

**ANALYSIS OF
GOVERNOR BUSH'S
PROPOSED LEGISLATION**

**PROPOSED LEGISLATION
SUMMARY OF MAJOR PROVISIONS**

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BY TOPIC

Residential Insurance Market/Consumer Issues (Sections 33,34,35 & 38)

- Transparency for consumers (residential and commercial). Require the *premium notice and policy* to:
 - specify premium mitigation discounts available (by dollar amount) for each policyholder on each mitigation measure and for a combination of various mitigation measures, in a format specified by OIR.
 - identify amounts recouped for assessments by Citizens Property Insurance Corporation (Citizens), the Florida Hurricane Catastrophe Fund (CAT Fund), or the Florida Insurance Guaranty Association (FIGA), respectively. Prohibit abbreviations.
 - identify the amount of any premium increase that is due to a rate increase and the amounts that are due to coverage changes.
 - identify the amount (by dollar) of the agent’s commission.
 - identify the amount of insurance premium tax by dollar amount.
 - require plain language in insurance policies.
- Move the Office of the Consumer Advocate under the Financial Services Commission (Cabinet) rather than the Chief Financial Officer for oversight. (Section 24)
- Require insurers to offer a policy that excludes windstorm coverage from a residential property insurance policy if the policyholder signs a written rejection of such coverage on a form approved by OIR with appropriate disclosures.

Insurers would still be required to offer a policy that includes windstorm coverage. (In windstorm and non-windstorm areas of the state) (Section 37)

- Require insurers to offer dwelling limits for windstorm coverage that only covers the outstanding balance of the mortgage. (Section 37)
- Require insurers to offer policies that provide no personal contents coverage. (Section 37)
- Eliminate maximum allowable deductibles that would allow insurers to offer deductibles of any amount in addition to the 2 percent, 5 percent, and 10 percent deductibles that must now be offered. (Section 36)
- Revise the Florida Market Assistance Plan (FMAP) to provide for a boarder assessment to residential and non-residential property insurers. (Section 32)

Florida's Commercial Insurance Market/Property Casualty Joint Underwriting Association (PCJUA)

- Depopulate Citizens commercial risks into the PCJUA. Prohibit Citizens from writing builders risk or commercial-commercial policies. Revise and update the PCJUA statute by expanding and updating the assessment base for the PCJUA. Seek to achieve IRS tax-exempt status for the PCJUA (Similar to Citizens). (Sections 29, 30 & 31)
- Begin state funded research concerning mitigation of commercial structures. Evaluate whether strengthening the state's building code for commercial structures, and the grading of commercial structures, should be considered. (Section 5)
- Adopt statutory language to allow risk pooling for windstorm property coverage for all "like" entities such as public hospitals, public educational facilities, and community colleges. (Sections 1 & 15)
- Add commercial carriers to the CAT Fund and provide an optional CAT Fund coverage to commercial insurers for a two year period. (Section 3)

Florida Building Code

- Adopt a uniform statewide building code that incorporates the American Society of Civil Engineers (ASCE) wind lines, and prohibit any changes in future statewide building codes unless such a change enhances the structural integrity of the code as it relates to wind protection. (Section 10)
- Develop a code plus standard that the insurance industry would recognize for maximizing premium discounts. (Section 10)

- Encourage local governments to promote and advocate for code plus structures by providing incentives to builders like density bonuses, lower impact fees, and concurrency credits when new construction is built at *higher levels* than the current approved building code. (Section 9)

Mitigation

- Continue and revise the Mitigation Program being administered by the Department of Financial Services. Earmark a portion of future mitigation funding to be used for Citizens' policyholders. (Section 4 & 5)
- Require modeling firms to recalibrate their models to take into account the results of mitigation in Florida. (Sections 26 & 28)
- Require uniform mitigation verification inspection forms to be developed for all insurers. (Section 5)
- Ensure that insurance companies appropriately adjust premiums for homeowners when meaningful and verifiable mitigation measures are undertaken. (Premium discounts) Credits with smaller ranges should be developed while allowing market competition in the credit process. (Section 5 & 22)
- Authorize the creation of a not-for-profit corporation to raise funds from the private sector for additional mitigation grants. (Section 4)
- Earmark an appropriation solely for free inspections to encourage more homeowners to mitigate regardless of whether matching grants are available. (Section 4)
- Create a Sales Tax Exemption for approved mitigation materials and supplies. (Sections 5 & 42)
- Ensure insurance agents are providing specific information to homeowners who want to know the premium discounts available for various mitigation options and the means for obtaining the discounts (e.g., continuing education requirements for agents). (Section 21)
- Expand and fund a uniform grading system for evaluating the hurricane strength resistance of homes and commercial buildings. (Sections 5 & 23)
- Require wind mitigation inspectors to be certified by the state with exceptions for licensed contractors. Licensed contractors shall be exempt, if a continuing education course in mitigation is completed. (Sections 4, 5, & 8)
- Encourage local governments to participate in the state mitigation program. (Section 4)

Florida Hurricane Catastrophe Fund (CAT Fund)

- Temporary Emergency Additional Coverage Option (TEACO) provides optional coverage for insurers *below* the CAT Fund's current retention level based on industry retention levels of \$5, \$4, \$3 and \$2 billion. This option is available for only two years and pricing for the coverage is set at "below market" rates. These rates are based on the difference between the current industry retention level and the reduced optional level selected as follows – \$2 billion retention option at 60%, \$3 billion retention option at 50%, \$4 billion retention option at 40% and \$5 billion retention option at 30%. (Section 3)
- Temporary Increase In Coverage Limit Options (TICL) provides a temporary increase in coverage limit so that an insurer can increase its CAT Fund coverage on its premium share up to an additional \$1, \$2 or \$4 billion of coverage. If the CAT Fund claims paying capacity limit is \$16 billion, this option will allow an insurer to increase its total limit based on a CAT Fund total capacity of \$17, \$18 or \$20 billion. The option is available for two years and pricing is set at "below market" rates. These rates are based on the additional limit of increased coverage that the insurer selects. For an additional \$1 billion in coverage the rate shall be 20% rate-on-line, \$2 billion the rate shall be 17.5% rate-on-line and \$4 billion the rate shall be 15% rate-on-line. (Section 3)
- Temporary Commercial Business Catastrophe Program (TCBC) provides optional coverage for eligible insurers who write commercial business property insurance in Florida. Eligible insurers will be able to select a coverage limit up to a maximum of \$100 million per insurer for reimbursement coverage for 45% of their losses in a layer up to \$222.22 million per insurer, which will be subject to the procuring of a matching amount of private reinsurance coverage. The rate shall be 75% of the price associated with the matching layer of private reinsurance. The additional capacity created by this program is limited to \$6 billion and is to be funded by the authorization of additional emergency assessments of up to 2 percent on the same emergency premium base as that of the CAT Fund. (Section 3)
- Move the application date to April 1 to increase flexibility and maximize carrier participation in the CAT Fund. (Section 2)

Reinsurance Market

- Amend the reinsurance law to give insurers credit on their financial statements for other risk transfer or capital markets instruments, subject to the approval of OIR, provided there is a fully funded transfer of risk. (Section 16)
- Reduce or eliminate the trust fund (collateral) requirement for non-U.S. insurers based on a determination by the OIR of the adequacy of regulation of the country of licensure and the financial strength of the assuming insurer. (Section 17)

Citizens Property Insurance Corporation (Citizens)

- Require the Office of Insurance Regulation to set rates for Citizens, based on the highest rate approved for the voluntary market, thus, eliminating the need, cost and time delay of rate filings. (Section 31)
- Allow Citizens to write the full policy. Do away with the wind boundaries and the distinction of wind and ex-wind policies in the current wind boundaries. (Sections 27 & 31)
- Require Citizens policyholders to upgrade their homes to meet the statewide building code over some period of time or risk higher hurricane deductibles applicable to their policies. An exception is made for low income policyholders. (Section 31)
- Allow authorized insurers to write non-homestead Citizens' policies on an individual risk rate basis. (Section 25)
- Allow as an incentive for companies taking out substantial numbers of policies (10,000 or more) from Citizens to charge Citizens' rates for a period of three years after such take-out. (Section 31)
- Clarify the requirements in SB 1980 regarding the offer of quarterly and semi-annual payment premium payment plans to Citizens policyholders. (Section 31)
- As a depopulation incentive, require the Citizens' Board to review the agent commission structure for reductions upon renewal. (Section 43)

Market Incentives/Barriers

- Provide additional funding to the Insurance Capital Build-up Incentive Program for 2007 with a qualified preference to insurers writing manufactured housing policies. The total surplus requirement for an eligible insurer is \$25 million. The 2 to 1 ratio of net premiums to surplus is modified to 6 to 1 of gross written premiums to surplus. The date of application for a surplus note and the date of issuance of such funds are prior to April 1, 2007. (Sections 6 & 7)
- To protect insurance policyholders, the minimum surplus requirement for property insurers (currently \$5 million) is increased to \$12 million. (Sections 13, 14 & 41)
- Promote and facilitate the use of capital markets risk transfer alternatives by amending the insurance laws to authorize OIR approval of Special Purpose Reinsurance Vehicles for the securitization of an insurer's risk (NAIC Model Act). (Section 18)

- Provide authorization for a state facility (e.g., within the State Board of Administration) to hold and invest funds invested (risked) by non-insurance entities, such as pension funds or individuals, covering specified hurricane losses for Florida insurers. (Protected cell) (Section 19 & 20)
- Authorize the CAT Fund or State Board of Administration to use catastrophe bonds, sidecars, and other capital market products to transfer the risk of CAT Fund coverage. (Section 3)
- Allow for state participation in an insurance exchange to securitize, and market to investors, specified levels of hurricane catastrophe risk of insurers. Work with existing exchanges that trade risk transfer products (e.g., the Chicago Mercantile Exchange) to determine if a Florida hurricane risk contract can be structured. (Section 11 & 12)
- Revise Florida's captive insurer law to encourage the maximum use of captives by Florida's businesses and the maximum formation of captives in Florida, where appropriate. (Sections 39 & 40)

Appropriations

- 100 million from General Revenue to continue funding the Insurance Capital Build-Up Incentive Program.
- 100 million from General Revenue to the Insurance Regulatory Trust Fund for continued funding of the Florida Comprehensive Hurricane Damage Mitigation Program. (\$25 million is earmarked for Citizens' policyholders for mitigation efforts and \$5 million is earmarked for home inspections in general).
- 100 million from Florida Small Cities Community Development Block Grant Program Fund to Department of Community Affairs for home hardening.
- \$500,000 from the Department of Community Affairs to the Office of Insurance Regulation for state research on strengthening the state building code for commercial structures.
- \$650,000 from the Insurance Regulatory Trust Fund to fund the continuation of the uniform home grading system.
- \$2,500,000 from Insurance Regulatory Trust Fund to fund the Florida hurricane risk contract development.