

**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.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: CS/CS/SB 1274

INTRODUCER: Community Affairs Committee; Banking and Insurance Committee; and Senator Hays

SUBJECT: Citizens Property Insurance Corporation

DATE: April 8, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1274 postpones the date by one year after which new construction or substantial improvements of structures seaward of the coastal construction control line or within the Coastal Barrier Resources System (CBRS) are ineligible to receive coverage from the Citizens Property Insurance Corporation (Citizens).

The bill declares that certain residential condominiums shall be ineligible for wind-only commercial lines coverage.

**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.<sup>1</sup> Citizens is not a private insurance company.<sup>2</sup> 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 and the Florida Windstorm Underwriting Association. Citizens operates in accordance with the

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<sup>1</sup> "Admitted market" means insurance companies that are licensed to transact insurance business in Florida.

<sup>2</sup> Section 627.351(6)(a)1., F.S.

provisions of s. 627.351(6), F.S., and is governed by a nine-member Board of Governors<sup>3</sup> that administers its Plan of Operations, which is reviewed and approved by the FSC. The Governor appoints a consumer advocate to sit on the board. The Governor, the Chief Financial Officer, the President of the Senate and the Speaker of the House of Representatives each appoint an additional two members. Citizens is subject to regulation by the Office of Insurance Regulation.

Citizens offers property insurance in three separate accounts. Each account is a separate statutory account with separate calculations of surpluses and deficits.<sup>4</sup>

The Personal Lines Account (PLA) offers personal lines residential policies that provide comprehensive, multiperil coverage statewide, except for those areas contained in the Coastal Account. The PLA also writes policies that exclude coverage for wind in areas contained within the Coastal Account. Personal lines residential coverage consists of the types of coverage provided by homeowner's, mobile home owner's, dwelling, tenant's, and condominium unit owner's policies.

The Commercial Lines Account (CLA) offers commercial lines residential and nonresidential policies that provide basic perils coverage statewide, except for those areas contained in the Coastal Account. The CLA also writes policies that exclude coverage for wind in areas contained within the Coastal Account. Commercial lines coverage includes commercial residential policies covering condominium associations, homeowners' associations, and apartment buildings. The coverage also includes commercial nonresidential policies covering business properties.

The Coastal Account offers personal residential, commercial residential and commercial non-residential policies in coastal areas of the state. Citizens must offer policies that solely cover the peril of wind (wind only policies) and may offer multiperil policies.<sup>5</sup>

Eligibility for Citizens coverage is at times restricted, or alternatively, the amount of coverage provided by Citizens is limited. Personal lines residential structures are ineligible for Citizens if they have an insured value of \$1 million or greater.<sup>6</sup> The eligibility threshold for such policies will be reduced annually in \$100,000 increments until it reaches \$700,000, effective January 1, 2017. Citizens will insure commercial residential properties at unlimited values. Citizens writes only the first \$1 million of commercial non-residential wind-only coverage and the first \$2.5 million of commercial non-residential multi-peril policies.

### **Citizens Rates**

Rates for Citizens coverage are required to be actuarially sound,<sup>7</sup> except that Citizens may not implement a rate increase that exceeds 10 percent for any single policy other than sinkhole

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<sup>3</sup> Section 627.351(6)(c)4., F.S.

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

<sup>5</sup> In August of 2007, Citizens began offering personal and commercial residential multiperil policies in this limited eligibility area. Additionally, near the end of 2008, Citizens began offering commercial non-residential multiperil policies in this account.

<sup>6</sup> Section 627.351(6)(a)3.a., F.S.

<sup>7</sup> Section 627.351(6)(n)1., F.S.

coverage,<sup>8</sup> excluding coverage changes and surcharges.<sup>9</sup> The 10 percent limitation on rate increases is referred to as the Citizens rate “glide path” to achieving actuarially sound rates.<sup>10</sup> The implementation of this increase ceases when Citizens has achieved actuarially sound rates. In addition to the overall glide path rate increase, 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 Florida Hurricane Catastrophe Fund coverage, pursuant to s. 215.555(5)(b), F.S.

### **Eligibility for Insurance in Citizens**

Current law requires Citizens to provide a procedure for determining the eligibility of a potential risk for insurance by Citizens and provides specific eligibility requirements based on premium amounts, value of the property insured, and the location of the property. Risks not meeting the statutory eligibility requirements cannot be insured by Citizens. Citizens has additional eligibility requirements set out in their underwriting rules. These rules, which are approved by the OIR, provide flexibility for Citizens to denote some risks as uninsurable based on factors not enumerated in statute, such as age of home, condition and age of roof, vacancy status, certain seasonal occupancy, and type of electrical wiring.

#### ***Eligibility Based on Premium Amount***

Under current law, an applicant for residential insurance cannot buy insurance in Citizens if an admitted insurer in the private market offers the applicant insurance for a premium that does not exceed the Citizens premium by 15 percent or more.<sup>11</sup> In addition, the coverage offered by the private insurer must be comparable to Citizens’ coverage.

Under current law, a residential policyholder cannot renew insurance in Citizens if an insurer in the private market offers to insure the property at a premium equal to or less than the Citizens’ renewal premium. The insurance from the private market insurer must be comparable to the insurance from Citizens in order for the renewal premium eligibility requirement to apply.<sup>12</sup>

#### ***Eligibility Based on Value of Property Insured***

In addition to the eligibility restrictions based on premium amount, current law provides eligibility restrictions for homes and condominium units based on the value of the property insured.<sup>13</sup> Structures with a dwelling replacement cost or a condominium unit that has a dwelling and contents replacement cost of:

- \$1 million or more cannot obtain insurance in Citizens starting January 1, 2014. Property insured by Citizens for \$1 million or more on December 31, 2013, can remain insured in Citizens until the policy expires in 2014, but cannot be renewed.

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<sup>8</sup> Section 627.351(6)(n)6., F.S.

<sup>9</sup> Section 627.351(6)(n), F.S.

<sup>10</sup> With the enactment of Chapter 2007-001, L.O.F., from January 25, 2007, to January 1, 2010, Citizens rates were fixed by statute at the rates that were in effect on December 31, 2006. The Legislature also rescinded a Citizens rate increase that had taken effect January 1, 2007, and resulted in a statewide average rate increase of 12 percent for policies in the personal lines account and 21.4 percent for policies in the high risk account (since renamed the coastal account).

<sup>11</sup> Section 627.351(6)(c)5., F.S.

<sup>12</sup> Section 627.351(6)(c)5., F.S.

<sup>13</sup> Section 627.351(6)(a)3., F.S.

- \$900,000 or more cannot obtain insurance in Citizens starting January 1, 2015. Property insured for \$900,000 or more on December 31, 2014, can remain insured in Citizens until the policy expires in 2015, but cannot be renewed.
- \$800,000 or more cannot obtain insurance in Citizens starting January 1, 2016. Property insured for \$800,000 or more on December 31, 2015, can remain insured in Citizens until the policy expires in 2016, but cannot be renewed.
- \$700,000 or more cannot obtain insurance in Citizens starting January 1, 2017. Property insured for \$700,000 or more on December 31, 2016, can remain insured in Citizens until the policy expires in 2017, but cannot be renewed.

However, Citizens is allowed to insure structures with a dwelling replacement cost or a condominium unit with a dwelling and contents replacement cost of \$1 million or less in counties the OIR determines is non-competitive.

Citizens does not have any eligibility restrictions based on the value of the property insured for condominium association, homeowner association, or apartment building policies. Citizens has multiple eligibility and coverage restrictions for commercial businesses, depending on where the business is located and the type of policy the business purchases from Citizens. These restrictions are contained in the underwriting rules of Citizens, not in the statute.

#### ***Eligibility Based on Location of Property***

Current law also provides an eligibility restriction for insurance in Citizens based on the location of the property. Major structures for which a building permit for new construction or a substantial improvement of the structure is applied for on or after July 1, 2014, and which are located seaward of the coastal construction control line or within the CBRS are ineligible for insurance in Citizens. The definition of “major structure” in s. 161.54, F.S., applies to Citizens’ eligibility and is very broad, encompassing all residential and commercial buildings. The definition covers houses, mobile homes, apartment buildings, condominiums, hotels, motels, and restaurants. The definition of “substantial improvement” in s. 161.54, F.S., applies to Citizens’ eligibility. Generally, this definition makes any repair, reconstruction, rehabilitation, or improvement to a structure that costs 50 percent or more of the market value of the structure to be a “substantial improvement.” The statutory definition contains additional parameters and guidance and exclusions.

#### ***Statewide Impact of Citizens’ Eligibility Based on Location of Property***

Citizens has identified approximately 100,000 parcels of land statewide completely within the CBRS or seaward of the coastal construction control line. Under current law, these parcels are ineligible for insurance in Citizens if:

- The parcel is currently improved (i.e., developed) and the structure located on the parcel is substantially improved with a building permit applied for on or after July 1, 2014.
- If the parcel is currently unimproved (i.e., vacant), but is later developed with a building permit applied for on or after July 1, 2014.

Of the 100,000 total parcels of land completely within the CBRS or seaward of the coastal construction control line, Citizens currently writes 25,000 policies statewide insuring structures on these parcels. Thus, any substantial improvement to these 25,000 properties where a building

permit is applied for on or after July 1, 2014, would keep them from continuing to be insured by Citizens.

Citizens identified another 80,000-100,000 properties it currently insures that could be moved within the CBRS or the control line if the boundaries of these areas change. This would prevent these properties from keeping Citizens insurance if they are substantially improved with a building permit applied for on or after July 1, 2014.

### **III. Effect of Proposed Changes:**

**Section 1** postpones a prohibition on coverage by Citizens for certain properties by one year. In 2013, the Florida Legislature required properties located seaward of the coastal construction control line or within the CBRS to be ineligible for coverage from Citizens if a building permit for new construction or substantial improvements was applied for after July 1, 2014. The bill postpones the effectiveness of that prohibition to July 1, 2015.

The bill declares that wind-only coverage for commercial lines residential condominiums is not available for condominiums where 50 percent or more of the units are rented more than eight times in a calendar year for a rental agreement period of less than 30 days, effective July 1, 2014.

**Section 2** provides an effective date of July 1, 2014.

### **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:**

Property owners with new construction or making substantial improvements to a structure located in a CBRS will be able to be insured by Citizens until July 1, 2015.

C. **Government Sector Impact:**

See above.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends section 627.351 of the Florida Statutes.

IX. **Additional Information:**

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

**CS/CS by Community Affairs on April 8, 2014:**

- Removes provisions related to:
  - an alternative study for windstorm mitigation;
  - an addendum to the uniform mitigation verification form;
  - referral fees paid by a wind mitigation inspector or received by an insurance agent, broker of company employee.
- Postpones the prohibition on coverage by Citizens for certain structures by one year and makes the postponement apply statewide; and
- Prohibits certain residential condominiums from being eligible for wind-only coverage.

**CS by Banking and Insurance on March 25, 2014:**

- Requires the OIR to determine non-competitive counties with regards to exempting properties within CBRS from the prohibition of coverage with Citizens.
- Changes the market share formula for Citizens that the OIR is to use when determining that a county is non-competitive.
- Allows Citizens to submit an alternative study to OIR regarding windstorm mitigation. Upon approval by the OIR, Citizens must include mitigation discounts provided by the study in their next rate filing.
- Allows the FSC to make an addendum to the uniform mitigation verification form. The addendum to the form is to be used in counties whose building code has been verified to be more stringent than the highest code recognized by the form.
- Prohibits a certified wind mitigation inspector from paying any referral fees or other forms of compensation to an insurance agent, broker or company employee that recommends an inspector's services to an insured.

- Prohibits an insurance agent, broker or company employee from accepting any referral fees or other forms of compensation from a certified wind mitigation inspector.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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