

Staff Summary of House Property Package (CS/HB 1495)

04/06/2009

Here is the House Insurance, Business & Financial Affairs Policy Committee analysis of the strike-all adopted Friday, which is now the real bill. The summary we posted for a while Friday was to the original bill by Rep. Alan Hays, R-Umatilla, and was outdated.

This analysis does not include amendments to the strike-all which were adopted (although the side by side which FIC has been developing does).

One key amendment provided that public adjusters cannot contact homeowners for 20 days after the loss instead of 48 hours as in current law. It provides that public adjusters must submit to examinations under oath at the request of the insurer.

Another key amendment provided that the Office of Insurance Regulation may not interfere with commission levels and other contractual issues between an insurer and agents. There was speculation by committee members this might prohibit OIR's move to require State Farm to allow its agents to accept appointments from other companies during the State Farm pull out from the Florida property market, but no one seemed to know for certain whether it would.

Summary of Strike All Amendment to HB 1495

Florida Hurricane Catastrophe Fund (FHCF)

Extends until December 31, 2011 the \$10M coverage option and allows it to be purchased by those insurance companies that purchased it in 2008 in addition to the companies authorized to purchase this coverage under current law. Requires the FHCF to pay the \$10M coverage to insurers that purchase it as soon as practicable after insurers report covered losses.

Reduces TICL layer \$2B a year for 6 years starting this year. TICL is gone on December 31, 2013.

In conjunction with the TICL reduction each year, decreases the reimbursement percentage paid to insurers for TICL coverage (which increases the copays the insurers make to the FHCF for TICL coverage).

In conjunction with the TICL reduction and the decrease in reimbursement percentage paid to insurers for TICL coverage each year, increases the price of TICL coverage each year for 5 years.

Allows, but not requires, the SBA to invest in post-event revenue bonds issued by the FHCF, if the investment is consistent with sound investment policy.

Starting this year, requires the FHCF to include a cash build up factor of 5% per year in its rates charged to insurers until the factor reaches 25%. When the factor is 25% (in 2013), it becomes a permanent part of the FHCF rate and is put into the rate yearly.

Prohibits Citizens from purchasing TICL coverage.

Amends the FHCF contract year to January 1 to December 31 for 2011 and all years after with a transition contract year in 2010.

Repeals the \$4B SBA coverage option that allows the SBA to offer \$4B of FHCF coverage above the TICL layer so the option is not available.

Citizens Property Insurance Corporation (Citizens)

Starting January 1, 2010, requires a glide path for Citizen's rate increases until the rates are actuarially sound. Annual rate increases under the glide path are limited to 10% average statewide and 20% for a single policy.

Allows Citizens to increase rates to cover the cost of paying the FHCF's cash build up factor.

Beginning April 1, 2010 and until Citizens's rates are actuarially sound, transfers 10% of the funds received from the Citizens's glide path rate increases to General Revenue for transfer to DFS for use in the My Safe Florida Home Program for mitigation grants. Mitigation grants funded with these monies can only be given to Citizens' policyholders.

Increases the Citizens Policyholder Assessment to 25% of premium per account, rather than 15% per account.

Repeals current law requiring Citizens to reduce the high risk account area because the Citizens's probable maximum loss has not been reduced sufficiently since 2002.

Extends the effective date two years, until January 1, 2012, of current law requiring Citizens's homeowners with homes insured for \$500,000 or more and located in the wind borne debris region to disclose the home's windstorm mitigation rating upon sale.

Creates staggered terms for the Citizens's Board of Governors starting July 1, 2009.

Reinsurance Recoupment by Insurers

Allows all insurance companies (including Citizens) to recoup costs of private reinsurance that duplicates coverage of the TICL coverage even if the insurer does not purchase TICL coverage. However, no expense or profit load can be included in this rate increase. The maximum rate increase allowed to be recouped is 10% above the insurer's base rate.

My Safe Florida Home Program

Allows the My Safe Florida Home Program mitigation grants to be used for more mitigation improvements to maximize federal funding opportunities.

Requires My Safe Florida Home Program contracts valued at \$1M or more to be reviewed and approved by the Legislative Budget Commission.

Creates a loan program for condo associations insured by Citizens and located in the wind borne debris region. The Department of Financial Services (DFS) would contract with banks or credit unions, who would then loan funds to condominium associations for approved mitigation work. 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 3 (years). The result would be that the condominium association would pay no interest for 3 years (and then ideally would have a low rate of interest on the remainder).

Makes 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.

Mitigation Discounts

Deletes current law allowing hurricane mitigation inspectors employed by an approved My Safe Florida Home Program wind certification entity from those authorized to sign a uniform mitigation verification form (OIR Form 1802).

Allows insurers to reinspect properties for which they receive a mitigation verification form.

Requires the Florida Commission on Hurricane Loss Projection Methodology to review the current mitigation discounts and report to the Governor and Legislature by October 1, 2009 with recommendations relating to the discounts.

Makes it a first degree misdemeanor to knowingly submit a false or fraudulent mitigation discount form in order to obtain a mitigation discount that the person is not entitled to.

Other Provisions

Allows insurers to increase or decrease rates up to 10% with OIR only able to disapprove filing if the increase or decrease makes rates inadequate or if the filing uses unfairly discriminatory rating factors.

Extends for one additional year, until December 31, 2010, the prohibition in current law on insurers using the "use and file" option for property insurance rate increases.

Allows insurers to sell policies without wind coverage if a policyholder is not eligible for Citizens as the home is insured for \$2M or more and is located in the high risk account or insured for \$750K or more and does not meet Citizen's shutter requirements and is located in the high risk account.

Repeals the current law that prevents OIR from applying attorney client privilege or work product confidentiality to OIR

attorney communications.

Expands who can offer debt cancellation products to include other business entities selling a product:

- The sale of which is regulated by an agency of the State; and,
- Where the extension of credit is offered in connection with the purchase of such product.

Removes the requirement that business entities other than financial institutions and insured depository institutions must be specifically authorized by law to offer debt cancellation products.

Discontinues the multi-policy discount authorized for policies in Citizens or with a takeout insurer when those policies have been issued or renewed after January 1, 2010.

Allows insurance agents to explain to consumers the applicability of the Florida Insurance Guaranty Association to various insurance coverages.

Prepared by staff of the Insurance, Business & Financial Affairs Policy Committee on 4/2/2009.