

FIC SIDE BY SIDE COMPARISON OF PROPERTY INSURANCE BILLS: CS/HB 1495 and CS/SB 1950

Issues	Senate	House	Preferred and Comments
<p>Florida Hurricane Catastrophe Fund</p> <p>Temporary Increase in Limits (TICL) program</p>	<p>Beginning at line 411. 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>Line 244. Line 292. Similar language.</p>	
<p>Reducing coverage options in TICL</p>	<p>Not addressed</p>	<p>Line 365. The House produces additional decreases in TICL through a decrease in the coverage options allowed insurers. This increases the copay 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 269. 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>Line 804. 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 cannot include added expense or profit factors and is limited to the reinsurance increase.</p>	<p>Line 1149. Similar language.</p>	

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TICL rates	Line 568. 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.	Line 315. Line 405. Similar language	
TICL \$4 billion add-on at discretion of State Board of Administration	Line 589. This option is eliminated effective immediately.	Line 426. Similar language.	
LAC drop-down coverage	<p>Beginning on line 174. 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 and insurers approved to participate in the Insurance Capital Build-Up Incentive Program.</p> <p>Line 200. 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.</p>	Line 125. Similar language. Provides that reimbursements under this option shall be "paid as soon as practicable."	
Priority of payments in the event of a shortfall	Line 264. 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 after amendment in Senate Banking & Insurance Committee.	Line 125. 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 223. Cat Fund Advisory Council bonding and capacity estimates would continue to be published in May and October, but some language in the current statute is deleted.	Apparently not addressed.	

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Rapid cash build-up factor	Line 394. 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 197. Similar language.	
Cat Fund contact year	Line 119. 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 May 31 for the 2009 and 2010 hurricane seasons.	Apparently not addressed.	
Citizens Property Insurance Corporation Citizens rate freeze	Line 1548. 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 2081. 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	Line 1599. Line 1944. 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 2103. Line 2225. Similar language, but the funding is specifically earmarked for the My Safe Florida Home Program for mitigation grants.	
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 1569. Increases the Citizens Policyholder Assessment to 25 percent per account from the current 15 percent per account.	
Reduction in HRA territories	Line 1585. 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 2109. Repeals the 25 percent and 50 percent PML reduction mandates instead of postponing their effective date.	

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Wind-only policies in Citizens HRA	Beginning with line 1701. 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 2192. Similar language.	
Citizens multi-policy discounts	Apparently not addressed.	Line 1569. 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.	
Staggered Citizens board appointments	Line 1218. Similar to House	Line 1750. 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." Residential Insurance rate-making	
Expedited recoupment of certain Cat Fund costs	Line 803. Line 925. 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. It is capped at 10 percent statewide and 12 percent for individual policyholders.	Line 1149. Similar language, except that the House does not include the 12 percent increase cap on individual policyholders.	
Flex rating	Not addressed	Line 986. 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.	

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OIR inflation trend factor	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.	Not addressed.	
Use and file	Line 639. Extends for one additional year, until December 31, 2010, the suspension of use and file rate filing procedures.	Apparently similar language.	
Transparency	Line 896. 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 1068. Similar language.	
Recoupment of Citizens & FIGA assessments	Beginning at line 1612. Changes the method by which insurers are allowed to recoup assessments imposed by Citizens Property and the Florida Guaranty Fund. It allows insurers to submit any recoupment overage to FIGA or Citizens, rather than making pro-rata refunds to policyholders.	Apparently not addressed.	
Mitigation: My Safe Florida Home Program Funding	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.	Line 2103. Line 2225. 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	Not addressed in CS/SB 1950, but similar language is in SB 2078.	Beginning on line 443. (Taken directly from House insurance committee analysis of the strike-all to HB 1495.) 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.	

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My Safe Florida Home Inspections	Not addressed in CS/SB 1950, but similar language is in SB 2078.	Line 453. Line 2163. (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). 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	Line 1044. 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.	Line 1286. Repeals this requirement altogether. 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.	
Condominium Mitigation Loan Program	Not addressed.	Line 742. (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.	
Hurricane Loss Mitigation Discount Review	Not addressed.	Line 1094. 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."	

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Public adjusters	Not addressed.	<p>Line 845. Public adjusters would be prohibited from soliciting homeowners for 20 days following a loss, instead of 48 hours as under current law.</p> <p>Line 912. Public adjusters could not provide a referral fee or other compensation.</p> <p>Line 917. Public adjusters would be required to submit to examinations under oath, upon the request of an insurer.</p>	
FIGA protection	Line 1940. 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 2220. Similar language.	
OIR interference with company/agent practices and other practices	Not addressed.	Line 978. From the bill: "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."	
Debt cancellation products	Not addressed.	Line 797. (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.	