



Demotech, Inc.

Demotech, Inc. edited the following excerpts; however, the source of this information was the legislation as introduced and a Side by Side Comparison of Property Insurance Bills Prepared by the Florida Insurance Counsel on or about April 6, 2009

The Florida Insurance Council and Demotech, Inc. relied heavily on staff summaries from the Senate Banking & Insurance Committee and House Insurance, Business & Financial Affairs Committee. The House Insurance, Business & Financial Affairs Committee approved the House's big property insurance package (CS/HB 1495) Friday afternoon, April 3, 2009. The Senate Banking & Insurance Committee developed a similar package (PCS/SB 1950).

Florida Hurricane Catastrophe Fund Temporary Increase in Limits (TICL) program

Senate: TICL is reenacted, eliminating the pending sunset after the 2009 hurricane season. TICL will be extended through December 31, 2013, but reduced each year in \$2 billion increments. For the 2009 contract year, \$10 billion in \$1 billion TICL options will be offered, down from \$12 billion during 2008 and 2007. The coverage will be reduced by an additional \$2 billion each subsequent year until its elimination.

House: Similar language.

Reducing coverage options in TICL

Senate: Not addressed

House: The House produces additional decreases in TICL through a decrease in the coverage options allowed insurers. This increases the co-pay insurers make to the Cat Fund for TICL coverage. Beginning in the 2009 Cat Fund contract year, only 45 percent and 75 percent of loss coverage options will be available and not the 90 percent of loss coverage option which has also been available. During the 2009 contract year, options shall be 45 percent or 75 percent, plus 5 percent of the reimbursed losses to cover loss adjustment expenses. The options during the remaining life of TICL would be 45 percent and 65 percent, plus 5 percent (2010); 45 percent and 55 percent, plus 5 percent (2011); 45 percent plus 5 percent (2012); and 30 percent plus 5 percent (2013).

Citizens ineligible for TICL

Senate: Not addressed, with Citizens Property Insurance Corporation remaining eligible for TICL

House: Citizens would no longer qualify as a "TICL insurer." Citizens purchased 40 percent of TICL during 2008. This revision would make more TICL capacity available for private insurers if they chose to buy it, but a lot of this might go unsold, helping reduce TICL total coverage closer to a level that can be financed.



Cat Fund replacement reinsurance recoupment

Senate: Insurers are provided with the option of purchasing private reinsurance to replace the TICL layer and to recover that cost in rates, which cannot exceed 10 percent of total premium. The rate recovery is limited to the reinsurance increase and cannot include added expense or profit factors.

House: Similar language.

TICL rates

Senate: The rapid cash build-up factor will not apply to TICL. However, TICL premium shall be increased in the 2009 contract year by a factor of two, by a factor of three in 2010, by a factor of four in 2011, by a factor of five in 2012 and by a factor of six in the 2013 contract year.

House: Similar language

TICL \$4 billion add-on at discretion of State Board of Administration

Senate: This option is eliminated effective immediately.

House: Similar language.

LAC drop-down coverage

Senate: Extends until January 1, 2012, the \$10 million optional drop-down Cat Fund coverage for insurers who qualified for it during the 2008 hurricane season as either limited apportionment companies under s. 627.351(6)(c), and insurers that have been approved to participate in the Insurance Capital Build-Up Incentive Program pursuant to s. 215.5595. The premium remains 50 percent of Rate on Line, including one repaid reinstatement. Specifies that the coverage is an increase to the mandatory layer of the FHCF and that the retention for this optional coverage shall be triggered prior to the mandatory coverage.

House: Similar language.

Priority of payments in the event of a shortfall

Senate: Provides that in the event the total reimbursement of losses exceeds the fund's estimated claims-paying capacity, the reduction to insurer reimbursement factors is to be calculated uniformly among all insurers that are to be reimbursed.

House: Not addressed.



Cat Fund liquidity

Senate: Provides that the State Board of Administration “may, consistent with sound investment policy,” invest in Florida Hurricane Catastrophe Fund bonds if the Cat Fund is unable to raise the funds it needs on the New York financial markets.

House: Similar language.

Cat Fund Advisory Council bonding and capacity estimates

Senate: Cat Fund Advisory Council bonding and capacity estimates would be published in July as well as October of the contract year, beginning this year.

House: Apparently not addressed.

Rapid cash build-up factor

Senate: The 25 percent rapid cash buildup factor in Cat Fund premiums is reestablished, beginning with 5 percent this year and growing to 10 percent in 2010, 15 percent in 2011, 20 percent in 2012 and 25 percent in 2013 and becoming a permanent part of the Cat Fund premium. The factor would apply only to the mandatory program and not to TICL.

House: Similar language.

Cat Fund Contract Year

Senate: The Cat Fund contract year, beginning in 2011, commences on January 1 and ends on December 31. The contract year remains from June 1 to December 31 for the 2009 and 2010 hurricane seasons.

House: Apparently not addressed.

Citizens Property Insurance Corporation rate freeze

Senate: The Citizens rate freeze is allowed to expire on January 1, 2010, as scheduled and actuarially sound rates must be developed and phased in over a period of years, however long that takes. Rate increases will be capped at 10 percent a year on any individual policyholder, adjusted for exposure change. The effect of the 10 percent policyholder increase cap is to prohibit a statewide average increase of probably anything higher than 5 percent.

House: The House allows for greater annual rate increases to achieve actuarially sound rates once the rate freeze expires – 10 percent a year on a statewide average, 15 percent in a rating territory and 20 percent on an individual policyholder.



My Safe Florida Home funding

Senate: Allocates 10 percent of the Citizens glide path increase to the state general revenue fund, presumably through the My Safe Florida Home program, for mitigation grants for single-family homes and stipulates that only Citizens policyholders qualify for the grants.

House: Similar language, but the funding is specifically earmarked for the My Safe Florida Home Program for mitigation grants.

Rapid cash-build up factor

Senate: Irrespective of the 10 percent cap, Citizens is allowed to increase its rates to recover the Cat Fund rapid cash build-up factor. Senate committee staff estimates the rate impact at less than 1 percent.

House: Similar language.

Citizens Policyholder Assessment

Senate: Not addressed.

House: Increases the Citizens Policyholder Assessment to 25 percent per account from the current 15 percent per account.

Reduction in High Risk Account territories

Senate: The pending reduction in the High Risk Account territories to achieve a 25 percent reduction in the HRA probable maximum loss would be postponed from February 1, 2010, to February 1, 2013. The pending reduction in HRA boundaries to achieve a 50 percent reduction in the PML is postponed from February 1, 2015, to February 1, 2018.

House: Repeals the 25 percent and 50 percent PML reduction mandates instead of postponing their effective date.

Wind-only policies in Citizens High Risk Account

Senate: Current law is retained on Citizens offering wind-only coverage in the High Risk Account on structures valued at up to \$2 million, with Citizens or private insurers providing underlying perils coverage. A new provision allows authorized insurers (not surplus lines carriers) to offer ex-wind policies to homeowners no longer eligible for Citizens coverage and who are within the HRA – if the residential structure is valued at \$2 million or more or it is a structure valued at \$750,000 or more without opening protections.

House: Similar language.



Citizens' multi-policy discounts

Senate position: issue pending before the Banking & Insurance Committee

House position: Follow Citizens mission review task force recommendation and repeal provision allowing multi-policy discount when homeowners insurance is in Citizens and auto is in another company represented in one form or another by the same agent.

Residential Insurance ratemaking

Expedited recoupment of certain Cat Fund costs

Senate: Insurers are allowed to make a separate expedited rate filing limited to recovery of increased costs from the rapid cash build-up factor in the mandatory program; incremental costs of replacing reinsurance formerly provided by the Cat Fund through TICL; and incremental costs resulting in increased premium for the remaining layers of TICL. This filing is not subject to full rate review by OIR, but is capped at 10 percent statewide and 12 percent for individual policyholders.

House: Similar language.

Flex rating

Senate: Not addressed

House: Residential property insurers could submit a rate filing not subject to Office of Insurance Regulation review for excessiveness if it produced an average statewide impact of plus or minus 10 percent and no more than a 15 percent increase in any one rating territory.

Use and file

Senate: Extends for one additional year, until December 31, 2010, the suspension of use and file rate filing procedures.

House: Similar language.

Transparency

Senate: Repeals current law preventing OIR from applying attorney/client privilege or work product confidentiality to OIR attorney communications, unless the communication occurred exclusively for litigation purposes.

House: Similar language.



Recoupment of Citizens & FIGA assessments

Senate: Changes the method by which insurers are allowed to recoup assessments imposed by Citizens Property and the Florida Insurance Guaranty Association. It allows insurers to submit any recoupment overage to FIGA or Citizens, rather than making pro-rata refunds to policyholders.

House: Apparently not addressed.

Mitigation:

My Safe Florida Home Program Funding

Senate: 10 percent a year of revenues generated through the Citizens Property Insurance Corporation rate increases would be transferred to the state's general revenue fund and earmarked for hurricane loss mitigation, presumably to continue the My Safe Florida Home Program currently scheduled to sunset this year. The transfer will cease once Citizens has achieved actuarially sound rates.

House: Similar language except MSFH is specifically mentioned and it is provided that only homesteaded property insured by Citizens would qualify for the grants.

My Safe Florida Home Revisions

Senate: Not addressed in CS/SB 1950, but similar language is in SB 2078.

House: Allows MSFH grants to be used for more mitigation improvements to maximize federal funding opportunities. Requires MSFH contracts valued at \$1 million or more to be approved by the Legislative Budget Commission. Includes technical changes to the My Safe Florida Home Program statute. Repeals the no interest loan program as the Department of Financial Services could not find a vendor to implement the program.

My Safe Florida Home Inspections

Senate: Not addressed in CS/SB 1950, but similar language is in SB 2078.

House: Deleted is current law allowing hurricane mitigation inspectors employed by MSFH to sign a uniform mitigation verification form (OIR Form 1802). Insurers would be allowed to re-inspect properties for which they have received a mitigation verification form. It would become a first degree misdemeanor to knowingly submit a false or fraudulent mitigation form to obtain a discount.

Uniform home grading system scale

Senate: Postpones from January 1, 2010, to January 1, 2012 the requirement that a seller of a home insured by Citizens and located in wind-borne debris regions with an insured value of \$500,000 or more disclose in writing to the prospective purchaser its windstorm mitigation rating.

House: Repeals this requirement altogether.



Condominium Mitigation Loan Program

Senate: Not addressed

House: Allow the Department of Community Affairs to implement a condominium loan program to assist condos insured by Citizens Property in mitigating hurricane losses in all units. DFS would contract with banks or credit unions who would loan funds to condo associations. DFS would pay the bank or credit union a subsidy equal to an agreed-upon rate of interest calculated on a per-unit loan amount of up to \$5,000 multiplied by three years. The result would be, the condo association would pay no interest for three years and presumably have a low interest rate on the remaining years debt.

Hurricane Loss Mitigation Discount Review

Senate: Not addressed

House: Requires that the Florida Commission on Hurricane Loss Projection Methodology "review discounts, credits, other rate differentials and reductions in deductibles relating to windstorm mitigation." The commission shall submit a report by October 1, 2009, including "recommendations on improving the process of assessing, determining and applying windstorm mitigation discounts, credits, other rate differentials and appropriate reductions in deductibles."

Public adjusters

Senate: Not addressed.

House: Public adjusters would be prohibited from soliciting homeowners for 20 days following a loss, instead of 48 hours as under current law. Public adjusters would be required to submit to examinations under oath, upon the request of an insurer.

FIGA protection

Senate position: Allow insurance agents to explain to consumers that Florida Insurance Guaranty Fund protection would be available in the event of the failure of their homeowners' insurer.

House position: Similar language.

Debt cancellation products

Senate: Not addressed.

House: Expands who can offer debt cancellation products to include other businesses selling a product if it is regulated by an agency or the state and extension of credit is offered in connection with the purchase of the product. Repeals requirement that business entities other than financial institutions and insured depository institutions must be specifically authorized to offer debt cancellation products.