

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 Committee on Appropriations

BILL: CS/SB 378

INTRODUCER: Banking and Insurance Committee and Senator Bean

SUBJECT: Manufactured and Mobile Homes

DATE: April 19, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Burgess	BI	Fav/CS
2.	Oxamendi	Imhof	RI	Favorable
3.	Davis	Hansen	AP	Favorable
4.			RC	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 378 requires Citizens Property Insurance Corporation to issue policies for manufactured or mobile homes and attached structures, including screened enclosures, carports, and covered patios. The bill also specifies the manner in which funds from the Florida Mobile Home Relocation Trust Fund are to be disbursed to the Florida Mobile Home Relocation Corporation.

The bill has no fiscal impact on state or local funds. The bill would take effect upon becoming law.

This bill substantially amends 627.351 and 723.06115, Florida Statutes.

II. Present Situation:

Citizens Property Insurance Corporation (Citizens)

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.¹ Citizens is not a private insurance company.² Citizens was statutorily created in 2002 when the Florida Legislature combined the state's two insurers of last resort, the Florida Residential Property and Casualty Joint Underwriting Association (RPCJUA) and the Florida Windstorm Underwriting Association (FWUA). Citizens operates in accordance with s. 627.351(6), F.S. It is governed by an eight member Board of Governors³ (board) that administers its Plan of Operations, which is reviewed and approved by the Financial Services Commission. The Governor, President of the Senate, Speaker of the House of Representatives, and Chief Financial Officer (CFO) each appoints two members to the board. Citizens is subject to regulation by the Florida Office of Insurance Regulation.

Citizens Accounts

Citizens offers three types of property and casualty insurance in three separate accounts. Each account is a separate statutory account with separate calculations of surplus and deficits.⁴ Assets may not be commingled or used to fund losses in another account.⁵ The three Citizens accounts are:

Personal Lines Account (PLA): Statewide account offering multiperil policies covering homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners, and similar policies.

- Policies in Force: 838,143
- In Force Premium: \$1,379,410,864
- Total Exposure: \$175,864,284,312

Coastal Account (Coastal): Coastal area account offering personal residential wind-only policies, commercial residential wind-only policies and commercial nonresidential wind-only policies issued in limited eligible coastal areas. In addition, in August of 2007, Citizens began offering personal and commercial residential multiperil policies in the Coastal account.

- Policies in Force: 438,642
- In Force Premium: \$1,144,655,922
- Total Exposure: \$191,101,715,209

Commercial Lines Account (CLA): Statewide account offering multiperil policies covering commercial residential-condominium associations, apartment buildings and homeowners associations; and commercial non-residential policies.

- Policies in Force: 8,016
- In Force Premium: \$200,296,331

¹ Admitted market means insurance companies licensed to transact insurance in Florida.

² Section 627.351(6)(a)1., F.S. Citizens is also subject to regulation by the Office of Insurance Regulation.

³ The Governor, the Chief Financial Officer, the President of the Senate and the Speaker of the House of Representatives appoint two members each.

⁴ The Personal Lines Account and the Commercial Lines account are combined for credit and Florida Hurricane Catastrophe Fund coverage.

⁵ Section 627.351(6)(b)2.b., F.S.

- Total Exposure: \$38,748,152,744

Total All Accounts Combined:⁶

- Policies in Force: 1,284,801
- In Force Premium: \$2,724,363,117
- Total Exposure: \$405,714,152,265

Citizens Financial Resources

According to Citizens, its financial resources include insurance premiums, investment income, operating surplus from prior years, Florida Hurricane Catastrophe Fund (FHCF) reimbursements, private reinsurance, policyholder surcharges, and regular and emergency assessments. As of December 13, 2013, Citizens will have an accumulated surplus of approximately \$6.34 billion. For the 2013 hurricane season Citizens will have purchased \$1.75 billion in private reinsurance coverage along with the \$5.73 billion in mandatory layer reinsurance from the FHCF. For the 2013 hurricane season Citizens' probable maximum loss (PML) from a 1-in-100 year event is \$20.42 billion.

If a deficit occurs in a Citizens account, Citizens is authorized to levy assessments on its policyholders and on each line of property and casualty line of business other than workers' compensation insurance and medical malpractice insurance.⁷ The assessments Citizens may impose and their sequence is as follows:

Citizens Surcharge: Requires up to 15 percent of premium surcharge for 12 months on all Citizens policies, collected upon issuance or renewal. This 15 percent assessment can be levied on each of the three Citizens accounts with a maximum assessment of 45 percent of premium.

Regular Assessment: If the Citizens surcharge is insufficient to cure the deficit for the coastal account, Citizens can require an assessment against all other insurers (except medical malpractice and workers comp). The assessment may be recouped from policyholders through a rate filing process of up to 2 percent of premium or 2 percent of the deficit, whichever is greater. This assessment is not levied against Citizens' policyholders.

Emergency Assessment: Requires any remaining deficit for either of Citizens' three accounts to be funded by multi-year emergency assessments on all insurance policyholders (except medical malpractice and workers comp), but including Citizens' policyholders. This assessment is levied up to 10 percent of premium or 10 percent of the deficit per account, whichever is greater. The maximum emergency assessment that can be levied against Florida's varicose insurance policyholders is 30 percent per policy.

⁶ Citizens weekly report as of March 1, 2013 on file with Senate Committee on Banking and Insurance.

⁷ See 267.736(6)(b)3.f., F.S., Accident and health insurance and policies written under the National Flood Insurance Program or the Federal Crop Insurance Program are not assessable types of property and casualty insurance. Surplus lines insurers are not assessable, but their policyholders are.

Citizens Rates

Citizens' rates for coverage are required to be actuarially sound and are subject to the rate standards for property and casualty insurance in s. 627.062, F.S., except as otherwise provided.⁸ From 2007 until 2010, Citizens rates were frozen by statute⁹ at the level that had been established in 2006. In 2010, the Legislature established a "glide path" to impose annual rate increases up to a level that is actuarially sound.¹⁰ Citizens must implement an annual rate increase which does not exceed 10 percent above the previous year for any individual policyholder, adjusted for coverage changes and surcharges. The implementation of this increase ceases when Citizens has achieved actuarially sound rates. Section 215.555(5)(b), F.S., provides, in addition to the overall glide path rate increase, that Citizens can increase its rates to recover the additional reimbursement premium that it incurs as a result of the annual cash build-up factor added to the price of the mandatory layer of the FHCF coverage.

Mobile Home Coverage

Current law limits Citizen's coverage on mobile homes or manufactured homes built before 1994 to actual cash value of the dwelling rather than replacement costs of the dwelling.¹¹

Coverage B (Other Structures)

Effective February 1, 2012, Citizens ceased providing Coverage B for the following structures whether attached to the dwelling or not:

- Screened enclosures that are aluminum framed or not covered by the same or substantially the same materials as that of the primary dwelling.
- Carports that are aluminum or not covered by the same or substantially the same materials as that of the primary dwelling.
- Patios that have a roof covering not constructed of the same or substantially the same materials as that of the primary dwelling.
- Awnings.
- Structures with a roof or wall covering that are thatch, lattice, slats or a similar material.
- Slat houses, chickees, tiki huts, gazebos, cabanas, canopies, pergolas or similar structures constructed to be open to the weather.

However, Citizens subsequently reconsidered its policy and approved a limited buyback option to allow mobile home owners to purchase coverage for attached carports, screened enclosures, and covered patios up to a limit of \$10,000. The coverage is limited to actual cash value and subject to policy deductibles. The coverage does not apply to awnings, screens, aluminum fram enclosures, gazebos, and other similar structures.¹²

⁸ Section 627.351(6)(n)1., F.S.

⁹ Section 627.351(6)(n)4., F.S.

¹⁰ Ch. 2009-87; s.10, L.O.F.

¹¹ Section 627.351(6)(c)16., F.S.

¹² Citizens Property Insurance Corporation, *Citizens Reinstates Limited Coverages for Sinkhole, Mobile Homes, Builders*, Press Release Dated March 27, 2013. A copy of the press release is available at: <https://www.citizensfla.com/shared/press/articles/104/03.27.2013.pdf> (Last visited March 27, 2013).

Florida Mobile Home Relocation Corporation

Section 723.061(1)(d), F.S., provides that a mobile home owner and/or tenant can be evicted from his or her mobile home due to a change in the use of the land comprising the mobile home park. The park owner must give the affected mobile home owners and tenants at least 6 months' notice of the eviction due to the projected change in use, and of their need to secure other accommodations.¹³

In 2001, the Florida Mobile Home Relocation Corporation (corporation) was created to provide payments to mobile home owners who are required to move due to a change in the use of the land comprising their mobile home park, pursuant to s. 723.061(1)(d), F.S.¹⁴ The corporation is administered by a volunteer-based, six-member board.¹⁵ The board also employs or retains attorneys, accountants, and administrative personnel to perform its duties.¹⁶

If a mobile home owner is required to move due to a change in use of the land, the mobile home owner is entitled to payment from the corporation in the amount of actual moving expenses of relocating the mobile home to a new location within a 50-mile radius of the vacated park. Alternatively, the mobile homeowner is entitled to payment in the amount of \$3,000 for a single-section mobile home or \$6,000 for a multisection mobile home, whichever is less. Moving expenses include the cost of taking down, moving, and setting up the mobile home in a new location.¹⁷

The corporation receives funding from three sources:

- An annual one dollar surcharge on mobile home lots located in a mobile home park, collected by the Department of Business and Professional Regulation (department) pursuant to s. 723.007(2), F.S.;
- An annual one dollar surcharge on registration payments by mobile home owners collected by the Department of Highway Safety and Motor Vehicles; and
- Funds collected from mobile home park owners when the mobile home owner applies for payment of moving expenses or mobile home abandonment allowance.¹⁸

All funds are deposited into the Florida Mobile Home Relocation Trust Fund (Trust Fund), established by s. 723.06115, F.S. Chapter 723, F.S., does not specify how the funds are to be disbursed to the corporation. Instead, the transfer of funds is conducted pursuant to a Memorandum of Understanding entered into by the department and the corporation.

Currently, funds are disbursed to the corporation on a monthly basis, less any amounts withheld for the required 8 percent contribution to the general revenue fund. According to the department,

¹³ Section 723.061(1)(d)2., F.S.

¹⁴ See generally, ss. 723.0611, 723.0612 and 723.06116, F.S.

¹⁵ Department of Business and Professional Regulation, Internal Audit Report A-1112-BPR-032, page 2, dated October 4, 2012.

¹⁶ Id.

¹⁷ Section 723.0612(1), F.S.

¹⁸ Department of Business and Professional Regulation, Internal Audit Report A-1112-BPR-032, dated October 4, 2012.

during fiscal year 2011-2012, \$759,376.86 was deposited into the trust fund with \$698,945.71 of that amount transferred to the corporation.

The department's Office of Inspector General issued an audit of the Florida Mobile Home Relocation Program. The audit expressed concerns regarding the need for greater segregation of the duties for the two employees of the corporation so that no employee is in a position to perpetuate and conceal errors or fraud in the normal course of their duties. The report also noted the cash balances amassed in multiple non-interest bearing accounts during periods with few payout requests. The audit recommended:

- Amending the department's current Memorandum of Understanding with the corporation "to address the transfer of funds, submission of additional financial reporting, and periodic review of the Memorandum. Financial information should be reviewed and analyzed by Department staff to enhance detective controls to mitigate the risks associated with inadequate segregation of duties."
- That the department "consider policy and operational changes to better align the corporation's operations with current needs."¹⁹

Florida Qualified Public Depository (QPD)

The Florida Security for Public Deposits Act (act)²⁰ delineates the powers and duties of the CFO and the requirements that must be met by QPDs and public depositors.²¹ To provide protection of public deposits, each QPD is required to pledge collateral at a level commensurate with the amount of public deposits²² held and a measure of its financial stability, as determined by the CFO. The CFO may demand payment under a letter of credit or direct a custodian to deposit or transfer collateral and proceeds of securities not previously credited upon the occurrence of one or more triggering events as provided for in law.²³ The act provides that when the CFO determines that a QPD default or insolvency has occurred, the loss to public depositors is to be satisfied, insofar as possible, first through any applicable deposit insurance and then through demanding payment under letters of credit or the sale of collateral pledged or deposited by the defaulting QPD.²⁴ The CFO is to provide coverage of any remaining loss by use of amounts assessed and collected from the other QPDs.

¹⁹ *Id.*

²⁰ Chapter 280, F.S.

²¹ A public depositor is the official custodian of funds for a governmental unit who is responsible for handling public deposits.

²² A public deposit is defined as the moneys of the State or of any State university, county, school district, community college, special district, metropolitan governments, or municipality, including agencies, boards, bureaus, commissions, and institutions of any of the foregoing, or of any court, and includes the moneys of all county officers, including constitutional officers, that are placed on deposit in a bank, savings bank, or saving association and for which the bank, savings bank, or savings association is required to maintain reserves.

²³ *See* s. 280.041(6), F.S. Examples of triggering events include those instances in which the CFO determines that an immediate danger to the public health, safety, or welfare exists; the QPD defaults or becomes insolvent; the QPD fails to pay an administrative penalty; the QPD fails to meet financial condition standards; and the QPD pledges, deposits, or has issued insufficient or unacceptable collateral to meet required collateral within the required time.

²⁴ Section 280.08, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 627.351(6)(c), F.S., to require that Citizens provide coverage for manufactured or mobile home dwellings for a minimum insured value of at least \$3,000. Such coverage must also include the following attached structures:

- Screened enclosures that are aluminum framed or screened enclosures that are not covered by the same or substantially the same materials as that of the primary dwelling.
- Carports that are aluminum or carports not covered by the same or substantially the same materials as that of the primary dwelling.
- Patios that have a roof covering constructed of materials that are not the same or substantially the same materials as that of the primary dwelling.

Section 2 amends s. 723.06115, F.S., to specify the manner in which funds from the Florida Mobile Home Relocation Trust Fund are to be disbursed by the department to the corporation. All funds transferred from the trust fund to the corporation must be transferred electronically and maintained in a qualified public depository (QPD) specified by the corporation.

The bill requires, before the beginning of each fiscal year, that the corporation submit its written annual operating budget, as approved by the corporation's board, for the fiscal year. The department is required to electronically transfer one-fourth of the operating budget to the corporation each quarter. The department must make the first one-fourth quarter transfer on the first business day of the fiscal year and make the remaining one-fourth quarter transfers before the second business day of the second, third, and fourth quarters. The corporation board may approve changes to the operational budget for a fiscal year by providing written notification of such changes to the department. The written notification must indicate the changes to the operational budget and the conditions that were unforeseen at the time the corporation developed the operational budget and why the changes are essential in order to continue operation of the corporation.

The bill requires the corporation to periodically submit requests to the department for the electronic transfer the funds needed to make payments to the mobile home owners whose applications have been approved under the corporation's relocation program. The corporation's requests for the additional funds must include documentation indicating the amount of funds needed, the name and location of the mobile home park, the number of approved applications for moving expenses or abandonment allowance, and summary information specifying the number and type, single-section or multisection, of homes moved or abandoned. The department must process the requests that include the required documentation, subject to the availability of sufficient funds, within the trust fund within 5 business days after receipt of the request.

Additionally, the bill allows the department to inspect the corporation's records upon written notice of five business days.

Finally, the bill specifies that other than the requirements set forth in the section, neither the corporation nor the department is required to take any other action as a prerequisite to accomplish the provisions of this section.

Section 3 provides that the bill takes effect upon becoming a law.

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:

Manufactured or mobile home owners will be able to purchase Citizens Property Insurance coverage for their screen enclosures, carports and patios.

The changes made by the bill that require Citizens to offer coverage for mobile and manufacture homes and certain attached structures may increase the number of policies in Citizens. Increasing the number of policies also increases Citizens' exposure and the probability of increased assessments on Citizens' and non-Citizens' policyholders should a catastrophic event occur.

C. Government Sector Impact:

None.

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.)

CS by Banking and Insurance on March 14, 2013:

The committee substitute (CS) requires Citizens to provide coverage for manufactured or mobile home dwellings for a minimum insured value of at least \$3,000. Such coverage must also include the following attached structures:

- Screened enclosures that are aluminum framed or screened enclosures that are not covered by the same or substantially the same materials as that of the primary dwelling.
- Carports that are aluminum or carports not covered by the same or substantially the same materials as that of the primary dwelling.
- Patios that have a roof covering constructed of materials that are not the same or substantially the same materials as that of the primary dwelling.

The CS also requires that the board of the Florida Mobile Home Relocation Corporation must approve the corporation's operational budget before submitting to the department. The corporation must provide to the department certain documentation before monies can be transferred from the trust fund for relocation payments. The CS provides that all funds transferred from the trust fund are to be transferred electronically and placed in a qualified public depository. Additionally, the CS allows the department to inspect the corporation's records at anytime with 5 business days notice.

- B. **Amendments:**

None.