HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1745 PCB IN 05-01 Residential Property Insurance
SPONSOR(S): Insurance Committee; Ross
TIED BILLS: **IDEN./SIM. BILLS:** SB 1486 SB 1488

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Insurance Committee	18 Y, 0 N	Callaway	Cooper
1) State Administration Appropriations Committee		Rayman	Belcher
2) Commerce Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill implements some of the recommendations of the Joint Select Committee on Hurricane Insurance (Joint Select Committee) contained in the Joint Select Committee's February 25, 2005, report to the presiding officers of the Florida Legislature. Changes from current law contained in the bill are:

- Provides for a lower retention (deductible) for the Florida Hurricane Catastrophe Fund (FHCF) in the amount of $4 billion for an insurer's largest two events during a contract year. Subsequent retentions (deductibles) for insurers are triggered at 1/3 of the full retention.
- Restricts an insurer from canceling or non-renewing a personal or commercial homeowner's policy until 60 days after the damaged property is repaired, with specified exceptions.
- Requires insurers to provide a checklist for coverage information to policyholders of homeowners' insurance. The checklist is to be given to policyholders when the policy is bought and at each renewal. The checklist must specify what property is covered, coverage limitations, coverage exclusions, primary discounts available, the method for valuing loss, and coverage options, among other disclosures.
- Requires insurers to compute and display the dollar amount of the hurricane deductible on the policy's declarations page and premium renewal notice.
- Requires commercial residential property insurers to offer their policyholders a choice of an annual or per event hurricane deductible, as of January 1, 2006.
- Requires insurers to notify homeowners of the availability of, amount of, and qualification procedures for hurricane mitigation premium discounts at the time of the insurance quote and at each policy renewal.

The bill has no fiscal impact on the State or local governments. The bill's provisions relating to the FHCF retention will increase insurers' premiums paid for reinsurance through the FHCF; however, this increase is not anticipated to be passed on to policyholders due to offsetting cost savings and other benefits provided by the FHCF changes contained in the bill. The change for commercial residential property hurricane deductible may have a fiscal impact on the private sector if the policyholder chooses a per event deductible. The provisions in the bill relating to consumer disclosure may have a fiscal impact on the private sector.

The bill is effective upon becoming law, except for the hurricane mitigation, coverage checklist, and hurricane deductible disclosure provisions which are effective October 1, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes*:* The bill will increase premiums insurers must pay to the Florida Hurricane Catastrophe Fund (FHCF), a state trust fund created to provide reinsurance to residential property insurers. However, the increased FHCF premiums are not expected to be passed on to policyholders due to offsetting cost savings and benefit a lower retention level for the FHCF gives insurers.

Safeguard individual liberty*:* The bill increases options for commercial residential policyholders by providing them a choice of hurricane deductibles.

Promote personal responsibility and Empower families*:* The bill requires notification to consumers of insurance premium discounts, credits, etc. for hurricane mitigation measures and how to qualify for the discounts, credits, etc. The bill also requires insurers to disclose to policyholders the dollar amount of the hurricane deductible applicable to the homeowner's insurance policy. It also requires insurers to disclose to consumers additional information about the homeowner's policy, such as the policy coverages, policy limitations, and policy exclusions. The bill prevents property insurers from canceling or non-renewing a homeowner's policy for 60 days after damaged property is repaired which allows homeowners to maintain homeowner's insurance.

B. EFFECT OF PROPOSED CHANGES:

<u>Joint Select Committee on Hurricane Insurance</u>

On January 5, 2005, Senate President Tom Lee and House Speaker Allan Bense appointed the Joint Select Committee on Hurricane Insurance (Joint Select Committee). The Joint Select Committee was directed to study all aspects of the property insurance market that promote the availability and affordability of coverage and to focus on three areas of immediate importance:

- Hurricane deductibles, including:
  - the premium impact of the annual hurricane deductible requirement enacted in the 2004 Special Session A[1], and
  - additional deductible amounts that should be available to consumers and how such changes would affect availability and affordability of coverage.
- The Florida Hurricane Catastrophe Fund (FHCF), to examine the hurricane loss retention that an insurer must pay before it triggers recovery from the FHCF.
- Citizens Property Insurance Corporation (Citizens), including the problems experienced by Citizens in handling claims from the 2004 storms, the potential deficit assessment that may be necessary, and the policy growth of Citizens. The Joint Select Committee was directed to explore options to reduce the size of Citizens and to reduce the potential for assessment, while providing coverage at a fair price to homeowners who have no other option for coverage.

The Joint Select Committee met five times during January and February 2005, heard testimony, and received information and recommendations from the Department of Financial Services (DFS), the Office of Insurance Regulation (OIR), the Office of the Insurance Consumer Advocate, Citizens Property Insurance Corporation, various insurance companies, insurance and agent associations, the Florida Consumer Action Network, and others. The Joint Select Committee also heard presentations on premium mitigation credits

[1] Ch. 2004-480, L.O.F.

and construction techniques from OIR, the Department of Community Affairs, Applied Research Associates, and the Federal Alliance for Safe Homes (FLASH).

The Joint Select Committee issued its report to the President of the Senate and the Speaker of the House of Representatives on February 25, 2005.[2] The report sets forth the Joint Select Committee's findings based on the testimony received and its recommendations for amending current law to increase the affordability and availability of homeowner's insurance. This bill implements some of the recommendations made by the Joint Select Committee.

The 2004 Hurricane Season

The 2004 hurricane season was particularly destructive for Florida, with four hurricanes causing extensive damage throughout the state. All four hurricanes occurred within a 45-day period beginning August 13 when Hurricane Charley made landfall as a category 4 hurricane with wind speeds of 145 miles per hour; followed on September 4 by Hurricane Frances, a Category 2 hurricane with wind speeds of 105 miles per hour. Next, Hurricane Ivan struck on September 16 followed by Hurricane Jeanne on September 26, which were both Category 3 hurricanes with respective winds speeds of 130 and 120 miles per hour at landfall. 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 February 10, 2005, insurance companies have reported to OIR that 1.6 million property insurance claims have been filed for all four hurricanes and that insurers have paid $14.4 billion in total claims payments. The companies estimate that the total expected gross property loss will reach $22.6 billion. This figure includes residential, commercial (business), and auto losses, but not National Flood Insurance Program losses. But, the $22.6 billion in gross property loss also includes the amount of loss below the deductible (not paid by the insurer), which is estimated to be $1.7 billion for residential deductibles alone, plus an unreported amount of deductibles for non-residential (commercial and auto) policies.

Florida Hurricane Catastrophe Fund

The Florida Hurricane Catastrophe Fund (FHCF) was created after Hurricane Andrew[3] as a form of mandatory reinsurance for residential property insurers.[4] All insurers who write residential property insurance in Florida are required to buy reimbursement coverage (reinsurance) on their residential property exposure through the FHCF. The FHCF is administered by the State Board of Administration and is a tax-exempt source of reimbursement to property insurers for a selected percentage (45, 75, or 90 percent) of hurricane losses above the insurer's retention/deductible.

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

Legislation in 2004 increased the maximum amount the FHCF must pay in any 1 year up to $15 billion, to be adjusted annually based on the percentage growth in exposure, but not to exceed the dollar growth in the cash balance of the Fund.[5] The 2004 act also lowered the total industry retention to $4.5 billion. Similar to the FHCF's capacity level, the retention level is adjusted annually based on the FHCF's exposure (regardless of any change in the FHCF's cash balance).

The FHCF must charge insurers the "actuarially indicated" premium for the coverage provided, based on hurricane loss projection models found acceptable by the Florida Commission on Hurricane Loss

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[2] A copy of the report can be obtained at: http://www.flsenate.gov/data/committees/joint/jshi/finalreport.pdf (last visited March 3, 2005).
[3] Hurricane Andrew hit Florida on August 24, 1992.
[4] s. 215.555, F.S. (2004).
[5] Ch 2004-27, L.O.F.

Projection Methodology. Each insurer's "reimbursement premium" is different, based on the insured value of the residential property it insures, their location, construction type, deductible amounts, and other factors.

Each insurer must meet a retention/deductible before FHCF monies are available to pay claims. The retention level for each insurer is different because the retention level is based on the amount of premiums the insurer pays to the FHCF. Insurers with a high FHCF premium will absorb more as a retention/deductible than an insurer with a low FHCF premium. The insurer must meet its retention level for each storm in a hurricane season before the FHCF will step in to pay its claims.

For the current 2004-05 contract year, the insurance industry as a whole has an aggregate retention of $4.5 billion, meaning the total of all individual insurer retentions/deductibles will hypothetically total to $4.5 billion per event, assuming all participating insurers reached their retention. Although the insurance industry's aggregate deductible/retention totals $4.5 billion, loss recovery from the FHCF is based on an individual insurer meeting its own retention prior to losses being reimbursed. As such, some insurers may trigger FHCF coverage although insurance industry losses are expected to be less than $4.5 billion.

As with the FHCF retention/deductible levels, every insurer participating in the FHCF has coverage based on its FHCF reimbursement premium. Each insurer has a maximum amount of coverage the FHCF will pay for claims each year. The maximum amount of coverage is different for each insurer because it is linked directly to the amount of premiums the insurer pays to the FHCF. Thus, insurers that pay higher premiums to the FHCF have more coverage than those that pay lower premiums. The insurance industry as a whole is covered for up to $15 billion, meaning $15 billion is the most the FHCF will pay to the insurance industry on claims for a hurricane season.

Additionally, insurers also choose a percentage level of reimbursement by the FHCF. By statute, insurers can select 45, 75, or 90 percent coverage reimbursement for losses that exceed its deductible/retention for each hurricane. Most insurers have chosen the 90 percent reimbursement percentage. This means once an insurer triggers FHCF coverage, 90 percent of its losses will be covered by the FHCF, up to the insurer's limit of coverage. Insurers may purchase additional reinsurance in the private market to cover their hurricane losses for amounts below their retention, amounts above their reimbursement limit, or for the coinsurance amount (e.g., 10 percent) that is the insurer's responsibility for the layer of coverage provided by the FHCF.

The FHCF is authorized to levy emergency assessments against all property and casualty insurance premiums paid by policyholders (other than workers' compensation and, until June 1, 2007, medical malpractice), including surplus lines policyholders, when reimbursement premiums and other Fund resources are insufficient to cover the Fund's obligations. Annual assessments (which have never been levied) are capped at 6 percent of premium with respect to losses from any 1 year and a maximum of 10 percent of premium to fund hurricane losses from multiple years.

For the current 2004-05 contract year, the $15 billion of FHCF capacity consists of $6.12 billion in projected year-end cash balance (before losses) and $8.88 billion in bonding capacity. If the cash balance is not sufficient to cover losses, the law requires the issuance of revenue bonds, which would be funded by emergency assessments on property and casualty policyholders. Based on preliminary loss reports by insurers to the FHCF for the 2004 hurricane season, the FHCF is expected to reimburse insurers approximately $2.6 billion, well below its $6.12 million cash balance; therefore, bonding will not be necessary. However, the loss estimates for the FHCF are still preliminary and as losses develop, the actual payments may exceed the current estimates.

During the 2004 hurricane season, 186 of the 221 insurance companies reporting hurricane information to the FHCF reported losses. One hundred thirty three (133) are expected to trigger FHCF coverage (i.e. to meet their individual retention level); 88 companies reporting losses did not trigger FHCF coverage. Of the 133 companies triggering the FHCF, 55 companies are expected to exhaust their limits of FHCF recovery.

At the end of 2005, the FHCF projects it will have about $3.81 billion in cash. Because the FHCF year-end cash balance will not grow due to 2004 hurricane loss reimbursements to insurers, the FHCF's capacity will remain at $15 billion for the 2005-06 contract year, as required by law. Thus, the FHCF would

need to bond $11.19 billion to provide the maximum capacity of $15 billion for the 2005-06 contract year. The industry aggregate retention level is expected to grow to $4.96 billion in 2005.

Lowering the FHCF retention level has numerous implications. First, it allows insurers to trigger the FHCF more frequently because insurers will have lower FHCF deductibles to meet before the FHCF begins to reimburse them for claims. Second, it may trigger bonding more frequently because the FHCF will exhaust its cash-balance more often over time with a lower retention. If the FHCF does not have adequate cash on hand to pay its claims, it must issue revenue bonds to generate additional cash. Third, a lower FHCF retention level will increase the FHCF premium insurers must pay to buy reinsurance through the FHCF. This premium increase, however, may not result in a higher cost for policyholders due to potentially offsetting cost savings and benefits a lower retention level gives insurers. Fourth, a lower FHCF retention level will lower the FHCF layer of coverage. Insurers who buy private reinsurance to cover their losses below their retention will be able to replace that private reinsurance with less expensive FHCF coverage. But, insurers who buy private reinsurance above their reimbursement limit may need to purchase additional private reinsurance to maintain their current coverage limits. Reinsurance purchased on top of the FHCF coverage layer is much less expensive than reinsurance purchased below the FHCF retention, because the risk of loss is much less, but it may be more difficult for an insurer to obtain.

The primary benefit of lowering the FHCF retention level is to decrease the cost of reinsurance to residential insurers which should help increase the financial capacity of insurers to write more policies, to help stabilize premiums, and to limit polices written in Citizens. The primary detriment is the greater likelihood of bonding and assessments, which, as noted above, are spread to property and casualty policyholders beyond the residential market.

Under current law, insurers must meet a full retention level <u>for each hurricane</u> before the FHCF is triggered to pay claims. A change in the FHCF's retention structure may provide greater coverage for insurers in the event of multiple hurricanes in a season.

Applying the FHCF's full retention to the two hurricanes resulting in the two greatest losses to an insurer, and then dropping the retention to one-third of the full amount for all other hurricanes, may have more equitable or less arbitrary results than reducing the retention based on the chronological order of the hurricanes. However, this means that different retentions could be applied for different insurers for a single hurricane. It may also require retroactive changes to an insurer's retention after a third hurricane occurs, requiring re-calculation of amounts already reimbursed, but representatives of the State Board of Administration indicate this would not be difficult to implement. The alternative approach consisting of applying the FHCF's full retention to the first two hurricanes that occur and then dropping the retention for subsequent hurricanes could arbitrarily benefit some insurers and penalize others due to how each storm actually impacted each insurer's losses.

Any lowering of the FHCF retention level will increase premiums paid by insurers to the FHCF. Insurers are permitted to recoup FHCF premiums in the premiums they charge to residential policyholders. Representatives of the State Board of Administration estimate that lowering the FHCF retention level to $4 billion for 2005 for each of the two largest hurricane losses and lowering it to one-third of $4 billion per storm for other hurricanes in the same season will increase FHCF premiums by 14.4 percent. This premium increase, however, may not result in a higher cost for policyholders due to potentially offsetting cost savings and benefits a lower retention level gives insurers. Had the FHCF retention been set at $4 billion for the two largest loss events and one-third of $4 billion for all other loss events during the 2004 hurricane season, the FHCF would have paid $4.77 billion in losses to insurers ($1.77 billion more than was actually paid to insurers due to the 2004 hurricane losses).[6]

This bill implements one of the Joint Select Committee's recommendations regarding the FHCF.[7] The bill amends current law by lowering the aggregate retention level to $4 billion for an insurer's two largest events during a contract year and to one third of the full retention ($4 billion) for all other events during a contract year. The retention level will be set at $4 billion for one year, the 2005-2006 FHCF contract year.

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[6] Information from Florida Hurricane Catastrophe Fund dated March 8, 2005.

[7] Report from the Joint Select Committee on Hurricane Insurance, February 25, 2005, page 21.

After the 2005-2006 contract year, the FHCF retention will grow with the FHCF's exposure, as is allowed by current law.

Cancellation or Non-Renewals of Residential Property Policies

Most insurers, including Citizens, have underwriting guidelines that prevent the issuance of a homeowner's policy on a home that is damaged and has not been repaired. After the 2004 hurricane season, the possibility existed that insurers might cancel or non-renew insurance policies on homes that had not been completely repaired due to the insufficient number of licensed contractors available to complete repairs promptly and delays and difficulties in obtaining construction supplies.[8] The result would be that Florida homeowners whose houses were recently damaged would be unable to obtain insurance coverage on their homes.

To prevent this unfortunate result, the Financial Services Commission (FSC) adopted Emergency Rule 69OER04-06 on November 23, 2004, to prohibit insurers from canceling or non-renewing a residential property insurance policy as a result of hurricane damage until 60 days after the repairs are completed, subject to certain exceptions. A similar emergency rule was enacted each time a major hurricane damaged Florida since Hurricane Andrew. The rule expired on December 31, 2004, and the same provisions were re-enacted via Emergency Rule 69OER04-10 to extend the prohibition against cancellations and non-renewals to March 31, 2005. In adopting the emergency rules, the FSC concluded leaving homeowners without the ability to insure their property poses an immediate threat to public safety and welfare. Additionally, the FSC concluded the inability to secure insurance coverage adversely affects the sale and exchange of damaged structures and adversely impacts the economic health and welfare in Florida.

This bill implements the Joint Select Committee's recommendation relating to non-renewals of damaged homes.[9] The bill changes current law to codify Emergency Rule 69OER04-10 which expired March 31, 2005. The changes will restrict an insurer from canceling or non-renewing a personal or commercial homeowner's policy until 60 days after the damaged property is repaired. The changes, however, provide exceptions to the restriction on cancellation or non-renewal for non-payment of premium, material misstatement of fraud related to the claim, unreasonable delay in repair caused by the homeowner, or payment of policy limits.

Hurricane Deductibles

The Legislature first authorized the use of separate, percentage hurricane deductibles for residential policies in 1993 after Hurricane Andrew. Currently, s. 627.701, F.S., establishes the maximum and minimum hurricane deductibles that are allowable and mandates insurers offer hurricane deductibles of specified amounts. The Legislature's purpose in allowing for higher hurricane deductibles, as expressed in statute, is to limit premium increases and to increase the availability of hurricane property insurance in Florida.[10]

About 76 percent of the homes in Florida have a hurricane deductible equal to 2 percent of the insured value of the dwelling.[11] For a home insured for $200,000, this means the first $4,000 of hurricane damage is borne by the policyholder. Current law requires insurers to offer homeowners a 2 percent hurricane deductible, but for homes valued under $100,000, the insurer must also offer a $500 hurricane deductible.[12] About 16 percent of the homes in Florida have a deductible of $500 or less.[13] For homes

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8 Representatives from OIR believe some Floridians will not have access to contractors to repair their properties for up to 18-24 months after the damage occurred.

9 Report from the Joint Select Committee on Hurricane Insurance, February 25, 2005, page 23.

10 s. 627.701(5)(a), F.S. (2004).

11 Florida Hurricane Catastrophe Fund 2005-06 Ratemaking Data; 6/30/04 data as of 11/19/04. (Reported data is periodically modified as insurer reports are audited and revised.)

12 s. 627.701(3), F.S. (2004).

13 Florida Hurricane Catastrophe Fund 2005-06 Ratemaking Data; 6/30/04 data as of 11/19/04. (Reported data is periodically modified as insurer reports are audited and revised.)

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 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.[14] About 5 percent of the homes in Florida have a 5 percent deductible.[15]

Deductibles in property and casualty insurance policies, including residential property policies, traditionally apply to each covered event or occurrence. Four major hurricanes striking the state in a 6-week period; however, revealed the financial hardship that can result from the traditional per event hurricane deductible. Although some insurers waived the application of multiple deductibles to homes damaged by two or more storms in 2004, or did so under certain circumstances, other insurers applied the multiple deductibles for policyholders. Reports of tens of thousands of residential policyholders having multiple deductibles applied to their claims due to loss resulting from the 2004 hurricane season resulted in the Legislature passing House Bill 9-A in Special Session 2004-A, signed by the Governor on December 21, 2004.[16]

Chapter 2004-408, L.O.F. appropriated up to $150 million from the Florida Hurricane Catastrophe Fund for the Department of Financial Services to reimburse residential policyholders whose property was damaged by two or more hurricanes and whose insurer applied more than one hurricane deductible. The law also required insurers of residential policies issued on or after May 1, 2005, applies the hurricane deductible on an <u>annual</u> basis to all hurricanes that occur during the calendar year, rather than on a per-event basis.

The requirement for annual hurricane deductibles will prevent a reoccurrence of homeowners being forced to pay for the expense of more than one full hurricane deductible per year, except for the “other perils” deductible that may be applied to subsequent hurricane claims. Though it is unlikely that a home will be damaged by more than one hurricane, the chance is real, as proven in 2004. The annual hurricane deductible prevents the added financial hardship to consumers and the need for state funded relief if this occurs again.

Under current law, the annual hurricane deductible is mandated for all lines of residential property insurance -- it cannot be offered as an option to a deductible that applies to each hurricane. For condominium associations and other commercial residential policies, the premium impact of the annual hurricane deductible is likely to be greater than for homeowners generally.[17] Information provided to the Joint Select Committee indicated the premium increases for commercial residential policies could be significant[18] or result in an insurer offering a higher percentage deductible (such as 3 percent rather than 2 percent) in order to maintain the current premium level.

This bill addresses the Joint Select Committee on Hurricane Insurance’s recommendation relating to hurricane deductibles for commercial lines residential property insurance. The bill changes current law which requires an annual hurricane deductible for commercial lines residential property policyholders[19] to require insurers to offer commercial residential policyholders an annual and a per event hurricane deductible. The policyholder would get to decide what type of hurricane deductible he or she wanted. Personal lines residential policyholders; however, are still subject to an annual hurricane deductible.[20]

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[14] s. 627.701(3), F.S. (2004).

[15] Florida Hurricane Catastrophe Fund 2005-06 Ratemaking Data; 6/30/04 data as of 11/19/04. (Reported data is periodically modified as insurer reports are audited and revised.)

[16] Chapter 2004-408, L.O.F.

[17] The change to an annual hurricane deductible is expected to result in a premium increase of 1-3% for personal lines residential policyholders according to testimony from a representative of State Farm Insurance Company at the House Insurance Committee meeting on December 2, 2004.

[18] Industry representatives stated the premium increase would be 10% - 37%. Commissioner McCarty stated at the January 14, 2005 meeting of the Joint Select Committee on Hurricane Insurance the premium increase would be 5-20%.

[19] Commercial residential policyholders include condominium associations, community associations, and apartment building owners. *See* s. 627.4025(1), F.S. (2004).

[20] Except for the other perils deductible which may be applied to subsequent hurricane claims and except if the policyholder changes insurers during the hurricane season. *See* s. 627.701(5), F.S.

Hurricane Mitigation

Effective February 28, 2003, insurers were required to file with OIR actuarially reasonable credits or discounts for residential property insurance for properties on which construction techniques had been installed which would reduce the amount of loss in a windstorm. These construction techniques included, but were not limited to, techniques which would enhance the following: roof strength; roof covering performance; roof-to-wall strength; wall-to-floor-to-foundation strength; opening protection; and window, door, and skylight strength.

The OIR published a list of suggested sets of credits for new and existing construction and the three largest insurers in Florida, State Farm Florida, Citizens, and Allstate Floridian, based their mitigation credits on the OIR credits. The individual credits offered by 10 of the largest insurance companies offering homeowners insurance in Florida, including Citizens, range from 3 to 25 percent. If a fully mitigated home qualified for all possible mitigation credits, the home could be eligible for total credits ranging from 20 to 42 percent off its wind insurance premium which could result in savings of hundreds, and in some cases, thousands of dollars per year.

Typically, policyholders are responsible for substantiating to their insurers the existence of loss mitigation features in order to qualify for residential mitigation credits or discounts, and thereby reduce their premium. To obtain these credits, most insurers require some sort of certification or inspection. Usually the insurers 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 hurricane mitigation improvements to their homes. Likewise, current law does not require insurers to delineate what steps a homeowner needs to take to qualify for a credit or discount. According to Applied Research Associates, Inc., a large percentage of Florida homeowners are currently eligible for one or more wind insurance credits or discounts, but they estimate less than one-half of 1 percent of all Florida homeowners are actually receiving the discounts they deserve.[21]

This bill implements one of the Joint Select Committee's recommendations relating to hurricane mitigation[22] by changing current law to require insurers to notify homeowners of the availability of, amount of, and qualification process for hurricane mitigation premium discounts, credits, etc. at the time of the insurance quote and at each policy renewal.

Consumer Disclosure

Dollar value of hurricane deductible – Because hurricane deductibles are expressed as a percentage of the policy dwelling limits, testimony before the Joint Select Committee revealed some consumers are not aware of the actual dollar value of their percentage hurricane deductible. Currently, insurance companies must provide a standard disclosure that the policy contains a separate deductible for hurricane losses which may result in high out-of-pocket expenses, and the declarations page states that the hurricane deductible is 2 percent (or 5 percent, etc.) of the policy limits for the dwelling.[23] But, the actual dollar amount of the deductible is usually not calculated or specified.

This bill implements one of the Joint Select Committee's recommendations relating to hurricane deductibles[24] by changing current law to require insurers to compute and display the dollar amount of the hurricane deductible on the policy's declarations page & premium renewal notice.

[21] Written material provided to the Joint Select Committee on Hurricane Insurance at the February 4, 2005 meeting.
[22] Report from the Joint Select Committee on Hurricane Insurance, February 25, 2005, page 22.
[23] s. 627.701(4), F.S. (2004).
[24] Report from the Joint Select Committee on Hurricane Insurance, February 25, 2005, page 20.

Policy Coverage Disclosure – Insurers are currently required to provide consumers only an outline of coverage for homeowner's insurance purchased.[25] Nevertheless, testimony before the Joint Select Committee revealed some consumers are confused about how their losses will be calculated and valued if damage occurs and some valuation methods, such as "actual cash value"[26] or depreciation value can significantly reduce claims payments below that which policyholders may have expected.[27] For example, under some valuation methods the insurance company will deduct for the age and condition of a 15-year-old roof with a 20-year life expectancy, which may be an amount below the deductible, resulting in no payment at all.

This bill implements one of the Joint Select Committee's recommendations relating to consumer disclosure.[28] The bill changes current law by requiring insurers to provide policyholders[29] with a checklist of coverage information with the coverage information applicable to the policy "checked". The checklist must be given to policyholders when the policy is bought and at each renewal. The checklist must specify what property is covered, coverage limitations, coverage exclusions, the method for determining property damage, coverage options, and coverage amounts. The Financial Services Commission is given authority to promulgate rules to implement the coverage disclosure checklist. The bill does not change current law which requires an outline of coverage to be given to policyholders.

C. SECTION DIRECTORY:

Section 1: Amends s. 215.555; revising the definition of "retention" to provide for a $4 billion retention level, beginning June 1, 2005, for an insurer's two largest loss events and one-third of the full retention for all other losses.

Section 2: Amends s. 627.4133; restricting an insurer from canceling or non-renewing a personal or commercial homeowner's policy until 60 days after the damaged property is repaired.

Section 3: Amends s. 627.4143; requiring insurers to provide policyholders with a disclosure checklist for coverage information and setting forth requirements of checklist; providing an effective date of October 1, 2005.

Section 4: Amends s. 627.701, subsection (4) requiring insurers to compute and display the dollar amount of the hurricane deductible; creates subsection (10) requiring insurers to notify homeowners of the availability of, amount of, and qualification procedures for hurricane mitigation premium discounts at the time of the insurance quote and at each policy renewal; providing an effective date of October 1, 2005.

Section 5: Amends s. 627.701, subsection (5) requiring commercial residential property insurers to offer their policyholders a choice of an annual or per event hurricane deductible as of January 1, 2006.

Section 6: Provides an effective date of upon becoming law, except as otherwise provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

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[25] s. 627.4143, F.S. (2004).
[26] Actual cash value is the amount needed to repair or replace damage to a home after depreciation.
[27] Insurance companies must also offer replacement cost coverage, which is the amount needed to replace or repair damaged property with materials of similar kind and quality, without deducting for depreciation. Insurers must obtain the policyholder's written refusal of replacement cost coverage or it is deemed to be included.
[28] Report from the Joint Select Committee on Hurricane Insurance, February 25, 2005, pages 20-21.

[29] Homeowners, mobile homeowners, dwelling owners, and condominium unit owners

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. See D. FISCAL COMMENTS.

D. FISCAL COMMENTS:

Lower FHCF Retention: Lowering the FHCF retention to $4 billion for the two events causing the largest losses for the insurer and to one-third of the full retention for losses from all other events will increase FHCF premiums paid by insurers by 14.4%. However, a lower retention will allow insurers to access the FHCF earlier for reimbursement of claims payments made. Additionally, due to offsetting cost savings and benefits a lower retention level gives insurers, the increased FHCF premiums are not expected to be passed on to policyholders.

Per Event Hurricane Deductible for Commercial Lines Residential Policies: If a commercial residential policyholder opts for a per event hurricane deductible and if more than one hurricane strikes during the policy period causing the policyholder to make a claim for loss for more than one hurricane, then the per event deductible will likely increase the out-of-pocket costs for commercial lines residential policyholders. The out-of-pocket costs will increase because the policyholder has to absorb the hurricane deductible for each hurricane with a per event deductible whereas the policyholder has to absorb only one deductible for the entire policy period with an annual deductible. However, the bill does not mandate a per event deductible. Rather, it gives the policyholder the option to choose one.

Consumer Disclosure: The bill's disclosure requirements for the hurricane deductible and coverage checklist may result in increased printing, publication, and computer programming costs to insurers due to the two disclosures required by the bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill gives the Financial Services Commission authority to promulgate rules relating to notification to homeowners of the premium discounts, credits, rate differentials, etc. for hurricane mitigation measures and relating to the adoption of a checklist for coverage information for residential property policies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 10, 2005, the Insurance Committee adopted three amendments and reported the bill favorably. The three amendments adopted made the following changes from the originally filed version of the bill:

- clarifies an insurer is able to cancel or non-renew a homeowner's policy 60 days after a home is repaired as long as the insurer gives the policyholder 60 days notice.

- changes the effective date from July 1, 2005 to October 1, 2005 for the following provisions:
  - the disclosure of hurricane mitigation premium discounts, credits, etc.,
  - the disclosure of coverage information by a coverage checklist, and
  - the disclosure of the dollar amount of the hurricane.

- removes part of the legislative findings relating to consumer disclosure of coverage information by a coverage checklist.

The staff analysis was updated to reflect the strike-all amendment.