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:	SPB 7062
INTRODUCER:	For consideration by the Banking and Insurance Committee
SUBJECT:	Citizens Property Insurance Corporation Coverage
DATE:	March 3, 2014 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow, Knudson	Knudson		**Pre-meeting**

I. Summary:

SPB 7062 enacts the following changes to property insurance laws, primarily relating to Citizens Property Insurance Corporation (Citizens):

- The proposed bill directs Citizens to include commercial residential buildings within the Citizens policyholder eligibility clearinghouse program (clearinghouse) by October 1, 2015.
- Surplus lines insurers are authorized to make offers of similar coverage through the clearinghouse if no authorized insurers participating in the clearinghouse make an offer of coverage and the surplus lines insurer meets enhanced financial and disclosure requirements.
- The proposed bill applies a 15 percent limitation on the maximum rate increase that may be imposed annually to a commercial non-residential policy, an increase from 10 percent under current law.
- The Citizens policyholder surcharge is amended, increasing the maximum Citizens policyholder surcharge from 15 to 20 percent for coastal account deficits, but decreasing the maximum surcharge from 15 to 10 percent for personal lines account deficits.
- The bill requires Citizens to issue an annual report of its estimated bonding capacity, estimated claims paying capacity, and estimated year-end cash balance.
- The proposed bill directs Citizens to stop writing new commercial residential multi-peril policies in the Coastal Account. Instead, Citizens will write separate Wind and All-Other Perils (AOP) policies.

The proposed bill increases the residential property insurance deductible for non-hurricane losses that must be offered by insurers from $500 to $1,000. The proposed bill applies the 10 percent fee limit on public adjuster fees related to claims arising from a declared state-of-emergency to all such claims, rather than only claims filed within 1 year of the event. Public adjusters are also prohibited from accepting a power-of-attorney that vests in the PA the right to select the person or entity that will perform repairs.

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 Governors[3] (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.

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]

---

[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.
[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.

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 Financial Resources for Paying Claims

Citizens' financial resources include insurance premiums, investment income, and operating surplus from prior years, Florida Hurricane Catastrophe Fund (FHCF) reimbursements, private reinsurance, policyholder surcharges, and regular and emergency assessments. Citizens projected surplus for 2014 and its policies, premium in force and total exposure as of January 31, 2014, is as follows:[8]

Table 1: Citizens Surplus, Premium, Exposure, and Premium in Force

Citizens Account	Surplus	Policies In Force	Premium In Force[9]	Total Exposure[10]
Personal Lines	$2.73 Billion	610,237	$999 Million	$113.4 Billion
Commercial Lines	$1.54 Billion	7,534	$196 Million	$36.8 Billion
Coastal	$3.39 Billion	383,106	$1.071 Billion	$164.6 Billion
TOTAL	$7.66 Billion	1,000,877	$2.266 Billion	$314.8 Billion

It is estimated that as of December 31, 2014, Citizens will have an accumulated surplus[11] of approximately $7.66 billion. Citizens has approximately $1.85 billion in private reinsurance[12] coverage and $4.48 billion in mandatory layer reinsurance from the FHCF.[13] Citizens has additional pre-event liquidity[14] of $3.93 billion. For the 2014 storm season, Citizens has an estimated aggregate claims paying capacity of $17.9 billion.

If Citizens incurs a deficit (i.e. its obligations to pay claims exceed its capital plus reinsurance recoveries), it may levy regular assessments on most of Florida's property and casualty insurance policyholders in a specific sequence set by statute[15] as follows:

[7] s. 627.351(6)(a)3.a., F.S.
[8] See https://www.citizensfla.com/about/corpfinancials.cfm (last accessed by Banking and Insurance Committee staff on Feb. 20, 2014).
[9] Rounded to the nearest $1 million.
[10] Rounded to the nearest $100 million.
[11] Surplus amounts consist of preliminary (unaudited) 2013 surplus and 2014 projected net income.
[12] 2014 projected private risk transfer estimated as the 2013 program.
[13] Florida Hurricane Catastrophe (FHCF) coverage is based on preliminary 2013 retention and payment multiples. Actual multiples may be significantly different.
[14] Pre-Event Liquidity does not represent risk transfer and any monies drawn must be repaid.
[15] s. 627.351(6)(b)3.a.,d., and i., F.S.

Citizens Surcharge – Require up to a 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 compensation). 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 be funded by multi-year emergency assessments on all insurance policyholders, including Citizens policyholders, except medical malpractice and workers compensation 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.

Citizens resources for paying claims and assessable shortfall amounts for probable maximum loss events occurring once every 50 years, 100 years, and 250 years are detailed in tables 2-A, 2-B, and 2-C, below.[16]

Table 2-A: Citizens 1 in 50 Year Probable Maximum Losses and Potential Assessments[17]
($ in billions)

Citizens Accounts	1: 50 Year PML Loss	Surplus Recovery	FHCF Reimbursement	Reinsurance/ Cat Bonds	Assessable Shortfall
PLA/CLA	$3.129	$1.428	$1.702	$0	$0
Coastal	$7.563	$2.934	$2.780	$1.850	$0
TOTAL	$10.657	$4.326	$4.481	$1.850	$0

Table 2-B: Citizens 1 in 100 Year Probable Maximum Losses and Potential Assessments
($ in billions)

Citizens Accounts	1: 100 Year PML Loss	Surplus Recovery	FHCF Reimbursement	Reinsurance/ Cat Bonds	Assessable Shortfall
PLA/CLA	$5.406	$3.704	$1.702	$0	$0
Coastal	$11.841	$3.390	$2.780	$1.850	$3.822
TOTAL	$17.448	$7.660	$4.481	$1.850	$3.456

[16] Citizens Property Insurance Corporation, Annual Report of Aggregate Net Probable Maximum Losses, Financing Options, and Potential Assessments, pg. 5 (February 2014). (On file with the Senate Banking and Insurance Committee).
[17] PML is estimated 100-year single event probable maximum loss based on modeled losses as of December 31, 2013, per AIR CLASIC/2, Version 15 based on a weighted average of Standard Sea Surface Temperature (SSST) and Warm Sea Surface Temperature (WSST) Event Catalogs and include estimated loss adjustment expenses. Although combined PMLs and surplus are shown, assessments are triggered at an account level and FHCF coverage is combined for PLA/CLA and separate for Coastal. PMLs are not additive; the combined value shown is not the sum of PLA/CLA + Coastal PMLs.

Table 2-C: Citizens 1 in 250 Year Probable Maximum Losses and Potential Assessments
($ in billions)

Citizens Accounts	1: 250 Year PML	Surplus Recovery	FHCF Reimbursement	Reinsurance/ Cat Bonds	Assessable Shortfall
PLA/CLA	$9.532	$4.270	$1.702	$0	$3.560
Coastal	$19.165	$3.390	$2.780	$1.850	$11.145
TOTAL	$28.303	$7.660	$4.481	$1.850	$14.311

Citizens Rates

Rates for Citizens coverage are required to be actuarially sound,[18] except that Citizens may not implement a rate increase that exceeds 10 percent for any single policy other than sinkhole coverage,[19] excluding coverage changes and surcharges.[20] The 10 percent limitation on rate increases is referred to as the Citizens rate "glide path" to achieving actuarially sound rates.[21] 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.

Citizens Commercial Lines Non-Residential Rates

Citizens presented data detailing the rate adequacy of its commercial non-residential policies at the January 11, 2014 meeting of the Senate Banking and Insurance Committee. The data indicates that over 90 percent of Citizens commercial non-residential policies (19,680 of 21,467 policies) are wind-only policies in the coastal account that have an average 24.3 rate need, using Citizens 2014 rates. Citizens writes only the first $1 million of wind-only commercial non-residential coverage.

Table 3-A: Citizens Commercial Lines Non-Residential Policies and Average Rate Adequacy[22]
(Data as of June 30, 2013)

Citizens Account/ Policy Type	Policies in Force	Buildings	Average Rate Adequacy	Exposure
Commercial Lines – Multiperil	1557	2287	2.8% Percent Above Adequacy	$1.755 Billion

[18] s. 627.351(6)(n)1., F.S.
[19] s. 627.351(6)(n)6., F.S.
[20] s. 627.351(6)(n), F.S.
[21] 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).
[22] Citizens Property Insurance Corporation, *Senate Banking & Insurance Committee – Response to Data Request*, pgs. 18-22 (January 3, 2014). http://flsenate.gov/PublishedContent/Committees/2012-2014/BI/MeetingRecords/MeetingPacket_2430.pdf (Last accessed by staff of Senate Banking and Insurance Committee March 3, 2014).

Coastal Account – Multiperil	230	321	73.5 Percent Below Adequacy	$392 Million
Coastal Account – Wind Only	19,680	27872	24.3 Percent Below Adequacy	$11.935 Billion

Of the 19,680 coastal account wind-only policies, 17,234 policies have a rate need of 30 percent or less. The average in-force premium charged such properties correlated with the expected rate need. For example, policies with a rate need of 10 or less percent have an average in-force premium of $2,680; policies with a rate need ranging from 30 to 40 percent have an average in-force premium of $6,097; and policies with a rate need greater than 50 percent have an average in-force premium of $11,048.

Table 3-B: Citizens Commercial Lines Non-Residential Coastal Account Wind-Only Rate Adequacy (Data as of June 30, 2013)[23]

Indicated Rate Change	Policies In Force	Average Premium (2014 Rate Level)	Average Expected Rate Need (2014 Rates)	Total Insured Value
Below 10%	2,529	$2,680	4.5%	$1.512 Billion
10% to 20%	7,963	$3,948	15.6%	$4.763 Billion
20% to 30%	6,742	$4,091	24.2%	$3.768 Billion
30% to 40%	1,074	$6,097	32.1%	$686 Million
40% to 50%	787	$8,773	42.2%	$610 Million
50% or more	621	$11,048	59.4%	$594 Million
TOTAL	19,716	$4,368	24.3%	$11.935 Billion

Coastal account commercial lines non-residential multi-peril policies currently have the greatest rate need among Citizens commercial lines non-residential policies. Citizens has 230 of these policies in force with a total insured value of approximately $346 million. All but two of these policies have a rate need between 70 percent and 80 percent.

Table 3-C: Citizens Commercial Non-Residential Coastal Account Multi-Peril Rate Adequacy (Data as of June 30, 2013)[24]

Indicated Rate Change	Policies In Force	Average Premium (2014 Rate Level)	Average Expected Rate Need (2014 Rates)	Total Insured Value
Below 70%	2	$28,764	13.3%	$4.5 Million
70% to 75%	112	$12,467	74.3%	$203 Million
75% to 80%	116	$6,774	76.5%	$139 Million
TOTAL	230	$9,738	73.5%	$346 Million

[23] See fn. 22 at pg. 23.

[24] Citizens Property Insurance Corporation, *Indicated Rate Change and Expected Loss Ratio*, (Page 112 of the Final Meeting Materials of the Feb. 18, 2014 Florida Senate Banking and Insurance Committee) http://flsenate.gov/PublishedContent/Committees/2012-2014/BI/MeetingRecords/MeetingPacket_2456.pdf

Citizens Clearinghouse

In 2013, the Florida Legislature passed SB 1770 creating s. 627.3518, F.S., which mandated the creation of the Citizens Property Insurance Corporation Policyholder Eligibility Clearinghouse Program (clearinghouse) for personal residential risks.[25] The clearinghouse has two purposes, to determine if a new or renewal policy is eligible for Citizens coverage and to enhance access of new Citizens applicants and existing Citizens policyholders to offers of coverage from authorized insurers.[26] The clearinghouse facilitates the diversion of ineligible applicants and existing policyholders from the corporation into the voluntary insurance market. Citizens launched the personal residential clearinghouse for new applicants on January 27, 2014.[27]

All applicants for Citizens personal lines residential coverage and all Citizens personal lines residential policies at renewal are submitted to the clearinghouse. The clearinghouse interacts with participating private-market insurers to match specific risks with the OIR approved rating and underwriting criteria of each participating insurer. The Clearinghouse displays all quotes that have been received for each risk submitted. However, a Citizens quote will be displayed as ineligible if one or more participating insurers makes a comparable offer of coverage priced within 15 percent of Citizens' premium for new applicants[28] or for a renewal policy makes a comparable offer of coverage priced no more than Citizens current rate. If a risk is deemed ineligible for Citizens, the policyholder's agent will be unable to submit the application to Citizens but will be able to access the offering insurer's policy system to bind the coverage. While the same eligibility thresholds apply for new commercial policies,[29] there is no clearinghouse for commercial-residential and commercial non-residential new or renewal policies written by Citizens.

The 2013 Legislature directed Citizens to develop appropriate procedures for developing a clearinghouse for commercial residential coverage that would divert ineligible applicants and existing Citizens policyholders into the private insurance market.[30] The Citizens report was issued December 30, 2013. The report indicates that admitted insurers currently writing commercial residential property in Florida are interested in participating in a commercial residential clearinghouse. Citizens also indicated that it has been contacted by prospective insurers targeting commercial residential lines and opined that there is significant interest in this product line. The lack of statutory authority to create a clearinghouse was identified as the primary obstacle to its creation.

[25] ch. 2013-60, L.O.F
[26] s. 627.3518(2), F.S.
[27] Citizens Property Insurance Corporation, Citizens Statement on Property Insurance Clearinghouse Rollout (January 27, 2014). https://www.citizensfla.com/shared/press/articles/141/01.27.2014.pdf (Last accessed by Banking and Insurance Committee Staff March 4, 2013).
[28] s. 627.351(6)(c)5.a., F.S.
[29] s. 627.351(6)(c)5.b., F.S.
[30] ch. 2013-60, s. 10, L.O.F.

Surplus Lines Insurance

Surplus lines insurance refers to a category of insurance for which there is no market available through standard insurance carriers in the admitted market (insurance companies authorized to transact insurance in Florida). There are three basic categories of surplus lines risks:

- Specialty risks that have unusual underwriting characteristics or underwriting characteristics that admitted insurers view as undesirable;
- Niche risks for which admitted carriers do not have a filed policy form or rate; and
- Capacity risks which are risks where an insured needs higher coverage limits than those that are available in the admitted market.

Surplus lines insurers are not "authorized" insurers as defined in the Florida Insurance Code and thus do not obtain a certificate of authority from the Office of Insurance Regulation to transact insurance in Florida. Rather, surplus lines insurers are "unauthorized" or "nonadmitted" insurers, but are eligible to transact surplus lines insurance under the surplus lines law as "eligible surplus insurers."[31] The OIR determines whether a surplus lines insurer is "eligible" based on statutory guidelines. Eligibility requirements[32] reviewed by the OIR for surplus lines include:

- Eligibility is requested in writing for the insurer by the Florida Surplus Lines Service Office;
- Insurer is authorized for the prior 3 years in the state or country of its domicile to write the kinds of insurance the insurer wants to write in Florida (with limited exceptions);
- Insurer provides the OIR with its current annual financial statement;
- Insurer meets surplus requirements (delineated below); and
- Insurer has a good reputation relating to payment of claims and policyholder service.

Generally, a surplus lines insurer must have and maintain surplus of $15 million or more in order to obtain and maintain eligibility. In addition, an insurer formed outside the U.S. must have and maintain in the U.S. a trust fund containing at least $5.4 million.[33] The OIR has no duty or responsibility to determine the actual financial condition or claims practice of surplus lines insurers.[34] A finding of eligibility by the OIR only means the surplus lines insurer appears to be financially sound and to have a satisfactory claims practice.

The OIR must withdraw the eligibility of a surplus lines insurer if the OIR has reason to believe the insurer is insolvent or is in unsound financial condition; does not make reasonable prompt payment of claims; or does not meet the statutory guidelines for eligibility (including maintenance of $15 million in surplus). The OIR may withdraw the eligibility of a surplus lines insurer if the insurer willfully violates a statute or rule.

Public Adjusters

Public adjusters are defined as persons, other than licensed attorneys, who, for compensation, prepare or file an insurance claim form for an insured or third-party claimant in negotiating or

[31] See s. 626.914(2), F.S.
[32] s. 626.918, F.S.
[33] s. 626.918(2)(d)1.a., F.S.
[34] s. 626.918(4), F.S.

settling an insurance claim on behalf of the insured or third party.[35] The responsibilities of property insurance public adjusters include inspecting the loss site, analyzing damages, assembling claim support data, reviewing the insured's coverage, determining current replacement costs, and conferring with the insurer's representatives to adjust the claim. Public adjusters are licensed by the Department of Financial Services (DFS) and must meet specified age, residency, examination, and surety bond requirements.

A public adjuster may not charge a fee related to a residential property insurance claim greater than 20 percent of the insurance claims payment, except that the public adjuster may not charge a fee greater than 10 percent of the claims payment for claims related to an event that is declared a state of emergency by the Governor if the claim is made during the first year after the declaration.[36] These fee caps apply only to residential property insurance policies and condominium association policies.[37]

Personal Lines Residential Required Deductible Offering

Currently, s. 627.701(7), F.S., requires that for personal lines residential insurance, the insurer must offer a deductible of $500 applicable to losses from perils other than hurricanes. This offer must be made in a form approved by the OIR and must be made at least once every 3 years.

III. Effect of Proposed Changes:

Citizens Property Insurance Corporation

Commercial Residential Insurance in the Coastal Account **[s. 627.351(6)(b)2.a.(III), F.S.]**
Effective July 1, 2014, Citizens may not offer new commercial residential multiperil insurance policies in the Coastal Account. Instead Citizens will only offer commercial residential wind-only policies and separate commercial residential policies that exclude wind. Citizens may continue renewing commercial residential multi-peril policies within the Coastal Account that provide coverage on June 30, 2014.

Citizens Policyholder Surcharge **[s. 627.351(6)(b)3.i.(I), F.S.]**
If the Citizens Board of Governors determines that one or more of the three accounts (Personal Lines, Coastal, or Commercial) has a projected deficit, the board levies a Citizens policyholder surcharge against all policyholders of the corporation. A policyholder surcharge of up to 15 percent of premium may be levied to fund a deficit for each Citizens account. All Citizens policyholders are subject to the surcharges, regardless of which account is projected to have a deficit. For example, if the Board projected a deficit for the Coastal Account requiring a 10 percent policyholder surcharge and a deficit for the Personal Lines Account requiring a 2 percent surcharge, all Citizens policyholders would be charged a 12 percent surcharge. Citizens policyholders are subject to a maximum 45 percent surcharge consisting of up to 15 percent for each of the three accounts.

[35] s. 626.854, F.S. See, part VI (Insurance Adjusters) under ch. 626, F.S.
[36] s. 626.854(11)(b), F.S.
[37] s. 626.854(18), F.S.

The bill increases the maximum Citizens policyholder surcharge for Coastal Account deficits to 20 percent of premium and decreases the maximum surcharge for Personal Lines Account deficits to 10 percent of premium. The maximum surcharge liability of Citizens policyholders remains 45 percent of premium.

***Citizens Rates for Commercial Nonresidential Policies* [s. 627.351(6)(n), F.S.]**
Effective January 1, 2015, the proposed bill increases the annual maximum rate increase that may be implemented on a commercial nonresidential insurance policy from 10 percent to 15 percent, excluding coverage changes and surcharges.

***Surplus Lines Insurer Participation in Citizens Clearinghouse* [s. 627.3518, F.S.]**
Surplus lines insurers are authorized by the bill to participate in the Citizens clearinghouse beginning January 1, 2015. A surplus lines insurer must offer similar coverage to that provided by Citizens. Coverage may be offered by a surplus lines insurer only if the risk receives no coverage offers from authorized insurers. An offer of coverage from a surplus lines insurer will not affect whether a risk is eligible to be insured by Citizens.

The surplus lines insurer must provide prominent notice to the policyholder of the following:
- An offer of coverage from a surplus lines insurer does not affect the policyholder's eligibility for coverage from Citizens.
- A policyholder who accepts an offer of coverage from a surplus lines insurer may submit a new application for coverage to Citizens at any time.
- Surplus lines policies are not covered by the Florida Insurance Guaranty Association (FIGA).
- Rates for surplus lines insurance are not subject to review by the Office of Insurance Regulation.
- Notice regarding any information required by the Office of Insurance Regulation.
    - Under s. 626.916(1)(e), F.S., the agent must provide written notice to a personal residential property insured that coverage may be available and less expensive from Citizens, but also explains that Citizens assessments are higher and that Citizens coverage may be less than the property's existing coverage.
    - Under s. 626.954, F.S., the insured must be provided notice that surplus lines insurers' policy rates and forms are not approved by any Florida regulatory agency and that surplus lines insurers are not protected by the FIGA.

A Citizens policyholder who accepts an offer of coverage from a surplus lines insurer and subsequently applies for coverage with Citizens within 36 months of being insured by Citizens will be considered a renewal policy. The rates on such policies will be rated as renewals and thus be subject to the 10 percent limit on annual rate increases.

To participate in the clearinghouse, the surplus lines insurer must be eligible to offer coverage under Florida's Surplus Lines Law (ss. 626.913-626.937, F.S.), maintain at least a $50 million surplus on a company or pooled basis, be rated A- or higher by A.M. Best Company, and have the ability to cover the insurer's 100-year probable maximum hurricane loss at least twice in a single hurricane season through its reserves, surplus, reinsurance and reinsurance equivalents.

Inclusion of Commercial Residential Risks within the Citizens Clearinghouse [627.3518, F.S.]

The bill requires Citizens to implement by October 1, 2015, procedures for facilitating offers of coverage to commercial residential risks through the clearinghouse.

Reports Submitted by Citizens [s. 627.351(6)(hh), F.S., s. 627.3519, F.S., and s. 627.35191, F.S.]

The bill changes the due date for the report on Citizens non-catastrophic calendar-year loss ratios to March 1, rather than January 15, to provide Citizens sufficient time to complete the report. The bill requires Citizens to provide a report detailing its estimated borrowing capacity, claims-paying capacity, and estimated year-end balance to the Legislature and the Financial Services Commission in May of each year. Section 627.3519, F.S., is repealed because it requires a report that is duplicative of the report required under s. 627.35191, F.S.

Public Adjusters [s. 626.854(11), (18), and (19), F.S.]

Under current law, the maximum fee a public adjuster may charge is 20 percent of a residential property insurance or condominium unit-owner insurance policy claim payment. However, when a claim is based on events that are declared a state of emergency by the Governor and is made during the year after those events the maximum fee is 10 percent of the claim payment. The bill applies the 10 percent maximum fee limitation related to all such claims based on a state-of-emergency, regardless of when the claim is made.

The bill prohibits the execution of a power of attorney that vests the authority to choose the persons or entities that will perform repair work on a residential property insurance loss in a public adjuster, a public-adjuster apprentice, or any person acting on their behalf.

Offer of Personal Lines Residential Property Insurance Deductible [s. 627.701(7), F.S.]

Under current law, prior to issuing a personal lines residential property insurance policy, the insurer must offer a $500 deductible applicable to non-hurricane losses. The bill increases the minimum deductible that must be offered for non-hurricane losses to $1,000 for all such policies issued on or after January 1, 2015. For policies issued before that date, the $1,000 deductible must also be offered before the first renewal of a policy on or after January 1, 2015. The insurer must continue providing notice of this deductible offering at least once every 3 years, as required under current law.

Effective Date

The effective date of the bill is July 1, 2014, except as otherwise provided.

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:

The inclusion of commercial residential policies within the Citizens clearinghouse would help enforce the 15 percent eligibility requirement for new Citizens applicants, and encourage private-market insurers to offer coverage to existing Citizens policyholders. Private market insurers are actively writing commercial residential policies that insure newer buildings with a replacement cost greater than $10 million. Citizens estimates that approximately up to 15 percent of its current commercial residential policies would be attractive to the private market, given Citizens current rates for such risks and their characteristics such as location, age and building construction type. Commercial residential policies constitute approximately 20 percent of Citizens total risk, with a 1 in 100 PML of $4.065 Billion.

Allowing surplus lines insurers to participate in the Citizens clearinghouse may serve to further depopulate Citizens. The bill requires a participating surplus lines insurer to maintain at least $50 million in surplus and demonstrate the ability to cover two 1 in 100 PML events in a single hurricane season. If these financial protections prove insufficient to prevent an insolvency, claims of policyholders who accept an offer of coverage from a surplus lines insurer will not be covered by the Florida Insurance Guaranty Association.

Prohibiting Citizens from writing new commercial residential multi-peril policies in the coastal account and instead allowing Citizens to offer separate wind-only and all-other perils (AOP) policies may further depopulate such policies. Testimony from Citizens representatives indicated a rate arbitrage issue exists, whereby the Citizens premium in the Coastal Account for multi-peril policies is less expensive than the Citizens premiums for a wind-only policies plus a separate all-other perils policy. Citizens' rates for All Other Perils coverage, if rated separately from wind, are approximately competitive with the private market. When wind and AOP are combined in a multi-peril product, the rate becomes non-competitive with the private market.

Increasing the coastal account surcharge to 20 percent, while reducing the personal lines surcharge to 10 percent, will increase the Citizens policyholder surcharges and decrease the regular and emergency assessments paid in certain circumstances. This change will occur during a storm that causes a coastal account deficit requiring more than the current

15 percent Citizens policyholder surcharge if the increased assessment due to the expansion of the coastal account surcharge exceeds the reduction that results from lowering the personal lines account surcharge to 10 percent. For example, under these new surcharge amounts, if Citizens policyholders are assessed 18 percent of premium for a coastal account deficit and 7 percent of premium for a personal lines account deficit, the Citizens policyholder would pay a surcharge of 25 percent of premium. Under current law, the coastal account surcharge would be limited to 15 percent, which would be added to the 7 percent PLA surcharge, resulting in a 22 percent surcharge. However, in a storm where the 20 percent coastal surcharge and the 10 percent PLA surcharge are both levied, the maximum Citizens policyholder surcharge will remain unchanged from current law, which imposes a 15 percent surcharge per account.

Increasing the limitation on rate increases for Citizens commercial non-residential policies to 15 percent should result in over 80 percent of such policies being rate adequate within 2 years, and almost all such policies being rate adequate within 4 years. The increase will result in the majority of such policyholders seeing greater annual rate increases than under current law until such policies reach rate adequacy. However, the collection of additional premium will increase Citizens claims paying resources.

C. Government Sector Impact:

Citizens may incur expenses associated with implementing procedures to include commercial residential risks within the Citizens clearinghouse.

VI. Technical Deficiencies:

The PCB requires a title amendment on lines 2-3 because not all provisions of the bill relate to Citizens Property Insurance Corporation.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 626.854, 627.351, 627.3518, 627.35191, and 627.701.

This bill repeals section 627.3519 of the Florida Statutes.

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.

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