

Insurance & Banking Subcommittee

Tuesday, February 6, 2024
8:00 AM - 11:00 AM
Morris Hall (17 HOB)

Meeting Packet

Paul Renner
Speaker

Wyman Duggan
Chair

The Florida House of Representatives

Commerce Committee

Insurance & Banking Subcommittee

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Meeting Agenda

Tuesday, February 6, 2024
8:00 am – 11:00 am
Morris Hall (17 HOB)

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):

HB 543 Boards of Directors of Banks by Black

HB 731 Insurance Claims by Botana

HB 851 Nonprofit Agricultural Organization Health Coverage by Anderson

HB 893 Coverage by Citizens Property Insurance Corporation by Lopez, V.

V. Consideration of the following proposed committee substitute(s):

PCS for HB 1149 -- Policy Cancellations and Nonrenewals by Property Insurers

VI. Discussion on Windstorm Coverage by Citizens Property Insurance Corporation:

Representatives Roach and Cassel

Tim Cerio, Citizens Property Insurance Corporation

Discussion

VII. Closing Remarks

VIII. Adjournment

303 House Office Building, 402 South Monroe Street, Tallahassee, FL 32399-1300
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HB 543

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 543 Boards of Directors of Banks
SPONSOR(S): Black
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Fletcher	Lloyd
2) State Administration & Technology Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

A bank failure is the closing of a bank by a federal or state banking regulatory agency, generally due to insolvency issues caused by the bank's inability to meet its obligations to depositors and others. According to the Federal Deposit Insurance Corporation (FDIC), there have been 566 bank failures from 2001 through 2023.

To accept deposits, an institution must have a federal or state charter. Banks are chartered and regulated as national banks by the Office of the Comptroller of the Currency within the U.S. Department of the Treasury, or as state banks by a state regulator. A major component of both federal and state bank regulation is known as "safety and soundness" regulation, which is designed to promote bank profitability and avoid bank failures, thereby protecting the taxpayers and the stability of the financial system.

Under federal law, a bank must notify the appropriate federal agency of the proposed appointment of a director at least 30 days before such addition under certain circumstances. The agency must issue a notice of disapproval of the addition if the competence, experience, character, or integrity of such individual indicates it would not be in the best interests of the institution's depositors or the public to have such individual as a director. Moreover, a federal bank's regulator may serve upon a current director written notice of the regulator's decision to remove such director from office if it is determined the director has engaged in certain activity.

Similar to federal laws, Florida law authorizes Office of Financial Regulation (OFR) to disapprove the proposed appointment of a director if the financial institution meets specified criteria. OFR is also authorized to issue and serve a complaint to remove a director of a financial institution if OFR has reason to believe such party is engaging in any specified conduct.

The bill provides that a person who has previously served on a board of directors of a bank doing business in Florida that has become insolvent is disqualified from serving on the board of directors of another bank for 5 years after the date the previous bank became insolvent.

The bill has no impact on state or local government revenues and expenses. It has an indeterminate negative and positive impact on the private sector.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Bank Failures

A bank failure is the closing of a bank by a federal or state banking regulatory agency.[1] Generally, a bank is closed when it is unable to meet its obligations to depositors and others.[2] According to the Federal Deposit Insurance Corporation (FDIC), there have been 566 bank failures from 2001 through 2023,[3] five of which were in 2023.[4]

Dual Regulatory Oversight of Depository Institutions

To accept deposits, an institution must have a federal or state charter.[5] Banks are chartered and regulated as national banks by the Office of the Comptroller of the Currency within the U.S. Department of the Treasury, or as state banks by a state regulator.[6] A major component of bank regulation is known as "safety and soundness" regulation, which is designed to promote bank profitability and avoid bank failures, thereby protecting the taxpayers and the stability of the financial system.[7]

Florida's Financial Institutions Codes[8] apply to all state-authorized or state-chartered financial banks, trust companies, credit unions and related entities.[9] The Office of Financial Regulation (OFR) licenses and regulates 200 financial entities, including 69 state-chartered banks as of January 2023.[10] There are also 26 nationally-chartered banks and 3 nationally-chartered savings institutions operating in Florida as of September 2023.[11]

Banks chartered by OFR must become members of the Federal Reserve or obtain insurance from the FDIC.[12] Thus, state-chartered banks are subject to a dual-regulatory system.[13] Similarly, nationally-chartered banks are subject to certain regulatory authority by OFR when they are licensed to operate in Florida.[14]

Laws Relating to Directors

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[1] Federal Deposit Insurance Corporation, *When a Bank Fails – Facts for Depositors, Creditors, and Borrowers*, https://www.fdic.gov/consumers/banking/facts/ (last visited Feb. 1, 2024).
[2] *Id.*
[3] Federal Deposit Insurance Corporation, *Bank Failures in Brief – Summary 2001 through 2023*, https://www.fdic.gov/bank/historical/bank/ (last visited Feb. 1, 2024).
[4] *See* Federal Deposit Insurance Corporation, *Failed Bank List*, https://www.fdic.gov/resources/resolutions/bank-failures/failed-bank-list/ (last visited Feb. 1, 2024).
[5] Congressional Research Service, *An Analysis of Bank Charters and Selected Policy Issues* (Jan. 21, 2022), https://crsreports.congress.gov/product/pdf/R/R47014 (last visited Feb. 1, 2024).
[6] Congressional Research Service, *Introduction to Financial Services: Banking* (updated Jan. 5, 2023, https://crsreports.congress.gov/product/pdf/IF/IF10035 (last visited Feb. 1, 2024).
[7] *Id.*
[8] The Financial Institutions Codes include chs. 655, 657, 658, 660, 662, 663, 665, and 667, F.S. *See* s. 655.005(k), F.S.
[9] S. 655.001(1), F.S.
[10] Office of Financial Regulation, *Fast Facts: 2023 Edition*, https://flofr.gov/sitePages/documents/FastFacts.pdf (last visited Feb. 1, 2024).
[11] Federal Deposit Insurance Corporation, *FDIC State Tables*, https://state-tables.fdic.gov/ (last visited Feb. 1, 2024).
[12] Ss. 658.22 and 658.38, F.S.
[13] Office of the Comptroller of the Currency, *Who Regulates My Bank?* https://www.helpwithmybank.gov/who-regulates-my-bank/index-who-regulates-bank.html (last visited Feb. 1, 2024).
[14] 12 C.F.R. § 7.4000(a)(1).

Under federal law, a depository institution holding company must notify the appropriate federal regulatory authority of the proposed appointment of a director at least 30 days before such addition under certain circumstances.[15] The regulatory authority must issue a notice of disapproval of the addition if the competence, experience, character, or integrity of the individual indicates it would not be in the best interests of the institution's depositors or the public to have such individual as the bank's director.[16] Moreover, a bank's federal regulator may serve upon a current director written notice of the regulator's decision to remove such director from office if it is determined the director has engaged in certain activity.[17]

Similar to federal laws, Florida law authorizes OFR to:

- Disapprove the proposed appointment of a director if the financial institution meets specified criteria, such as noncompliance with minimum capital requirements or otherwise operating in an unsafe and unsound condition;[18] and
- Issue and serve a complaint to remove a director of a financial institution if OFR has reason to believe that such party is engaging or has engaged in any specified conduct, including, but not limited to, an unsafe or unsound practice, a prohibited act or practice, or a willful violation of any law relating to financial institutions.[19]

Under Florida law, any director removed from office pursuant to OFR's authority is not eligible for reelection to such position or to any official position with any financial institution in Florida, except with the written consent of OFR.[20]

Effect of the Bill

The bill provides that a person who has previously served on a board of directors of a bank doing business in Florida that has become insolvent is disqualified from serving on the board of directors of another bank for 5 years after the date the previous bank became insolvent.

B. SECTION DIRECTORY:

Section 1. Amends s. 658.33, F.S., relating to directors, number, qualifications; officers.

Section 2. Provides an effective date of July 1, 2024.

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.

[15] 12 U.S.C. § 1831i(a).
[16] 12 U.S.C. § 1831i(e).
[17] 12 U.S.C. § 1831i(b).
[18] S. 655.0385, F.S.
[19] S. 655.037, F.S.
[20] S. 655.037(7), F.S.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has an indeterminate positive impact on the private sector to the extent the bill benefits banks and consumers from not having directors that held a similar position at a bank that went insolvent.

The bill has an indeterminate negative impact on the private sector to the extent the bill prevents individuals from serving on a bank's board of directors when the individual was an innocent actor and did not contribute to a bank's insolvency (i.e., directors who, but for the bill, would serve as a director of a bank may have lost compensation). Further, banks may incur replacement costs to the extent that any current directors are disqualified under the provisions of the bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not confer rulemaking authority nor require the promulgation of rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 15-17: As currently drafted, the language could have an unintended consequence of preventing innocent actors from serving on a bank's board of directors. An amendment could address this possibility by making clear that the prohibition against a former director serving applies only if the former director had an active role in contributing to the bank's insolvency.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to boards of directors of banks; amending s. 658.33, F.S.; disqualifying certain persons from serving on the board of directors of a bank under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsections (2) through (5) of section 658.33, Florida Statutes, are redesignated as subsections (3) through (6), respectively, and a new subsection (2) is added to that section, to read:

658.33 Directors, number, qualifications; officers.—

(2) If a person has previously served on a board of directors of a bank doing business in this state which became insolvent, such person is disqualified from serving on the board of directors of another bank for 5 years after the date the previous bank became insolvent.

Section 2. This act shall take effect July 1, 2024.

CODING: Words stricken are deletions; words underlined are additions.

HB 731

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 731 Insurance Claims
SPONSOR(S): Botana
TIED BILLS: **IDEN./SIM. BILLS:** SB 1024

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Fortenberry	Lloyd
2) State Administration & Technology Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

In general, insurance rates in Florida may not be excessive, inadequate, or unfairly discriminatory. Section 627.0651, F.S., provides specific requirements for rates charged for motor vehicle insurance. Insurers must establish and use rates, rating schedules, and rating manuals that allow the them a reasonable rate of return.

Upon receiving notice of a rate filing or rate change, the Office of Insurance Regulation (OIR), must review the rate or rate change to determine if it is excessive, inadequate, or unfairly discriminatory by considering certain factors using generally accepted and reasonable actuarial techniques. The factors include, but are not limited to, past and prospective loss experience and expenses, cost of repairs, adequacy of loss reserves, and cost of reinsurance.

Florida law provides criminal penalties for any person who commits insurance fraud by engaging in certain acts with intent to injure, defraud, or deceive any insurer. An insurer that has been damaged as a result of a violation of the statute providing for criminal penalties has a cause of action to recover compensatory damages, plus reasonable investigation and litigation expenses, including attorney fees, at a trial or appellate court, if the insurer has reported the possible fraudulent insurance act to the Division of Investigative and Forensic Services within the Department of Financial Services (DFS) and the violation has resulted in a criminal adjudication of guilt.

The bill adds additional factors that OIR must consider when determining whether a rate filing or rate change for motor vehicle insurance policies is excessive, inadequate, or unfairly discriminatory. In addition to the other factors, OIR must also consider the recovery of funds by judgement or settlement and attorney fees and costs awarded or returned for payments recovered as a result of: claimed violations of certain statutory chapter parts and sections relating to activities such as kickbacks, fraudulent insurance claims, and patient brokering; and repayment of claims paid for pursuant to actions or allegations of common law fraud, civil conspiracy, unjust enrichment, or unlawful conduct.

The bill also requires that, if an insurer that has been damaged as a result of a violation of one of the above statutory chapter parts or sections and obtains a repayment or refund of claims paid pursuant to PIP insurance coverage, the insurer must report the amount of funds received as a result of a claim, settlement, or judgment, including attorney fees and costs to DFS.

The bill has no impact on local or state government revenues or expenditures. The bill may have an indeterminate positive direct economic impact on the private sector.

The bill is effective on July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Motor Vehicle Insurance Rates

In general, insurance rates in Florida may not be excessive, inadequate, or unfairly discriminatory.[1] Section 627.0651, F.S., provides specific requirements for rates charged for motor vehicle insurance. Insurers must establish and use rates, rating schedules, and rating manuals that allow the them a reasonable rate of return.[2]

Upon receiving notice of a rate filing or rate change, the Office of Insurance Regulation (OIR), must review the rate or rate change to determine if it is excessive, inadequate, or unfairly discriminatory by considering the following factors using generally accepted and reasonable actuarial techniques:

- Past and prospective loss experience in and out of Florida.
- Past and prospective expenses.
- Degree of competition among insurers for the risk insured.
- Investment income reasonably expected by the insurer, subject to certain limitations.
- Reasonableness of the judgment reflected in the filing.
- Dividends, savings, or unabsorbed premium deposits allowed or returned to Florida policyholders, members, or subscribers.
- Cost of repairs to motor vehicles.
- Cost of medical services, if applicable.
- Adequacy of loss reserves.
- Cost of reinsurance.
- Trend factors,.
- Other relevant factors which impact the frequency or severity of claims or expenses.

Recovery of Costs by Insurers

Florida law provides criminal penalties for any person who commits insurance fraud by engaging in certain acts with intent to injure, defraud, or deceive any insurer.[3] An insurer that has been damaged as a result of a violation of the statute providing for criminal penalties has a cause of action to recover compensatory damages, plus reasonable investigation and litigation expenses, including attorney fees, at a trial or appellate court, if the insurer has reported the possible fraudulent insurance act to the Division of Investigative and Forensic Services within the Department of Financial Services (DFS) and the violation has resulted in a criminal adjudication of guilt.[4]

Effect of the Bill

The bill adds additional factors that OIR must consider when determining whether a rate filing or rate change for motor vehicle insurance policies is excessive, inadequate, or unfairly discriminatory. In addition to the other factors, OIR must also consider the recovery of funds by judgement or settlement and attorney fees and costs awarded or returned for payments recovered as a result of:

- claimed violations of the following statutory chapter parts or statutory sections:
    - s. 456.054, F.S., which prohibits kickbacks by healthcare providers;
    - part X, of ch. 400, F.S., which pertains to health care clinics;
    - part II, of ch. 501, F.S., which is the Florida Deceptive and Unfair Trade Practices Act;

[1] S. 627.062(1), F.S.
[2] S. 627.0651(1), F.S.
[3] S. 817.234, F.S.
[4] S. 817.234(5), F.S.

    - s. 627.732, F.S., which provides definitions related to motor vehicle insurance;
    - s. 627.736(17), F.S., which provides personal injury protection (PIP) insurance requirements;
    - s. 817.234, F.S., which provides criminal penalties for false and fraudulent insurance claims; and
    - s. 817.505, F.S., which prohibits patient brokering.
- repayment of claims paid for pursuant to actions or allegations of common law fraud, civil conspiracy, unjust enrichment, or unlawful conduct.

The bill also requires that, if an insurer that has been damaged as a result of a violation of one of the above statutory chapter parts or sections and obtains a repayment or refund of claims paid pursuant to PIP insurance coverage, the insurer must report the amount of funds received as a result of a claim, settlement, or judgment, including attorney fees and costs to DFS.[5]

B. SECTION DIRECTORY:

Section 1. Creates the "Transparency in Recoveries Act."

Section 2. Amends s. 627.0651, F.S., relating to making and use of rates for motor vehicle insurance.

Section 3. Amends s. 817.234, F.S., relating to false and fraudulent insurance claims.

Section 4. Provides an effective date of July 1, 2024.

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:

The bill may have a positive direct economic impact on motor vehicle insurance policyholders if the recovery of funds by insurers for judgments, settlements, attorney fees and costs, or recovered payments results in lower premiums.

D. FISCAL COMMENTS:

[5] The bill places this new requirement adjacent to the others in s. 817.234(5), F.S., which provide for an insurer's cause of action to recover compensatory damages due to insurance fraud for which there has been a criminal adjudication of guilt.

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to insurance claims; providing a short title; amending s. 627.0651, F.S.; requiring the Office of Insurance Regulation to consider the recovery of funds under specified provisions in reviewing rates; amending s. 817.234, F.S.; requiring insurers to report the recovery of funds under specified provisions; specifying that an insured's payment of a deductible or copayment is not a condition of an insurer's payment obligations; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Transparency in Recoveries Act."

Section 2. Paragraphs (g) through (l) of subsection (2) of section 627.0651, Florida Statutes, are redesignated as paragraphs (h) through (m), respectively, a new paragraph (g) is added to that subsection, and paragraphs (d) and (e) of subsection (14) of that section are amended, to read:

627.0651 Making and use of rates for motor vehicle insurance.—

(2) Upon receiving notice of a rate filing or rate change, the office shall review the rate or rate change to determine if

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the rate is excessive, inadequate, or unfairly discriminatory. In making that determination, the office shall in accordance with generally accepted and reasonable actuarial techniques consider the following factors:

(g) Recovery of funds by judgment or settlement and attorney fees and costs awarded or returned for payments recovered as a result of claimed violations of s. 456.054, part X of chapter 400, part II of chapter 501, s. 627.732, s. 627.736(17), s. 817.234, or s. 817.505 or repayment of claims paid for pursuant to actions or allegations of common law fraud, civil conspiracy, unjust enrichment, or unlawful conduct.

(14)

(d) An insurer must notify the office of any changes to rates for type of insurance described in this subsection no later than 30 days after the effective date of the change. The notice shall include the name of the insurer, the type or kind of insurance subject to rate change, and the average statewide percentage change in rates. Actuarial data with regard to rates for risks described in this subsection shall be maintained by the insurer for 2 years after the effective date of changes to those rates and are subject to examination by the office. The office may require the insurer to incur the costs associated with an examination. Upon examination, the office shall, in accordance with generally accepted and reasonable actuarial techniques, consider the factors in paragraphs (2)(a)-(m)

~~(2)(a)-(l)~~ and apply subsections (3)-(8) to determine if the rate is excessive, inadequate, or unfairly discriminatory.

(e) A rating organization must notify the office of any changes to loss cost for the type of insurance described in this subsection no later than 30 days after the effective date of the change. The notice shall include the name of the rating organization, the type or kind of insurance subject to a loss cost change, loss costs during the immediately preceding year for the type or kind of insurance subject to the loss cost change, and the average statewide percentage change in loss cost. Actuarial data with regard to changes to loss cost for risks not subject to subsection (1), subsection (2), or subsection (9) shall be maintained by the rating organization for 2 years after the effective date of the change and are subject to examination by the office. The office may require the rating organization to incur the costs associated with an examination. Upon examination, the office shall, in accordance with generally accepted and reasonable actuarial techniques, consider the rate factors in paragraphs (2)(a)-(m) ~~(2)(a)-(l)~~ and apply subsections (3)-(8) to determine if the rate is excessive, inadequate, or unfairly discriminatory.

Section 3. Paragraph (c) is added to subsection (5) of section 817.234, Florida Statutes, and subsection (7) of that section is amended, to read:

817.234 False and fraudulent insurance claims.—

(5)

(c) If an insurer damaged as a result of a violation of any provision of this section or s. 456.054, part X of chapter 400, part II of chapter 501, s. 627.732, s. 627.736(17), s. 817.234, or s. 817.505 and the insurer obtains repayment or a refund of claims paid pursuant to s. 627.736, the insurer shall report to the department the amount of funds received as a result of a claim, settlement, or judgment, inclusive of attorney fees and costs, of such repayment of funds.

(7)(a) It shall constitute a material omission and insurance fraud, punishable as provided in subsection (11), for any service provider, other than a hospital, to engage in a general business practice of billing amounts as its usual and customary charge, if such provider has agreed with the insured or intends to waive deductibles or copayments, or does not for any other reason intend to collect the total amount of such charge. With respect to a determination as to whether a service provider has engaged in such general business practice, consideration shall be given to evidence of whether the physician or other provider made a good faith attempt to collect such deductible or copayment. This paragraph does not apply to physicians or other providers who defer collection of ~~waive~~ deductibles or copayments or reduce their bills as part of a bodily injury settlement or verdict. Payment by an insured of a deductible or copayment is not a condition of an insurer's

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payment obligations.

(b) The provisions of this section shall also apply as to any insurer or adjusting firm or its agents or representatives who, with intent, injure, defraud, or deceive any claimant with regard to any claim. The claimant shall have the right to recover the damages provided in this section.

(c) An insurer, or any person acting at the direction of or on behalf of an insurer, may not change an opinion in a mental or physical report prepared under s. 627.736(7) or direct the physician preparing the report to change such opinion; however, this paragraph ~~provision~~ does not preclude the insurer from calling to the attention of the physician errors of fact in the report based upon information in the claim file. Any person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) A contractor, or a person acting on behalf of a contractor, may not knowingly or willfully and with intent to injure, defraud, or deceive, pay, waive, or rebate all or part of an insurance deductible applicable to payment to the contractor, or a person acting on behalf of a contractor, for repairs to property covered by a property insurance policy. A person who violates this paragraph commits a ~~third degree~~ felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 4. This act shall take effect July 1, 2024.

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HB 851

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 851 Nonprofit Agricultural Organization Health Coverage
SPONSOR(S): Anderson
TIED BILLS: **IDEN./SIM. BILLS:** SB 876

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Herrera	Lloyd
2) Select Committee on Health Innovation			
3) Commerce Committee			

SUMMARY ANALYSIS

Health insurance is vital for protecting individuals from financial strain due to accidents, illnesses, or disabilities. Managed care, such as preferred provider organizations (PPOs) and health maintenance organizations (HMOs), integrates healthcare delivery and financing, ensuring cost-effective medical services within controlled networks.

An association health plan (AHP) is a group purchasing arrangement in which members of a trade group or professional association jointly obtain health insurance for employees. These arrangements differ from traditional group insurance by their unique structure, since they involve the purchase of insurance products across multiple employers.

The Office of Insurance Regulation (OIR), supervises and examines insurers ensuring compliance with applicable regulations, including performing market conduct examinations and monitoring insurer solvency. This includes the oversight of authorized insurers providing health insurance. A guaranty association is typically a nonprofit corporation established by law to safeguard policyholders against financial losses and delays in claim payment and settlement resulting from the insolvency of an insurance company. Every insurer licensed to sell direct life insurance policies, health insurance policies, annuity contracts, and supplemental contracts in the state must participate in the Florida Life and Health Insurance Guaranty Association (FLHIGA).

In a number of states, Farm Bureau Plans (FBPs) have been provide an exemption from regulation by the state's insurance regulatory authority to provide health coverage that is not regulated as an insurance product. The FBPs provide healthcare options to its members, typically catering to individuals and families within rural communities, including farmers and agricultural workers. To access FBPs, individuals must join their state's Farm Bureau organization. FBPs operate under a unique exemption from state insurance regulations, distinguishing them from traditional health insurance offerings.

The bill exempts the health coverage provided by a nonprofit agricultural organization from the regulation of insurance and insolvency guaranties provided by law to the consumers of such organizations under the Florida Insurance Code.

The bill may have a negative fiscal impact on state government revenues. It has no fiscal impact on state government expenses or local government revenues or expenses. It may have a positive economic impact on the private sector.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Health Insurance

Health insurance is the insurance of human beings against bodily injury or disablement by accident or sickness, including the expenses associated with such injury, disablement, or sickness.[1] Individuals purchase health insurance coverage with the purpose of managing anticipated expenses related to health or protecting themselves from unexpected medical bills or large health care costs. Managed care is the most common delivery system for medical care today by health insurers.[2] Managed care systems combine the delivery and financing of health care services by limiting the choice of doctors and hospitals.[3] In return for this limited choice, however, medical care is less costly due to the managed care network's ability to control health care services. Some common forms of managed care are preferred provider organizations[4] (PPO) and health maintenance organizations[5] (HMO).

Office of Insurance Regulation

The Office of Insurance Regulation (OIR) regulates specified insurance products, insurers and other risk bearing entities in Florida.[6] The Financial Services Commission (FSC), composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, serves as the OIR agency head for purposes of rulemaking. Further, the FSC appoints the OIR Commissioner.

As part of their regulatory oversight, the OIR may suspend or revoke an insurer's certificate of authority under certain conditions.[7] The OIR is responsible for examining the affairs, transactions, accounts, records, and assets of each insurer that holds a certificate of authority to transact insurance business in Florida.[8] As part of the examination process, all persons being examined must make available to the OIR the accounts, records, documents, files, information, assets, and matters in their possession or control that relate to the subject of the examination.[9] The OIR is also authorized to conduct market conduct examinations to determine compliance with applicable provisions of the Insurance Code (FIC).[10]

Health Maintenance Organizations

Health Maintenance Organizations (HMOs) in Florida operate within a regulatory framework overseen by OIR. To offer health insurance plans in Florida, HMOs must obtain a license from the OIR.[11] Managed care plans are the primary offerings of HMOs in Florida. These plans provide comprehensive healthcare services to members for a fixed monthly premium.[12] Members typically select a primary care physician from within the HMO's network, who serves as the main point of contact for all healthcare needs and referrals to specialists.[13]

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[1] S. 624.603, F.S.
[2] Florida Department of Financial Services, *Health Insurance and Health Maintenance Organizations, A Guide for Consumers,* available at: https://www.myfloridacfo.com/docs-sf/consumer-services-libraries/ (last visited Jan. 26, 2024).
[3] *Id*.
[4] S. 627.6471, F.S.
[5] Part I of ch. 641, F.S.
[6] S. 20.121(3)(a), F.S.
[7] S. 624.418, F.S
[8] S. 624, 316(1)(a), F.S.
[9] S. 624.318(2), F.S.
[10] *See* S. 624.3161, F.S. The Code is comprised of chs. 624-632, 634-636, 641, 642, 648, and 651, F.S. S. 624.01, F.S.
[11] S. 641.21(1), F.S.
[12] Medicare, What's an HMO? https://www.medicare.gov/health-drug-plans/health-plans/. (last visited Jan. 26, 2024).
[13] *Id*.

HMOs maintain networks of healthcare providers, including primary care physicians, specialists, hospitals, and other healthcare facilities.[14] Members are generally required to receive care from within the HMO's network, with exceptions for emergencies or authorized out-of-network care.[15]

Florida law provides various consumer protections for individuals enrolled in HMO plans, including guaranteed access to emergency services, coverage for essential health benefits mandated by the Affordable Care Act, and the right to appeal coverage decisions made by the HMO.[16]

Association Health Plans (AHPs)

An association health plan (AHP) is a group purchasing arrangement in which members of a trade group or professional association jointly obtain health insurance for employees. These arrangements differ from traditional group insurance by their unique structure, since they involve the purchase of insurance products across multiple employers.

On June 21, 2018, the Employee Benefits Security Administration within the federal Department of Labor (DOL) issued a final rule amending the parameters for association health plans (AHPs),[17] consistent with the directives of a 2017 Presidential Executive Order.[18] The revised regulations were intended to give an employer greater flexibility to participate in an AHP. The new federal rule, among other things, permitted establishing an AHP for the explicit purpose of providing health coverage, so long as the association has another legitimate purpose for members and allowed the self-employed and sole proprietors to participate in an AHP.[19] Overall, the federal rule was designed to offer an expanded pathway for the establishment of an AHP.

In July 2018, eleven states[20] and the District of Columbia sued the DOL, alleging the final rule, and particularly the rule's provisions on bona fide association and working owner provisions, conflicted with the text and purpose of Employee Retirement Income Security Act (ERISA) and Patient Portability and Affordable Care Act (PPACA), and exceeded DOL's statutory authority.[21] On March 28, 2019, the U.S. District Court for the District of Columbia agreed with the states, finding that the DOL unreasonably expanded ERISA's definition of "employers" as an end run around the requirements of PPACA.[22] The court struck down the portions of the DOL's AHP rule that expanded the ability of small businesses and owners to buy health insurance on the large group market that was not subject to PPACA requirements that apply to the small group market.[23]

State Regulation of AHPs

The regulatory oversight of health insurance is generally reserved to the states, except when explicitly preempted by federal law. In Florida, OIR is responsible for all activities concerning insurers and other risk bearing entities, including licensing, rates, policy forms, market conduct, claims, issuing certificates of authority, solvency, viatical settlements, premium financing, and administrative supervision, as provided under the FIC.[24]

[14] S. 641.19(12), F.S.
[15] Medicare, *What's an HMO?*, https://www.medicare.gov/health-drug-plans/health-plans/. (last visited Jan. 26, 2024).
[16] Consumer Services, *Health Insurance & HMO Overview*, https://www.myfloridacfo.com/division/consumers/understanding-insurance/health-insurance-and-hmo-overview (last visited Jan. 26, 2024).
[17] Definition of "Employer" Under Section 3(5) of ERISA-Association Health Plans, 83 FR 28912. June 21, 2018.
[18] Promoting Healthcare Choice and Competition Across the United States, 82 FR 48385. October 21, 2017.
[19] Milliman, Inc., *"Association health plans after the final rule"*, August 22, 2018, available at http://www.milliman.com/insight/2018/Association-health-plans-after-the-final-rule/ (last viewed on Jan. 30, 2024).
[20] California, Delaware, Kentucky, Maryland, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, Virginia, and Washington.
[21] State of New York, et al. v. U.S. Department of Labor, et al., No. 1:18-cv-01747 (D.D.C. Mar. 28, 2019).
[22] *Id*.
[23] *Id*.
[24] S. 20.121(3)(a)1., F.S. The OIR's commissioner is the agency head for purposes of final agency action, and its rulemaking body is the Financial Services Commission (the Governor and the Cabinet).

All health insurance policies issued in Florida, with the exception of certain self-insured policies,[25] must meet certain requirements that are detailed throughout the FIC. Ch. 627, F.S., sets parameters and requirements for health insurance policies and ch. 641, F.S., provides requirements for health plans issued by HMOs. At a minimum, insurance policies must specify premium rates, services covered, and effective dates. Insurers must document the time when a policy takes effect and the period during which the policy remains in effect.[26]

Florida Life and Health Insurance Guaranty Association

A guaranty association is typically a nonprofit corporation established by law to safeguard policyholders against financial losses and delays in claim payment and settlement resulting from the insolvency of an insurance company. In the event of an insolvency of a member, the guaranty association takes over the servicing of claims on eligible policies. Authorized insurers in Florida are typically required to participate in the applicable guaranty association for the relevant line of insurance as a condition of eligibility to transact insurance in the state.

Section 631.715, F.S., establishes the Florida Life and Health Insurance Guaranty Association (FLHIGA). Every insurer licensed to sell direct life insurance policies, health insurance policies, annuity contracts, and supplemental contracts in the state must participate in FLHIGA as a requirement for conducting business in Florida.[27] FLHIGA functions as a nonprofit corporation, governed by a Board of Directors consisting of nine to eleven members appointed by member insurers.[28]

Farm Bureau Health Plan

In a number of states, Farm Bureau Plans (FBPs) have been provide an exemption from regulation by the state's insurance regulatory authority to provide health coverage that is not regulated as an insurance product. The FBPs operate as healthcare options provided by a state's Farm Bureau to its members, typically catering to individuals and families within rural communities, including farmers and agricultural workers. To access FBPs, individuals must join their state's Farm Bureau organization. Membership often entails paying dues to support the Farm Bureau's advocacy and community initiatives. FBPs operate under a unique exemption from state insurance regulations, distinguishing them from traditional health insurance offerings. This exemption allows FBPs to be considered separately from standard health insurance products. Unlike typical health insurance, FBPs, which predate the Affordable Care Act (ACA), utilize medical underwriting and are not subject to state or federal insurance mandates. Consequently, they can decline applicants based on medical history or impose waiting periods for pre-existing conditions without having to comply with essential health benefit requirements or maximum out-of-pocket limits mandated for ACA-compliant plans. While FBPs aren't classified as insurance, they still provide comprehensive benefits. In every state with FBPs, they typically offer options for comprehensive coverage at reasonable monthly costs, including free or low-cost preventative care, prescription drug coverage, telehealth services, dental and vision care options, and health savings accounts for qualified High Deductible Health Plans, with most plans having no annual or lifetime limits. Unlike individual market plans, participants can enroll in FBPs at any time.[29]

Effect of the Bill

The bill exempts the health coverage provided by a nonprofit agricultural organization from the regulation of insurance and insolvency guaranties provided by law to the consumers of such organizations under the Florida Insurance Code.

[25] 29 U.S.C. 18 § 1001 et seq. ERISA regulates certain self-insured plans, which represent approximately 50 percent of the insureds in Florida. These plans cannot be regulated by state law.
[26] S. 627.413(1)(d), F.S.
[27] S. 631.716(1), F.S.
[28] *Id*.
[29] The states are Tennessee, Iowa, Kansas, Indiana, and Texas. The Foundation for Government Accountability, *Farm Bureau Health Coverage Plans*, https://thefga.org/wp-content/uploads/2021/01/Farm-Bureau-Plans-FAQ.pdf (last visited Jan. 30, 2024).

B. SECTION DIRECTORY:

Section 1: Creates the "Nonprofit Agricultural Organization Health Coverage Act of 2024."

Section 2: Retitles the "Fraternal Benefit Societies" to the "Fraternal Benefit Societies and Nonprofit Agricultural Organizations."

Section 3: Redesignates ss. 632.601 through 632.638, F.S. as part I of Ch. 632.

Section 4: Creates s. 624.4032, F.S., relating to nonprofit agricultural organization health coverage.

Section 5: Providing an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Insurance premium tax revenues may be reduced to the extent that purchasers of health coverage shift their business from health insurance to the exempt health coverage proposed by the bill.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Members of eligible nonprofit agricultural organizations may realize savings on health coverage to the extent that health coverage products offered by such organizations are priced lower that insurance products that they may already purchase.

D. FISCAL COMMENTS:

The bill makes no provision for solvency guaranties similar to that currently provided under the FIC. In the event of an insolvency, it is unclear if there will be any guaranty of payment of the health coverage purchased under the operable health coverage agreements at the time of any insolvency.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to nonprofit agricultural organization health coverage; providing a short title; retitling ch. 632, F.S.; designating part I of ch. 632, F.S.; creating part II of ch. 632, F.S., entitled "Nonprofit Agricultural Organizations"; providing purpose; defining the term "nonprofit agricultural organization"; providing that the health coverage provided by nonprofit agricultural organizations is not insurance for purposes of the Florida Insurance Code; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Nonprofit Agricultural Organization Health Coverage Act of 2024."

Section 2. Chapter 632, Florida Statutes, entitled "Fraternal Benefit Societies," is retitled "Fraternal Benefit Societies and Nonprofit Agricultural Organizations."

Section 3. Sections 632.601 through 632.638, Florida Statutes, are designated as part I of chapter 632, Florida Statutes" and entitled "Fraternal Benefit Societies."

Section 4. Part II of chapter 632, Florida Statutes, consisting of section 632.701, Florida Statutes, is created to read:

CODING: Words stricken are deletions; words underlined are additions.

PART II

NONPROFIT AGRICULTURAL ORGANIZATIONS

624.4032 Nonprofit agricultural organization health coverage.—

(1) The purpose of this section is to allow nonprofit agriculture organizations to offer health coverage options to their members.

(2) As used in this section, the term "nonprofit agricultural organization" means an organization that:

(a) Is domiciled in this state.

(b) Is exempt from federal income tax under s. 501(c) of the Internal Revenue Code.

(c) Was created primarily to promote programs for the development of rural communities and the economic stability and sustainability of farmers in this state.

(d) Exists to serve its members beyond only offering health coverage.

(e) Collects annual dues from its members.

(f) Was in existence before 1945.

(g) Is composed of members who are residents of the majority of counties in this state.

(3) Notwithstanding any law to the contrary, the health coverage provided by a nonprofit agricultural organization is not insurance for purposes of the Florida Insurance Code.

Section 5. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 893 Coverage by Citizens Property Insurance Corporation
SPONSOR(S): Lopez, V. and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1428

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Fortenberry	Lloyd
2) Commerce Committee			

SUMMARY ANALYSIS

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 traditionally considered the property insurer of last resort. Citizens is not a private insurance company. 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).

From 2007 until 2010, Citizens' rates were frozen by statute at the level that had been established in 2006. In 2010, the Legislature established a "glidepath" to impose annual rate increases up to a level that is actuarially sound. Under the original established glidepath, Citizens had to implement an annual rate increase which, except for sinkhole coverage, does not exceed 10 percent above the previous year for any individual policyholder, adjusted for coverage changes and surcharges. In 2021, the Legislature revised this glidepath to increase it one percentage point per year until it reaches 15 percent.

Current law requires Citizens to provide a procedure for determining the eligibility of a potential risk for coverage from Citizens, and specific eligibility requirements based on premium amounts, value of the property insured, and the location of the property. The policies that Citizens writes include standard comprehensive multiperil policies; basic personal lines policies which are similar to dwelling fire policies; commercial lines residential and nonresidential policies which are generally similar to the basic perils of full coverage obtainable for commercial residential structures and commercial nonresidential structures in the private market; and personal lines, commercial lines residential, and commercial lines nonresidential property insurance policies that cover the peril of wind only.

The bill instructs Citizens to reevaluate the area in which it offers policies that provide wind-only coverage. Citizens may amend the wind-eligible areas, subject to legislative approval, by developing new eligibility criteria and rates for such policies. In developing the eligibility and rates, Citizens may consider:

- The market for wind-only coverage in the areas in which such coverage is to be offered.
- The resulting impact to Citizens' overall exposure by offering such coverage in those areas.
- The reasonably prudent measures for limiting its exposure upon offering wind-only coverage in those areas.

The bill establishes that rates for coverage offered in wind-eligible areas are subject to both the insurance ratemaking standard, i.e., that rates not be not be inadequate, excessive, or unfairly discriminatory, and the "glidepath."

The bill requires that, by December 1 of each year, beginning in 2025, Citizens submit to the Legislature the eligibility criteria and rates that it has developed regarding wind-only coverage for review and approval. After the Legislature has approved the eligibility criteria and rates, OIR shall implement them.

The bill has no impact on local or state government revenues or expenditures. The bill may have an indeterminate positive or negative impact on the private sector.

The bill is effective July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

APPROVAL OF INSURANCE RATE FILINGS

In general, insurers must file a copy of rates, rating schedules, rating manuals, premium credits or discount schedules, and surcharge schedules, and changes to these documents, for approval by the Office of Insurance Regulation (OIR).[1] OIR must review insurers' rate filings to determine whether rates are excessive, inadequate, or unfairly discriminatory.[2] In doing so, OIR must consider factors including, but not limited to, the following:

- Past and prospective loss experience in and out of Florida.
- Past and prospective expenses.
- Degree of competition among insurers for particular risk to be insured.
- Investment income reasonably expected by the insurer.
- Reasonableness of the judgment reflected in the filing.
- Dividends, savings, or unabsorbed premium deposits allowed or returns to policyholders, members or subscribers in Florida.
- Adequacy of loss reserves.
- Cost of reinsurance.
- Trend factors.
- Conflagration and catastrophe hazards, if applicable.
- Projected hurricane losses.
- Projected flood losses.
- Reasonable margin for underwriting profit and contingencies.[3]

CITIZENS PROPERTY INSURANCE CORPORATION (CITIZENS)

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.[4] It is traditionally considered the property insurer of last resort. Citizens is not a private insurance company.[5] 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).[6]

Applicants are eligible for coverage if no admitted private carrier will write them a policy for a premium that is within 20 percent greater than what Citizens would offer for comparable coverage.[7] Citizens may cover homes if the cost of replacing the dwelling, or the dwelling and its' contents, is no more than $700,000. In Miami-Dade and Monroe counties, Citizens may insure structures valued up to $1 million as long as OIR continues to determine that these counties do not have a reasonable degree of competition in the personal lines residential market.[8]

[1] S. 627.062(2)(a), F.S.
[2] S. 627.062(1), F.S.
[3] S. 627.062(2)(b), F.S.
[4] The term "admitted market" means insurance companies licensed to transact insurance in Florida.
[5] Section 627.351(6)(a)1., F.S.
[6] Section 2, ch. 2002-240, Laws of Fla.
[7] S. 627.351(6)(c)5.a, F.S.
[8] S. 627.351(6)(a)3, F.S. If OIR makes a finding that other counties are not competitive, Citizens would be able to insure properties up to $1 million in value in those counties, as well.

From 2007 until 2010, Citizens' rates were frozen by statute at the level that had been established in 2006. In 2010, the Legislature established a "glidepath" to impose annual rate increases up to a level that is actuarially sound. Under the original established glidepath, Citizens had to implement an annual rate increase which, except for sinkhole coverage, does not exceed 10 percent above the previous year for any individual policyholder, adjusted for coverage changes and surcharges. In 2021, the Legislature revised this glidepath to increase it one percentage point per year until it reaches 15 percent, as follows: [9]

- 11 percent for 2022.
- 12 percent for 2023.
- 13 percent for 2024.
- 14 percent for 2025.
- 15 percent for 2026 and all subsequent years.

Current law requires Citizens to provide a procedure for determining the eligibility of a potential risk for coverage from Citizens, and 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 also has additional eligibility requirements set out in their underwriting rules. These rules are approved by OIR and set out in Citizens' underwriting manuals.

The policies that Citizens writes include the following:

- Standard Personal Lines Policies – comprehensive multiperil policies providing full coverage of residential property equivalent to the coverage provided in the private insurance market;
- Basic Personal Lines Policies – similar to dwelling fire policies that provide coverage meeting the requirements of the secondary mortgage market, but are more limited in coverage than under a standard policy;
- Commercial Lines Residential and Nonresidential Policies – generally similar to the basic perils of full coverage obtainable for commercial residential structures and commercial nonresidential structures in the private market;
- Personal Lines and Commercial Lines Residential Property Insurance Policies – cover the peril of wind only;
- Commercial Lines Nonresidential Property Insurance Policies – cover the peril of wind only.[10]

Effect of the Bill

The bill instructs Citizens to reevaluate the area in which it offers policies that provide wind-only coverage. Citizens may amend the wind-eligible areas, subject to legislative approval, by developing new eligibility criteria and rates for such policies. In developing the eligibility and rates, Citizens may consider:

- The market for wind-only coverage in the areas in which such coverage is to be offered.
- The resulting impact to Citizens' overall exposure by offering such coverage in those areas.
- The reasonably prudent measures for limiting its exposure upon offering wind-only coverage in those areas.

The bill establishes that rates for coverage offered in wind-eligible areas are subject to s. 627.351(6)(n), F.S., which provides for OIR review and approval of Citizens rates, consistent with the rate-making standard in s. 627.062, F.S., which requires rates to not be inadequate, excessive, or unfairly discriminatory, and subjects these rates to the glidepath limitation.

The bill requires that, by December 1 of each year, beginning in 2025, Citizens submit to the Legislature the eligibility criteria and rates that it has developed regarding wind-only coverage for review and approval. After the Legislature has approved the eligibility criteria and rates, OIR shall implement them.

[9] S. 627.351(6)(n)5., F.S.
[10] S. 627.351(6)(c)1., F.S.

The bill also defines "wind-eligible area" as the area that is eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002. The purpose of this definition is to differentiate between the areas currently eligible for wind-only coverage and those that may be eligible after Citizens reevaluates the area in which it offers wind-only policies.

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, 2024.

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:

The bill may have an indeterminate positive or negative impact on the private sector. A reevaluation of the wind-eligible areas could have a positive or negative impact on rates for wind-only policies issued by Citizens.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill contains an internal inconsistency. It says that the rates for wind-eligible areas are subject to s. 627.351(6)(n), F.S., which provides for OIR review and approval of Citizens rates, consistent with the rate-making standard in s. 627.062, F.S., which requires rates to not be inadequate, excessive, or unfairly discriminatory, and subjects these rates to the glidepath limitation. However, the bill also says that the that rate would be submitted to the Legislature for approval prior to OIR implementation. This appears to both require OIR approval of rates and deprive OIR of approval authority.

Consideration should be given to amending the bill so that the Legislature is not approving Citizens rates. OIR is ordinarily responsible for approval of insurance rates, including those for wind coverage, because it has the actuarial staff with expertise in rate review and approval.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to coverage by the Citizens Property Insurance Corporation; amending s. 627.351, F.S.; revising the types of policies that go to specified accounts of the Citizens Property Insurance Corporation; revising the requirements for areas that are eligible for certain personal residential and commercial residential and commercial nonresidential policy coverages by the corporation; authorizing the corporation to amend wind-eligible areas under certain circumstances; authorizing the corporation to consider certain factors in developing new eligibility criteria and rates for policies that provide wind-only coverage; providing that such rates are subject to specified provisions; requiring such eligibility criteria and rates to be reported to the Legislature for review and approval; requiring the Office of Insurance Regulation to implement eligibility criterial and rates under certain circumstances; defining the term "wind-eligible area"; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (7) of section 627.351, Florida

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

Statutes, is renumbered as subsection (8), paragraph (b) of subsection (6) and present subsection (7) are amended, and a new subsection (7) is added to that section, to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(b)1. All insurers authorized to write one or more subject lines of business in this state are subject to assessment by the corporation and, for the purposes of this subsection, are referred to collectively as "assessable insurers." Insurers writing one or more subject lines of business in this state pursuant to part VIII of chapter 626 are not assessable insurers; however, insureds who procure one or more subject lines of business in this state pursuant to part VIII of chapter 626 are subject to assessment by the corporation and are referred to collectively as "assessable insureds." An insurer's assessment liability begins on the first day of the calendar year following the year in which the insurer was issued a certificate of authority to transact insurance for subject lines of business in this state and terminates 1 year after the end of the first calendar year during which the insurer no longer holds a certificate of authority to transact insurance for subject lines of business in this state.

2.a. All revenues, assets, liabilities, losses, and expenses of the corporation shall be divided into three separate accounts as follows:

(I) A personal lines account for personal residential policies issued by the corporation which provides comprehensive, multiperil coverage on risks that are not located in areas eligible for coverage by the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, or included as eligible for coverage by the corporation and for policies that do not provide coverage for the peril of wind on risks that are located in such areas;

(II) A commercial lines account for commercial residential and commercial nonresidential policies issued by the corporation which provides coverage for basic property perils on risks that are not located in areas eligible for coverage by the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, or included as eligible for coverage by the corporation and for policies that do not provide coverage for the peril of wind on risks that are located in such areas; and

(III) A coastal account for personal residential policies and commercial residential and commercial nonresidential property policies issued by the corporation which provides coverage for the peril of wind on risks that are located in areas eligible for coverage by the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, or included as eligible for coverage by the corporation. The corporation may offer policies that provide multiperil coverage and shall offer policies that provide

coverage only for the peril of wind for risks located in areas eligible for coverage in the coastal account. Effective July 1, 2014, the corporation shall cease offering new commercial residential policies providing multiperil coverage and shall instead continue to offer commercial residential wind-only policies, and may offer commercial residential policies excluding wind. The corporation may, however, continue to renew a commercial residential multiperil policy on a building that is insured by the corporation on June 30, 2014, under a multiperil policy. In issuing multiperil coverage, the corporation may use its approved policy forms and rates for the personal lines account. An applicant or insured who is eligible to purchase a multiperil policy from the corporation may purchase a multiperil policy from an authorized insurer without prejudice to the applicant's or insured's eligibility to prospectively purchase a policy that provides coverage only for the peril of wind from the corporation. An applicant or insured who is eligible for a corporation policy that provides coverage only for the peril of wind may elect to purchase or retain such policy and also purchase or retain coverage excluding wind from an authorized insurer without prejudice to the applicant's or insured's eligibility to prospectively purchase a policy that provides multiperil coverage from the corporation. It is the goal of the Legislature that there be an overall average savings of 10 percent or more for a policyholder who currently has a wind-only

policy with the corporation, and an ex-wind policy with a voluntary insurer or the corporation, and who obtains a multiperil policy from the corporation. It is the intent of the Legislature that the offer of multiperil coverage in the coastal account be made and implemented in a manner that does not adversely affect the tax-exempt status of the corporation or creditworthiness of or security for currently outstanding financing obligations or credit facilities of the coastal account, the personal lines account, or the commercial lines account. The coastal account must also include quota share primary insurance under subparagraph (c)2. The area eligible for coverage under the coastal account also includes the area within Port Canaveral, which is bordered on the south by the City of Cape Canaveral, bordered on the west by the Banana River, and bordered on the north by Federal Government property.

b. The three separate accounts must be maintained as long as financing obligations entered into by the Florida Windstorm Underwriting Association or Residential Property and Casualty Joint Underwriting Association are outstanding, in accordance with the terms of the corresponding financing documents. If no such financing obligations remain outstanding or if the financing documents allow for combining of accounts, the corporation may consolidate the three separate accounts into a new account, to be known as the Citizens account, for all revenues, assets, liabilities, losses, and expenses of the

corporation. The Citizens account, if established by the corporation, is authorized to provide coverage to the same extent as provided under each of the three separate accounts. The authority to provide coverage under the Citizens account is set forth in subparagraph 4. Consistent with this subparagraph and prudent investment policies that minimize the cost of carrying debt, the board shall exercise its best efforts to retire existing debt or obtain the approval of necessary parties to amend the terms of existing debt, so as to structure the most efficient plan for consolidating the three separate accounts into a single account. Once the accounts are combined into one account, this subparagraph and subparagraph 3. shall be replaced in their entirety by subparagraphs 4. and 5.

c. Creditors of the Residential Property and Casualty Joint Underwriting Association and the accounts specified in sub-sub-subparagraphs a.(I) and (II) may have a claim against, and recourse to, those accounts and no claim against, or recourse to, the account referred to in sub-sub-subparagraph a.(III). Creditors of the Florida Windstorm Underwriting Association have a claim against, and recourse to, the account referred to in sub-sub-subparagraph a.(III) and no claim against, or recourse to, the accounts referred to in sub-sub-subparagraphs a.(I) and (II).

d. Revenues, assets, liabilities, losses, and expenses not attributable to particular accounts shall be prorated among the

accounts.

e. The Legislature finds that the revenues of the corporation are revenues that are necessary to meet the requirements set forth in documents authorizing the issuance of bonds under this subsection.

f. The income of the corporation may not inure to the benefit of any private person.

3. With respect to a deficit in an account:

a. After accounting for the Citizens policyholder surcharge imposed under sub-subparagraph j., if the remaining projected deficit incurred in the coastal account in a particular calendar year:

(I) Is not greater than 2 percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year, the entire deficit shall be recovered through regular assessments of assessable insurers under paragraph (q) and assessable insureds.

(II) Exceeds 2 percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year, the corporation shall levy regular assessments on assessable insurers under paragraph (q) and on assessable insureds in an amount equal to the greater of 2 percent of the projected deficit or 2 percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year. Any remaining projected deficit shall be

recovered through emergency assessments under sub-subparagraph e.

b. Each assessable insurer's share of the amount being assessed under sub-subparagraph a. must be in the proportion that the assessable insurer's direct written premium for the subject lines of business for the year preceding the assessment bears to the aggregate statewide direct written premium for the subject lines of business for that year. The assessment percentage applicable to each assessable insured is the ratio of the amount being assessed under sub-subparagraph a. to the aggregate statewide direct written premium for the subject lines of business for the prior year. Assessments levied by the corporation on assessable insurers under sub-subparagraph a. must be paid as required by the corporation's plan of operation and paragraph (q). Assessments levied by the corporation on assessable insureds under sub-subparagraph a. shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932, and paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to that office. Upon receipt of regular assessments from surplus lines agents, the Florida Surplus Lines Service Office shall transfer the assessments directly to the corporation as determined by the corporation.

c. The corporation may not levy regular assessments under

paragraph (q) pursuant to sub-subparagraph a. or sub-subparagraph b. if the three separate accounts in sub-sub-subparagraphs 2.a.(I)-(III) have been consolidated into the Citizens account pursuant to sub-subparagraph 2.b. However, the outstanding balance of any regular assessment levied by the corporation before establishment of the Citizens account remains payable to the corporation.

d. After accounting for the Citizens policyholder surcharge imposed under sub-subparagraph j., the remaining projected deficits in the personal lines account and in the commercial lines account in a particular calendar year shall be recovered through emergency assessments under sub-subparagraph e.

e. Upon a determination by the board of governors that a projected deficit in an account exceeds the amount that is expected to be recovered through regular assessments under sub-subparagraph a., plus the amount that is expected to be recovered through surcharges under sub-subparagraph j., the board, after verification by the office, shall levy emergency assessments for as many years as necessary to cover the deficits, to be collected by assessable insurers and the corporation and collected from assessable insureds upon issuance or renewal of policies for subject lines of business, excluding National Flood Insurance policies. The amount collected in a particular year must be a uniform percentage of that year's

direct written premium for subject lines of business and all accounts of the corporation, excluding National Flood Insurance Program policy premiums, as annually determined by the board and verified by the office. The office shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. The office shall notify assessable insurers and the Florida Surplus Lines Service Office of the date on which assessable insurers shall begin to collect and assessable insureds shall begin to pay such assessment. The date must be at least 90 days after the date the corporation levies emergency assessments pursuant to this sub-subparagraph. Notwithstanding any other provision of law, the corporation and each assessable insurer that writes subject lines of business shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. Emergency assessments levied by the corporation on assessable insureds shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to that office. The emergency assessments collected shall be transferred directly to the corporation on a periodic basis as determined by the corporation and held by the corporation solely in the applicable account. The aggregate

amount of emergency assessments levied for an account in any calendar year may be less than but may not exceed the greater of 10 percent of the amount needed to cover the deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit, or 10 percent of the aggregate statewide direct written premium for subject lines of business and all accounts of the corporation for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the deficit.

f. The corporation may pledge the proceeds of assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other insurance and reinsurance recoverables, policyholder surcharges and other surcharges, and other funds available to the corporation as the source of revenue for and to secure bonds issued under paragraph (q), bonds or other indebtedness issued under subparagraph (c)3., or lines of credit or other financing mechanisms issued or created under this subsection, or to retire any other debt incurred as a result of deficits or events giving rise to deficits, or in any other way that the board determines will efficiently recover such deficits. The purpose of the lines of credit or other financing mechanisms is to provide additional resources to assist the corporation in covering claims and expenses attributable to a catastrophe. As used in this subsection, the term "assessments" includes regular assessments under sub-subparagraph a. or subparagraph (q)1. and emergency

assessments under sub-subparagraph e. Emergency assessments collected under sub-subparagraph e. are not part of an insurer's rates, are not premium, and are not subject to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium. The emergency assessments shall continue as long as any bonds issued or other indebtedness incurred with respect to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the documents governing such bonds or indebtedness.

g. As used in this subsection for purposes of any deficit incurred on or after January 25, 2007, the term "subject lines of business" means insurance written by assessable insurers or procured by assessable insureds for all property and casualty lines of business in this state, but not including workers' compensation or medical malpractice. As used in this sub-subparagraph, the term "property and casualty lines of business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers under s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance Program or the Federal Crop Insurance Program. For purposes of this sub-subparagraph, the term

"workers' compensation" includes both workers' compensation insurance and excess workers' compensation insurance.

h. The Florida Surplus Lines Service Office shall determine annually the aggregate statewide written premium in subject lines of business procured by assessable insureds and report that information to the corporation in a form and at a time the corporation specifies to ensure that the corporation can meet the requirements of this subsection and the corporation's financing obligations.

i. The Florida Surplus Lines Service Office shall verify the proper application by surplus lines agents of assessment percentages for regular assessments and emergency assessments levied under this subparagraph on assessable insureds and assist the corporation in ensuring the accurate, timely collection and payment of assessments by surplus lines agents as required by the corporation.

j. Upon determination by the board of governors that an account has a projected deficit, the board shall levy a Citizens policyholder surcharge against all policyholders of the corporation.

(I) The surcharge shall be levied as a uniform percentage of the premium for the policy of up to 15 percent of such premium, which funds shall be used to offset the deficit.

(II) The surcharge is payable upon cancellation or termination of the policy, upon renewal of the policy, or upon

issuance of a new policy by the corporation within the first 12 months after the date of the levy or the period of time necessary to fully collect the surcharge amount.

(III) The corporation may not levy any regular assessments under paragraph (q) pursuant to sub-subparagraph a. or sub-subparagraph b. with respect to a particular year's deficit until the corporation has first levied the full amount of the surcharge authorized by this sub-subparagraph.

(IV) The surcharge is not considered premium and is not subject to commissions, fees, or premium taxes. However, failure to pay the surcharge shall be treated as failure to pay premium.

k. If the amount of any assessments or surcharges collected from corporation policyholders, assessable insurers or their policyholders, or assessable insureds exceeds the amount of the deficits, such excess amounts shall be remitted to and retained by the corporation in a reserve to be used by the corporation, as determined by the board of governors and approved by the office, to pay claims or reduce any past, present, or future plan-year deficits or to reduce outstanding debt.

4. The Citizens account, if established by the corporation pursuant to sub-subparagraph 2.b., is authorized to provide:

a. Personal residential policies that provide comprehensive, multiperil coverage on risks that are not located in areas eligible for coverage by the Florida Windstorm

Underwriting Association, as those areas were defined on January 1, 2002, and for policies that do not provide coverage for the peril of wind on risks that are located in such areas;

b. Commercial residential and commercial nonresidential policies that provide coverage for basic property perils on risks that are not located in areas eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002, and for policies that do not provide coverage for the peril of wind on risks that are located in such areas; and

c. Personal residential policies and commercial residential and commercial nonresidential property policies that provide coverage for the peril of wind on risks that are located in wind-eligible areas ~~eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002~~. The corporation may offer policies that provide multiperil coverage and shall offer policies that provide coverage only for the peril of wind for risks located in wind-legible areas ~~eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002~~. The corporation may not offer new commercial residential policies providing multiperil coverage. The corporation~~, but~~ shall continue to offer commercial residential wind-only policies, and may offer commercial residential policies excluding wind. However, the corporation may continue

to renew a commercial residential multiperil policy on a building that was insured by the corporation on June 30, 2014, under a multiperil policy. In issuing multiperil coverage under this sub-subparagraph, the corporation may use its approved policy forms and rates for risks located in areas that are not wind-eligible ~~eligible for coverage by the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002~~, and for policies that do not provide coverage for the peril of wind on risks that are located in such areas. An applicant or insured who is eligible to purchase a multiperil policy from the corporation may purchase a multiperil policy from an authorized insurer without prejudice to the applicant's or insured's eligibility to prospectively purchase a policy that provides coverage only for the peril of wind from the corporation. An applicant or insured who is eligible for a corporation policy that provides coverage only for the peril of wind may elect to purchase or retain such policy and also purchase or retain coverage excluding wind from an authorized insurer without prejudice to the applicant's or insured's eligibility to prospectively purchase a policy that provides multiperil coverage from the corporation. The following policies, which provide coverage only for the peril of wind, must also include quota share primary insurance under subparagraph (c)2.: Personal residential policies and commercial residential and commercial nonresidential property policies that

provide coverage for the peril of wind on risks that are located in areas eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002; policies that provide multiperil coverage, if offered by the corporation, and policies that provide coverage only for the peril of wind for risks located in areas eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002; commercial residential wind-only policies; commercial residential policies excluding wind, if offered by the corporation; and commercial residential multiperil policies on a building that was insured by the corporation on June 30, 2014. The area eligible for coverage with the corporation under this sub-subparagraph includes the area within Port Canaveral, which is bordered on the south by the City of Cape Canaveral, bordered on the west by the Banana River, and bordered on the north by Federal Government property.

5. With respect to a deficit in the Citizens account:

a. Upon a determination by the board of governors that the Citizens account has a projected deficit, the board shall levy a Citizens policyholder surcharge against all policyholders of the corporation.

(I) The surcharge shall be levied as a uniform percentage of the premium for the policy of up to 15 percent of such premium, which funds shall be used to offset the deficit.

(II) The surcharge is payable upon cancellation or termination of the policy, upon renewal of the policy, or upon issuance of a new policy by the corporation within the first 12 months after the date of the levy or the period of time necessary to fully collect the surcharge amount.

(III) The surcharge is not considered premium and is not subject to commissions, fees, or premium taxes. However, failure to pay the surcharge shall be treated as failure to pay premium.

b. After accounting for the Citizens policyholder surcharge imposed under sub-subparagraph a., the remaining projected deficit incurred in the Citizens account in a particular calendar year shall be recovered through emergency assessments under sub-subparagraph c.

c. Upon a determination by the board of governors that a projected deficit in the Citizens account exceeds the amount that is expected to be recovered through surcharges under sub-subparagraph a., the board, after verification by the office, shall levy emergency assessments for as many years as necessary to cover the deficits, to be collected by assessable insurers and the corporation and collected from assessable insureds upon issuance or renewal of policies for subject lines of business, excluding National Flood Insurance Program policies. The amount collected in a particular year must be a uniform percentage of that year's direct written premium for subject lines of business and the Citizens account, National Flood Insurance Program

policy premiums, as annually determined by the board and verified by the office. The office shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. The office shall notify assessable insurers and the Florida Surplus Lines Service Office of the date on which assessable insurers shall begin to collect and assessable insureds shall begin to pay such assessment. The date must be at least 90 days after the date the corporation levies emergency assessments pursuant to this sub-subparagraph. Notwithstanding any other law, the corporation and each assessable insurer that writes subject lines of business shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. Emergency assessments levied by the corporation on assessable insureds shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to that office. The emergency assessments collected shall be transferred directly to the corporation on a periodic basis as determined by the corporation and held by the corporation solely in the Citizens account. The aggregate amount of emergency assessments levied for the Citizens account in any calendar year may be less than, but may not exceed the greater

of, 10 percent of the amount needed to cover the deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit or 10 percent of the aggregate statewide direct written premium for subject lines of business and the Citizens accounts for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the deficit.

d. The corporation may pledge the proceeds of assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other insurance and reinsurance recoverables, policyholder surcharges and other surcharges, and other funds available to the corporation as the source of revenue for and to secure bonds issued under paragraph (q), bonds or other indebtedness issued under subparagraph (c)3., or lines of credit or other financing mechanisms issued or created under this subsection; or to retire any other debt incurred as a result of deficits or events giving rise to deficits, or in any other way that the board determines will efficiently recover such deficits. The purpose of the lines of credit or other financing mechanisms is to provide additional resources to assist the corporation in covering claims and expenses attributable to a catastrophe. As used in this subsection, the term "assessments" includes emergency assessments under sub-subparagraph c. Emergency assessments collected under sub-subparagraph c. are not part of an insurer's rates, are not premium, and are not subject to premium tax,

fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium. The emergency assessments shall continue as long as any bonds issued or other indebtedness incurred with respect to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the documents governing such bonds or indebtedness.

e. As used in this subsection and for purposes of any deficit incurred on or after January 25, 2007, the term "subject lines of business" means insurance written by assessable insurers or procured by assessable insureds for all property and casualty lines of business in this state, but not including workers' compensation or medical malpractice. As used in this sub-subparagraph, the term "property and casualty lines of business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers under s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance Program or the Federal Crop Insurance Program. For purposes of this sub-subparagraph, the term "workers' compensation" includes both workers' compensation insurance and excess workers' compensation insurance.

f. The Florida Surplus Lines Service Office shall annually

determine the aggregate statewide written premium in subject lines of business procured by assessable insureds and report that information to the corporation in a form and at a time the corporation specifies to ensure that the corporation can meet the requirements of this subsection and the corporation's financing obligations.

g. The Florida Surplus Lines Service Office shall verify the proper application by surplus lines agents of assessment percentages for emergency assessments levied under this subparagraph on assessable insureds and assist the corporation in ensuring the accurate, timely collection and payment of assessments by surplus lines agents as required by the corporation.

h. If the amount of any assessments or surcharges collected from corporation policyholders, assessable insurers or their policyholders, or assessable insureds exceeds the amount of the deficits, such excess amounts shall be remitted to and retained by the corporation in a reserve to be used by the corporation, as determined by the board of governors and approved by the office, to pay claims or reduce any past, present, or future plan-year deficits or to reduce outstanding debt.

(7) DEVELOPMENT AND MODIFICATION OF WIND-ELIGIBLE AREAS.—

(a) The Citizens Property Insurance Corporation may amend the wind-eligible areas, subject to approval by the Legislature

under paragraph (c), by developing new eligibility criteria and rates for policies that provide wind-only coverage. In developing new eligibility criteria and rates, the corporation may consider the market for wind-only coverage in the areas in which wind-only coverage is to be offered, the resulting impact to the corporation's overall exposure of offering such coverage in those areas, as well as reasonably prudent measures for limiting its exposure upon offering wind-only coverage in those areas.

(b) Rates for coverage offered in wind-eligible areas are subject to paragraph (6)(n).

(c) By December 1 of each year, beginning in 2025, the corporation shall submit to the Legislature the eligibility criteria and rates developed under paragraph (a) for review and approval. The office shall implement the eligibility criteria and rates only upon approval by the Legislature.

(8) ~~(7)~~ WIND-ELIGIBLE AREA DEFINED; COLLATERAL PROTECTION INSURANCE.—

(a) Except as otherwise provided in subsection (7), the term "wind-eligible area," as used in this section, means an area that is eligible for coverage by the Florida Windstorm Underwriting Association, as those areas were defined on January 1, 2002.

(b) As used in this section and ss. 215.555 and 627.311, the term "collateral protection insurance" means commercial

property insurance of which a creditor is the primary beneficiary and policyholder and which protects or covers an interest of the creditor arising out of a credit transaction secured by real or personal property. Initiation of such coverage is triggered by the mortgagor's failure to maintain insurance coverage as required by the mortgage or other lending document. Collateral protection insurance is not residential coverage.

Section 2. This act shall take effect July 1, 2024.

INSURANCE & BANKING SUBCOMMITTEE

HB 893 by Lopez, V.
Coverage by Citizens Property Insurance Corporation

AMENDMENT SUMMARY
February 6, 2024

Amendment 1 by Rep. Lopez, V. (Line 550): The amendment makes the following changes to the bill:

- Requires Citizens Property Insurance Corporation (Citizens) to seek approval of its eligibility criteria for wind-only coverage every 5 years, beginning in 2030, rather than every year as proposed in the bill; and
- Requires approval of the wind-only eligibility by the Legislature, but requires approval of the wind-only rates by the Office of Insurance Regulation, rather than the Legislature.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	____	(Y/N)
ADOPTED AS AMENDED	____	(Y/N)
ADOPTED W/O OBJECTION	____	(Y/N)
FAILED TO ADOPT	____	(Y/N)
WITHDRAWN	____	(Y/N)
OTHER		

Committee/Subcommittee hearing bill: Insurance & Banking Subcommittee

Representative Lopez, V. offered the following:

Amendment (with title amendment)

Remove lines 550-566 and insert:

the wind-eligible areas, subject to approval by the office under paragraph (b) and the Legislature under paragraph (c) by developing new eligibility criteria and rates for policies that provide wind-only coverage. In developing new eligibility criteria and rates, the corporation may consider the market for wind-only coverage in the areas in which wind-only coverage is to be offered, the resulting impact to the corporation's overall exposure of offering such coverage in those areas, as well as reasonably prudent measures for limiting its exposure upon offering wind-only coverage in those areas.

(b) Rates for coverage offered in wind-eligible areas are subject to paragraph (6)(n).

(c) By December 1 of every fifth year, beginning in 2030, the corporation shall review and submit to the Legislature any recommendations to revise the eligibility criteria developed under paragraph (a) for review and approval. The office shall implement the eligibility criteria only upon approval by the Legislature.

T I T L E A M E N D M E N T

Remove lines 16-17 and insert:
criteria to be reported to the Legislature for review and approval; requiring such rates to be reported to the Office of Insurance Regulation for review and approval; requiring the Office of

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1149 Policy Cancellations and Nonrenewals by Property Insurers
SPONSOR(S): Insurance & Banking Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Insurance & Banking Subcommittee		Fortenberry	Lloyd

SUMMARY ANALYSIS

An authorized insurer may not cancel or nonrenew any personal residential or commercial residential property insurance policy:

- For 90 days after the dwelling or residential property has been repaired, if the property has been damaged as a result of a hurricane or wind loss.
- Until the earlier of when the dwelling or residential property has been repaired or one year after the insurer issues the final claim payment, if the property was damaged by a covered peril, but not a hurricane or wind loss.

However, an authorized insurer or agent may cancel or nonrenew a policy before the dwelling or residential property has been repaired: upon 10 days' notice (for nonpayment of premium); or upon 45 days' notice (for: 1. a material misstatement or fraud related to the claim, 2. if the insurer determines that the insured has unreasonably caused a delay in the repair, or 3. if the insurer has paid policy limits).

If an insurer elects to nonrenew a policy covering a property that has been damaged, the insurer must provide at least 90 days' notice that the insurer intends to nonrenew the policy 90 days after the property has been repaired. A structure is considered repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer writing policies in Florida.

Section 626.9201, F.S., governs a surplus lines insurer's cancellation or nonrenewal of personal residential and commercial residential property insurance policies. However, current law contains no specific language regarding cancellation or nonrenewal of surplus lines policies issued on properties with unrepaired damage.

The bill changes when an authorized insurer may cancel or nonrenew personal residential or commercial residential property insurance policies on properties with unrepaired damage. As a result, the standards for cancellation apply to personal residential and commercial residential property insurance policies issued by **both authorized insurers and surplus lines insurers**. An insurer **may not** cancel or nonrenew a personal residential or commercial residential property policy covering a dwelling or residential property in Florida which has been damaged by a covered peril until the earlier of: the completion of repairs; or, the expiration of one subsequent renewal of the policy that was in force at the time of the loss.

"Damage" includes flood damage related to a hurricane if flood is a covered peril under the personal residential or commercial residential property insurance, or under a separate flood insurance policy, in effect at the time of the loss for which the damage remains unrepaired. Additionally, if flood is not a covered peril under the policy or under a separate flood insurance policy, and the property has been damaged as a result of flood related to a hurricane, an insurer **may not** cancel or nonrenew the policy until the earlier of: the completion of repairs; or, the expiration of one subsequent renewal of the policy that was in force at the time of the loss.

The bill specifies exceptions which will allow an insurer to cancel a policy when unrepaired damage remains. These include failure to pay premium, a lack of insurable interest in the property, fraud, and failure to timely respond to written inquiries by the insurer.

The bill has no impact on state or local revenues or expenditures. It may have indeterminate positive and negative economic impacts on the private sector.

The bill is effective July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

In general, with respect to any personal residential or commercial residential property insurance policy covering a dwelling or residential property in Florida, including but not limited to, any homeowner, mobile home owner, farmowner, condominium association, condominium unit owner, apartment building, or other policy covering a residential structure or its contents, an authorized insurer must give the first-named insured:

- At least 45 days' advance written notice of the renewal premium.[1]
- Written notice of nonrenewal, cancellation, or termination at least 120 days before the effective date of the nonrenewal, cancellation, or termination. Such notice must contain the reason for the nonrenewal, cancellation, or termination.[2]

However, an authorized insurer may not cancel or nonrenew any personal residential or commercial residential property insurance policy:

- For 90 days after the dwelling or residential property has been repaired, if the property has been damaged as a result of a hurricane or wind loss that is the subject of a declaration of emergency and the filing of an order by the Insurance Commissioner.[3]
- Until the earlier of when the dwelling or residential property has been repaired or one year after the insurer issues the final claim payment, if the property was damaged by a covered peril, but not a hurricane or wind loss.[4]

Additionally, an authorized insurer or agent may cancel or nonrenew a policy before the dwelling or residential property has been repaired:

- Upon 10 days' notice for nonpayment of premium; or
- Upon 45 days' notice for:
    - A material misstatement or fraud related to the claim;
    - If the insurer determines that the insured has unreasonably caused a delay in the repair; or
    - If the insurer has paid policy limits.[5]

If an insurer elects to nonrenew a policy covering a property that has been damaged, the insurer must provide at least 90 days' notice that the insurer intends to nonrenew the policy 90 days after the property has been repaired.[6] A structure is considered repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer writing policies in Florida.[7]

Section 626.9201, F.S., governs the cancellation or nonrenewal of personal residential and commercial residential property insurance policies issued by surplus lines insurers. Currently, a surplus lines insurer issuing a policy for property insurance must give the first named insured at least 45 days' advance written notice as to why the policy is not to be renewed.[8] A surplus lines insurer issuing a policy providing covering property must give the named insured written notice of cancellation or termination, including the reasons for the cancellation or termination, with certain exceptions.[9] However, current law contains no specific language regarding cancellation or nonrenewal of surplus lines policies issued on properties with unrepaired damage.

[1] S. 627.4133(2)(a), F.S.
[2] S. 627.4133(2)(b), F.S.
[3] S. 627.4133(2)(e)1.a., F.S.
[4] S. 627.4133(2)(e)1.b., F.S.
[5] S. 627.4133(2)(e)2., F.S.
[6] S. 627.4133(2)(e)3., F.S.
[7] S. 627.4133(2)(e)5., F.S.
[8] S. 626.9201(1), F.S.
[9] S. 626.9201(2), F.S

Effect of the Bill

The bill changes when an authorized insurer may cancel or nonrenew personal residential or commercial residential property insurance policies on properties with unrepaired damage. It eliminates the separate timeframes for authorized insurers to cancel or nonrenew personal residential or commercial residential policies following losses due to hurricane and wind and all other covered perils.

The bill also establishes standards for cancellation and nonrenewal of such policies issued by surplus lines insurers.

As a result, the following standards for cancellation apply to personal residential and commercial residential property insurance policies issued by **both authorized insurers and surplus lines insurers**. An insurer **may not** cancel or nonrenew a personal residential or commercial residential property policy covering a dwelling or residential property in Florida which has been damaged by a covered peril until the earlier of:

- The completion of repairs; or
- The expiration of one subsequent renewal of the policy that was in force at the time of the loss.

The bill states that the term "damage" includes flood damage related to a hurricane if flood is a covered peril under the personal residential or commercial residential property insurance, or under a separate flood insurance policy, in effect at the time of the loss for which the damage remains unrepaired.

Additionally, if flood is not a covered peril under the policy or under a separate flood insurance policy, and the property has been damaged as a result of flood related to a hurricane, an insurer **may not** cancel or nonrenew the policy until the earlier of:

- The completion of repairs; or
- The expiration of one subsequent renewal of the policy that was in force at the time of the loss.

An insurer or agent **may** cancel or nonrenew a personal residential and commercial residential policy prior to the repair of the dwelling or residential property:

- Upon 10 days' notice:
  - For nonpayment of premium; or
  - If the named insured no longer has an insurable interest in the property; or
- Upon 45 days' notice:
  - For a material misstatement or fraud related to the claim;
  - If the insurer or its agent has made a reasonable written inquiry of the insured as to the status of the repair and the insured fails to respond within 30 calendar days; or
  - If the insurer has paid policy limits under a personal residential property insurance policy for a loss to the insured dwelling that was damaged, or policy limits under a commercial residential property insurance policy for a loss to each structure that was damaged.

If the insurer elects to nonrenew a policy after the expiration of one subsequent renewal of the policy in force at the time of the loss, the insurer must comply with normal notice requirements in the statutes for authorized and surplus lines insurers.[10] Additionally, the provisions prohibiting cancellation or nonrenewal of policies on properties with unrepaired damage do not prevent the insurers from canceling or nonrenewing the policies after the repair is completed for the same reasons they would have canceled if the unrepaired damage did not exist.

The bill provides that a structure is deemed to be repaired when substantially completed and restored to the extent that it is insurable by:

- Another authorized insurer writing policies in Florida if the structure is currently insured by an authorized insurer; or
- Another authorized or eligible surplus lines insurer writing policies in Florida if the structure is currently insured by an eligible surplus lines insurer.

[10] Ss. 627.4133(2) and 626.9201, F.S., respectively.

B. SECTION DIRECTORY:

Section 1. Amends s. 626.9201, F.S., relating to notice of cancellation or nonrenewal.

Section 2. Amends s. 627.4133, F.S., relating to notice of cancellation, nonrenewal, or renewal premium.

Section 3. Provides an effective date of July 1, 2024.

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:

Personal residential and commercial residential policyholders may experience an indeterminate economic impact as a result of the bill. Those policyholders who might have had to pay higher premiums for force-placed insurance when their existing insurers canceled or nonrenewed them due to unrepaired damage will remain insured by their current insurers for at least one subsequent renewal period. Admitted and surplus lines insurers may experience a negative economic impact by being forced to renew policies on properties with unrepaired damage that they otherwise would have nonrenewed or canceled.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Financial Services Commission is provided sufficient authority to and may adopt rules necessary to implement the provisions within the bill.[11]

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

[11] The Financial Services Commission, composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, serves as agency head of the Office of Insurance Regulation for the purposes of rulemaking.

A bill to be entitled

An act relating to policy cancellations and nonrenewals by property insurers; amending s. 626.9201, F.S.; prohibiting eligible surplus lines insurers from canceling and nonrenewing within certain timeframes policies covering dwellings and residential properties damaged by hurricanes and wind losses; amending s. 627.4133, F.S.; providing that prohibitions on cancellation apply to flood damages caused by hurricanes under certain circumstances; providing exceptions to prohibitions against insurers' policy cancellations and nonrenewals within certain timeframes; revising conditions under which a structure is deemed to be repaired; revising the definition of the term "insurer" to include eligible surplus lines insurers; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (c) of subsection (2) of section 626.9201, Florida Statutes, is added to read:

626.9201 Notice of cancellation or nonrenewal.—

(2) An insurer issuing a policy providing coverage for property, casualty, surety, or marine insurance must give the named insured written notice of cancellation or termination

CODING: Words stricken are deletions; words underlined are additions.

other than nonrenewal at least 45 days before the effective date of the cancellation or termination, including in the written notice the reasons for the cancellation or termination, except that:

(a) If cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason for cancellation must be given. As used in this paragraph, the term "nonpayment of premium" means the failure of the named insured to discharge when due any of his or her obligations in connection with the payment of premiums on a policy or an installment of such a premium, whether the premium or installment is payable directly to the insurer or its agent or indirectly under any plan for financing premiums or extension of credit or the failure of the named insured to maintain membership in an organization if such membership is a condition precedent to insurance coverage. The term also includes the failure of a financial institution to honor the check of an applicant for insurance which was delivered to a licensed agent for payment of a premium, even if the agent previously delivered or transferred the premium to the insurer. If a correctly dishonored check represents payment of the initial premium, the contract and all contractual obligations are void ab initio unless the nonpayment is cured within the earlier of 5 days after actual notice by certified mail is received by the applicant or 15 days after notice is sent to the applicant by

certified mail or registered mail, and, if the contract is void, any premium received by the insurer from a third party shall be refunded to that party in full; and

(b) If cancellation or termination occurs during the first 90 days during which the insurance is in force and if the insurance is canceled or terminated for reasons other than nonpayment, at least 20 days' written notice of cancellation or termination accompanied by the reason for cancellation or termination must be given, except if there has been a material misstatement or misrepresentation or failure to comply with the underwriting requirements established by the insurer.

(c)1. Notwithstanding subparagraph 2., an insurer may not cancel or nonrenew a personal residential or commercial residential property insurance policy covering a dwelling or residential property located in this state which has been damaged by a covered peril until the earlier of the completion of repairs or the expiration of one subsequent renewal of the policy that was in force at the time of the loss. If flood is not a covered peril under the personal residential or commercial residential property insurance policy or under a separate flood insurance policy and the property has been damaged as a result of flood related to a hurricane, an insurer may not cancel or nonrenew the personal residential or commercial residential property insurance policy until the earlier of the completion of repairs or the expiration of one subsequent renewal of the

policy that was in force at the time of the loss.

2. An insurer or agent may cancel or nonrenew such a policy prior to the repair of the dwelling or residential property:

a. Upon 10 days' notice:

(I) For nonpayment of premium; or

(II) If the named insured no longer has an insurable interest in the property; or

b. Upon 45 days' notice:

(I) For a material misstatement or fraud related to the claim;

(II) If the insurer or its agent has made a reasonable written inquiry to the insured as to the status of the repair and the insured has failed within 30 calendar days to provide information that is responsive to the inquiry to either the address or e-mail account designated by the insurer or its agent; or

(III) If the insurer has paid policy limits under a personal residential property insurance policy for a loss to the insured dwelling that was damaged, or policy limits under a commercial residential property insurance policy for a loss to each structure that was damaged.

3. If the insurer elects to nonrenew a policy after the expiration of the time in subparagraph 1., the insurer must provide notice in accordance with subsection (1).

4. This paragraph does not prevent the insurer from canceling or nonrenewing the policy after the repair is completed for the same reasons the insurer would otherwise have canceled or nonrenewed the policy but for subparagraph 1.

5. For purposes of this paragraph:

a. A structure is deemed to be repaired when substantially completed and restored to the extent that it is insurable by:

(I) Another authorized insurer writing policies in this state if the structure is currently insured by an authorized insurer; or

(II) Another authorized or eligible surplus lines insurer writing policies in this state if the structure is currently insured by an eligible surplus lines insurer.

b. The term "insurer" means an authorized insurer or an eligible surplus lines insurer.

c. The term "damage" includes flood damage related to a hurricane if flood is a covered peril under the personal residential or commercial residential property insurance policy or under a separate flood insurance policy.

6. The commission may adopt rules, and the commissioner may issue orders, necessary to implement this paragraph.

Section 2. Paragraph (e) of subsection (2) of section 627.4133, Florida Statutes, is amended to read:

627.4133 Notice of cancellation, nonrenewal, or renewal premium.—

CODING: Words stricken are deletions; words underlined are additions.

(2) With respect to any personal lines or commercial residential property insurance policy, including, but not limited to, any homeowner, mobile home owner, farmowner, condominium association, condominium unit owner, apartment building, or other policy covering a residential structure or its contents:

(e)1. Notwithstanding subparagraph 2., an insurer may not cancel or nonrenew a personal residential or commercial residential property insurance policy covering a dwelling or residential property located in this state which has been damaged by a covered peril until the earlier of the completion of repairs or the expiration of one subsequent renewal of the policy that was in force at the time of the loss. If flood is not a covered peril under the personal residential or commercial residential property insurance policy or under a separate flood insurance policy and the property has been damaged as a result of flood related to a hurricane, an insurer may not cancel or nonrenew the personal residential or commercial residential property insurance policy until the earlier of the completion of repairs or the expiration of one subsequent renewal of the policy that was in force at the time of the loss. ~~An authorized insurer may not cancel or nonrenew a personal residential or commercial residential property insurance policy covering a dwelling or residential property located in this state:~~

~~a. For a period of 90 days after the dwelling or~~

~~residential property has been repaired, if such property has been damaged as a result of a hurricane or wind loss that is the subject of the declaration of emergency pursuant to s. 252.36 and the filing of an order by the Commissioner of Insurance Regulation.~~

~~b. Until the earlier of when the dwelling or residential property has been repaired or 1 year after the insurer issues the final claim payment, if such property was damaged by any covered peril and sub-subparagraph a. does not apply.~~

2. ~~However,~~ An insurer or agent may cancel or nonrenew such a policy prior to the repair of the dwelling or residential property:

a. Upon 10 days' notice:

(I) For nonpayment of premium; or

(II) If the named insured no longer has an insurable interest in the property; or

b. Upon 45 days' notice:

(I) For a material misstatement or fraud related to the claim;

(II) If the insurer or its agent has made a reasonable written inquiry to the insured as to the status of the repair and the insured has failed within 30 calendar days to provide information that is responsive to the inquiry to either the address or e-mail account designated by the insurer or its agent; ~~If the insurer determines that the insured has~~

~~unreasonably caused a delay in the repair of the dwelling;~~ or

(III) If the insurer has paid policy limits under a personal residential property insurance policy for a loss to the insured dwelling that was damaged, or policy limits under a commercial residential property insurance policy for a loss to each insured structure that was damaged.

3. If the insurer elects to nonrenew a policy after the expiration of the time in subparagraph 1., the insurer must provide notice in accordance with subsection (1).

4. ~~Nothing in~~ This paragraph does not ~~shall~~ prevent the insurer from canceling or nonrenewing the policy after the repair is completed ~~90 days after the repairs are complete~~ for the same reasons the insurer would otherwise have canceled or nonrenewed the policy but for ~~the limitations of~~ subparagraph 1.

~~The Financial Services Commission may adopt rules, and the Commissioner of Insurance Regulation may issue orders, necessary to implement this paragraph.~~

5. ~~4.~~ This paragraph shall also apply to personal residential and commercial residential policies covering property that was damaged as the result of Hurricane Ian or Hurricane Nicole.

6. ~~5.~~ For purposes of this paragraph:

a. A structure is deemed to be repaired when substantially completed and restored to the extent that it is insurable by:

(I) Another authorized insurer writing policies in this

state if the structure is currently insured by an authorized insurer; or

(II) Another authorized or eligible surplus lines insurer writing policies in this state if the structure is currently insured by an eligible surplus lines insurer.

b. The term "insurer" means an authorized insurer or an eligible surplus lines insurer.

c. Except for sub-subparagraph 5., the term “damage” includes flood damage related to a hurricane if flood is a covered peril under the personal residential or commercial residential property insurance policy or under a separate flood insurance policy.

7. The commission may adopt rules, and the commissioner may issue orders, necessary to implement this paragraph.

Section 3. This act shall take effect July 1, 2024.

INSURANCE & BANKING SUBCOMMITTEE

PCS for HB 1149 by Botana
Policy Cancellations and
Nonrenewals by Property Insurers

AMENDMENT SUMMARY
February 6, 2024

Amendment 1 by Rep. Botana (Line 184): corrects a cross-reference.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	____	(Y/N)
ADOPTED AS AMENDED	____	(Y/N)
ADOPTED W/O OBJECTION	____	(Y/N)
FAILED TO ADOPT	____	(Y/N)
WITHDRAWN	____	(Y/N)
OTHER		

Committee/Subcommittee hearing bill: Insurance & Banking Subcommittee

Representative Botana offered the following:

Amendment

Remove line 184 and insert:

provide notice in accordance with subsection (2).

Citizens Property Insurance Corporation

Florida House of Representatives Insurance and Banking Subcommittee

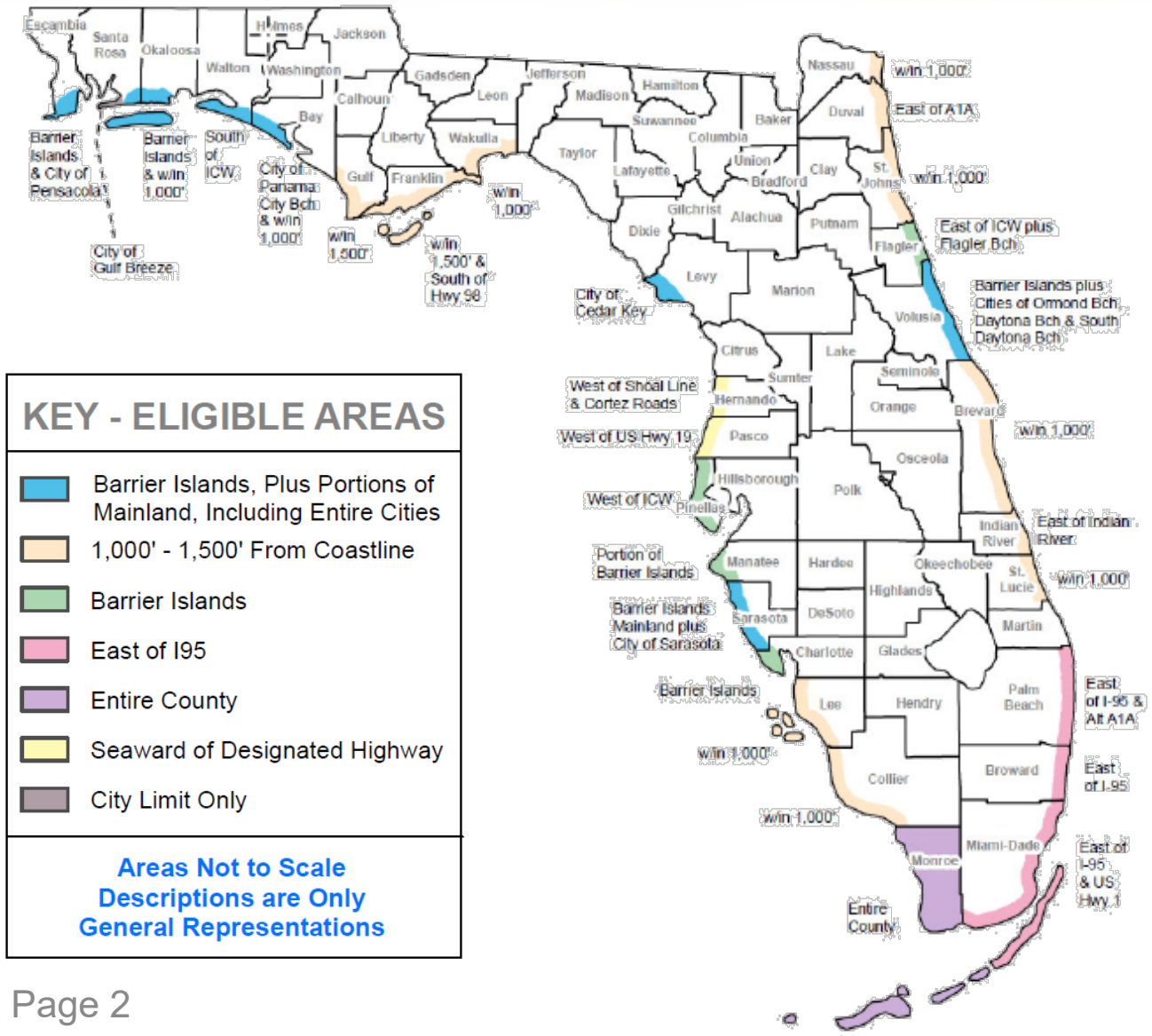
Windstorm Coverage

Tim Cerio – President, CEO & Executive Director

February 6, 2024

CITIZENS
PROPERTY INSURANCE CORPORATION

Wind-Only Eligible Areas

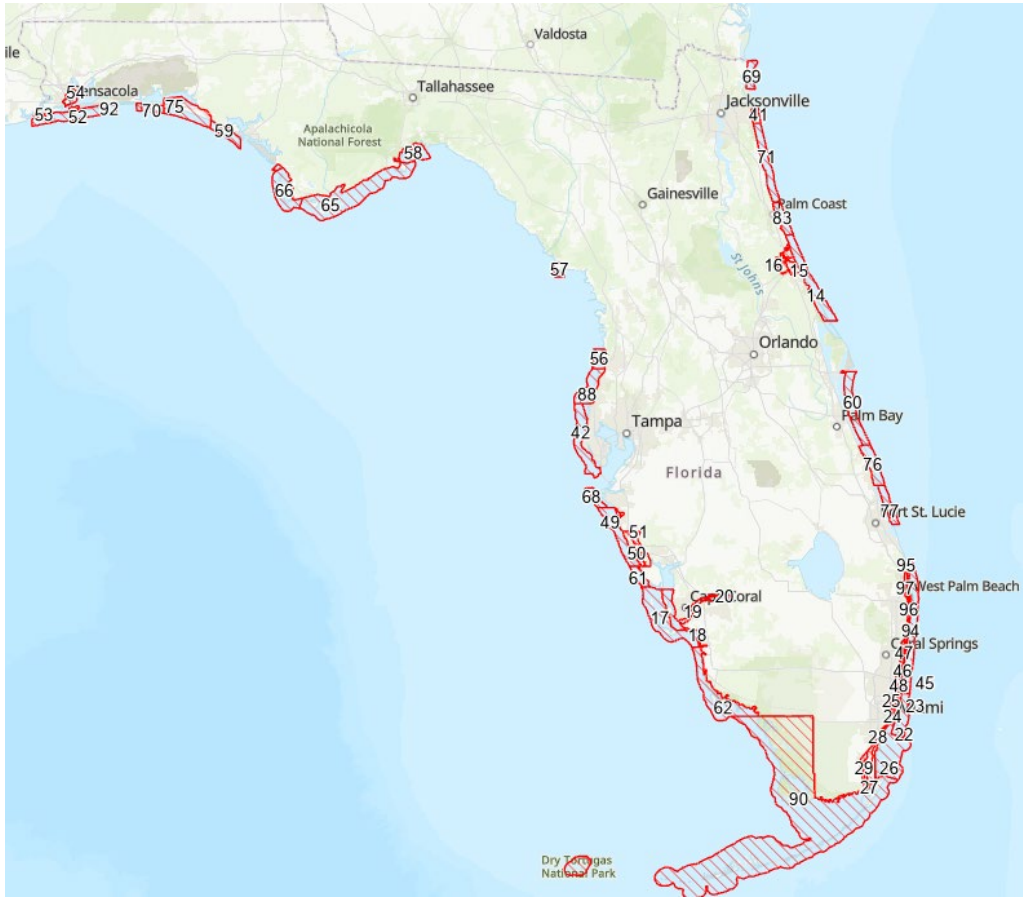


KEY - ELIGIBLE AREAS

- Barrier Islands, Plus Portions of Mainland, Including Entire Cities
- 1,000' - 1,500' From Coastline
- Barrier Islands
- East of I95
- Entire County
- Seaward of Designated Highway
- City Limit Only

Areas Not to Scale
Descriptions are Only General Representations

Wind-Only Territories, Drawn to Scale



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Current Residential Market Share

Policy Type	Personal Residential				Commercial Residential			
	Exposure (In 000,000)	Policy Count	Market Share	Private Carriers Writing Over 10K Policies	Exposure (In 000,000)	Policy Count	Market Share	Private Carriers Writing at least $1M in Exposure
Multiperil	$ 424,753	1,182,212	15%	58	$ 26,255	1,481	16%	18
X-Wind	$ 8,795	34,848	5%	7	$ 1,728	93	21%	8
Wind-Only	$ 43,008	90,038	80%	1	$ 43,640	2,628	100%	0
Total	$ 476,556	1,307,098	15%	66	$ 71,623	4,202	39%	26

*Market Share is based on total exposure data.

Quarterly and Supplemental Reporting System Reports, 9/30/2023. Florida Office of Insurance Regulation

CITIZENS
PROPERTY INSURANCE CORPORATION

Important Issues to Consider

1. Pricing
2. Wind claims settlement by the private industry
3. Reinsurance
4. Florida Hurricane Catastrophe Fund
5. Assessments

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Pricing

Personal Residential Homeowners

Peril	Rate Indication
Wind	**103.1%**
Water	(28.3%)
All Other	(8.5%)
Sinkhole	(0.0%)
Total	**40.5%**

Commercial Residential Condominium Associations

Peril	Rate Indication
Wind	**183.9%**
All Other	(30.7%)
Sinkhole	(18.0%)
Total	**87.2%**

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Wind Claims Settlement by the Private Industry

Potential issues with private insurers adjusting wind claims on Citizens' behalf:

1. Appropriate incentives require that the insurer adjusting the claim should be responsible for paying a significant portion of it.

2. Part of reinsurance pricing is based on an insurer's claims processes where the reinsurer must have confidence in the insurer's capability to settle claims appropriately. Additionally, data quality impacts pricing.

3. Predicting trends in claims will be a challenge if not impossible.

4. Detecting and fighting fraud requires close coordination between Citizens' analysts/actuaries and its claims adjusters.

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Reinsurance

	Total Exposure (In 000,000)	Policy Counts	Reinsurance Cost (In $000,000)	Increase in Reinsurance Cost from Citizens' 9/30/23
Citizens 9/30/2023 Data	$ 618,100	1,407,810	$ 650	-
FHCF 6/30/2023 Data	$3,178,710	4,984,751	-	-
Citizens' Wind-Only 50% Growth	$1,589,355	2,492,380	**$2,810**	**333%**
Citizens' Wind-Only 75% Growth	$2,384,032	3,738,560	**$4,180**	**555%**
Citizens' Wind-Only 100% Growth	$3,178,710	4,984,751	**$5,600**	**645%**

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Florida Hurricane Catastrophe Fund (FHCF)

If Citizens has the predominant share of wind policies in Florida, how would this impact the FHCF?

Will the FHCF function in the way the Legislature intended?

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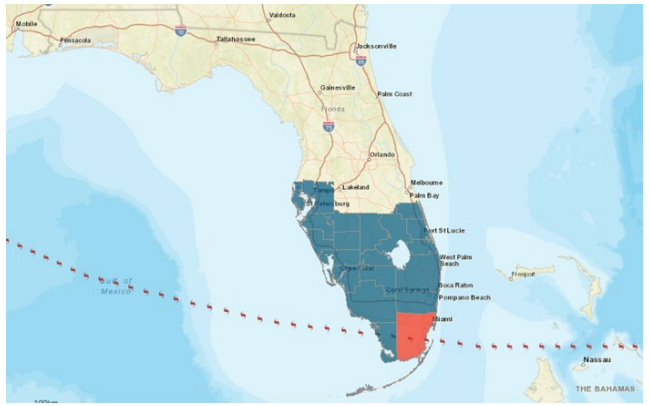
Assessments: Surplus Depletion Scenarios

($ in Millions)

Scenario 1: Hurricane Andrew	Current Citizens	All FL Residential Wind w/FHCF	All FL Residential Wind w/out FHCF
Estimated Loss & LAE	$9,600	$70,300	$70,300
Surplus Remaining	$1,593	$0	$0
Surplus Exposed	67%	100%	100%
Assessment	$0	$48,400	$65,400

Scenario 2: Great Miami Hurricane of 1926	Current Citizens	All FL Residential Wind w/FHCF	All FL Residential Wind w/out FHCF
Estimated Loss & LAE	$18,900	$103,300	$103,300
Surplus Remaining	$0	$0	$0
Surplus Exposed	100%	100%	100%
Assessment	$3,274	$81,400	$98,400

Hurricane Andrew



Great Miami Hurricane of 1926

