

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 842

INTRODUCER: Senator Benacquisto

SUBJECT: Citizens Property Insurance Corporation Eligibility for Coverage

DATE: March 9, 2015

REVISED: _____

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

I. Summary:

SB 842 revises current law which makes it ineligible for Citizens Property Insurance Corporation (Citizens) coverage structures located seaward of the Coastal Construction Control Line or within a Coastal Barrier Resources System for which, after July 1, 2015, a permit application is made for new construction or substantial improvement of the structure. The bill allows Citizens to provide coverage on structures built before July 1, 2015, and remodeled or rebuilt after July 1, 2015, to a size less than 125 percent of the original building's square footage.

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 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.⁶

Eligibility for Insurance in Citizens

Current law requires Citizens to provide a procedure for determining the eligibility of a potential risk for insurance in 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, give 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, vacant property, 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.⁷ In addition, the coverage offered by the private insurer must be comparable to Citizens' coverage.

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)(c)5., F.S.

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.⁸

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.⁹ 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, but 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.
- \$900,000 or more cannot obtain insurance in Citizens starting January 1, 2015, but 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, but 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, but 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 Miami-Dade and Monroe counties, after the OIR determined these counties to be non-competitive.

Citizens does not have any eligibility restrictions based on the value of the property insured for condominium associations, homeowner associations, 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, 2015, and which are located seaward of the coastal construction control line (CCCL) or within the Coastal Barrier Resources System (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 including 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,

⁸ s. 627.351(6)(c)5., F.S.

⁹ s. 627.351(6)(a)3., F.S.

reconstruction, rehabilitation, or improvement to a structure that costs 50 percent or more of the market value of the structure a “substantial improvement.” The statutory definition contains additional parameters and guidance and exclusions.

Coastal Construction Control Line (CCCL)

The Coastal Construction Control Line (CCCL) establishes an area of jurisdiction in which special siting and design criteria are applied to construction and related activities along the coast. Due to the potential environmental impacts and greater risk of hazards from wind and flood, the standards for construction within the CCCL are often more stringent than those applied in the rest of the state. Chapter 62B-33, Florida Administrative Code (F.A.C.), provides the design and siting requirements for obtaining a coastal construction control line permit. Approval or denial of a permit application is based upon a review of the siting or location of structures relative their proximity to the beach and the potential impacts to the beach dune system, adjacent properties, native salt resistant vegetation, and marine turtles. While most permit requests are approved as submitted, some are modified during the permitting process. The CCCL starts on the northeast coast of Florida near Fernandina Beach and runs south along the coast, ending approximately at Key Biscayne. On the west coast it extends from Crystal Beach in Pinellas County south along the coast to Marco Island in Collier County. There are very small pockets on CCCL areas north of Pinellas County until you reach the western border of Wakulla County. The CCCL then begins again in Franklin County in the panhandle and extends west to the Florida and Alabama border on the coast near Perdido Bay.

Coastal Barrier Resources System (CBRS)

Coastal Barrier Resources Act (CBRA) was passed by Congress in 1982. CBRA restricted federal spending and financial assistance in an effort to discourage development within a Coastal Barrier Resources System (CBRS). CBRS are designated barrier areas that protect the inland. While CBRA does not prohibit privately financed development, it does prohibit new federal financial assistance, including the purchasing of federal flood insurance from FEMA. In 1990, Congress passed the Coastal Barrier Improvement Act (CBIA). The CBIA tripled the size of the Coastal Barrier Resources System but allowed buildings constructed before 1982 to be covered by the federal flood insurance program. The CBRS consists of many of the coastal barriers in the state, including the entirety of the Florida Keys. There are 128 designated coastal barriers within Florida.

III. Effect of Proposed Changes:

SB 842 revises current law which makes it ineligible for Citizens Property Insurance Corporation (Citizens) coverage structures located seaward of the Coastal Construction Control Line or within a Coastal Barrier Resources System for which, after July 1, 2015, a permit application is made for new construction or substantial improvement of the structure. The bill allows Citizens Property Insurance Corporation to provide coverage on structures permitted built before July 1, 2015, located seaward of the Coastal Construction Control Line or within a Coastal Barrier Resources System, and remodeled or rebuilt after July 1, 2015, to a size less than 125 percent of the original building's square footage.

The effective date of the bill is July 1, 2015.

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 in the Florida Keys and other areas along the coast, who rebuild or remodel structures seaward of the CCCL or within a CBRS can remain eligible for coverage by Citizens Property Insurance Corporation as long as the structure is rebuilt or remodeled to a size less than 125 percent of the original buildings square footage. This will prevent certain circumstances where an insured is unable to obtain coverage for their property, particularly in coastal areas for which Citizens may be the only option for obtaining insurance. Under current law, a Citizens policyholder in these areas could incur major loss, rebuild their home to the same size, and would be ineligible for Citizens.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 627.351 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.
