

**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 Appropriations

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BILL: CS/SB 1006

INTRODUCER: Banking and Insurance Committee and Senators Flores and Margolis

SUBJECT: Depopulation of Citizens Property Insurance Corporation

DATE: April 15, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Betta</u>	<u>DeLoach</u>	<u>AGG</u>	<u>Recommend: Fav/CS</u>
3.	<u>Betta</u>	<u>Kynoch</u>	<u>AP</u>	<u>Pre-meeting</u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1006 makes changes to Citizens Property Insurance Corporation's plan of operation related to take-out agreements made with private insurers. The bill requires that all take-out agreements are subject to Office of Insurance Regulation (OIR) approval and requires private companies to provide in their take-out offer a comparison of coverages and rate between their policy and the Citizens policy. The bill allows a Citizens policyholder who declines a take-out offer the option to be excluded from future take-out agreements for six months.

Finally, the bill allows a Citizens policyholder, who accepts a take-out offer, the ability to reapply to Citizens and be treated as a renewal through the clearinghouse if, within 36 months of leaving Citizens, the private insurer increases the policy rate above the ten percent increase that is allowed under the Citizens glide path.

There is no fiscal impact to state funds.

The bill provides an effective date of July 1, 2015.

## 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.<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 (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<sup>3</sup> (board) that administers its Plan of Operations. The Plan of Operations 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.<sup>4</sup> Assets may not be commingled or used to fund losses in another account.<sup>5</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 homeowners, mobile homeowners, dwellings, tenants, 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>6</sup>

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

<sup>2</sup> s. 627.351(6)(a)1., F.S. Citizens is also subject to regulation by the Office of Insurance Regulation.

<sup>3</sup> The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives.

<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> s. 627.351(6)(b)2b., F.S.

<sup>6</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.

## **Citizens Clearinghouse**

The Citizens Property Insurance Corporation policyholder eligibility clearinghouse program was established by the Legislature in 2013<sup>7</sup>. Under the program, new and renewal policies for Citizens are placed into the clearinghouse where participating private insurers can review and decide to make offers of coverage before policies are placed or renewed with Citizens. For new policies applying with Citizens, any private market offer through the clearinghouse for similar coverage that is not greater than 15 percent of Citizens rate makes the policy ineligible for coverage with Citizens. Additionally, a renewal Citizens policy that receives any private market offer through the clearinghouse for similar coverage that is equal to or less than Citizens rate is ineligible for coverage with Citizens.

## **Takeout Bonus Agreements**

Section 627.3511, F.S., was created by the Legislature in 1995<sup>8</sup> and at that time applied to the depopulation of the Residential Property and Casualty Joint Underwriting Association. After the Legislature merged the two underwriting associations to create Citizens in 2002, this section was amended to apply to the depopulation of Citizens Property Insurance Corporation.

Take out agreements that were approved under this section allowed for a per policy bonus to be paid to each participating insurer provided that they removed a given number of policies for a set number of years. Today, takeouts from Citizens are no longer approved through takeout bonus agreements. The last Citizens takeout bonus agreement under this section took place in November 2007.

## **Takeout Non-Bonus Agreements**

In January of 2008, Citizens Board of Governors adopted a takeout non-bonus plan that was approved by the Office of Insurance Regulation (OIR) in March of that year. Since that time, most takeout agreements between Citizens and private carriers have occurred under this plan. In addition to the requirements of the approved plan, the OIR has on occasion required additional requirements to be included in such takeout agreements. According to the OIR, until 2009 the OIR required private carriers that removed policies from Citizens through a takeout agreement to write the risk at a rate below the rate of Citizens at that time.<sup>9</sup> Additionally, in November of 2013 the OIR began requiring takeout companies to provide information to the policyholder detailing a rate comparison between the Citizens rate and the private insurer's rate.<sup>10</sup>

## **Depopulation**

Florida law requires Citizens to create programs to help return Citizens policies to the private market and reduce the risk of additional assessments for all Floridians.<sup>11</sup> Policyholders whose policies are selected for takeout are sent a letter notifying them of the pending takeout and

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<sup>7</sup> s. 10 ch. 2013-60 L.O.F.

<sup>8</sup> s. 10, ch.95-276, L.O.F.

<sup>9</sup> Information received from the OIR on March 19, 2015. (On file with the Banking and Insurance Committee)

<sup>10</sup> Id.

<sup>11</sup> s. 627.351(6), F.S.

provided instructions on how they can elect (opt-out) to remain with Citizens, if eligible and should they wish to do so. Policyholders who do not opt-out within the opt-out timeframe will receive a Notice of Assumption, a non-renewal from Citizens and a Certificate of Assumption. The policyholder still has an additional timeframe from the receipt of these notices to elect to remain with Citizens. Citizens encourage policyholders who receive private-market offers to consider them carefully and discuss the advantages of such coverage with their agents. Accepting an offer from a private insurer can decrease a Citizens policyholder's potential of assessment.

In November 2011, Citizens reported a policy count of 1,472,391 policies insured. As of March 13, 2015, Citizens reports their policy count was at 598,408 policies insured.<sup>12</sup> Much of the success of Citizens reduction in size is the result of depopulation through takeout agreements. In 2012, 2013, and 2014, a total of 1,059,323 policies were removed from Citizens and placed into the private market through the use of the current takeout agreement process.<sup>13</sup>

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

The bill amends Citizens Property Insurance Corporation's plan of operations related to take-out agreements made with private insurers. The bill requires that the Office of Insurance Regulation (OIR) must approve all take-out agreements before policies can be removed from Citizens. This is currently done by the OIR, and this provision will codify such practice in statute.

The bill requires that private companies must provide in their take-out offers to Citizens policyholders, a comparison of coverages, and rate between their policy and the Citizens policy. The OIR has required this of all take-out agreements reached after November 2013. This provision again will codify this requirement in statute.

The bill allows a Citizens policyholder who declines a take-out offer to also elect to not receive additional take-out offers for six months.

The bill allows a Citizens policyholder who accepts a take-out offer the ability to reapply with Citizens and be treated as a renewal through the Citizens clearinghouse if, within 36 months of leaving Citizens, the private insurer increases the policy rate more than what is allowed under the Citizens glide path. This mirrors a similar provision that is applied to policyholders who accept offers of coverage from private insurers through the clearinghouse.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

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<sup>12</sup> Citizens Policy Inforce Weekly Summary Report March 16, 2015.

<sup>13</sup> Citizens President's Report to the Board of Governors March 18, 2015.

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under CS/SB 1006, Citizens' policyholders who accept take-out offers from private insurers and whose rates are then increased above the Citizens glide path, within 36 months of leaving Citizens, will have the ability to reapply with Citizens and be rated as a renewal through the clearinghouse.

C. Government Sector Impact:

None.

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 by Banking and Insurance on March 23, 2015:**

CS/SB 1006 made the following changes to the bill:

- Requires that all Citizens take-out agreements be approved by the OIR.
- Requires private companies to provide a comparison of coverages and rate between their policy and the Citizens policy.
- Allows Citizens policyholders a 6 month opt out from being included in any takeout agreements.
- Allows Citizens policyholders who accept take-out offers from private insurers and whose rates are then increased above the Citizens glide path, within 36 months of leaving Citizens, the ability to reapply with Citizens and be rated as a renewal through the clearinghouse.

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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