



OFFICE OF INSURANCE REGULATION

KEVIN M. McCARTY
COMMISSIONER

FILED

JUL 6 2011

OFFICE OF
INSURANCE REGULATION

Docketed by: D/S

IN THE MATTER OF:

FLORIDA SURPLUS LINES SERVICE OFFICE

Case No.: 118554-11

ORDER

THIS CAUSE came before the FLORIDA OFFICE OF INSURANCE REGULATION (OFFICE) for consideration upon the request of the FLORIDA SURPLUS LINES SERVICE OFFICE (FSLSO), CITIZENS PROPERTY INSURANCE CORPORATION (CITIZENS) and the FLORIDA HURRICANE CATASTROPHE FUND (FHCF) for clarification of previous Orders issued by the OFFICE with respect to the responsibilities of the FSLSO to collect assessments for CITIZENS and FHCF. The OFFICE, having considered said request and being otherwise fully advised in the premises, hereby finds as follows:

1. The OFFICE has jurisdiction over this matter and the parties.
2. On January 11, 2007 the OFFICE issued an Order Approving Certification of Emergency Assessment, Case No. 87822-06 for CITIZENS which assessed policies processed by the FSLSO.
3. On April 27, 2010 the OFFICE issued an Order, Case No. 109022 directed to the FSLSO to collect assessments on behalf of the FHCF.
4. On July 21, 2010, the President signed into law the Nonadmitted and Reinsurance

Reform Act of 2010 (NRRRA). This act substantially modified the manner in which states were authorized to levy and collect taxes for multi state insurance risks.

a. The NRRRA states that “No State other than the home State of an insured may require any premium tax payment for nonadmitted insurance.”

b. Home State is defined as:

i. “The State in which an insured maintains its principal place of business or, in the case of an individual, the individual’s principal residence; or”

ii. “If 100 percent of the insured risk is located out of the State referred to in clause (i), the State to which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated.”

c. Premium tax includes “any tax, fee assessment, or other charge imposed by a government entity directly or indirectly based on any payment made as consideration for an insurance contract for such insurance, including premium deposits, assessments, registration fees and any other compensation given in consideration for a contract of insurance.”

5. On July 21, 2011 the NRRRA will become effective.

6. FHCF, CITIZENS and FLSO have requested a clarification on how the emergency assessments should be collected. Under the prior statutory scheme, emergency assessments were only collected on that portion of the premium that covered risk or exposures located in the State of Florida.

7. Due to a change in Florida law to accommodate the provisions of the NRRRA, Laws 2011, c. 2011-46, §2, eff. May 26, 2011, the collection of taxes and assessments was modified and could cause the collection of assessments based on risks or exposures not located

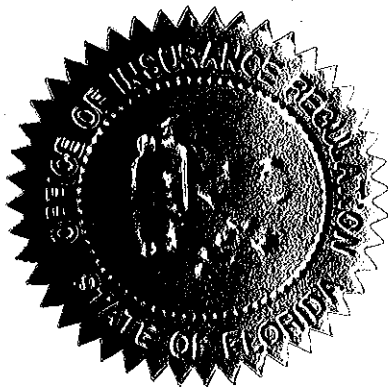
in Florida.

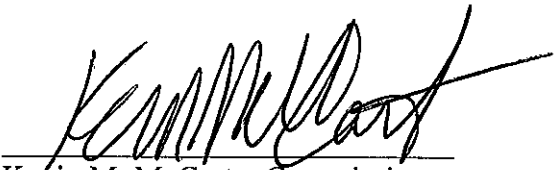
8. The FHCF and CITIZENS maintain that the authorizing statutes, sections 215.555(6) and 627.351(6), Florida Statutes only permit the collection of emergency assessments on premiums which are collected on properties or risks located in the State of Florida. Under the provisions of the NRRA and section 626.932, Florida Statutes, the FLSO collects the taxes on the gross premium collected on multistate policies which cover risks located in other states. To avoid collecting an emergency assessment on out of state risks, the FLSO will collect the FHCF and CITIZENS emergency assessments on that portion of the premium for a multistate policy that is allocated for the Florida portion of the risk or exposure.

IT IS THEREFORE ORDERED:

The FLSO shall continue to determine what portion of a surplus lines policy covers only Florida properties based on policy information reported, and only collect the emergency assessments on that portion of the premium for risks or exposures located in the State of Florida.

DONE AND ORDERED this 6th day of July, 2011.




Kevin M. McCarty, Commissioner
Office of Insurance Regulation

NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Order is entitled to seek review of this Order pursuant to section 120.68, Florida Statutes, and Rule 9.110, Florida Rules of Appellate Procedure. Review proceedings must be instituted by filing a petition or notice of appeal with the General Counsel, acting as the Agency Clerk, at 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0333, and a copy of same with the appropriate district court of appeal within thirty (30) days of rendition of the Order.

Copies furnished to:

Florida Surplus Lines Service Office
1441 Maclay Commerce Drive, Suite 200
Tallahassee, Florida 32312

Citizens Property Insurance Corporation
101 North Monroe Street, Suite 1000
Tallahassee, Florida 32301

Florida Hurricane Catastrophe Fund
1801 Hermitage Boulevard, Suite 100
Tallahassee, Florida 32308

Catharine Schoenecker, Esquire
Stephen C. Fredrickson, Esquire
Assistant General Counsels
Florida Office of Insurance Regulation
612 Larson Building
200 East Gaines Street
Tallahassee, Florida 32399-4206