

FIC SIDE BY SIDE COMPARISON OF PROPERTY INSURANCE BILLS

HB 1495E1 and CS/CS/SB 1950

Issues	Senate	House
<p>Florida Hurricane Catastrophe Fund Temporary Increase in Limits (TICL) program</p>	<p>Beginning at line 485. 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.</p>	<p>Beginning on Line 374. Same position.</p>
<p>Reducing coverage options in TICL</p>	<p>Not addressed</p>	<p>Line 511. 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).</p>

<p>Citizens ineligible for TICL</p>	<p>Not addressed, with Citizens Property Insurance Corporation remaining eligible for TICL</p>	<p>Line 415. 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.</p>
<p>Cat Fund replacement reinsurance recoupment</p>	<p>Lines 1167, 1289 and other sections. Insurers are allowed to make a separate expedited rate filing not subject to OIR review for excessiveness if the increase is no more than 10 percent statewide and 12 percent on an individual policyholder and the following standard is met: "All changes specified in the filing do not result in an increase from the insurers rates then in effect of more than the rate increase authorized by s. 627.0629(5), plus the actual additional cost paid due to the application of s. 215.555(17)(f), plus the actual additional cost paid due to the application by the Florida Hurricane Catastrophe Fund of a cash buildup factor pursuant to s. 215.555(5)(b)."</p>	<p>Similar position.</p>
<p>TICL rates</p>	<p>Line 628. The rapid cash build-up factor will not apply to TICL. TICL premium is increased as TICL capacity is reduced. There is an increase in the 2009 contract year by a factor of two, followed by an increase by a factor of three in 2010, a factor of four in 2011, a factor of five in 2012 and a factor of six in 2013, the final year of TICL.</p>	<p>Beginning on line 551. Similar language.</p>
<p>TICL \$4 billion add-on at discretion of State Board of Administration</p>	<p>Line 649. This option is eliminated effective immediately.</p>	<p>Line 572. Similar language.</p>

LAC drop-down coverage	<p>Beginning on line 185. Extends through December 31, 2011, 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 and insurers approved to participate in the Insurance Capital Build-Up Incentive Program.</p> <p>Line 214. Issue arose about priority of payments for this coverage. It was clarified to retain existing law and practice. Here is the language: "The optional coverage retention as specified shall be accessed before the mandatory coverage under the reimbursement contract, but once the limit of coverage selected under this option is exhausted, the insurer's retention under the mandatory coverage shall apply. This coverage shall apply and be paid concurrently with the mandatory coverage."</p>	<p>Beginning on Line 254. Same on extension of program and priority of payments.</p> <p>Priority of payments language begins on Line 283.</p>
Priority of payments in the event of a shortfall	Line 278. 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.	Not addressed.
Cat Fund liquidity	Not addressed.	Line 181. 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.
Cat Fund Advisory Council bonding and capacity estimates	Line 236. Cat Fund Advisory Council bonding capacity, claims-paying capacity and projected end of year balance would be published in May as well as in October.	Line 306. Same position.

Rapid cash build-up factor	Line 408. 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. It would apply only to the mandatory program and not to TICL.	Line 340. Similar language.
Cat Fund contact year	Line 130. The Cat Fund contract year, beginning in 2011, commences on January 1 and ends on December 31. It remains June 1 to May 31 for the 2009 and 2010 hurricane seasons.	Line 207. Same.
Notarized submissions to Cat Fund	Line 469 similar language.	Line 368. Allows SBA to require insurers to notarize documents submitted to the Cat Fund. This is required by rule now and would become statutory.
Citizens Property Insurance Corporation Citizens rate freeze	Line 1912. 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.	Line 2271. 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. Line 2288. Citizens also may increase rates by a separate amount to recoup the Cat Fund rapid cash build-up factor.
My Safe Florida Home funding	Line 1923. 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.	Line 2272 and other sections. Similar language, but the funding is specifically earmarked for the My Safe Florida Home Program for mitigation grants. House bill provides that the funds go into the Insurance Regulatory Trust Fund instead of the State General Revenue Fund.

Rapid cash-build up factor	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 estimate the rate impact at less than 1 percent.	Similar language.
Citizens Policyholder Assessment	Not addressed.	Line 1564. Increases the Citizens Policyholder Assessment to 25 percent per account from the current 15 percent per account.
Reduction in HRA territories	Line 1949, 1958. 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.	Line 2279. Repeals the 25 percent and 50 percent PML reduction mandates instead of postponing their effective date.
Wind-only policies in Citizens HRA	Beginning with line 2066. 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.	Line 2382. Similar language.
Citizens multi-policy discounts	Still checking.	Line 1354. The bill allows insurers to continue to offer multi-policy discounts but only if the policy from Citizens or the take-out insurer is issued or renewed before January 31, 2010.

<p>Staggered Citizens board appointments</p>	<p>Line 1582. Similar to House</p>	<p>Line 1938. Taken from the bill: for the first term beginning on or after July 1, 2009, each appointing officer shall appoint one member of the board for a 2-year term and one member for a 3-year term."</p>
<p>Residential Insurance Rate-making Duplicative TICL coverage in the rate base.</p>	<p>Line 1290: Amends s.627.0629. An insurer may include in its rate the actual cost of reinsurance that duplicates available coverage of the Temporary Increase in Coverage Limits, TICL, from the Florida Hurricane Catastrophe Fund. The insurer may include the cost of reinsurance in its rate even if the insurer does not purchase the TICL layer. However, this cost for reinsurance may not include any expense or profit load or result in a total annual base rate increase in excess of 10 percent."</p>	<p>Line 1338. Similar language.</p>
<p>Flex rating</p>	<p>Not addressed</p>	<p>Line 1174. 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.</p>
<p>OIR inflation trend factor</p>	<p>Original Senate bill allowed insurers to make an annual expedited rate filing for residential property insurance based on the most recent cost (Inflation) Trend Increase published by the Insurance Services Office. Insurers would be allowed to increase their rates in an amount equal to the inflation trend factor or 5 percent on a statewide average, whichever is less. Policyholder increases would be capped at 8 percent. This was removed in an amendment by the Senate Banking & Insurance Committee April 6.</p>	<p>Not addressed.</p>

Use and file	Line 1003. Extends for one additional year, until December 31, 2010, the suspension of use and file rate filing procedures.	Line 1152. Similar language.
Transparency	Line 1260. 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.	Line 1258. Similar language
Recoupment of Citizens & FIGA assessments	From the Senate Policy & Steering Committee on Ways & Means summary: Requires recoupment to begin within 180 days of the Citizens assessment. Limits the recoupment factor to 3 percentage points above the ratio of the deficit assessment to the Florida direct written premium for the assessed line. Allows OIR 30 days to review the recoupment filing. Over-recoupment is remitted to Citizens rather than returned to policyholders. Insurers are required to file a final accounting report with OIR documenting the recoupment process.	Not addressed.
Recoupment of FIGA assessments	Similarly requires recoupment to begin within 180 days. Limits the recoupment factor to 2 percent above ratio of the deficit assessment to Florida DWP for the assessed line. Over-recoupment remitted to FIGA and final accounting report must be filed with OIR.	Not addressed.
Assessment liability notice	Not addressed	Line 2675. Requires every real property insurance policy to include large type notice that the policy is subject to assessments from Citizens Property & the Cat Fund.

<p>Mitigation My Safe Florida Home Program Funding</p>	<p>Line 1599. Line 1944. 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.</p>	<p>Line 2416 and other sections. Similar language except MSFH is specifically mentioned and it is provided that only homesteaded property insured by Citizens would qualify for the grants.</p>
<p>My Safe Florida Home Revisions</p>	<p>Similar language. Line 808 and other sections.</p>	<p>Beginning on line 677. Allows MSFH grants to be used for more mitigation improvements to maximize federal funding opportunities. Currently grants are available for opening protection, exterior doors, including garage doors, and bracing gable ends. Additional enhancements which would be covered would be reinforcing roof-to-wall connections, improving the strength of roof-deck attachments, upgrading roof covering from code to code plus and secondary water barrier for roof.</p> <p>Line 847. 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.</p> <p>Line 807. Repeals the no interest loan program as the Department of Financial Services could not find a vendor to implement the program.</p>

<p>My Safe Florida Home Inspections</p>	<p>Similar language to House, beginning on line 676.</p>	<p>Line 599 and other sections.(Taken directly from House insurance committee analysis of the strike-all to HB 1495.) Deleted is current law allowing hurricane mitigation inspectors employed by MSFH to sign a uniform mitigation verification form (OIR Form 1802).</p> <p>Line 2364. Insurers would be allowed to re-inspect properties for which they have received a mitigation verification form.</p> <p>Line 2347. It would become a first degree misdemeanor to knowingly submit a false or fraudulent mitigation form to obtain a discount.</p>
<p>Uniform home grading system scale</p>	<p>Line 1408. Repeals a requirement scheduled to take effect on January 1, 2010, 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.</p>	<p>Line 1476. Similar language.</p> <p>Elimination of this requirement is being sought by Florida realtors. A similar requirement would still take effect in 2011 for all property in wind-borne debris regions under s. 689.262, Florida Statutes.</p>
<p>Condominium Mitigation Loan Program</p>	<p>Not addressed.</p>	<p>Line 888. (Taken directly from House insurance committee analysis of the strike-all to HB 1495.) 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.</p>

Hurricane Loss Mitigation Discount Review	Not addressed.	<p>Line 1284. 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.”</p>
Public adjusters	Not addressed.	<p>Line 2534. Public adjusters would be prohibited from paying anyone other than another PA for client referrals. Payments to "runners" would be prohibited.</p> <p>Beginning on line 2571. PA apprentice licensing procedures are revised. An applicant for the apprentice designation must complete a new 40-hour course. The test, which has been required in the past, is moved up to immediately after completion of the course and before the one-year apprenticeship. For the first time, caps are established on the number of apprentices. No more than 12 apprentices can be employed by a public adjusting firm at any one time and a public adjuster can supervise no more than three apprentices.</p> <p>Line 2657. Public adjuster study, including possible abuses by PAs reopening claims following Hurricane Wilma. Report due February 1, 2010.</p>
Right to repair	Not Addressed	<p>Line 2654. It provides that s. 627.7011, the offer of replacement cost and law and ordinance coverage, does not overturn an insurer’s right to repair. The Office of Insurance Regulation has been asking insurers to remove the right to repair from policies.</p>

FIGA protection	Line 2304. 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.	Line 2410. Similar language.
OIR interference with company/agent practices and other practices	Not addressed.	Line 1166. The language below is limited to rate and form filings. "Unless specifically authorized by law, the Office shall not interfere, directly or indirectly, with the insurer's right to solicit, sell, promote or otherwise acquire policyholders and implement coverage using its own lawful methodologies, systems, agents and approaches, including the calculation, manner or amount of agent commissions, if any."
Crop insurance commission sharing	Not addressed.	Line 990. Prohibits under certain circumstances commission sharing in crop hail or crop multi-peril insurance.
Debt cancellation products	Not addressed.	Line 980. (Taken directly from House insurance committee analysis of the strike-all to HB 1495.) 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.
Local government self-insurance Funds	Not addressed.	Line 931. Limits to 30 days notice which can be required by a local government self-insurance fund of a member's intent to withdraw and secure coverage elsewhere. Line 935. Board member criminal background checks are required

\$5 Agents Service Fee	Not addressed.	Line 2835. Licensed general agent may collect up to \$5 from the insured for processing an installment payment to an insurer or premium finance company.
Reinsurers/public housing authorities	Not addressed.	Line 2851. Reinsurers complying with s. 624.610 may issue coverage directly to a self-insuring public housing authority.
Rating agency disclosure	Not addressed.	Line 2863. Requires rating agencies to state in their public reports and ratings whether reinsurance from the Florida Cat Fund is counted as an admitted asset for the rated entity.