authorized insurer, a policyholder would then look to the surplus lines market. The Florida Surplus Lines Service Office (FSLSO) reported that 179,180 homeowner policies were written in the surplus lines market in 2004, including 5,690 policies with coverage limits in excess of \$1 million, of which 3,980 provided wind coverage. The FSLSO reported that there is capacity and interest in the surplus lines market in writing high-value dwellings, but windstorm deductibles are typically 5 or 10 percent and sinkhole coverage is typically excluded.

Deductibles

Requiring insurers to offer a 1 percent deductible would give consumers an option, at a higher premium, to lower their potential out-of-pocket expense after a hurricane, as compared to the 2 percent deductible. But, requiring insurers to offer lower deductibles may reduce the capacity of insurers to write policies in this state, depending on the premium charged for the lower deductible and the number of policyholders who elect it. Lower deductibles increase an insurer's "probable maximum loss" or PML, requiring additional reserves or reinsurance that may not be fully financed by the additional premium, requiring the insurer to reduce or limit the policies it writes in order to reduce its PML.

Requiring insurers to offer a 10 percent deductible, compared to the current maximum 5 percent deductible, would potentially increase the capacity of insurers to write policies depending on how many policyholders actually elected the higher deductibles. It would also give consumers an additional option to lower their premium, but would increase their potential out-of-pocket expense at the time of loss.

Insurers will be subject to the administrative costs of developing forms and rates for offering additional deductibles.

Rating Law

Repealing arbitration as an option to insurers for rate filings disapproved by OIR, may make it more difficult for an insurer to have a rate increase approved or otherwise provide a greater disincentive to an insurer to challenge OIR's determination. Also, requiring a public hearing on residential rate filings in excess of 15 percent may

discourage rate increases above this level. This may result in lower rates, but may also discourage insurers from writing policies.

Other Provisions

Requiring insurers to notify policyholders of premium discounts for construction mitigation will better inform policyholders of premium discounts they are currently entitled to, and provide greater incentive to make retrofits to qualify. The low-interest loan program that is required to be established by the Department of Community Affairs may further provide economic incentives for this purpose. Both of these provisions should help reduce hurricane losses and favorably impact premiums.

Insurers would be required to pay 10 percent interest on late payment of claims. This may result in more timely payment of claims to policyholders.

The amendments to the valued policy law will limit an insurer's liability for structures that are a total loss, due in part to a risk not covered under the policy. Policyholders will not receive payment of policy limits in such cases, under certain circumstances. But, these changes are expressly intended to clarify the current law. Though not expressly retroactive, it may have that effect on outstanding claims from the 2004 storms.

The checklist of coverage should aid policyholders in understanding their policy and be better informed of other coverage options that are available.

Requiring insurers to pay the full replacement cost under replacement cost policies, without holding back depreciated value until the property is replaced or repaired, will benefit policyholders who can collect such payments and then decide whether to actually replace or repair the property. But, this will increase loss payments by insurers and could cause an increase in fraudulent claims and is likely to increase premiums. It may also result in damaged property not being repaired, which could negatively impact financial institutions that hold mortgages and the secondary mortgage market.

The broader authority for OIR to disapprove policy forms for property and casualty insurance for any provision that is unfair, inequitable, etc., may provide greater protection and greater benefits to policyholders, but it may be at a higher premium.

Insurers must offer policyholders of homeowner policies greater limits of law and ordinance coverage to cover the additional costs of meeting building codes. This will benefit policyholders, but would increase the loss exposure of insurers.

The amount of sinkhole claims paid by insurers may be reduced.

C. Government Sector Impact:

The bill appropriates \$350,000 from the Insurance Regulatory Trust Fund and 4 positions to the Office of the Consumer Advocate within the Department of Financial Services. This approximately doubles the current funding and positions of this office.

For fiscal year 2005-06, the bill authorizes the Department of Community Affairs to use up to \$1 million of its current \$10 million in mitigation appropriations from the Florida Hurricane Catastrophe Fund, to establish a low-interest loan pilot project for homeowners and mobile homeowners to retrofit their homes to prevent wind damage. These funds would come from the \$3.5 million that must annually be appropriated to DCA for hurricane loss mitigation programs, since the remaining \$6.5 million is statutorily dedicated to other specific programs. The bill does not designate the amount or source of funding for the low-interest loan program that must be established by DCA for fiscal year 2006-07.

The Office of the Auditor General has requested that \$75,000 be appropriated for the provision requiring that it conduct an operational audit of Citizens, in order to engage a specialist related to claims adjusting and processing.

There are likely to be increased costs to OIR due to the requirement to hold a public hearing on residential rate filings exceeding 15 percent, but this has not been estimated.

The bill requires the Department of Business and Professional Regulation to certify engineers and professional geologists for purposes of making sinkhole inspections and reports. The costs to DPBR are unknown and the bill does not make any appropriations.

The costs to the Office of Insurance Regulation are unknown regarding its role in proposing uniform rating territories, adopting standard policy forms and checklists, and approving rates and forms for additional deductible options.

VI. Technical Deficiencies:

None.

VII. Related Issues:

CS/SB 1478 is a proposed public records exemption bill that is linked to this bill.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
