

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/SB 1106

INTRODUCER: Banking and Insurance Committee and Senator Hooper

SUBJECT: Coverage by Citizens Property Insurance Corporation

DATE: February 12, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Thomas</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Sanders</u>	<u>Betta</u>	<u>AEG</u>	<u>Favorable</u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1106 revises the criteria for personal lines residential structures and single condominium units to be eligible for coverage with the Citizens Property Insurance Corporation (Citizens). Effective August 1, 2024, such structures and condominium units are eligible for Citizens coverage if:

- The dwelling replacement cost of the residential structure or the combined dwelling and contents replacement cost of the single condominium unit is less than one million dollars (rather than less than \$700,000 as provided under current law); and
- For a residential structure or single condominium unit with a replacement cost of at least \$700,000 but less than one million dollars, if the risk has not been offered comparable coverage from an authorized insurer at the insurer's approved rate under a standard policy including wind coverage.

Under the bill, rates for Citizens coverage on residential structures or single condominium units with a replacement cost of at least \$700,000, but less than one million dollars, will be subject to all of the following requirements:

- Rates must be actuarially sound pursuant to the Rating Law and not competitive with approved rates in the admitted voluntary market;
- For the purpose of ensuring Citizens' rates on such policies are not competitive with approved rates charged in the admitted voluntary market, after Citizens' next annual rate filing, which occurs on or after August 1, 2024, such rates are subject to an additional surcharge of the lesser of \$2,500 or 25 percent of the corporation's rate for the policy; and

- After Citizens' next annual rate filing, which occurs on or after August 1, 2024, such rates are not subject to the Citizens "rate glidepath," which prohibits imposing a rate increase on any policy greater than a specified percentage (13 percent for 2024, 14 percent for 2025, and 15 percent for 2026 and thereafter).

The bill has an indeterminate impact to state revenues and expenditures. See Section V., Fiscal Impact Statement.

The bill is effective August 1, 2024.

II. Present Situation:

Citizens Property Insurance Corporation—Overview

Citizens Property Insurance Corporation (Citizens) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.¹ Citizens is not a private insurance company.² Citizens was statutorily created in 2002 when the Florida Legislature combined the state's two insurers of last resort, the Florida Residential Property and Casualty Joint Underwriting Association (RPCJUA) and the Florida Windstorm Underwriting Association (FWUA).³

Citizens operates in accordance with the provisions in s. 627.351(6), F.S., and is governed by a nine member Board of Governors (board) that administers its Plan of Operations. The Plan of Operations is reviewed and approved by the Financial Services Commission.⁴ The Governor, President of the Senate, Speaker of the House of Representatives, and Chief Financial Officer each appoint two members to the board.⁵ The Governor appoints an additional member who serves solely to advocate on behalf of the consumer.⁶ Citizens is subject to regulation by the Office of Insurance Regulation (OIR).

Current Policies

As of November 30, 2023, Citizens reports 1,260,430 policies in-force with a total exposure of \$562.5 billion.⁷ That is a reduction of over 74,000 policies and \$23.3 billion in exposure from October 31, 2023.

Eligibility for Insurance in Citizens

Citizens is required to provide a procedure for determining the eligibility of a potential risk for insurance in Citizens and provide specific eligibility requirements based on premium amounts,

¹ The term "admitted market" means insurance companies licensed to transact insurance in Florida.

² Section 627.351(6)(a)1., F.S.

³ Section 2, ch. 2002-240, Laws of Fla.

⁴ Section 627.351(6)(a)2., F.S.

⁵ Section 627.351(6)(c)4.a., F.S.

⁶ Section 627.351(6)(c)4., F.S.

⁷ Corporate Analytics Business Overview, September 20, 2023 Report, p. 1 <https://www.citizensfla.com/documents> (last visited January 24, 2024).

value of the property insured, and the location of the property.⁸ Risks not meeting the statutory eligibility requirements cannot be insured by Citizens. Citizens has additional eligibility requirements set out in their underwriting rules. These rules are approved by the OIR and are set out in Citizens' underwriting manuals.⁹

Eligibility Based on Premium Amount

An applicant for residential insurance cannot buy insurance in Citizens if an authorized insurer in the private market offers the applicant insurance for a premium that does not exceed the Citizens premium by 20 percent or more.¹⁰ The coverage offered by the private insurer must be comparable to Citizens' coverage.

A residential policyholder may not renew insurance in Citizens if an authorized insurer offers to insure the property at a premium no more than 20 percent greater than the Citizens' renewal premium.¹¹ The insurance coverage offered from the private market insurer must be comparable to the insurance from Citizens in order for the eligibility requirement for renewal premium to apply.¹²

Eligibility Based on Value of Property Insured

In addition to the eligibility restrictions based on premium amount, current law provides eligibility restrictions for homes and condominium units based on the value of the property insured.¹³ Structures with a dwelling replacement cost of \$700,000 or more, or a single condominium unit that has a combined dwelling and contents replacement cost of \$700,000 or more, are not eligible for coverage with Citizens.¹⁴ However, Citizens is allowed to insure structures with a dwelling replacement cost, or a condominium unit with a dwelling and contents replacement cost, of one million dollars or less in Miami-Dade and Monroe counties, after the OIR determined these counties to be non-competitive.¹⁵

Citizens "Glidepath" Rates

From 2007 until 2010, Citizens' rates were frozen by statute at the level established in 2006.¹⁶ In 2010, the Legislature established a "glidepath" to impose annual rate increases up to a level that is actuarially sound. Under the original established glidepath, Citizens had to implement an annual rate increase which, except for sinkhole coverage, does not exceed 10 percent above the previous year for any individual policyholder, adjusted for coverage changes and surcharges.¹⁷

⁸ Section 627.351(6)(c)5., F.S.

⁹ See Citizens Property Insurance Corporation, *PIF Standard Summary Report for Period Ending Nov. 30, 2023 (December 6, 2023)* (on file with the Senate Committee on Banking and Insurance).

¹⁰ Section 627.351(6)(c)5., F.S.

¹¹ Section 627.351(6)(c)5.a., F.S.

¹² *Id.*

¹³ Section 627.351(6)(a)3., F.S.

¹⁴ Section 627.351(6)(a)3.d., F.S.

¹⁵ The OIR, Final Order Case No: 165625-14, Dec. 22, 2014, available at <https://www.floir.com/siteDocuments/Citizens165625-14-O.pdf>. See Section 627.351(6)(a)3.d., F.S., and Citizens, Personal Lines Bulletin, *Update to Maximum Coverage Limits*, Nov. 12, 2019, <https://www.citizensfla.com/-/2019-roof-permits-acceptable-for-fbc-credits> (last visited January 24, 2024).

¹⁶ Section 15, ch. 2006-12, Laws of Fla.

¹⁷ Section 10, ch. 2009-87, Laws of Fla.

In 2021, the Legislature revised this glidepath to increase it one percent per year to up to 15 percent, as follows:¹⁸

- 11 percent for 2022;
- 12 percent for 2023;
- 13 percent for 2024;
- 14 percent for 2025; and
- 15 percent for 2026 and all subsequent years.

The implementation of this increase ceases when Citizens has achieved actuarially sound rates.¹⁹ In addition to the overall glidepath rate increase, Citizens can increase its rates to recover the additional reimbursement premium it incurs as a result of the annual cash build-up factor added to the price of the mandatory layer of the Florida Hurricane Catastrophe Fund coverage, pursuant to s. 215.555(5)(b), F.S.²⁰ The glidepath does not apply to policies written on or after November 1, 2023, that:

- Do not cover a primary residence;
- New policies under which the coverage for the insured risk, before the date of application with the corporation, was last provided by an insurer determined by the office to be unsound or an insurer placed in receivership under chapter 631; or
- Subsequent renewals of those policies.²¹

Citizens Financial Resources

Citizens' financial resources include insurance premiums, investment income, and operating surplus from prior years, Florida Hurricane Catastrophe Fund (FHCF) reimbursements, private reinsurance, policyholder surcharges, and regular and emergency assessments. Non-weather water losses, reinsurance costs and litigation are currently the major determinants of insurance rates.²² In the event of a catastrophic storm or series of smaller storms, reserves could be exhausted, leaving Citizens unable to pay all claims.²³ Under Florida law, if the Citizens' Board of Directors determines a Citizens' account has a projected deficit, Citizens is authorized to levy assessments²⁴ on its policyholders and on each line of property and casualty line of business other than workers' compensation insurance and medical malpractice insurance.²⁵

Citizens Depopulation

Florida law requires Citizens to create programs to help return Citizens policies to the private market and reduce the risk of additional assessments for all Floridians.²⁶ In 2016, the Legislature

¹⁸ Section 627.351(6)(n)5., F.S.

¹⁹ Section 627.351(6)(n)7., F.S.

²⁰ Section 627.351(6)(n)6., F.S.

²¹ Section 627.351(6)(n)8., F.S.

²² Citizens, 2023 Rate Kit, <https://www.citizensfla.com/documents/20702/29151924/2023+Rate+Kit.pdf/672e82d9-8f9e-dde8-679c-13c37e8e77da?t=1680006176707> (last visited January 24, 2024).

²³ Citizens, Insurance/Insurance 101/Assessments, <https://www.citizensfla.com/assessments> (last visited January 24, 2024).

²⁴ Assessments are charges Citizens and non-Citizens policyholders can be required to pay, in addition to their regular policy premiums.

²⁵ Accident and health insurance policies written under the National Flood Insurance Program or the Federal Crop Insurance Program are not assessable types of property and casualty insurance. Surplus lines insurers are not assessable, but their policyholders are. Section 627.351.(6)(b)3.f.-h., F.S.

²⁶ Section 627.351(6)(q)3.a., F.S.

passed requirements that Citizens, by January 1, 2017, amend its operations relating to take-out agreements.²⁷ As part of these updated requirements, codified under s. 627.351(6)(ii), F.S., a policy may not be taken out of Citizens unless Citizens:

- Publishes a periodic schedule of cycles during which an insurer may identify and notify Citizens of policies the insurer is requesting to take out;²⁸
- Maintains and makes available to the agent of record a consolidated list of all insurers requesting a take-out policy; such list must include a description of the coverage offered and the estimated premium for each take-out request; and
- Provides written notice to the policyholder and agent regarding all insurers requesting to take out the policy and the policyholder's option to accept a take-out offer or to reject all take out offers and to remain with the corporation. The notice must be in a format prescribed by the corporation and include, for each take-out offer:
 - The amount of the estimated premium;
 - A description of the coverage; and
 - A comparison of the estimated premium and coverage offered by the insurer to the estimated premium and coverage provided by the corporation.

Citizens Flood Insurance Requirement

Citizens' personal lines residential policyholders must secure and maintain flood insurance that meets certain requirements as a condition of eligibility for Citizens coverage.²⁹ The implementation of this requirement is based on a schedule.³⁰ For Citizens personal lines residential policyholders whose property is located within special hazard flood zones defined by the FEMA, flood coverage must be obtained by April 1, 2023 for Citizens' new policies and July 1, 2023 for Citizens' renewal policies.

For all other risks, the requirement to obtain flood insurance must be implemented for specified Citizens' policyholders as follows:

- March 1, 2024, for policies insuring a structure that has a dwelling replacement cost of \$600,000 or more;
- March 1, 2025, for policies insuring a structure that has a dwelling replacement cost of \$500,000 or more;
- March 1, 2026, for policies insuring a structure that has a dwelling replacement cost of \$400,000 or more; and
- March 1, 2027, for all other policyholders.

The requirement to obtain flood insurance does not apply to policies that do not provide coverage for the peril of wind or to policies that provide coverage under a condominium unit owners form.³¹

²⁷ Chapter 2016-229, Laws of Fla.

²⁸ Such requests from insurers must include a description of the coverage offered and an estimated premium and must be submitted to the corporation in a form and manner prescribed by the corporation.

²⁹ Section 627.351(6)(aa), F.S.

³⁰ *Id.*

³¹ Section 627.351(6)(aa)3., F.S.

III. Effect of Proposed Changes:

The bill amends s. 627.351(6)(a), F.S., to allow Citizens to provide coverage for personal lines residential structures that have a dwelling replacement cost of \$700,000 or more (but not one million dollars or more) or a single condominium unit that has a combined dwelling and contents replacement cost of \$700,000 or more (but not one million dollars or more). To ensure Citizens' rates for these newly authorized policies are not competitive with approved rates charged in the admitted voluntary market, the bill imposes on such policies a surcharge equal to the lesser of \$2,500 or 25 percent of the rate for each policy. Citizens may not offer these policies if the property is offered comparable coverage from an authorized insurer at the insurer's approved rate under a standard policy including wind coverage.

The bill provides the Citizens rate glidepath does not apply to personal lines residential structures that have a dwelling replacement cost of \$700,000 or more or a single condominium unit that has a combined dwelling and contents replacement cost of \$700,000 or more, after Citizens next annual rate change which occurs on or after August 1, 2024. The bill also provides the surcharge on premiums for the higher value homes does not become effective until Citizens next annual rate filing, which occurs on or after August 1, 2024.

This has the effect of not applying the Citizens rate glidepath and adding a surcharge to personal lines residential structures that have a dwelling replacement cost of \$700,000 or more (but not one million dollars or more) or a single condominium unit that has a combined dwelling and contents replacement cost of \$700,000 or more (but not one million dollars or more) that:

- The bill makes eligible for Citizens coverage; and
- Are currently eligible for Citizens coverage because the residential structure or condominium unit is located in a county in which the OIR has determined there is not a reasonable degree of competition (currently Miami-Dade County and Monroe County) pursuant to s. 627.351(6)(a)3., F.S.

The bill is effective August 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill is anticipated to benefit homeowners who are able to obtain coverage from Citizens under the newly authorized coverage. These are homeowners that are currently unable to obtain coverage in the admitted market and coverage from Citizens had been unavailable. Such homeowners have been required to turn to the non-admitted market or go without coverage.

C. Government Sector Impact:

The bill has an indeterminate impact on state revenues and expenditures. The intent is for the premiums collected by Citizens on newly authorized policies to offset the additional covered risk, however it is unknown what the impact will be.

VI. Technical Deficiencies:

The bill makes additional higher value residences eligible for Citizens coverage effective July 1, 2024; however, the effective date of the bill is August 1, 2024.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.351 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance Committee on January 16, 2024:

The committee substitute makes the following changes:

- Provides that the Citizens rate glidepath and the surcharge created by the bill does not apply to the higher value homes the bill makes eligible for Citizens coverage, until the corporation's next annual rate change which occurs on or after August 1, 2024.

- Provides that the Citizens rate glidepath and the surcharge created by the bill will also apply to policies that are eligible for Citizens because they are located in a county where the OIR has determined there is not a reasonable degree of competition.
- Restores current law relating to personal lines policies that are not subject to the glidepath rate increase limitations. These policies are:
 - Policies that do not cover a primary residence;
 - Policies assumed from an insurer determined by the office to be unsound or an insurer placed in receivership.
- Changes the effective date of the bill to August 1, 2024, to allow Citizens the necessary time to implement the Coverage A limit changes.

B. Amendments:

None.