FINAL BILL ANALYSIS

BILL #: HB 4181

FINAL HOUSE FLOOR ACTION: 116 Y's 0 N's

SPONSOR: Rep. Davis

GOVERNOR'S ACTION: Approved

COMPANION BILLS: SB 634

SUMMARY ANALYSIS

HB 4181 passed the House on March 24, 2011, and passed the Senate on April 6, 2011. The bill was approved by the Governor on April 27, 2011, chapter 2011-13, Laws of Florida, and becomes effective July 1, 2011.

The bill repeals s. 215.55951, F.S., which precludes Citizens Property Insurance Corporation (Citizens) from increasing rates or assessments due to a transfer of funds in the amount of $250 million to the Capital Build-Up Program (program) in 2008 or due to changes to the program contained in CS/CS/SB 2860, legislation enacted in 2008. The transfer of funds did not occur as Governor Crist line item vetoed the transfer.

The bill has no fiscal impact on state or local government.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

In 2006, the Legislature created the Insurance Capital Build-Up Incentive Program (Capital Build-Up Program or program) within the State Board of Administration (SBA) to provide insurance companies a low-cost source of capital to write additional residential property insurance. The program's goal was to increase the availability of residential property insurance covering the risk of hurricanes and to ease residential property insurance premium increases.

To accomplish its goal, the program loaned state funds in the form of surplus notes to new or existing authorized residential property insurers under specified conditions. The insurers, in turn, agreed to write additional residential property insurance in Florida and to contribute new capital to their company. The maximum dollar amount of a surplus note was $25 million. The surplus note was repayable to the state, with a 20 year term, at the 10-year Treasury Bond interest rate (with interest only payments the first three years). The Legislature appropriated $250 million non-recurring funds from the General Revenue Fund to fund the program at its inception in 2006. Any unexpended balance reverted back to the General Revenue Fund on June 30, 2007.

As of June 28, 2007, the program issued $247,500,000 in funds to thirteen qualifying insurers. Administrative expenses for the program totaled $2,500,000. Thus, by June 2007 the entire 2006 legislative appropriation for the program was exhausted ($247.5 million in loans, and $2.5 million in administrative costs) and no funds reverted back to the General Revenue Fund.[1]

CS/CS/SB 2860, enacted in 2008, required the Citizens Property Insurance Corporation (Citizens) to transfer $250 million to the General Revenue Fund by December 15, 2008.[2] The 2008 General Appropriations Act (GAA) contained a contingent appropriation of $250 million to the SBA for additional funding for the Capital Build-Up Program. The appropriation was contingent upon Citizens transferring $250 million to the General Revenue Fund.

The transfer of $250 million from Citizens for use in the Capital Build-Up Program was line item vetoed by Governor Crist, so Citizens never transferred the money to the SBA.[3] In his veto message Governor Crist stated: "[w]hile I believe the program is well intended and has had the net effect of removing nearly 200,000 policies from the Citizens Property Insurance Corporation and has kept an additional estimated 480,000 policies out of Citizens, the funding source is inappropriate. The original funding for the program came from the General Revenue Fund during the 05/06 fiscal year; however, the additional funding for the program provided in this legislation comes from policyholders' premiums paid to Citizens, which is used to pay claims in the event of a catastrophic hurricane. …Taking $250 million away from Citizens' ability to pay claims will substantially increase the likelihood of assessments for Floridians across the state."[4]

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[1] Information obtained from the Final Report of the Insurance Capital Build-Up Incentive Program available at http://www.sbafla.com/fsb/LinkClick.aspx?fileticket=TYIOUbPBbDM%3d&tabid=975&mid=2692 (last viewed February 1, 2011).
[2] Section 16, Ch. 2008-66, L.O.F.
[3] Section 16 of CS/CS/SB 2860 which required the $250 million transfer from Citizens to the General Revenue Fund for use in the Capital Build Up Program was vetoed on May 28, 2008. CS/HB 5057 also required the $250 million transfer and this bill was vetoed on June 10, 2008. (Letter to Secretary Kurt S. Browning, Secretary of State, from Governor Charlie Crist dated June 10, 2008, on file with staff of the Insurance & Banking Subcommittee).
[4] Letter to Secretary Kurt S. Browning, Secretary of State, from Governor Charlie Crist dated May 28, 2008, on file with staff of the Insurance & Banking Subcommittee.

One provision in CS/CS/SB 2860, enacted in 2008 (s. 215.55951, F.S.), precluded Citizens from increasing rates or assessments due to the $250 million transfer from Citizens to the Capital Build-Up Program. Another provision precluded Citizens from increasing rates or assessments due to changes to the program made by the bill. These provisions were not vetoed by Governor Crist.

Effect of the Bill:

The bill repeals s. 215.55951, F.S., which precludes Citizens from increasing rates or assessments due to the $250 million transfer of funds to the Capital Build-Up Program in 2008 or due to changes to the program contained in CS/CS/SB 2860.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

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:

The repeal of s. 215.55951, F.S., will not result in rate or assessment increases by Citizens. The impetus of s. 215.55951, F.S., was to ensure Citizens would not raise rates or assessments due to the $250 million depletion of surplus required by CS/CS/SB 2860 and CS/HB 5057. No provision in s. 215.5595, F.S., the statute governing the Capital Build-Up Program, could be the legal basis for Citizens to raise rates or assessments.

D. FISCAL COMMENTS:

None.