

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 715 Eligibility for Coverage by Citizens Property Insurance Corporation

SPONSOR(S): Insurance & Banking Subcommittee; Raschein

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 842

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	12 Y, 0 N, As CS	Peterson	Cooper
2) Regulatory Affairs Committee	14 Y, 1 N	Peterson	Hamon

SUMMARY ANALYSIS

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. It is not a private insurance company. Current law provides an eligibility restriction for insurance in Citizens based on the location of the property. The current restriction based on property location prevents a major structure that is newly-constructed or substantially-improved pursuant to a building permit applied for on or after July 1, 2015, from obtaining insurance in Citizens if the structure is located seaward of the coastal construction control line or within the Coastal Barrier Resources System. A substantial improvement generally encompasses any repair, reconstruction, rehabilitation, or improvement to a structure that costs 50% or more of the market value of the structure. A property owner who incurs a catastrophic loss likely would exceed the threshold in rebuilding the property.

The bill removes the prohibition on coverage for any major structure that is substantially improved pursuant to a building permit applied for on or after July 1, 2015, but retains the prohibition on new construction of a major structure. A major structure that is rebuilt, repaired, restored, or remodeled to increase the total square footage of finished area by more than 25 percent pursuant to a permit applied for after July 1, 2015 is also ineligible for coverage from Citizens.

The bill has no fiscal impact on state or local governments. Owners of major structures in certain coastal areas will be able to repair, remodel, or rebuild their properties and remain eligible for insurance through Citizens provided the square footage of finished area is not increased by 25% or more.

The bill is effective July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Citizens Property Insurance Corporation

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. It is not a private insurance company.

As of January 22, 2015, Citizens is the largest property insurer in Florida with over 660,000 policies extending approximately \$202 billion of property coverage to Floridians.¹ Citizens insures over 282,000 residential and commercial policies in Florida's coastal areas and over 370,000 residential policies in Florida's non-coastal areas. The remaining policies are commercial policies insured in Florida's non-coastal areas.

Citizens was created statutorily in 2002 when the Legislature combined the state's two insurers of last resort, the Florida Residential Property and Casualty Joint Underwriting Association (FRPCJUA) and the Florida Windstorm Underwriting Association (FWUA). The FRPCJUA provided full-coverage personal and commercial residential property policies in all counties of Florida, while the FWUA provided personal and commercial residential property wind-only coverage in designated territories.

Citizens writes property insurance in three separate accounts:²

- Personal Lines Account – personal residential³ multiperil⁴ policies
 - With wind coverage, on properties located outside the Coastal Account area; and
 - Without wind coverage, on properties located within the Coastal Account Area.
- Commercial Lines Account – commercial residential⁵ and commercial non-residential policies
 - With wind coverage, on properties located outside the Coastal Account area; and
 - Without wind coverage, on properties located within the Coastal Account Area.
- Coastal Account – personal residential, commercial residential, and commercial non-residential wind-only⁶ and multiperil policies⁷ for properties in limited eligible coastal areas.⁸

Eligibility for Insurance in Citizens

Current law provides specific eligibility requirements for property to be insured by Citizens which are based on premium amount,⁹ value of the property insured,¹⁰ and the location of the property.¹¹ Property not meeting the statutory eligibility requirements cannot be insured by Citizens.

The current restriction based on property location prevents a major structure that is newly-constructed or substantially-improved pursuant to a building permit applied for on or after July 1, 2015, from obtaining insurance in Citizens if the structure is located seaward of the coastal construction control

¹ <https://www.citizensfla.com/about/bookofbusiness/> (last viewed March 17, 2015).

² s. 627.351(6)(b)2., F.S.

³ Personal residential policies include homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners, and similar policies.

⁴ A multiperil policy is defined as a package policy, such as a homeowners or business insurance policy that provides coverage against several different perils. It also refers to the combination of property and liability coverage in one policy. Multiperil property insurance policies may include coverage for damage from windstorm and from other perils, such as fire, theft, and liability.

⁵ Commercial residential policies include condominium association, apartment building, homeowner's association policies

⁶ A wind-only policy is a property insurance policy that provides coverage against windstorm damage only. Coverage against non-windstorm events such as fire, theft, and liability are available in a separate policy.

⁷ Effective July 1, 2014, Citizens may no longer offer new commercial residential policies providing multiperil coverage, but may continue to renew existing policies. (s. 627.351(6)(b)2.a.(III), F.S.)

⁸ These include areas eligible for coverage by the FWUA as those areas were defined on January 1, 2002. (s. 627.351(6)(a)2., F.S.)

⁹ s. 627.351(6)(c)5.a. and b., F.S.

¹⁰ s. 627.351(6)(a)3., F.S.

¹¹ s. 627.351(6)(a)5.b., F.S.

line¹² or within the Coastal Barrier Resources System (CBRS).¹³ The definition of “major structure”¹⁴ is broad, encompassing all residential and commercial buildings. The definition of “substantial improvement”¹⁵ generally encompasses any repair, reconstruction, rehabilitation, or improvement to a structure that costs 50% or more of the market value of the structure. A property owner who incurs a catastrophic loss likely would exceed the threshold in rebuilding the property.

Statewide Impact of Citizens’ Eligibility Based on Location of Property

Using county property appraiser data collected by the Department of Revenue, Citizens identified approximately 89,000 statewide parcels of improved residential land and 23,000 statewide parcels of vacant land within the CBRS or seaward of the coastal construction control line. Citizens does not insure any of the 23,000 vacant parcels because property insurance cannot be purchased to insure vacant land. It only insures structures and contents in structures located on land. Citizens currently insures 19,000 - 55,000 of the 89,000 residential parcels. Thus, any substantial improvement to property located on one of the 89,000 parcels where a building permit is applied for on or after July 1, 2015 would render the property ineligible for new or renewed coverage by Citizens. The homeowner would have to find insurance in the private voluntary or surplus lines market.¹⁶

In addition, Citizens currently writes a minimum of over 4,000 and a maximum of almost 13,000 policies insuring commercial buildings and condominium associations in the affected coastal areas. Thus, any substantial improvement to the property insured by these 4,000 - 13,000 policies where a building permit is applied for on or after July 1, 2015 would render the property ineligible for coverage by Citizens and these business owners and condominium associations currently insured by Citizens would have to find insurance in the private voluntary or surplus lines market.

¹² A coastal construction control line (CCCL) is an upland jurisdictional line defining the portion of the beach and dune system that is subject to severe fluctuations caused by a 100-year storm surge, storm waves, or other forces such as wind, wave, or water level changes. The CCCL permitting program regulates construction activities on Florida’s beach-dune system. Its purpose is to preserve and protect beaches from imprudent construction that can jeopardize the stability of the beach-dune system, accelerate erosion, provide inadequate protection to upland structures, endanger adjacent properties, or interfere with public beach access. The CCCL is not a setback line or line of prohibition for construction. Rather, new construction, as well as additions, remodeling, and repairs to existing structures are allowed seaward of the control line; however, such structures and activities, unless exempt by rule or law, require a CCCL permit from the Florida Department of Environmental Protection. (*see* ch. 62B-33-005(1), F.A.C.; s. 161.053(1)(a), F.S., and part III of chapter 161, F. S. An interactive map is available at <http://www.dep.state.fl.us/beaches/> (last visited March 17, 2015).

¹³ The Coastal Barrier Resources Act (CBRA or Act) was passed in 1982 and reauthorized in 1990, 2000 and 2005. Under CBRA, some undeveloped land located on coastal barriers is designated by the Secretary of the Interior as CBRA units in the Coastal Barrier Resource System. The Act does not prohibit or regulate development of land in the CBRS, it simply precludes land owners from obtaining federal financial assistance for development of coastal barrier land. The Act encourages the conservation of hurricane prone, biologically rich coastal barriers by restricting federal expenditures that encourage development, such as federal flood insurance, road building, disaster relief, and wastewater systems. Areas within the CBRS can be developed if the private developer or other non-federal party bears the full cost of development. The U.S. Fish and Wildlife Service is the federal agency responsible for implementing CBRA. Florida has 128 units in the CBRS totaling 680,915 acres, and 414 shoreline miles. The CBRS boundaries are depicted on U.S. Geological Survey topographic quadrangle maps. With three exceptions, only Congress has the authority to change CBRA boundaries to include or exclude specific property. The exceptions allow the Secretary of the Interior to change the boundaries for (1) voluntary additions to the CBRS by property owners, (2) additions of excess federal property to the CBRS, and (3) the required CBRA 5-year review that solely considers changes to the CBRS by natural forces such as erosion or accretion. (*see generally* U.S.FISH AND WILDLIFE SERVICE, *Coastal Barrier Resources Act*, <http://www.fws.gov/CBRA/index.html> (last visited March 5, 2015).

¹⁴ A “major structure” means houses, mobile homes, apartment buildings, condominiums, motels, hotels, restaurants, and other types of construction having the potential for substantial impact on coastal zones. (s. 161.54(6), F.S.)

¹⁵ A “substantial improvement” means any repair, reconstruction, rehabilitation, or improvement of a structure when the cost of the improvement or repair to pre-damage condition is 50 percent or more of the market value before construction begins or the damage occurred, as applicable. (*see* s. 161.54(12), F.S.)

¹⁶ Numbers reflect properties and policies as of September 30, 2014. Original data on file with the House Insurance & Banking Subcommittee.

Effect of Proposed Changes Related to Citizens' Eligibility Based on Location of Property

The bill revises eligibility for insurance with Citizens based on location of the property. It removes the prohibition on coverage for any major structure that is substantially improved pursuant to a building permit applied for on or after July 1, 2015, but retains the prohibition on new construction of a major structure. The bill revises the prohibition applicable to existing structures. A major structure that is rebuilt, repaired, restored, or remodeled to increase the total square footage of finished area¹⁷ by more than 25 percent pursuant to a permit applied for after July 1, 2015 is ineligible for coverage from Citizens. A property owner who incurs a catastrophic loss would be able to rebuild and retain eligibility for Citizens coverage provided the total square footage of finished space is not increased beyond the threshold.

B. SECTION DIRECTORY:

Section 1: Amends s. 627.351, F.S., relating to insurance risk apportionment plans.

Section 2: Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Owners of structures in certain coastal areas will be able to improve or repair or rebuild their properties and remain eligible for insurance through Citizens provided the total square footage of finished area is not increased by more than 25%.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

¹⁷ The bill does not define "finished space." However, the American National Standard Institute, Inc. has defined the term in the residential setting to include "an enclosed area in a house that is suitable for year-round use, embodying walls, floors, and ceilings that are similar to the rest of the house." *American National Standard for Single-Family Residential Buildings, Square Footage-Method for Calculating: ANSI Z765-2003, 1* (November 2003) (on file with the House Insurance & Banking Subcommittee). The American National Standards Institute is a voluntary, consensus standard setting organization. Its standards are subject to periodic review and revision.

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None provided by the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 10, 2015, the Insurance & Banking Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment corrected a drafting error related to the prohibition on eligibility for existing properties that are rebuilt or remodeled to give effect to the prohibition, and changed the threshold for the prohibition from an increase of 25% or more of original square footage to an increase of more than 25% of total square footage of finished area. The amendment also narrowed the title to an act relating to Eligibility for Coverage by Citizens Property Insurance Corporation.

The staff analysis is drafted to reflect the committee substitute as passed by the Insurance & Banking Subcommittee.