HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: **HM 541** **National Catastrophe Insurance Program**
SPONSOR(S): **Ross and others**
TIED BILLS: IDEN./SIM. BILLS: **SM 1676**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance Committee	18 Y, 0 N	Freire	Cooper
2) Commerce Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

In the span of 15 months, Florida suffered damage from four tropical storms and eight hurricanes. Of the eight hurricanes hitting Florida, seven are considered among the twelve costliest insured catastrophes in United States history. In total, Florida lost over $15 billion in 2004 and over $13.5 billion in 2005.

In response to these catastrophes, House Memorial 541 urges the United States Congress to create a National Catastrophe Insurance Program. The resolution calls for a program that provides consumers with all-perils protection; promotes personal responsibility through mitigation; creates a tax-deferred insurance company; enhances local and state government's role in catastrophic events; and creates a national catastrophic financing mechanism.

At least three bills are currently before Congress addressing elements of a national catastrophe program. Congresswoman Brown-Waite and Congressman Shaw have proposed legislation, H.R. 4366, entitled the "Homeowners Insurance Act of 2005." The bill establishes a reinsurance program for natural catastrophes. Congressman Feeney has proposed H.R. 4836, creating the "Catastrophe Savings Account Act of 2006." The bill provides consumers with the ability to manage a personal Catastrophe Savings Account exempt from taxation (other than taxes imposed by section 511). Congressman Foley has proposed H.R. 2668, creating a "Policyholder Disaster Protection Act of 2005." The bill allows insurance companies to place catastrophe reserves in tax deferred accounts.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility: This memorial promotes the retrofitting of existing housing stock in order to mitigate hurricane damage.

Empower Families: This memorial provides families with the ability to manage their own disaster savings account which accumulate on a tax-advantaged basis for the purpose of paying for mitigation enhancements and catastrophic losses.

B. EFFECT OF PROPOSED CHANGES:

Background:

In the span of 15 months, eight hurricanes and four tropical storms impacted the State of Florida.[1] Hurricanes Charley, Frances, Ivan, and Jeanne were "the Big Four in 04", and Hurricanes Dennis, Katrina, Rita and Wilma hit the state during the 2005 hurricane season.[2] Of these hurricanes, Katrina, Charley, Wilma, Ivan, Frances, Jeanne and Rita are among the twelve costliest insured catastrophes in U.S. history.[3]

According to the Office of Insurance Regulation (OIR), the estimated gross probable losses of each hurricane in 2005 were as follows:[4]

- Hurricane Dennis: $1,393,755,968
- Hurricane Katrina: $1,840,665,913
- Hurricane Rita: $157,480,462
- Hurricane Wilma: $10,455,869,001

The estimated loss of each hurricane in 2004 was as follows:[5]

- Hurricane Charley: $7.4 billion
- Hurricane Frances: $4.8 billion
- Hurricane Ivan: $4.8 billion
- Hurricane Jeanne: $3.9 billion

Until Hurricane Katrina hit the gulf states in 2005, causing an estimated $38.1 billion in insured losses, Hurricane Andrew, in 1992, had been the costliest catastrophe in U.S. history, costing the State of Florida an insured loss of $21 billion.[6]

---

[1] *Late Breaking Insurance News: Key Facts from Florida's 2004 and 2005 Hurricane Seasons; Eight Hurricanes & Four Tropical Storms in 15 Months*, Florida Insurance Council, February 2, 2006, available at http:www.flains.org/public/05hurricanecentral113.html-ssi, viewed on March 13, 2006.

[2] *Late Breaking Insurance News: Key Facts from Florida's 2004 and 2005 Hurricane Seasons; Eight Hurricanes & Four Tropical Storms in 15 Months*, Florida Insurance Council, February 2, 2006, available at http:www.flains.org/public/05hurricanecentral113.html-ssi, viewed on March 13, 2006.

[3] Robert E. Litan, *Preparing for Future "Katrinas"*, The Brookings Institution: Policy Brief #150, (March 2006), on file with Insurance Committee.

[4] *See Florida CY 2005 Hurricane Reporting Summary as of February 28, 2006*, provided by the Florida Office of Insurance Regulation Market Research Unit, on file with the Insurance Committee.

[5] Office of Insurance Regulation, 2005 Hurricane Season and 2004 Hurricane Season information, dated December 6, 2005

In addition to insurance related losses, hurricanes also cause problems and disruptions in the lives of affected parties. For instance, hurricanes displace people from their homes, result in loss of personal belongings, close businesses and institutions, cause temporary loss of employment, and create numerous health and safety issues in communities.

Catastrophes

The Insurance Services Office (ISO) defines a catastrophe as an event that causes $25 million or more in insured property losses and affects a significant number of property/casualty policyholders and insurers.[7]

Natural disasters are one type of catastrophe. Natural disasters continually threaten the United States, and extreme weather conditions pose an immediate danger to the livers, property, security of all residents. This includes cyclones, tornadoes, terrorism, winter storms, earthquakes, wind/hail/flood, and fire.[8] Other catastrophes include terrorism and civil disorders.[9] The five most costly U.S. catastrophes include Hurricane Katrina, Hurricane Andrew, the September 11 terrorist attacks in 2001, the Northridge, California earthquake, and Hurricane Wilma.[10]

HM 541:

House Memorial 541 is a resolution of the State of Florida urging the Congress of the United States to support a National Catastrophe Insurance Program. The suggested insurance program should:

- Provide consumers with a private market residential program that provides all-perils protection;
- Promote personal responsibility through mitigation;
- Create tax-deferred insurance company catastrophe reserves to benefit policyholders;
- Enhance local and state government's role in establishing and maintaining effective preparation and responses to catastrophic events; and
- Create a national catastrophe financing mechanism providing a quantifiable level of risk management and financing for mega-catastrophes through sound risk-based premiums paid in correct proportion by all policyholders in the United States.

Supporters of a National Catastrophe plan include Florida's Chief Financial Officer, Tom Gallagher; the Insurance Commissioners in Florida, New York, Illinois, and California; the National Association of Insurance Commissioners; and the National Association of Realtors.

Catastrophe Insurance Program Proposals:

Congresswoman Brown-Waite and Congressman Shaw have proposed legislation, H.R. 4366, creating the "Homeowners Insurance Act of 2005." The purpose of the bill is to create a Consumer Hurricane and Earthquake Protection Fund to provide reinsurance to insurance companies at lower rates than they can get on the private market. The fund would also cover tornados, volcanic eruptions, and other

---

[6] *See* Robert E. Litan, *Preparing for Future "Katrinas"*, The Brookings Institution: Policy Brief #150, (March 2006), on file with Insurance Committee.
[7] *Catastrophes: The Ten Most Costly World Insurance Losses*, available at http://www.iii.org/media/facts/statsbyissue/catastrophes, on file with Insurance Committee.
[8] *Catastrophes: The Ten Most Costly World Insurance Losses*, available at http://www.iii.org/media/facts/statsbyissue/catastrophes, on file with Insurance Committee.
[9] *Catastrophes: The Ten Most Costly World Insurance Losses*, available at http://www.iii.org/media/facts/statsbyissue/catastrophes, on file with Insurance Committee.
[10] *Catastrophes: The Ten Most Costly World Insurance Losses*, available at http://www.iii.org/media/facts/statsbyissue/catastrophes, on file with Insurance Committee.

disasters.[11] Under this catastrophe fund legislation, private insurers would be responsible for losses up to amounts determined on a state-to-state or regional basis.[12] State catastrophe funds would pay additional losses up to their limits before the national fund would kick in. The national fund would sell reinsurance to the state funds.[13] Reinsurance is backup insurance sold by some insurance companies to other insurers, spreading the risk so that huge losses can be covered.[14]

Congressman Feeney has proposed H.R. 4836, creating the "Catastrophe Savings Account Act of 2006." This Act adds a chapter to the Internal Revenue Code of 1986 providing consumers with the ability to manage a personal, tax-exempt Catastrophe Saving Account.[15] The account would be a trust created/organized in the U.S. for the exclusive benefit of beneficiaries designated at the time of the establishment of the trust. The bill further delineates how to measure an account's balance limit; provides definitions for qualified catastrophe expenses, qualified deductible, and qualified rollover contribution; and it delineates the tax treatment of distributions.

Congressman Foley has proposed H.R. 2668, creating a "Policyholder Disaster Protection Act of 2005." The Act amends the Internal Revenue Code of 1986 and provides for the creation of a tax-deferred insurance company catastrophe reserves benefit for the payment of policyholders' claims arising from future catastrophic events. The Act explains that present tax law does not give adequate incentive to assure that natural disasters insurance is provided. The Act finds Congress should revise tax laws applicable to property and casualty insurance in order to allow controlled accumulation of pretax dollars devoted solely to the payment of claims arising from future major natural disasters. In order to qualify, the event must be designated either a windstorm (hurricane, cyclone, or tornado), an earthquake, a winter catastrophe, fire, tsunami, flood, volcanic eruption, or hail, and the event must me designated a "catastrophe" by Property Claim Services, the President, or by the chief executive official of a State or territory of the United States, or the District of Columbia.

C. SECTION DIRECTORY:

This memorial is not divided into separate sections. It provides a series of "whereas" clauses, followed by a resolution.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. **Revenues:**

   None.

2. **Expenditures:**

   None.

---

[11] *Allstate Promotes Catastrophe Fund*, January 14, 2004, Associate Press, available on http://www.allstate.com; originally appearing on News-Journal Online at http://www.news-journalonline.com/NewsJournalOnline/Business/Headlines/bizBIZ05011406.htm, on file with Insurance Committee.
[12] *Allstate Promotes Catastrophe Fund*, January 14, 2004, Associate Press, available on http://www.allstate.com; originally appearing on News-Journal Online at http://www.news-journalonline.com/NewsJournalOnline/Business/Headlines/bizBIZ05011406.htm, on file with Insurance Committee.
[13] *Allstate Promotes Catastrophe Fund*, January 14, 2004, Associate Press, available on http://www.allstate.com; originally appearing on News-Journal Online at http://www.news-journalonline.com/NewsJournalOnline/Business/Headlines/bizBIZ05011406.htm, on file with Insurance Committee.
[14] *Allstate Promotes Catastrophe Fund*, January 14, 2004, Associate Press, available on http://www.allstate.com; originally appearing on News-Journal Online at http://www.news-journalonline.com/NewsJournalOnline/Business/Headlines/bizBIZ05011406.htm, on file with Insurance Committee.
[15] **H.R. 4836(1).**

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent this memorial urges Congress to adopt a National Catastrophe Insurance Program for the benefit of consumers; the consumers should experience a positive economic impact (through the use of catastrophe savings accounts and measures to mitigate catastrophic damages.)

D. FISCAL COMMENTS:

OIR indicated the Resolution has no fiscal or regulatory impact for the Office.[16]

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None provided.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Office of Insurance Regulation strongly supports HM 541. The office has been working with the National Association of Insurance Commissioners, the National Council of Insurance Legislators, members of Congress, and key stakeholders to create a comprehensive federal solution that pre-funds catastrophic losses and provides for an affordable, comprehensive policy.[17]

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

[16] Email from OIR to Insurance Committee, dated January 19, 2006, on file with the Insurance Committee.
[17] Email from OIR to Insurance Committee, dated January 19, 2006, on file with the Insurance Committee.