The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Banking and Insurance Committee

BILL: SB 1346

INTRODUCER: Senator Oelrich

SUBJECT: Citizens Property Insurance Corporation Assessments

DATE: January 13, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Burgess	BI	**Favorable**
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

Senate Bill 1346 reduces the Citizens Property Insurance Corporation (Citizens) regular assessment from 6 percent per account to 2 percent for deficits in the Coastal Account and eliminates the regular assessment in the Personal Lines Account (PLA) and the Commercial Lines Account (CLA). The reduction of the regular assessment in the Coastal Account and its elimination for deficits in the PLA and CLA will not reduce the overall assessment authority of Citizens. Instead, greater levies will be imposed through emergency assessments, which are levied on all lines of property and casualty policies (except workers' compensation and medical malpractice[1]) in the state, including Citizens' own policies.

The bill also makes revisions designed to assist Citizens in the promulgation and collection of assessments. Citizens is authorized to levy the policyholder surcharge, a regular assessment for the Coastal Account, and emergency assessments upon a determination by the Citizens Board of Directors that a Citizens account has a projected deficit. The Office of Insurance Regulation (OIR) is authorized to assist Citizens to collect assessments in any way that the OIR deems appropriate. Assessable insurers and the Florida Surplus Lines Service Office (FSLSO) must begin collecting and paying the emergency assessments within 90 days after Citizens levies such assessments. Limited apportionment companies must also begin collecting regular assessments within 90 days of their levy by Citizens. However, the bill expands the time limited apportionment companies have to pay regular assessments in full from 12 months to 15 months after Citizens levies the assessment. The bill is effective July 1, 2012.

This bill substantially amends the following section of the Florida Statutes: 627.351.

[1] Section 627.351(6)(b)3.e., F.S.

II. Present Situation:

Citizens Property Insurance Corporation

Citizens is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.[2] Citizens is not a private insurance company,[3] and its book of business is divided into three statutorily separate accounts.[4] Each of the three Citizens accounts has separate calculations with regard to surplus and deficits. By statute, assets of each account may not be comingled or used to fund losses in another account. Citizens' three accounts are:

Personal Lines Account (PLA) – Multi-peril policies which consist of homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners and similar policies covering damage to property from windstorm and from other perils.

Commercial Lines Account (CLA) – Multi-peril policies which consist of condominium association, apartment building and homeowners' association policies covering damage to property from windstorm and from other perils, as well as Commercial Non-Residential Multi-peril policies.

Coastal Account (Coastal) – Wind-only and Multi-peril policies which consist of personal lines wind-only policies, commercial residential wind-only policies and commercial non-residential wind-only policies issued in limited eligible coastal areas which cover damage to property from windstorm only. It also consists of personal and commercial residential multi-peril policies in specified coastal areas (wind-only zones) issued since 2007 which cover damage to property from windstorm and from other perils. Recently some Commercial Non-Residential Multi-peril policies have been added as well.

Assessments

In the event Citizens incurs a deficit, i.e., its obligations to pay claims exceed its capital plus reinsurance recoveries, it may levy assessments on most of Florida's property and casualty insurance policyholders in a specific sequence set by statute.[5] The three Citizens' accounts calculate deficits and resulting assessment needs independently:

Citizens Policyholder Surcharges:[6] Citizens will first levy surcharges on its policyholders of up to 15 percent of premium per account for a maximum total of 45 percent. This surcharge is collected over 12 months on all Citizens' policies and collected upon issuance and renewal.

Regular Assessments:[7] Upon the exhaustion of the Citizens policyholder surcharge for a particular account, Citizens may levy a regular assessment of up to 6 percent of premium or 6

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[2] See Section 627.351(6)(a), F.S.
[3] See Section 627.351(6)(a)1., F.S.
[4] Section 627.351(6)(b)2.a., F.S.
[5] Section 627.351(6)(b)3., F.S.
[6] Section 627.351(6)(b)3.h., F.S.
[7] Section 627.351(6)(b)3.a.-b., F.S.

percent of the deficit per account, for a maximum total of 18 percent. The regular assessment is levied on all lines of property and casualty policies in the state except workers' compensation and medical malpractice, but is not levied on Citizens' policies. Property and casualty insurers with policies subject to the regular assessment provide the assessment to Citizens up front and subsequently recover it from their policyholders at the issuance of a new policy or at renewal of existing policies. Citizens has usually been able to collect regular assessment funds within 30 days after being levied.

Emergency Assessments:[8] Upon the exhaustion of the Citizens' policyholder surcharge and regular assessment for a particular account, Citizens may levy an emergency assessment of up to 10 percent of premium or 10 percent of the deficit per account, for a maximum total of 30 percent. This assessment can be collected for as many years as is necessary to rectify a deficit. Emergency assessments are levied on all lines of property and casualty policies (except workers' compensation and medical malpractice) in the state, including Citizens' own policies. Initially, property and casualty insurers with policies subject to the emergency assessment collect the assessment from policyholders at the issuance of a new policy or at renewal of existing policies and then remit the assessments periodically to Citizens. Thus, Citizens will not collect funds raised by an emergency assessment immediately after the assessment is levied, but will collect funds intermittently throughout the collection period as policies are renewed and new policies are written.

Citizens Assessment Capacity

Issue Brief 2012-226 by the Banking and Insurance Committee presented findings on the financial condition of Citizens and the corporation's claims resources in the event of a major hurricane event. Due to lack of storm activity for the last 5 years, the current surplus held by Citizens for all three accounts is $5.742 billon: $2.686 billion Coastal and $3.056 billion PLA/CLA. Pursuant to estimates provided by Citizens to committee staff, Citizens has the following assessment capacity:

- Policyholder Surcharge – approximately $1.172 billion: $391 million surcharge capacity for Coastal and $781 million surcharge capacity for PLA/CLA.
- Regular Assessment – approximately $5.580 billion: $1.860 billion Regular Assessment capacity for Coastal and $3.720 billion Regular Assessment capacity for PLA/CLA.
- Emergency Assessment - Citizens Emergency Assessment capacity is unlimited. The projected 1-100 year storm Emergency Assessment estimate is $6.468 billion for Coastal Account.

Reinsurance

A direct insurance writer will often spread its risk by purchasing reinsurance coverage from a reinsurance carrier. The reinsurance contract will specify the layer of the direct writer's risk that is shifted to the reinsurer and the premium that the direct writer must pay the reinsurer to assume the risk. For the contract year 2011-2012, Citizens has purchased private reinsurance coverage totaling $575 million for the Coastal account.

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[8] Section 627.351(6)(b)3.c., F.S.

The Florida Hurricane Catastrophe Fund (FHCF or CAT fund)

The CAT fund is a tax-exempt state managed trust fund that reimburses (reinsures) insurers for a portion of their hurricane losses to residential property.[9] To access the CAT fund an insurer must have incurred losses above the retention levels calculated and set by statute. When faced with a multi-storm season, insurers must reach their full retention levels on the two largest storms of the season. The retention level is then reduced to one-third the normal amount for any other storms that season. The current retention levels for Citizens' accounts are $1.738 billion for Coastal and $1.19 billion for PLA/CLA. If Citizens were to incur losses above its retention levels, the CAT fund could provide Citizens with an additional $6.591 billion in coverage: $4.010 billion would be available for Coastal and $2.581 billion would be available for PLA/CLA.

III. Effect of Proposed Changes:

Section 1. Amends s. 627.351(6), F.S.

Reduces the Citizens regular assessment from 6 percent per account to 2 percent for deficits in the Coastal Account and eliminates the regular assessment in the Personal Lines Account (PLA) and the Commercial Lines Account (CLA). The reduction of the regular assessment in the Coastal Account and its elimination for deficits in the PLA and CLA will not reduce the overall assessment authority of Citizens. Instead, greater levies will be imposed through emergency assessments, which are levied on all lines of property and casualty policies (except workers' compensation and medical malpractice) in the state, including Citizens' own policies. In the event of a storm that requires emergency assessments, Citizens policyholders will be subject to higher assessment liabilities than under current law because regular assessments do not include such policyholders within the assessment base, but emergency assessments do. Conversely, policyholders of property and casualty lines of insurance policies subject to assessment will be subject to lower levels of assessment liability.

The bill also makes revisions designed to assist Citizens in the promulgation and collection of assessments. The bill authorizes the Citizens Board of Governors to levy surcharges and assessments upon projecting that a Citizens account will incur a deficit. Current law requires that the Citizens account actually incur a deficit prior to the levy of surcharges or assessments. Under the bill, the various surcharges and assessments may be levied upon the following determinations:

- Policyholder Surcharge – Upon a determination by the board that a Citizens account has a projected deficit.
- Regular assessments for the Coastal Account – Upon a determination by the board that a Coastal Account will have a projected deficit after accounting for the policyholder surcharge.
- Emergency assessments – Upon a determination by the board that a Citizens account will have a projected deficit after accounting for the policyholder surcharge and, for the Coastal Account, regular assessments.

[9] Section 215.555, F.S.

The Office of Insurance Regulation is authorized to assist Citizens to collect assessments in any ways that the OIR deems appropriate. Assessable insurers and the Florida Surplus Lines Service Office must begin collecting and paying the emergency assessments within 90 days after Citizens levies such assessments. Limited apportionment companies must also begin collecting regular assessments within 90 days of their levy by Citizens. However, the bill expands the time limited apportionment companies have to pay regular assessments in full from 12 months to 15 months after Citizens levies the assessment.

Section 2. The act is effective July 1, 2012.

Other Potential Implications:

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Representatives from multiple Florida admitted insurance companies assert that the requirement that property and casualty insurers with policies subject to the regular assessment provide the assessment to Citizens up front and subsequently recover it from their policyholders may delay the ability of some insurers to make timely claim payments to their own policyholders. These representatives have also raised the possibility that the requirement to front regular assessment liabilities could imperil the solvency of some insurers.

Representatives from the Office of Insurance Regulation report that some non-admitted property and casualty insurers have cited the requirement that insurers pre-pay the regular assessment up front to Citizens as a reason they have chosen not to write residential property insurance in the state.

C. Government Sector Impact:

Representatives from Citizens state that the bill will not have a negative impact on the corporation's ability to timely pay claims in the event of a storm that triggers emergency assessments. Citizens' representatives assert that the ability of the corporation to issue debt will enable it to maintain sufficient funds to timely pay claims and meet its obligations in the event of a storm that requires the levy of emergency assessments. Additionally, allowing Citizens to levy surcharges and assessments upon a determination by the Board of Directors that a deficit exists in a Citizens account will allow Citizens to begin the process of collecting those levies at an earlier time than under current law.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.