Whip's Policy Brief

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Special Session on Hurricane Preparedness & Insurance

Conference Report

HB 1A

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INSURANCE INDUSTRY ACCOUNTABILITY AND CONSUMER PROTECTION

Insurance Company Accountability & Regulatory Reform

The bill instills additional accountability requirements for insurance companies, including higher reserves for "pup companies," prohibition of "cherry picking," an oath of truth in rate filings, temporary suspension of "use and file" and arbitration, and expedited payment of claims.

Summary of the Bill

1. Heighten standards for Florida-only subsidiaries (Pup Companies)

   - Require all Florida-only subsidiaries to have a surplus of at least $50 million in liquid assets to help ensure that policyholders can receive payment when they need it.

2. Greater Accountability in Rate Filing

   - Prohibit excess profits by property insurers and require return of excess profits to policyholders. An insurance company earns an excess profit when its surplus (*cash on hand*) exceeds its PML (*total projected loss*) for a 250-year return period and it has earned a net underwriting gain (*actual premiums – losses + expenses*) in Florida in excess of 10% above its anticipated underwriting profit over the most recent 10-year period.

   - Suspend until December 31, 2008 the "use and file" procedure for rate increases. Insurance companies will have to seek and obtain OIR approval before implementing a rate increase during this two year period.

   - Suspend until December 31, 2008 the arbitration procedure for resolving rate disputes. During this two year period, all rate filing disputes would be settled according to the Administrative Procedures Act within the Department of Administrative Hearings.

   - Require an oath of truth, with penalty of perjury, for rate filings. Rate filings must be signed by the insurance company's CEO or CFO and actuary. The signed oath must state the rate filing reflects all premium savings reasonably expected to result from legislative enactments. Violation is an unfair trade practice, subjecting the insurance company to disciplinary actions against its license.

   - Require insurance companies to evaluate the hurricane-security of a structure rather than the date of construction when determining risk. Age of the home may not be used as the sole reason for rejection of coverage.

3. Require participation in the Florida property insurance market (Cherry Picking)

- Require any insurance company that writes homeowners policies in other states and writes auto insurance in Florida to sell homeowners insurance in Florida, unless the affiliate writes homeowners in Florida. This is effective January 1, 2008.

4. Additional Miscellaneous Insurance Company Accountability Measures

- Require insurance companies to provide greater loss reporting information to OIR.

- Require insurance companies to give at least 100 days written notice, or written notice by June 1, whichever is earlier, for any non-renewal, cancellation, or termination of a homeowners' policy that would be effective between June 1 and November 30.

- Require insurance companies to expedite payment of claims following a storm. Insurance companies must pay or deny property claim within 90 days of notice of the claim with an exception for factors beyond the control of the insurer. Violation is subject to penalty under the Insurance Code, subjecting the insurance company to disciplinary actions against its license.

Expanding Consumer Choice & Savings

The bill provides consumers with new options for insurance policies including premium installment plans, coverage options that reduce premiums, and discounts for obtaining multiple lines of coverage through the same company.

Summary of the Bill

- Eliminate the cap on deductibles so a homeowner can choose a deductible other than the standard 2%, 5%, or 10% in current law. However, the policyholder must execute a written statement demonstrating understanding and intent and must obtain approval by a mortgage or lien holder if the deductible is over 10% on a home valued under $500,000.

- Allow homeowners to choose quarterly and semi-annual installment plans to pay the premium, subject to OIR approval.

- Allow insurance companies to provide discounts to policyholders who obtain multiple lines of coverage through the same insurance company (e.g. a policyholder that buys auto and property insurance coverage from one company).

- Allow homeowners to exclude windstorm coverage from their policies by writing a statement and providing approval from the mortgage holder.

- Allow homeowners to exclude personal contents coverage from their policies by writing a statement that serves as a conclusive presumption that the election was an informed choice.

- Provide legislative intent language that in the 2007 Regular Session the Legislature should create a program to help low-income Floridians pay for property insurance.

Expanding Consumer Information

The bill provides consumers with additional information about the amount of and reasons for their premium costs. Policy renewals will identify the amount as it relates to each assessment authority and explain the amount of premium that is due to rate and/or coverage changes.

Summary of the Bill

- Identify on policy renewal notices the amount of assessments and identify the full name of the assessing authority for Citizens, FIGA, and the CAT Fund.

- Identify on policy renewal notices the amount of premium due to rate changes and the amount due to coverage changes.

- Require the Insurance Consumer Advocate to provide an annual report card on insurance companies, including information on complaints and payment timeliness. The report will use a letter grade under guidelines set by the Financial Services Commission. Currently, no such program exists for property insurance.

- Require insurance companies to provide notice of combinations of discounts, credits, rate differentials, or reductions in deductibles for windstorm mitigation.

HOMEOWNERS RATE REDUCTION

CAT Fund Reforms

The bill creates a 3-year-period during which the CAT Fund retention level will be set as low as $3 billion, and the capacity will be as high as $32 billion. Insurance companies must pass savings associated with the CAT Fund changes to consumers, whether or not they purchase this new coverage. The State Board of Administration and Legislative Budget Commission will jointly share the ability to adjust the parameters of the CAT Fund.

Summary of the Bill
See rate savings scheduled attached to the end of this brief.

- Make additional reinsurance available through the CAT Fund.
- Temporary additional coverage will be available for a three-year period.
- CAT Fund retention for the 07-08 contract year will be $6 billion. With the approval of the Legislative Budget Commission ("LBC"), the State Board of Administration (The Governor, CFO, and Attorney General) ("SBA") will be empowered to offer additional coverage BELOW the retention level to as low as $3 billion in $1 billion increments (i.e., $5 billion, $4 billion, or $3 billion).
- For each billion below the retention level, the pricing of the additional reinsurance will be set at near market rates ($1B below: 75% rate-on-line; $2B below: 80%; $3B below: 85%). This is also known as "TEACO" (Temporary Emergency Additional Coverage Option).
- On the top end, the CAT Fund will make available 12 additional $1 billion layers of coverage up to a $28 billion total capacity (i.e., capacity of $16B + $12B in extra coverage layers = $28B total). This is also known as "TICL" (Temporary Increase in Coverage Limits).
- This additional coverage will be priced according to the current statutory formula for CAT Fund coverage, which would be slightly over 2% rate-on-line. This is an actuarially sound rate.
- Also with LBC approval, the SBA could add $4 billion more in TICL coverage to a total of $32 billion. The price for this extra coverage would be the same as other TICL coverage.
- By March 15, 2007, OIR will submit an analysis of projected premium savings through this additional CAT Fund coverage.
- Every residential property insurance company will be required to make a rate filing showing what premium savings would be available if it purchased this additional coverage, regardless of whether it buys the additional coverage. The company will be required to pass to consumers whatever savings it would have received if it purchased coverage.

- Suspend the Rapid Cash Build-Up Factor, which would save policyholders 3% on their premiums.

- Allow the CAT Fund to use capital market tools to build its resources.

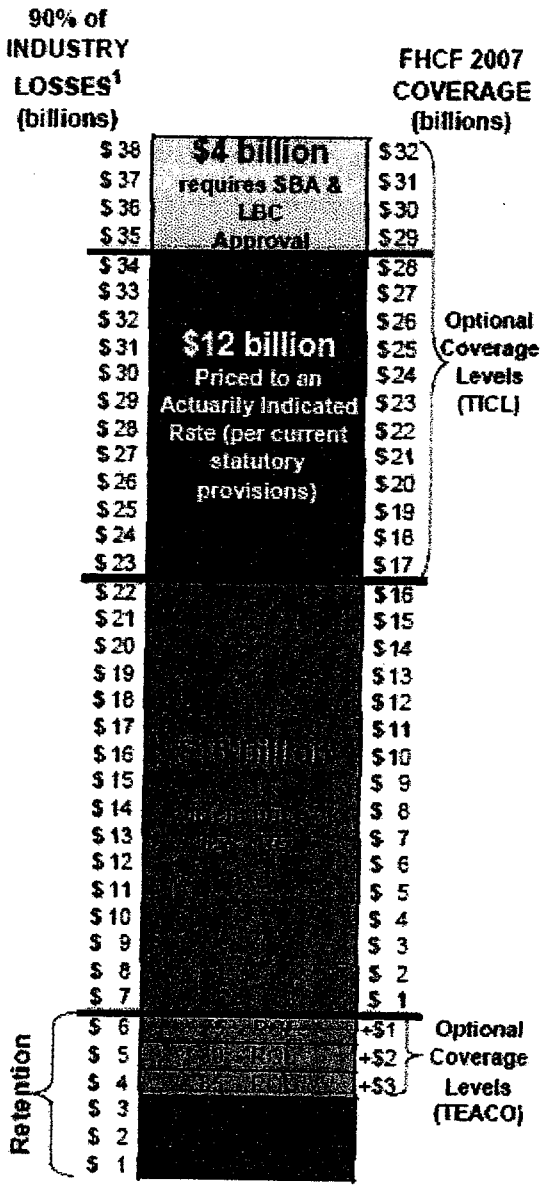
- In sum, this bill achieves the proper balance among four important public policy goals for CAT Fund reform:

    - Provide guaranteed rate relief for policyholders.
    - Ensure continued broad availability of reinsurance.
    - Maintain protections against crowding out the private reinsurance market.
    - Protect the state's taxpayers from taking on too much liability for a catastrophic event.

Florida Hurricane Catastrophe Fund (FHCF)

Conference Agreement

January 21, 2007



[1] Approximation; also assumes all companies purchase coverage at 90% (10% copay).

SBA: State Board of Administration
LBC: Legislative Budget Commission

MITIGATION

Mitigation Inspections

The bill creates a statewide list of authorized inspectors and requires inspectors to pass a level 2 background check. The bill transfers $100 million in new federal funds to the mitigation program.

Summary of the Bill

- Require wind mitigation inspectors to pass a level 2 background check. Current law will still require all wind mitigation inspectors to complete seven hours of specialized classroom training and pass a one-hour test.
- Develop and maintain a statewide list of authorized wind mitigation inspectors.
- Exempt low-income homeowners from the requirement to have an insured value of $500,000 or less in order to participate in the program.
- Transfer $100 million in new federal funds from the Florida Small Cities Community Development Block Grant Program Fund to the disaster recovery program.
- Form a public/private partnership between DFS and a not-for-profit organization to increase awareness among Florida homeowners of the benefits of mitigation.

Uniform Home Grading Scale

The bill creates a uniform home grading scale for withstanding wind damage.

Summary of the Bill

- Require the Financial Services Commission to develop a uniform home grading scale to grade a home's ability to withstand wind damage.
    - Every Florida house will receive a simple grade that carries with it a specific and tailored description of its hurricane resistance strength. Consumers will then know how ready they are to face a storm and what they can do to prepare.
    - An objective grading system will encourage homeowners to better prepare their homes against hurricane damage. Even older homes or homes located in high risk areas, when properly retrofitted, would become less of an insurance risk.
    - Grades will also allow potential homebuyers to make informed decisions as they will be able to consider a home's hurricane grade much as they consider factors like anticipated renovations, the quality of neighborhood schools, or potential property tax liability.

- The hurricane grading system will help hold insurance companies accountable. Insurance companies will be forced to justify their premiums in relationship to the assigned hurricane grades. This will bring much needed fairness to the ratemaking process as homes will be judged on their ability to survive a storm not on arbitrary characteristics like age.

Windstorm Mitigation Study Committee

The bill creates an eight-member Windstorm Mitigation Study Committee that will hold its first meeting by February 9, 2007, and provide recommendations, including proposed legislation, by March 6, 2007.

Summary of the Bill

- Create a Windstorm Mitigation Study Committee to analyze solutions and programs including, but not limited to, those that provide for:
  - The availability of home inspections for windstorm resistance;
  - Grants to assist homeowners, and possibly other groups of property owners, to harden their property against windstorm damage;
  - The full actuarial value to be reflected in premium credits for windstorm mitigation;
  - The most effective way to inform policyholders of the availability of and means by which to obtain premium credits for windstorm mitigation;
  - Coordination among federal, local, and private initiatives;
  - Streamlining or strengthening applicable state, regional, and local regulations;
  - The stimulation of public and private efforts to mitigate against windstorm injury and damage;
  - The discovery and assessment of funding sources for windstorm mitigation;
  - Tax incentives for windstorm mitigation;
  - Consumer information concerning the benefits of windstorm mitigation, including personal safety as well as property security; and
  - Research on windstorm mitigation.

Deductible Buy Down

Homeowners can reduce their hurricane deductibles through mitigation.

Summary of the Bill

- Allow homeowners who invest in mitigation the option of lowering their hurricane deductible or choosing instead a reduced premium.

Rate Reduction

The bill requires insurance companies to inform homeowners of available means for reducing homeowner costs through mitigation and to account for hurricane mitigation measures when determining rates. The bill also calls for a uniform mitigation verification inspection form and requires insurance agents to be familiar with the available premium discounts for mitigation.

Summary of the Bill

- Require insurance companies to reflect hurricane mitigation measures when determining rates.
- OIR will develop a uniform mitigation verification inspection form to be used by all insurance companies when determining discounts for wind insurance.
- Require insurance agents to complete continuing education hours related to premium discounts available on property insurance policies for various hurricane mitigation measures.

Uniform Building Code

The bill eliminates the Panhandle exemption to the Florida Building Code and creates code-plus guidelines for structures that exceed the minimum code. The bill limits future modifications to the building code to changes that enhance structural integrity for wind protection or the prevention of water intrusion.

Summary of the Bill

- Eliminate the Panhandle exemption to the Florida Building Code by adopting the International Building Code and International Residential Code without exceptions as a uniform statewide building code. Delete the internal pressurization option for buildings in the 120 mph wind zone.
- Eliminate all exceptions in the Florida Building Code regarding windborne debris.
- Require the Florida Building Commission to develop voluntary "Code Plus" guidelines that will increase the hurricane resistance of buildings.
- Prohibit future changes to the building code unless the changes enhance the structural integrity of buildings related to wind resistance or the prevention of water intrusion.

CITIZENS REFORM AND PRIVATE MARKET RESTORATION

Citizens Rate Relief & Service Improvements

Citizens will no longer be required to charge the highest rates in an area. After a rate freeze for 2007, rates will be required to be actuarially sound. The bill specifies that the Citizens Board of Directors can be terminated at will by the appointing officers and creates a Strike Force to improve consumer service and options. It removes all commercial policies in the PCJUA and places them in Citizens.

Summary of the Bill

1. Reduce Rates for Citizens Policyholders
   See rate savings scheduled attached to the end of this brief.

- Repeal the January 1, 2007 Citizens rate change and refund the premium collected pursuant to that rate filing.
- Require a new rate filing for an effective date of January 1, 2008.
  - The "rate freeze" only prohibits rate *increases* in 2007. During that year, rates may be lowered due to coverage changes or mitigation. The 2006 Monroe County agreement for lower rates is unaffected by this provision.
- Eliminate current statutory requirement that Citizens rates be the highest. Rather, Citizens rates will only be required to be actuarially sound as of the rate filing on January 1, 2008.
- Eliminate current reinsurance requirement for Citizens rate filing. Citizens will no longer factor the cost of private reinsurance into its rate filings.
- Rates must be actuarially sound and not excessive, inadequate, or unfairly discriminatory. Rates will not be required to cover costs of specified PMLs.
- Citizens will be required to file a recommended rate at least once a year, and OIR will establish Citizens rates within 45 days of the filing.
- Delay until 2008 the requirement that Citizens impose a 10% of premium assessment on nonhomestead policyholders if a deficit occurs.
- Delay until 2008 the requirement that Citizens impose a 10% renewal surcharge on all Citizens policyholders after a deficit if the first 10% on nonhomestead policyholders is not sufficient.

- Subject to the approval of a business plan by the Financial Services Commission and the Legislative Budget Committee, and no earlier than March 1, 2007, Citizens may offer multi-peril policies in the High Risk Area. Citizens already offers multi-peril policies in other areas of the state.
    - Citizens will be required to continue to offer wind-only policies in the High Risk Areas.
    - The bill states a legislative intent that this change should create a 10% reduction in Citizens premiums.
- Allow the SBA to invest and manage Citizens' assets.
- Allow the Citizens board to set coverage limits.

2. <u>Improve Consumer Choice, Options, and Protection</u>

- Create a Strike Force to review Citizens outstanding claims, make recommendations for disposing of outstanding claims, and recommend revisions to Citizens claims handling process.
    - The first report, due July 1, 2007, will offer recommendations for Citizens to resolve and dispose of open claims from the 2004 and 2005 hurricane seasons.
    - The second report, due July 1, 2008, will focus more generally on future improvements in claims handling and disposition.
- Citizens board members serve at the pleasure of those state officers who have appointed them and may be removed from the board at any time for whatever reason by the officer who appointed them (The Governor, CFO, Speaker of the House, and Senate President).
- Correct technical deficiency in Florida Market Assistance Plan (FMAP) relating to real estate closings that occur during the 10-day waiting period for Citizens.
- Specify that take-out policies removed from Citizens are considered to be the sole obligation and direct insurance of the take-out company. This clarifies that Citizens does not retain any liability for policies that have been taken out of its book of business.

3. Reforms to Citizens Eligibility

- Move all commercial non-residential policies out of the PCJUA and place them in Citizens. Citizens will write commercial coverage statewide and will cover the first $1 million on commercial property. Citizens would be allowed to require commercial properties to meet specified mitigation construction features in order to be eligible for coverage.

- Require buildings that are 2,500 feet on the landward side of the Coastal Construction Control Line to be built to "code plus" standards in order to be eligible for Citizens coverage or up to the standards of the Miami-Dade building code if such standards have not yet been created. Begins on January 1, 2009.

- Remove requirement that non-homestead policies are ineligible for coverage in Citizens beginning March 1, 2007 unless rejected by three surplus lines and one authorized insurance companies.

- Require Citizens to be subject to assessments by FIGA, which levies assessments when it assumes the liabilities of bankrupt insurance companies.

- Allow Citizens to require commercial properties to carry out specified mitigation techniques in order to qualify for coverage.

- Expand Citizens assessment base to match that of the CAT Fund, which is all lines of property and casualty insurance except for workers' compensation and medical malpractice.

- Current Citizens policyholders can stay in Citizens unless they decide to take a policy with a private carrier. Those seeking new coverage in Citizens may only obtain it if they receive an offer from a private company that is more than 25% greater than comparable coverage in Citizens.

Market Incentives & Regulatory Reforms

The bill removes regulatory barriers to risk pooling among similar entities, to self-insurance for multi-family dwellings, and to competition among reinsurance companies.

Summary of the Bill

- *Allow risk pooling of "like" entities, such as hospitals, municipalities, condominium* associations, and not-for-profit corporations.

- Relax restrictions on multi-family dwellings, condominium associations, and other such entities that self-insure.

- Limit insurance requirements in the Condominium Act to "residential condominiums." Also specify that "adequate insurance" for a group of at least three communities operating as residential condominiums, cooperatives, homeowners' associations, or timeshares must be adequate to cover a 250-year PML windstorm event.

- Eliminate the collateral requirement for non-U.S. insurance companies based on a determination by OIR of the adequacy of regulation of the country of licensure and the financial strength of the reinsurance company.

    - This would allow reinsurance companies based in other countries to have the same market access as domestic reinsurance companies provided they meet Florida's regulatory standards.

- Repeal the deregulation provisions allow insurance companies to raise or lower rates within a certain percentage without OIR review (i.e., "rate flex").

- Reduce the amount of funds insurance companies writing coverage for manufactured homes must put up to receive a state funding match in the Capital Buildup Incentive Program. Insurance companies that write new coverage for manufactured homes will now be allowed to participate in the existing program but will only have to contribute $7 million in new capital in order to participate. They would also be given first priority for fund distribution.

- Create a bifurcated system for obtaining sinkhole coverage by creating definitions for and differentiating between a "catastrophic groundcover collapse" and a "sinkhole." All homeowners policies will include full coverage for catastrophic ground cover collapse, including coverage for contents and the structure. A policyholder may choose to go without sinkhole coverage after signing a plain declaration.

- Clarify prior statutory language that allowed FIGA to use its assessment authority to directly pay claims of an insolvent insurer rather than using the assessment to issue bonds.

HURRICANE PREPAREDNESS AND INSURANCE LEGISLATION
ESTIMATED AVERAGE INSURANCE PREMIUM SAVINGS

Florida Homeowners with policies from companies *other than* Citizens and State Farm Insurance companies.	**Total Premium**	**Wind Premium**
Suspension of Florida Hurricane Catastrophe Fund (FHCF) 25% Rapid Cash Buildup	2.7%	5.0%
FHCF Reinsurance from the $12 billion layer	19.1%	38.1%
TOTALS	21.8%	43.1%

State Farm Insurance Policyholders	**Total Premium**	**Wind Premium**
FHCF Reinsurance from the $12 billion layer	5.0%	14.0%
Suspension of FHCF 25% Rapid Cash Buildup	2.0%	5.0%
TOTALS	7.0%	19.0%

Citizens Property Insurance Company Policyholders	**High Risk Total Premium**	**Personal Lines Total Premium**
Multi-peril Policies Sold to High Risk Account (if approved)	10.0%	—
FHCF Reinsurance from the $12 billion layer	2% - 3%	2% - 3%
Eliminate Requirement that Citizens Purchase Excess FHCF Coverage at 10% Rate On Line	1.7%	1.0%
Suspension of FHCF 25% Rapid Cash Buildup	3.0%	2.0%
Expand Citizens Assessment Base to Match FHCF Assessment Base	1.0%	—
TOTALS	17.7% - 18.7%	5% - 6%

Citizens Premium Increase *Avoidance*	**High Risk Total Premium**	**Personal Lines Total Premium**
Repeal of Citizens rate filing previously approved for January 1, 2007	23.1% site-built 4.8% mobile homes	12.4%
Repeal of March 1, 2007 rate increases	56.5%	2.2%

Mitigation/Home Enhancement and Loss Prevention - Potential Savings	
Use of Uniform Grading Scale for Setting Premiums All residential homeowners (Based on sampling of homes inspected in 16 counties, average savings without any improvements)	18.4%
Mitigation Grant Program - Potential Savings to Grantees All residential homeowners (Based on sampling of homes inspected in 16 counties, average savings depending on improvement plan selected)	25.8% - 31.5%