

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 Banking and Insurance

BILL: SB 1274

INTRODUCER: Senator Hays

SUBJECT: Citizens Property Insurance Corporation

DATE: March 13, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Knudson	BI	Pre-meeting
2.			CA	
3.			RC	

I. Summary:

SB 1274 exempts properties with new construction located within a county where Citizens provides more than 75 percent of the windstorm coverage for personal lines residential policies from the prohibition of Citizens coverage in the Coastal Barrier Resource System. The bill also allows Citizens to add an addendum to the uniform mitigation verification form to allow policyholders located in counties with a verified stronger building code to receive greater mitigation credits than currently allowed by the form.

II. Present Situation:

Citizens Property Insurance Corporation (Citizens)

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.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 the provisions in s. 627.351(6), F.S., and 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 each appoints two members to the board. Citizens is subject to regulation by the Florida Office of Insurance Regulation.

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

² s. 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.

Citizens offers property 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 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.⁶

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.⁷ 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 residential multi-peril policies.

Citizens Rates

Rates for Citizens coverage are required to be actuarially sound,⁸ except that Citizens may not implement a rate increase that exceeds 10 percent for any single policy other than sinkhole coverage,⁹ excluding coverage changes and surcharges.¹⁰ The 10 percent limitation on rate increases is referred to as the Citizens rate "glide path" to achieving actuarially sound rates.¹¹

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

⁵ s. 627.351(6)(b)2b., F.S.

⁶ 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.

⁷ s. 627.351(6)(a)3.a., F.S.

⁸ s. 627.351(6)(n)1., F.S.

⁹ s. 627.351(6)(n)6., F.S.

¹⁰ s. 627.351(6)(n), F.S.

¹¹ 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

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 FHCF coverage, pursuant to s. 215.555(5)(b), F.S.

Coastal Barrier Resources System (CBRS)

In 1982, Congress passed the Coastal Barrier Resources Act (CBRA). The CBRA does not restrict privately financed development but does restrict Federal financial assistance, including flood insurance, within a designated Coastal Barrier Resources System.

In 1990, Congress passed the Coastal Barrier Improvement Act (CBIA). The CBIA tripled the size of the CBRS established by the CBRA. The CBIA also does not permit the issuance of new Federal flood insurance within "otherwise protected areas" on buildings constructed after November 16, 1991, unless the building is used in a manner related to the reason the area is protected. Otherwise Protected Area's (OPA's) are generally used for activities such as fish and wildlife research and refuges.

In 2013, the Florida Legislature required properties located within the Coastal Barrier Resources System to be ineligible for coverage from Citizens if a building permit for new construction was applied for after July 1, 2014.

Uniform Mitigation Verification Inspection Form

Section 627.0629, F.S., requires rate filings for residential property insurance to include actuarially reasonable discounts, credits, or other rate differentials, or appropriate reductions in deductibles to consumers who implement windstorm damage mitigation techniques to their properties. The windstorm mitigation measures that must be evaluated for purposes of mitigation discounts include fixtures or construction techniques that enhance roof strength; roof covering performance; roof-to-wall strength; wall-to-floor foundation strength; opening protections; and window, door, and skylight strength.

Section 627.711, F.S., requires insurers to clearly notify an applicant or policyholder of a personal lines residential property insurance policy of the availability and range of each premium discount, credit, other rate differential, or reduction in deductibles, for wind mitigation. The notice must be provided when the policy is issued and upon each renewal. The notification must be done on a form developed by the Office of Insurance Regulation, known as the Notice of Premium Discounts for Hurricane Loss Mitigation.

To qualify for a hurricane premium discount, consumers must submit a completed Uniform Mitigation Verification Inspection Form developed by rule by the Financial Services Commission.¹² All insurers are required to use this form when factoring discounts for wind insurance.

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).

¹² Rule 69O-170.0155, F.A.C.

III. Effect of Proposed Changes:

Section 1: Coastal Barrier Resources System prohibition of coverage exemption

In 2013, the Florida Legislature required properties located within the Coastal Barrier Resources System to be ineligible for coverage from Citizens if a building permit for new construction was applied for after July 1, 2014. The bill would exempt from this prohibition all properties located within a county where Citizens provides windstorm coverage for more than 75 percent of the personal lines residential policies for that county. Currently, the only county where Citizens provides more than 75 percent of the personal lines residential policies is Monroe County where the Florida Keys are located.

Section 2: Addendum to the uniform mitigation verification form.

The bill allows Citizens to create an addendum to the uniform mitigation verification form. The addendum is to help policyholders located in counties with a verified stronger building code than currently utilized for the form to receive greater mitigation credits than currently allowed. To determine if a county's code is stronger than the code recognized by the form, the bill requires a study must first be completed by the county.

Effective Date:

The effective date of the bill is 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 whose property is located within the Coastal Barrier Resource System in a county where Citizens provides windstorm coverage for more than 75 percent of the personal lines residential policies will be able to keep or obtain insurance coverage from Citizens.

Citizens' policyholders in counties that have a building code verified to be more stringent than the highest code recognized by the uniform mitigation verification form could receive greater mitigation discount credits on their Citizen's policy than currently allowed.

C. Government Sector Impact:

Before an addendum to the uniform mitigation verification form can be made, a county will first have to pay for a study to demonstrate the county's building code is in fact stronger than the code recognized by the form.

VI. Technical Deficiencies:

It is unclear how Citizens will be able to make an addendum to the uniform mitigation verification form without the approval of the Financial Services Commission and an amendment to Rule 69O-170.0155, F.A.C.

VII. Related Issues:

It is unclear how it will be determined that Citizens is providing more than 75 percent of the personal lines residential policies in a county, this threshold would best be verified by the OIR.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.351, 627.711

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.