

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

BANKING AND INSURANCE
Senator Simmons, Chair
Senator Clemens, Vice Chair

MEETING DATE: Tuesday, February 18, 2014

TIME: 2:00 —4:00 p.m.

PLACE: *Toni Jennings Committee Room, 110 Senate Office Building*

MEMBERS: Senator Simmons, Chair; Senator Clemens, Vice Chair; Senators Benacquisto, Detert, Diaz de la Portilla, Hays, Lee, Margolis, Montford, Negron, Richter, and Ring

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 134 Hukill	Tax-exempt Income; Increasing the amount of income that is exempt from the corporate income tax; increasing the amount of income that is exempt from the franchise tax imposed on banks and savings associations, etc. BI 02/18/2014 Favorable AFT AP RC	Favorable Yeas 11 Nays 0
2	SB 666 Detert (Similar CS/H 631)	Loan Originators, Mortgage Brokers, and Mortgage Lenders; Authorizing the Office of Financial Regulation to conduct joint or concurrent examinations with other state or federal regulatory agencies; providing additional grounds for disciplinary action against a licensee or person required to be licensed based on certain violations of the Nationwide Mortgage Licensing System and Registry's Rules of Conduct for Test Takers; deleting certain disclosure requirements relating to mortgage broker agreements; providing additional requirements, fees, and consequences for failing to renew a mortgage lender license that is not submitted by a certain date, etc. BI 02/18/2014 Favorable AGG AP	Favorable Yeas 11 Nays 0
3	SB 346 Lee (Similar H 143)	Florida Insurance Guaranty Association; Revising the duties of the association; authorizing the association to collect regular and emergency assessments directly from policyholders; clarifying that assessments are not considered premium for premium tax purposes, etc. BI 02/18/2014 Fav/CS CM AGG AP	Fav/CS Yeas 11 Nays 0

Workshop - Discussion and testimony only on the following (no vote to be taken):

COMMITTEE MEETING EXPANDED AGENDA

Banking and Insurance

Tuesday, February 18, 2014, 2:00 —4:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	Citizens Property Insurance Corporation		Discussed
	Other Related Meeting Documents		

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/18/14
Meeting Date

Topic _____

Name Frank Meiners

Job Title _____

Address PO Box 1633

Street

Tallahassee
City

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State

32301
Zip

Bill Number SB 134
(if applicable)

Amendment Barcode _____
(if applicable)

Phone 591-0177

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Speaking: ☒ For ☐ Against ☐ Information

Representing AIF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

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 Committee on Banking and Insurance

BILL: SB 134

INTRODUCER: Senator Hukill

SUBJECT: Tax-exempt Income

DATE: February 6, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Matiyow	Knudson	BI	Favorable
2. _____	_____	AFT	_____
3. _____	_____	AP	_____
4. _____	_____	RC	_____

I. Summary:

SB 134 increases the level of income that is exempt from the Florida corporate income tax. Florida imposes a 5.5 percent tax on the net income of corporations doing business in Florida. Currently, however, the first \$50,000 of a corporation's income that is subject to Florida tax is exempted from the corporate income tax. This bill increases the exemption from \$50,000 to \$75,000.

II. Present Situation:

Florida began imposing an income tax on corporations in 1972.¹ The initial tax rate was 5 percent, but that rate was increased to 5.5 percent in 1984.²

Currently, Florida's corporate income tax is comprised of two separate 5.5 percent taxes and a 3.3 percent alternative minimum tax.³ The primary component of the tax is the 5.5 percent tax that applies to "corporations," as defined by s. 220.03, Florida Statutes.⁴ The second 5.5 percent tax is referred to as the "franchise tax" and is imposed on Florida banks and savings institutions, as defined in s. 220.62, F.S.⁵

¹ See Chapter 71-984, Laws of Florida (L.O.F.). Florida began imposing a corporate income tax after a constitutional amendment was adopted in 1971. Currently, the Florida Constitution does not permit an income tax on natural persons. See Article VII, Section 5, Florida Constitution (Fla. Const.).

² See s. 21, 84-549, L.O.F. The Florida Constitution requires a 3/5 vote of the membership of each house of the Legislature in order to impose a tax in excess of 5 percent. See Art. VII, Sec. 5, Fla. Const.

³ Only 1 of these 3 tax components can apply to a taxpayer in a given year.

⁴ This component of the tax is imposed by s. 220.11(1), F.S. Only a fraction of total Florida businesses are considered "corporations" subject to the Florida corporate income tax. Sole proprietorships, partnerships, limited liability companies, and S corporations are not subject to the tax except under limited circumstances. See s. 220.03(1)(e), F.S.

⁵ The franchise tax is imposed by s. 220.63(1), F.S.

Regardless of which 5.5 percent tax applies to a taxpayer, if the taxpayer is subject to the federal alternative minimum tax (AMT), then the taxpayer could be subject to Florida's AMT.⁶ If so, the taxpayer must pay the greater of the 5.5 percent tax or the 3.3 percent AMT.⁷

Florida's corporate income tax is imposed on a taxpayer's "net income." Net income⁸ is determined through the following process:

1. **Begin with Federal Taxable Income.** Rather than requiring the taxpayer to fully recalculate all of its income and deductions for Florida purposes, Florida taxpayers use their federal taxable income as the starting point for determining how much tax is owed Florida.
2. **Make Certain Statutory Adjustments.** These adjustments are generally known as "additions and subtractions,"⁹ and they relate to various items that Florida treats differently than the federal government. The income remaining after these additions and subtractions is known as "adjusted federal income."
3. **Apportion and Allocate.** Multi-state taxpayers must determine what portion of their adjusted federal income is properly taxable in Florida – a process generally referred to as "apportionment." Within this process, the taxpayer first determines what portion of its income is from business operations and what portion of its income is non-business.¹⁰ Its business income is then "apportioned"¹¹ among the states where it does business and its non-business income "allocated" to the state where the transactions or activities that gave rise to the non-business income occurred.¹²

Florida generally uses a three-factor apportionment formula determined by the taxpayer's payroll, property, and sales. The formula compares the taxpayer's total payroll, sales and property in all states with the taxpayer's payroll, sales and property in Florida. The ultimate result of this calculation will be a fraction. A multi-state taxpayer's business income is then apportioned to Florida based upon that fraction.

4. **Subtract the Exemption.** Lastly, Florida grants an exemption for the first \$50,000 of income that would otherwise be taxable in Florida.¹³ Accordingly, after apportionment and allocation are applied to determine a taxpayer's income that is properly taxable in Florida, the taxpayer subtracts \$50,000 before applying the tax rate. The amount of income remaining after subtraction of the \$50,000 exemption is known as "net income" and is the amount subject to Florida corporate income tax.

⁶ More information about the AMT for corporations is available from many sources, but a concise explanation was prepared by the nonpartisan Tax Policy Center, an affiliate of The Brookings Institute. The article is available at <http://www.taxpolicycenter.org/publications/url.cfm?ID=1000515>. (Last visited February 6, 2014.)

⁷ See s. 220.11(4), F.S. Although the AMT is a lower nominal rate compared to the 5.5 percent tax, the AMT can result in a higher tax due because it uses a different definition of "taxable income."

⁸ See s. 220.12, F.S.

⁹ See generally s. 220.13, F.S.

¹⁰ Nonbusiness income is certain income that does not arise from transactions and activities in the regular course of the taxpayer's trade or business. See s. 220.03(1)(r), F.S.

¹¹ See generally s. 220.15, F.S.

¹² See generally s. 220.16, F.S.

¹³ The Florida Constitution requires an exemption of at least \$5,000. See Art. VII, Sec. 5, Fla. Const.

III. Effect of Proposed Changes:

For taxable years beginning on or after January 1, 2015, the bill increases the \$50,000 corporate net income tax exemption to \$75,000.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Revenue Estimating Conference reviewed the impact of this bill on January 9, 2014. This bill is estimated to reduce general revenue cash by \$8.8 million in 2014-2015 and by \$19.6 million in 2015-2016. This bill is estimated to reduce recurring general revenue funds by \$21.6 million in 2014-2015 and \$22.8 million in 2015-2016.¹⁴

B. Private Sector Impact:

The bill will lower the corporate income tax on all 11,501 corporate income taxpayers in Florida that currently have a net income of over \$50,000 a year, and will completely exempt from the tax 2,163 of those taxpayers who currently have a net income more than \$50,000, but no more than \$75,000 a year.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁴ Revenue Estimating Conference Impact Conference Results from January 9, 2014, which can be found at: <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2014/pdf/page6-7.pdf>. (Last visited February 6, 2014.)

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 220.14, 220.63.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Hukill

8-00216-14

2014134__

A bill to be entitled

An act relating to tax-exempt income; amending s. 220.14, F.S.; increasing the amount of income that is exempt from the corporate income tax; amending s. 220.63, F.S.; increasing the amount of income that is exempt from the franchise tax imposed on banks and savings associations; providing applicability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 220.14, Florida Statutes, is amended to read:

220.14 Exemption.—

(1) In computing a taxpayer's liability for tax under this code, \$75,000 ~~there shall be exempt from the tax \$50,000~~ of net income as defined in s. 220.12 is exempt from the tax or such lesser amount as will, without increasing the taxpayer's federal income tax liability, provide the state with an amount under this code which is equal to the maximum federal income tax credit which may be available from time to time under federal law.

Section 2. Subsection (3) of section 220.63, Florida Statutes, is amended to read:

220.63 Franchise tax imposed on banks and savings associations.—

(3) For purposes of this part, the franchise tax base is ~~shall be~~ adjusted federal income, as defined in s. 220.13, apportioned to this state, plus nonbusiness income allocated to

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-00216-14

2014134__

this state pursuant to s. 220.16, less the deduction allowed in subsection (5) and less \$75,000 ~~\$50,000~~.

Section 3. This act applies to tax years beginning on or after January 1, 2015.

Section 4. This act shall take effect January 1, 2015.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/17/14

Meeting Date

Topic Mortgage loans

Bill Number 666
(if applicable)

Name Alice Vichus

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 623 Beard St.

Phone 858 536 3121

Tallahassee, FL 32303
City State Zip

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Speaking: ☒ For ☒ Against ☐ Information

Representing Amendment Bill FL Consumer Action Network

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

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 Committee on Banking and Insurance

BILL: SB 666

INTRODUCER: Senator Detert

SUBJECT: Loan Originators, Mortgage Brokers, and Mortgage Lenders

DATE: February 17, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Favorable
2.			AGG	
3.			AP	

I. Summary:

SB 666 revises provisions governing non-depository loan originators, mortgage brokers, and lender businesses subject to regulation by the Office of Financial Regulation (OFR) pursuant to chapter 494, Florida Statutes. The federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) created the federal Consumer Financial Protection Bureau (CFPB) and provided sweeping changes to the regulation of financial services, including changes to federal mortgage loan origination and lending laws.¹ The Dodd-Frank Act also authorized the CFPB to enforce and adopt regulations relating to loan origination and lending and many other existing consumer protection laws, which has resulted in several inconsistencies or redundancies with ch. 494, F.S. The bill provides the following changes:

- Provides licensees an additional 2 months to renew their license; however, such licensees are subject to a reinstatement fee in addition to the registry fees due December 31 of each year.
- Revises provisions that conflict with the Dodd-Frank Act and CFPB regulations.
- Repeals provisions that are duplicative or redundant with federal provisions.
- Authorizes the OFR to conduct joint or concurrent examinations with any state or federal regulatory agency and to share examination reports.
- Provides technical and clarifying changes.

The bill has an indeterminate fiscal impact on state revenues and expenditures because the number of licensees that would use the late renewal process is indeterminate.

The bill has an effective date of July 1, 2014.

¹ Public Law No. 111-203.

II. Present Situation:

Federal Regulation

Secure and Fair Enforcement for Mortgage Licensing Act of 2008

On July 30, 2008, the federal Housing and Economic Recovery Act of 2008 was enacted.² Title V of this act is titled the “Secure and Fair Enforcement for Mortgage Licensing Act of 2008” or the “S.A.F.E. Mortgage Licensing Act of 2008.” (S.A.F.E.) The act requires all states to adopt a system of licensure meeting national definitions and minimum standards for mortgage loan originators by August 1, 2009, or be subject to federal regulation. The act establishes regulatory requirements for individuals, rather than businesses, licensed or registered as mortgage brokers and lenders, collectively known as loan originators.

Pursuant to S.A.F.E. states are required to participate in a national licensing registry, the National Mortgage Licensing System and Registry (registry), which contains employment history, as well as disciplinary and enforcement actions against loan originators. The registry was created by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and began operations in January 2008. The registry provides an internet-based licensing platform for the mortgage industry and regulators. The registry is the sole system of licensure for mortgage companies for 54 state agencies and the sole system of licensure for loan originators for 58 state and territorial agencies. The registry itself does not grant or deny license authority. Applicants are subject to licensure by the state regulator.³

Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010

In 2010, the federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) created the federal Consumer Financial Protection Bureau (CFPB) and provided sweeping changes to the regulation of financial services, including changes to federal mortgage loan origination and lending laws. The Dodd-Frank Act authorizes the CFPB to have rulemaking, enforcement, and supervisory powers over many consumer financial products and services, as well as the entities that sell them. These consumer laws include the Truth in Lending Act (TILA)⁴ and the Real Estate Settlement Procedures Act (RESPA)⁵. The CFPB was granted rulemaking authority pursuant to the Mortgage Reform and Anti-Predatory Lending Act, which revises provisions relating to loan origination and lending standards.⁶ Regulations adopted by the CFPB relating to loan origination and lending have resulted in several inconsistencies with ch. 494, F.S., relating to loan originators and mortgage brokers.

The Dodd-Frank Act provides that for purposes of residential mortgages, creditors must make a reasonable and good faith determination based on verified and documented information that the consumer has a reasonable ability to repay the loan and establishes certain protections from liability under the requirement for “qualified mortgages.” The rule, amending Regulation Z, establishes product-feature prerequisites and affordability underwriting requirements for

² Public Law 110-289.

³ NLMS Resource Center, at <http://mortgage.nationwidelicensingsystem.org/about/Pages/default.aspx> (last visited February 14, 2014).

⁴ 15 U.S.C. s. 1601, *et. seq.*

⁵ 15 U.S.C. s. 2601, *et. seq.*

⁶ Enacted as Title XIV of the Dodd-Frank Act s. 1400.

qualified mortgages and provides a safe harbor for loans that satisfy the definition of a qualified mortgage and are not higher-priced mortgages.⁷ The rule implements the statutory criteria, which generally prohibits loans with negative amortization, interest-only payments, balloon payments, or terms exceeding 30 years from being qualified mortgages. Finally, a loan generally cannot be a qualified mortgage if the points and fees paid by the consumer exceed 3 percent of the total loan amount, with exceptions. This rule is effective January 1, 2014.

The Real Estate Settlement Procedures Act of 1974 (RESPA)⁸ requires lenders, mortgage brokers, or servicers of home loans to provide borrowers with pertinent and timely disclosures regarding the nature and costs of the real estate settlement process. It also prohibits specific practices, such as kickbacks, and places limitations upon the use of escrow accounts. In 2013, the CFPB issued rules, effective January 2014, amending Regulation X,⁹ that include new provisions related to escrow payments, force-placed insurance, general servicing policies, procedures, and requirements, early intervention, continuity of contact, and loss mitigation.

The Home Ownership and Equity Protection Act (HOEPA) was enacted in 1994 as an amendment to TILA to address abusive practices in refinances and closed-end home equity loans with high interest rates or high fees. Since HOEPA's enactment, refinances or home equity mortgage loans meeting any of HOEPA's high-cost coverage tests have been subject to special disclosure requirements and restrictions on loan terms, and consumers with high-cost mortgages have had enhanced remedies for violations of the law. In 2010, the Dodd-Frank Act amended TILA by expanding the scope of HOEPA coverage to include purchase-money mortgages and open-end credit plans (i.e., home equity lines of credit) and amended HOEPA's coverage tests. The Dodd-Frank Act also added new protections for high-cost mortgages, including a requirement that consumers receive homeownership counseling before obtaining a high-cost mortgage.

Florida Regulation

The OFR regulates a wide range of financial enterprises, such as state-chartered banks, credit unions, and non-depository loan originators, mortgage brokers and mortgage lenders. In 2009, the Florida Legislature implemented the minimum standards of S.A.F.E., which increased licensure requirements and required licensure through the registry.¹⁰ Pursuant to s. 494.00255(1)(m), F.S., the OFR may take disciplinary action against a person licensed or subject to licensure under ch. 494, F.S., if the person violates any provision of RESPA, TILA, or any regulations adopted under such acts, during the course of any mortgage transaction.

Licensure of Loan Originators, Mortgage Brokers Business, and Mortgage Brokers Lenders

Licensure as a loan originator is required for an individual who, directly or indirectly:

- Solicits or offers to solicit a mortgage loan;
- Accepts or offers to accept an application for a mortgage loan;

⁷ 24 C.F.R. Part 1026. Regulation Z implements TILA.

⁸ 12 U.S.C. s. 2601, *et. seq.*

⁹ 24 C.F.R. Part 1024. Regulation X implements RESPA.

¹⁰ Chapter 2009-241, Laws of Fla.

- Negotiates or offers to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender; or
- Negotiates or offers to negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation or gain.

The term, “loan originator,” includes an individual who is required to be licensed as a loan originator under S.A.F.E. The term does not include an employee of a mortgage broker or mortgage lender whose duties are limited to physically handling a completed application form or transmitting a completed application form to a lender on behalf of a prospective borrower.¹¹

Each individual is required to apply for a loan originator license through the registry and submit registry fees of \$329.50. An applicant also must meet certain education and testing requirements. An applicant must complete 20 hours of registry approved pre-licensure education courses and have a passing score on the standard test.

A mortgage broker license is required for an entity conducting loan originator activities through one or more licensed loan originators employed by the mortgage broker or as an independent contractor to the mortgage broker.¹² A branch office license is required for mortgage broker licensees who conduct business at locations other than their principal place of business. A business is required to submit \$680.50 in registry fees plus a credit report fee of \$15 for each control person. The registry fee for each branch office is \$245.

A mortgage lender license is required for an entity making a mortgage loan for compensation or gain, directly or indirectly, or selling or offering to sell a mortgage loan to a noninstitutional investor.¹³ “Making a mortgage loan” means closing a mortgage loan in a person’s name, advancing funds, offering to advance funds, or making a commitment to advance funds to an applicant for a mortgage loan.¹⁴ The registry fee for each mortgage lender or mortgage-servicer branch office is \$245. A mortgage lender-servicing license is required for any mortgage lender licensee who services a mortgage loan. The term, “servicing a mortgage loan” means to receive, cause to be received, or transferred for another, installment payments of principal, interest, or other payments pursuant to a mortgage loan.¹⁵ Each mortgage lender or mortgage servicer business is required to remit a registry fee of \$755.50 and a credit report fee of \$15 for each control person.

III. Effect of Proposed Changes:

Licensure Renewals (Loan Originator, Mortgage Broker, and Mortgage Lender)

The bill provides an additional 2 months (January 1-February 28) for all license types to renew their annual licenses if they are unable to renew by the deadline of December 31. The bill provides, that, if the licensee fails to meet the renewal requirements by December 31, the licensee would have a status as “fails to renew” pending review by the OFR. If a licensee fails to

¹¹ Section 494.001(16), F.S.

¹² Section 494.001(21), F.S.

¹³ Section 494.001(22), F.S.

¹⁴ See Section 494.001(19), F.S.

¹⁵ See Section 494.001(34), F.S.

renew by February 28 and pay the applicable reinstatement fee, the license expires and the applicant must apply for a new license and comply with the applicable licensing requirements for the license category.

The reinstatement fees for licenses renewed after December 31 deadline and before February 28 are \$150 for loan originators, \$250 for mortgage brokers, \$225 for branch offices of mortgage brokers or mortgage lenders, and \$475 for mortgage lenders. The reinstatement fee would be in addition to the annual registry fees applicable for the respective licensure category.

Fees and Disclosures

The bill eliminates certain requirements relating to mortgage broker agreements, currently provided in ss. 494.0038 and 494.004, F.S., because licensees are subject to these disclosures under RESPA and the CFPB regulations, which provide for simplified disclosures effective August 1, 2015, and notification when certain events occur. Specifically, the bill deletes provisions related to the written disclosure of loan origination fees and other disclosures between a borrower to a mortgage broker; the requirement for a written mortgage broker agreement describing the services to be provided by the broker; and the execution requirements for such an agreement. Rules currently prescribe the form of disclosure used. This section also removes the requirement that a written disclosure must be provided at the time an adjustable rate mortgage loan is offered to the borrower, and when the terms of the adjustable rate mortgage loan offered materially changes prior to closing. Current law prohibits the payment of a loan origination fee except pursuant to a written agreement between a borrower and a mortgage broker. Current law requires a mortgage broker to disclose any payment from the mortgage lender in a written agreement within 3 days of such notification. The bill also amends s. 494.004, F.S., by removing certain notification requirements relating to mortgage loan transactions; specifically, it removes the requirement that each mortgage broker must notify a borrower of any material change in the terms of a loan previously offered to the borrower within 3 business days of being made aware of the change by the mortgage lender. The bill also removes a provision authorizing the borrower the ability to waive the right to receive such a notice under certain circumstances.

The bill repeals s. 494.00421, F.S., relating to mortgage broker fees earned upon obtaining a bona fide commitment. New federal laws and regulations do not allow most fees before closing to be charged or collected from the borrower, including a commitment fee. Industry advocates support the removal of the requirement for a mortgage broker to issue a mortgage broker agreement to a borrower. They note that under TILA's requirements for the compensation of a loan originator, a mortgage broker is not allowed to receive a fee for services rendered prior to the culmination of a transaction. Due to this statutory requirement, advocates of the bill contend that a contract between a mortgage broker and a borrower is weakened since federal requirements do not permit fees to be obtained if a transaction fails to close.¹⁶

The bill amends s. 494.0067, F.S., relating to requirements of mortgage lenders, to remove language that is required under federal regulations (24 C.F.R. s. 3500.7 and 12 C.F.R. s. 1026.19). The bill removes the requirement that a mortgage lender provide an applicant for a

¹⁶ Florida Association of Mortgage Professionals, *Analysis of Ch. 494, F.S. Changes*, (on file with Senate Committee on Banking and Insurance).

mortgage loan a good faith estimate of the costs the applicant can expect to pay in obtaining a mortgage loan and the delivery requirements of the documents associated with this estimate. The bill removes the requirement that a disclosure relating to an adjustable rate mortgage loan and any changes associated with the terms of such loan occurring prior to closing be provided to the applicant by the mortgage lender, as well as the process for which such notification is furnished by the lender. The bill also removes the requirement that a mortgage lender, in every mortgage transaction, notify the borrower of any material changes in the terms of a mortgage loan previously offered to the borrower as well as the process for which such notification is furnished. The bill removes the requirement that a licensee bears the burden of proof that a notification was provided to and accepted by the borrower. The bill also removes the right of a borrower to waive receipt of the notice of a material change.

The bill repeals s. 494.0068, F.S., relating to loan application process, which sets forth required disclosures for mortgage lenders. Mandatory disclosures are required under Regulation X.

The bill amends s. 494.007, F.S., relating to the commitment process. The bill removes a provision related to the amount of the commitment fee from the written disclosure a mortgage lender must issue if a commitment is issued. This change would align with the federal requirements.

Examinations

The bill authorizes the OFR to conduct a joint or concurrent examination with any state or federal regulatory agency and to share examinations with an appropriate regulator if the recipient agrees to abide by the confidentiality provisions of chs. 119 and 494, F.S.

Violations of Chapter 494, F.S.

The bill authorizes the OFR to take disciplinary action against a person licensed or subject to licensure under part II or III ch. 494, F.S., if the person violates the registry's Rules of Conduct for Test Takers in connection with a pre-licensing test. Currently, all loan originator applicants seeking licensure must abide by the registry Rules of Conduct for Test Takers, which prohibits misconduct, assistance, and the use of study materials during pre-licensure examinations.¹⁷ This provision will clarify the OFR's authority to deny applicants who have been found to be cheating on the pre-licensing examination.

Definitions

The bill creates a definition of "indirect owner" to mean 25 percent or more ownership. Pursuant to s. 494.001(6), F.S., a "control person" must meet a 10 percent indirect or direct ownership threshold. The registry requires a disclosure by an applicant of all "indirect owners of 25 percent or more of an entity, regardless of the applicant's business structure. However, ch. 494, F.S., does not define the term, "indirect owner." This change clarifies the term, "indirect owners," for purposes of completing the registry application and complying with regulatory requirements.

¹⁷ Registry Rules of Conduct for Test Takers, at <http://mortgage.nationwidelicensingsystem.org/profreq/Documents/Test%20Taker%20Rules%20of%20Conduct.pdf> (last accessed February 14, 2014).

The bill revises the definition of the term, “loan origination fee,” to exclude any payment for processing mortgage loan applications.¹⁸ The Dodd-Frank Act and CFPB regulations prohibit loan originators from receiving compensation that varies based on the terms of a loan (other than the amount of principal), and provides for certain exceptions.¹⁹ This provision is intended to prohibit yield spread premiums or other similar compensation based on terms (including rate) that would cause a loan originator to “steer” borrowers to particular mortgage products. The Dodd-Frank Act defines a “qualified mortgage” as a loan for which, among other things, the total points and fees do not exceed 3 percent of the total loan amount. Due to Florida’s current requirement for the processing fee to be part of the origination fee, mortgage broker businesses must include this fee towards the 3 percent cap. According to industry proponents,²⁰ if this processing fee was not required to be part of the origination fee, it would not have to be included unless the processing company being used was affiliated with the creditor and/or mortgage broker. The industry advocates suggest that the inclusion of processing fees, more than likely from contract processing companies, may result in mortgage broker businesses no longer utilizing the services of a contract processor and attempting to process files on their own. The unintended consequence of this decision may result in a loss of checks and balances on a file and potential harm to the consumer. A consumer advocacy group suggests that the removal of the requirement to include the payment of processing a loan in the fee potentially increases the fee charged to the consumers, in some instances.

Mortgage Call Reports

The bill authorizes the Financial Services Commission to adopt by rule the deadline for mortgage brokers and mortgage lenders to file a report of condition also known as the registry’s Mortgage Call Report. This provision would give the OFR flexibility to change the filing deadline in the event the registry revises the deadline. All state mortgage licensees are required to submit a mortgage call report, which includes financial condition information and loan activity, to the registry within 45 days of the end of every calendar quarter.

Mortgage Lender Loan Application Requirements

The bill repeals s. 494.0068, F.S., relating to the loan application process. This provision is required under federal regulation (12 CFR s. 1026.4).

Arbitration

The bill repeals the provision relating to arbitration, which is included in certain agreements. Amendments to Regulation Z, effective June 1, 2013, prohibit the inclusion of clauses requiring the consumer to submit disputes concerning a residential mortgage loan or home equity line of credit to binding arbitration.²¹

¹⁸ Section 494.001(15), F.S.

¹⁹ Section 1403 of the Dodd-Frank Act, effective January 1, 2014.

²⁰ Florida Association of Mortgage Professionals, *Analysis of Ch. 494 Changes*, (on file with Senate Committee on Banking and Insurance).

²¹ 12 C.F.R. s. 1026.36(h).

Florida Fair Lending Act

The bill repeals part IV, ch. 494, F.S., entitled “The Florida Fair Lending Act (act)” which places restrictions on high-cost home loans. The act imposes requirements on high cost mortgage loans that mirror the requirements of the federal Home Ownership and Equity Protection Act (HOEPA), but adds other restrictions and enforcement provisions. The Office of Financial Regulation is responsible for enforcing this part. Subsequent to the enactment of this act, the Dodd-Frank Act amended TILA by expanding the scope of HOEPA coverage to include purchase-money mortgages and open-end credit plans (i.e., home equity lines of credit) and amended HOEPA’s coverage tests. The Dodd-Frank Act also added new protections for high-cost mortgages, including a requirement that consumers receive homeownership counseling before obtaining a high-cost mortgage.²² Advocates of the bill contend that the Dodd-Frank Act and the implementing regulations are more restrictive than Florida’s law and, therefore, this act would no longer be used.

Loans Under Florida Uniform Land Sales Practices Law

The bill repeals part V, of ch. 494, F.S., entitled “Loans Under Florida Uniform Land Sales Practices Law,” which prescribes terms and conditions for mortgage loans of \$35,000 or less that are secured by vacant land and sold to a mortgagee, excluding a financial institution. The statutory cite for penalties, s. 494.05, F.S., was repealed in 1986.²³

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Constitutional Issues:

Currently, section 494.00255(1)(m), F.S., provides the OFR the authority to enforce the federal RESPA and TILA and regulations adopted thereunder. However, in light of the significant changes to these federal laws, reenactment of this provision is necessary for the OFR to enforce these federal changes that have been adopted after the last time the Florida Legislature reenacted s. 494.00255(1)(m), F.S.²⁴

²² 15 U.S.C. s. 1639.

²³ Chapter 86-68, s. 9, Laws of Fla.

²⁴ It appears that the last time the Act readopted RESPA and TILA was in the 2011 legislative session (s. 14 of ch. 2011-071, L.O.F.).

As a general rule, a cross-reference to a specific statute incorporates the language of the referenced statute as it existed *at the time* the reference was enacted, unaffected by any subsequent amendments to or repeal of the incorporated statute.²⁵ The Legislature may adopt provisions of federal statutes and administrative rules made by a federal administrative body “that are in existence and in effect at the time the legislature acts, but it would be an unconstitutional delegation of legislative power for the legislature to adopt in advance any federal act or the ruling of any federal administrative body that Congress or such administrative body might see fit to adopt in the future.”²⁶

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill allows licensees to renew late if they submit a reinstatement fee for the applicable licensure category and comply with other statutory requirements. This fee would be in addition to the current, statutory renewal fee.

B. Private Sector Impact:

Licensees who fail to renew before the December 31 deadline will have an additional 2 months to renew. However, the licensee must pay the reinstatement fee and registry fees, meet other statutory requirements, and obtain approval by the OFR. Currently, if a licensee fails to renew by December 31, the licensee must file an application and remit fees for a new license to obtain licensure approval from the OIR, which could delay the licensure process.

A consumer advocacy group has suggested that the removal of the requirement under s. 494.001(15), F.S., which provides that any payment for processing mortgage loan applications must be included in the fee, potentially increases the fee charged to the consumer in some instances.²⁷ According to the proponents²⁸ of this bill, if this fee were required to be part of the origination fee, it would not have to be included unless the processing company was affiliated with the creditor and/or mortgage broker. The inclusion of processing fees, more than likely from contract processing companies, may result in mortgage broker businesses no longer utilizing the services of a contract processor and attempting to process files on their own. The unintended consequence of this decision may result in a loss of checks and balances on a file and potential harm to the consumer.

²⁵ See *Overstreet v. Blum*, 227 So. 2d 197 (Fla. 1969); *Hecht v. Shaw*, 151 So. 333 (1933).

²⁶ *Florida Industrial Commission v. State*, 155 Fla. 772, 21 So.2d 599 (1945). See also *Freimuth v. State*, 272 So.2d 473 (Fla.1972); *State v. Camil*, 279 So.2d 832 (Fla.1973).

²⁷ Florida Alliance for Consumer Protection, *White Paper: HB 631/SB 666 Loan Originators, Mortgage Brokers, and Mortgage Lenders* February 2014) (on file with the Senate Committee on Banking and Insurance)

²⁸ Florida Association of Mortgage Professionals, *FS 494 Changes* (January 29, 2014) on file with Senate Committee n Banking and Insurance.

C. Government Sector Impact:

According to the Office of Financial Regulation, the late renewal process, which requires the payment of a reinstatement fee, could generate additional revenues. However, the fiscal impact is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following section of the Florida Statutes: 494.001, 494.0012, 494.00255, 494.00313, 494.00322, 494.0036, 494.0038, 494.004, 494.0042, 494.00421, 494.00611, 494.00612, 494.0066, 494.0067, , 494.007, and 494.0073.

This bill repeals the following sections of the Florida Statutes: 494.0028, 494.0068, 494.0078, 494.0079, 494.00791, 494.00792, 494.00793, 494.00794, 494.00795, 494.00796, 494.00797, and 494.008.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

None.

B. Amendments:

None.

By Senator Detert

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1 A bill to be entitled
 2 An act relating to loan originators, mortgage brokers,
 3 and mortgage lenders; amending s. 494.001, F.S.;
 4 adding and revising definitions; amending s. 494.0012,
 5 F.S.; authorizing the Office of Financial Regulation
 6 to conduct joint or concurrent examinations with other
 7 state or federal regulatory agencies; amending s.
 8 494.00255, F.S.; providing additional grounds for
 9 disciplinary action against a licensee or person
 10 required to be licensed based on certain violations of
 11 the Nationwide Mortgage Licensing System and
 12 Registry's Rules of Conduct for Test Takers; repealing
 13 s. 494.0028, F.S., relating to arbitration
 14 requirements included in certain agreements or
 15 applications; amending s. 494.00313, F.S.; providing
 16 additional requirements, fees, and consequences for
 17 failing to renew a loan originator license by a
 18 certain date; amending s. 494.00322, F.S.; providing
 19 additional requirements, fees, and consequences for a
 20 mortgage broker license renewal that is not submitted
 21 by a certain date; amending s. 494.0036, F.S.;
 22 specifying requirements for the renewal of a mortgage
 23 broker branch office license; providing additional
 24 requirements, fees, and consequences for failing to
 25 renew a branch office license that is not submitted by
 26 a certain date; amending s. 494.0038, F.S.; deleting
 27 certain disclosure requirements relating to mortgage
 28 broker agreements; amending s. 494.004, F.S.; deleting
 29 certain notification requirements relating to mortgage

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 loan transactions; authorizing the Financial Service
 31 Commission to specify a deadline for submitting
 32 reports of condition to the registry; amending s.
 33 494.0042, F.S.; deleting a cross-reference; repealing
 34 s. 494.00421, F.S., relating to fee disclosure
 35 requirements in a mortgage broker agreement; amending
 36 s. 494.00611, F.S.; correcting a cross-reference;
 37 amending s. 494.00612, F.S.; providing additional
 38 requirements, fees, and consequences for failing to
 39 renew a mortgage lender license that is not submitted
 40 by a certain date; amending s. 494.0066, F.S.;
 41 specifying mortgage lender branch office license
 42 renewal requirements; amending s. 494.0067, F.S.;
 43 deleting disclosure requirements relating to the
 44 provision of costs estimates for a mortgage loan;
 45 repealing s. 494.0068, F.S., relating to disclosure
 46 requirements in the loan application process; amending
 47 s. 494.007, F.S.; deleting a disclosure requirement
 48 relating to commitment fees; amending s. 494.0073,
 49 F.S.; deleting a cross-reference; repealing ss.
 50 494.0078, 494.0079, 494.00791, 494.00792, 494.00793,
 51 494.00794, 494.00795, 494.00796, and 494.00797, F.S.,
 52 relating to the Florida Fair Lending Act; repealing s.
 53 494.008, F.S., relating to Loans under Florida Uniform
 54 Land Sales Practices Law; providing an effective date.

56 Be It Enacted by the Legislature of the State of Florida:

58 Section 1. Present subsections (12) through (36) of section

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494.001, Florida Statutes, are redesignated as subsections (13) through (37), respectively, a new subsection (12) is added to that section, and present subsection (15) of that section is amended, to read:

494.001 Definitions.—As used in ss. 494.001-494.0077, the term:

(12) "Indirect owner" means, with respect to direct and indirect owners in a multilayered organization:

(a) If an owner is a corporation, each of its shareholders that beneficially owns, has the right to vote, or has the power to sell or direct the sale of 25 percent or more of voting security of the corporation.

(b) If an owner is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 25 percent or more of the partnership's capital.

(c) If an owner is a trust, the trust and each trustee.

(d) If an owner is a limited liability company:

1. Those members that have the right to receive upon dissolution, or have contributed, 25 percent or more of the limited liability corporation's capital; and

2. If managed by elected managers or appointed managers, all elected or appointed managers.

(e) If an indirect owner, the parent owners of 25 percent or more of their subsidiary.

~~(16)-(15)~~ "Loan origination fee" means the total compensation from any source received by a mortgage broker acting as a loan originator. ~~Any payment for processing mortgage loan applications must be included in the fee and must be paid~~

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~~to the mortgage broker.~~

Section 2. Subsection (4) is added to section 494.0012, Florida Statutes, to read:

494.0012 Investigations; complaints; examinations.—

(4) In order to reduce the burden on persons subject to regulation under this chapter, the office may conduct a joint or concurrent examination with any state or federal regulatory agency and may furnish a copy of all examinations to an appropriate regulator if the regulator agrees to abide by the confidentiality requirements applicable to such examinations, which are provided pursuant to chapter 119 and this chapter. The office may also accept an examination from an appropriate regulator.

Section 3. Paragraph (y) is added to subsection (1) of section 494.00255, Florida Statutes, to read:

494.00255 Administrative penalties and fines; license violations.—

(1) Each of the following acts constitutes a ground for which the disciplinary actions specified in subsection (2) may be taken against a person licensed or required to be licensed under part II or part III of this chapter:

(y) Violating the registry's Rules of Conduct for Test Takers in connection with a prelicensing test.

Section 4. Section 494.0028, Florida Statutes, is repealed.

Section 5. Section 494.00313, Florida Statutes, is amended to read:

494.00313 Loan originator license renewal.—

(1) In order to annually renew a loan originator license, a loan originator must, by December 31:

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(a) Submit a completed license renewal form as prescribed by commission rule.

(b) Submit a nonrefundable renewal fee of \$150, the \$20 nonrefundable fee if required by s. 494.00172, and nonrefundable fees to cover the cost of further fingerprint processing and retention as prescribed by ~~set forth in~~ commission rule.

(c) Provide documentation of completion of at least 8 hours of continuing education in courses reviewed and approved by the registry.

(d) Authorize the registry to obtain an independent credit report on the licensee from a consumer reporting agency, and transmit or provide access to the report to the office. The cost of the credit report shall be borne by the licensee.

(e) Submit any additional information or documentation requested by the office and required by rule concerning the licensee. Additional information may include documentation of pending and prior disciplinary and criminal history events, including arrest reports and certified copies of charging documents, plea agreements, judgments and sentencing documents, documents relating to pretrial intervention, orders terminating probation or supervised release, final administrative agency orders, or other comparable documents that may provide the office with the appropriate information to determine eligibility for renewal of licensure.

(2) The office may not renew a loan originator license unless the loan originator continues to meet the minimum requirements for initial licensure pursuant to s. 494.00312 and adopted rule.

(3) A licensed loan originator who fails to meet the

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requirements under this section for annual license renewal on or before December 31, but who meets such requirements after December 31 but before February 28, shall have such license status changed to "failed to renew" pending review and renewal by the office. A nonrefundable reinstatement fee of \$150 shall be charged in addition to and apart from any registry fees. The license status may not be changed until the requirements of this section have been met and all fees have been paid. If the licensee fails to submit the required information and pay the required fees by February 28, such license is expired and such individual must apply for a new loan originator license under s. 494.00312.

Section 6. Section 494.00322, Florida Statutes, is amended to read:

494.00322 Mortgage broker license renewal.—

(1) In order to annually renew a mortgage broker license, a mortgage broker must, by December 31:

(a) Submit a completed license renewal form as prescribed by commission rule.

(b) Submit a nonrefundable renewal fee of \$375, the \$100 nonrefundable fee if required by s. 494.00172, and nonrefundable fees to cover the cost of further fingerprint processing and retention as prescribed by ~~set forth in~~ commission rule.

(c) Submit fingerprints in accordance with s.

494.00321(2)(d) for any new control persons who have not been screened.

(d) Authorize the registry to obtain an independent credit report on each of the licensee's control persons from a consumer reporting agency, and transmit or provide access to the report

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175 to the office. The cost of the credit report shall be borne by
176 the licensee.

177 (e) Submit any additional information or documentation
178 requested by the office and required by rule concerning the
179 licensee or a control person of the licensee. Additional
180 information may include documentation of pending and prior
181 disciplinary and criminal history events, including arrest
182 reports and certified copies of charging documents, plea
183 agreements, judgments and sentencing documents, documents
184 relating to pretrial intervention, orders terminating probation
185 or supervised release, final administrative agency orders, or
186 other comparable documents that may provide the office with the
187 appropriate information to determine eligibility for renewal of
188 licensure.

189 (2) The office may not renew a mortgage broker license
190 unless the licensee continues to meet the minimum requirements
191 for initial licensure pursuant to s. 494.00321 and adopted rule.

192 (3) A licensed mortgage broker that fails to meet the
193 requirements under this section for annual license renewal on or
194 before December 31, but that meets such requirements after
195 December 31 but before February 28, shall have such license
196 status changed to "failed to renew" pending review and renewal
197 by the office. A nonrefundable reinstatement fee of \$250 shall
198 be charged in addition to and apart from any registry fees. The
199 license status may not be changed until the requirements of this
200 section have been met and all fees have been paid. If the
201 licensee fails to submit the required information and pay the
202 required fees by February 28, such license is expired and such
203 person must apply for a new mortgage broker license under s.

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204 494.00321.

205 Section 7. Section 494.0036, Florida Statutes, is amended
206 to read:

207 494.0036 Mortgage broker branch office license and license
208 renewal.—

209 (1) Each branch office of a mortgage broker must be
210 licensed under this section.

211 (2) The office shall issue a mortgage broker branch office
212 license to a mortgage broker licensee after the office
213 determines that the licensee has submitted a completed
214 application for a branch office in a form prescribed by
215 commission rule and payment of an initial nonrefundable branch
216 office license fee of \$225 per branch office. Application fees
217 may not be prorated for partial years of licensure. The branch
218 office license shall be issued in the name of the mortgage
219 broker that maintains the branch office. An application is
220 considered received for purposes of s. 120.60 upon receipt of a
221 completed application form as prescribed by commission rule, and
222 the required fees.

223 (3) A mortgage broker branch office license must be renewed
224 annually at the time of renewing the mortgage broker license
225 under s. 494.00322.

226 (a) In order to renew a branch office license, a mortgage
227 broker must, by December 31:

228 1. Submit a completed license renewal form as prescribed by
229 commission rule.

230 2. Submit a nonrefundable branch renewal fee of \$225 per
231 branch office ~~must be submitted at the time of renewal.~~

232 3. Submit additional information or documentation requested

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by the office and required by rule concerning the licensee.
 Additional information may include documents that may assist the
 office in determining the applicant's eligibility for licensure
 renewal.

(b) The office may not renew a branch office license unless
 the mortgage broker continues to meet the minimum requirements
 for initial licensure pursuant to subsection (2) and commission
 rule.

(c) A licensed branch office that fails to meet the
 requirements under this section for annual license renewal on or
 before December 31, but that meets such requirements after
 December 31 but before February 28, shall have such license
 status changed to "failed to renew" pending review and renewal
 by the office. A nonrefundable reinstatement fee of \$225 shall
 be charged in addition to and apart from any registry fees. The
 license status may not be changed until the requirements of this
 section have been met and all fees have been paid. If the
 licensee fails to submit the required information and pay the
 required fees by February 28, such license is expired and the
 mortgage broker licensee must apply for a new mortgage broker
 branch office license under subsection (2).

Section 8. Section 494.0038, Florida Statutes, is amended
 to read:

494.0038 Loan origination and Mortgage broker fees and
 commissions disclosures.-

(1) A loan origination fee may not be paid except pursuant
 to a written mortgage broker agreement between the mortgage
 broker and the borrower which is signed and dated by the
 principal loan originator or branch manager, and the borrower.

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~~The unique registry identifier of each loan originator
 responsible for providing loan originator services must be
 printed on the mortgage broker agreement.~~

~~(a) The written mortgage broker agreement must describe the
 services to be provided by the mortgage broker and specify the
 amount and terms of the loan origination fee that the mortgage
 broker is to receive.~~

~~1. Except for application and third-party fees, all fees
 received by a mortgage broker from a borrower must be identified
 as a loan origination fee.~~

~~2. All fees on the mortgage broker agreement must be
 disclosed in dollar amounts.~~

~~3. All loan origination fees must be paid to a mortgage
 broker.~~

~~(b) The agreement must be executed within 3 business days
 after a mortgage loan application is accepted if the borrower is
 present when the mortgage loan application is accepted. If the
 borrower is not present, the licensee shall forward the
 agreement to the borrower within 3 business days after the
 licensee's acceptance of the application and the licensee bears
 the burden of proving that the borrower received and approved
 the agreement.~~

~~(2) If the mortgage broker is to receive any payment of any
 kind from the mortgage lender, the maximum total dollar amount
 of the payment must be disclosed to the borrower in the written
 mortgage broker agreement as described in paragraph (1)(a). The
 commission may prescribe by rule an acceptable form for
 disclosure of brokerage fees received from the lender. The
 agreement must state the nature of the relationship with the~~

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291 lender, describe how compensation is paid by the lender, and
 292 describe how the mortgage interest rate affects the compensation
 293 paid to the mortgage broker.

294 (a) The exact amount of any payment of any kind by the
 295 lender to the mortgage broker must be disclosed in writing to
 296 the borrower within 3 business days after the mortgage broker is
 297 made aware of the exact amount of the payment from the lender
 298 but not less than 3 business days before the execution of the
 299 closing or settlement statement. The licensee bears the burden
 300 of proving such notification was provided to the borrower.
 301 Notification is waived if the exact amount of the payment is
 302 accurately disclosed in the written mortgage broker agreement.

303 (b) The commission may prescribe by rule the form of
 304 disclosure of brokerage fees.

305 (3) At the time a written mortgage broker agreement is
 306 signed by the borrower or forwarded to the borrower for
 307 signature, or at the time the mortgage broker business accepts
 308 an application fee, credit report fee, property appraisal fee,
 309 or any other third-party fee, but at least 3 business days
 310 before execution of the closing or settlement statement, the
 311 mortgage broker shall disclose in writing to any applicant for a
 312 mortgage loan the following information:

313 (a) That the mortgage broker may not make mortgage loans or
 314 commitments. The mortgage broker may make a commitment and may
 315 furnish a lock-in of the rate and program on behalf of the
 316 lender if the mortgage broker has obtained a written commitment
 317 or lock-in for the loan from the lender on behalf of the
 318 borrower for the loan. The commitment must be in the same form
 319 and substance as issued by the lender.

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320 (b) That the mortgage broker cannot guarantee acceptance
 321 into any particular loan program or promise any specific loan
 322 terms or conditions.

323 (c) A good faith estimate that discloses settlement charges
 324 and loan terms.

325 1. Any amount collected in excess of the actual cost shall
 326 be returned within 60 days after rejection, withdrawal, or
 327 closing.

328 2. At the time a good faith estimate is provided to the
 329 borrower, the loan originator must identify in writing an
 330 itemized list that provides the recipient of all payments
 331 charged the borrower, which, except for all fees to be received
 332 by the mortgage broker, may be disclosed in generic terms, such
 333 as, but not limited to, paid to lender, appraiser, officials,
 334 title company, or any other third-party service provider. This
 335 requirement does not supplant or is not a substitute for the
 336 written mortgage broker agreement described in subsection (1).
 337 The disclosure required under this subparagraph must be signed
 338 and dated by the borrower.

339 (4) The disclosures required by this subsection must be
 340 furnished in writing at the time an adjustable rate mortgage
 341 loan is offered to the borrower and whenever the terms of the
 342 adjustable rate mortgage loan offered materially change prior to
 343 closing. The mortgage broker shall furnish the disclosures
 344 relating to adjustable rate mortgages in a format prescribed by
 345 ss. 226.18 and 226.19 of Regulation Z of the Board of Governors
 346 of the Federal Reserve System, as amended; its commentary, as
 347 amended; and the federal Truth in Lending Act, 15 U.S.C. ss.
 348 1601 et seq., as amended; together with the Consumer Handbook on

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Adjustable Rate Mortgages, as amended, published by the Federal Reserve Board and the Federal Home Loan Bank Board. The licensee bears the burden of proving such disclosures were provided to the borrower.

~~(5) If the mortgage broker agreement includes a nonrefundable application fee, the following requirements are applicable:~~

~~(a) The amount of the application fee, which must be clearly denominated as such, must be clearly disclosed.~~

~~(b) The specific services that will be performed in consideration for the application fee must be disclosed.~~

~~(c) The application fee must be reasonably related to the services to be performed and may not be based upon a percentage of the principal amount of the loan or the amount financed.~~

~~(6) A mortgage broker may not accept any fee in connection with a mortgage loan other than an application fee, credit report fee, property appraisal fee, or other third-party fee before obtaining a written commitment from a qualified lender.~~

(1)(7) A Any third-party fee entrusted to a mortgage broker must immediately, upon receipt, be placed into a segregated account with a financial institution located in the state the accounts of which are insured by the Federal Government. Such funds shall be held in trust for the payor and shall be kept in the account until disbursement. Such funds may be placed in one account if adequate accounting measures are taken to identify the source of the funds.

(2)(8) A mortgage broker may not pay a commission to a any person not licensed pursuant to this chapter.

(3)(9) This section does not prohibit a mortgage broker

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from offering products and services, in addition to those offered in conjunction with the loan origination process, for a fee or commission.

Section 9. Subsections (2), (3), and (4) of section 494.004, Florida Statutes, are amended to read:

494.004 Requirements of licensees.—

~~(2) In every mortgage loan transaction, each licensee under this part must notify a borrower of any material changes in the terms of a mortgage loan previously offered to the borrower within 3 business days after being made aware of such changes by the mortgage lender but at least 3 business days before the signing of the settlement or closing statement. The licensee bears the burden of proving such notification was provided and accepted by the borrower. A borrower may waive the right to receive notice of a material change if the borrower determines that the extension of credit is needed to meet a bona fide personal financial emergency and the right to receive notice would delay the closing of the mortgage loan. The imminent sale of the borrower's home at foreclosure during the 3-day period before the signing of the settlement or closing statement is an example of a bona fide personal financial emergency. In order to waive the borrower's right to receive notice, the borrower must provide the licensee with a dated written statement that describes the personal financial emergency, waives the right to receive the notice, bears the borrower's signature, and is not on a printed form prepared by the licensee for the purpose of such a waiver.~~

(2)(3) Each mortgage broker shall submit to the registry reports of condition, which must be in such form and shall

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contain such information as the registry may require. The commission may prescribe by rule the deadline by which a mortgage broker must file a report of condition. For purposes of this section, the report of condition is synonymous with the registry's Mortgage Call Report.

(3)~~(4)~~ A license issued under this part is not transferable or assignable.

Section 10. Subsection (3) of section 494.0042, Florida Statutes, is amended to read:

494.0042 Loan origination fees.—

(3) At the time of accepting a mortgage loan application, a mortgage broker may receive from the borrower a nonrefundable application fee. If the mortgage loan is funded, the nonrefundable application fee shall be credited against the amount owed as a result of the loan being funded. A person may not receive any form of compensation for acting as a loan originator other than a nonrefundable application fee or, a fee based on the mortgage amount being funded, ~~or a fee which complies with s. 494.00421.~~

Section 11. Section 494.00421, Florida Statutes, is repealed.

Section 12. Paragraph (b) of subsection (2) of section 494.00611, Florida Statutes, is amended to read:

494.00611 Mortgage lender license.—

(2) In order to apply for a mortgage lender license, an applicant must:

(b) Designate a qualified principal loan originator who meets the requirements of s. 494.00665 ~~s. 494.0035~~ on the application form.

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Section 13. Section 494.00612, Florida Statutes, is amended to read:

494.00612 Mortgage lender license renewal.—

(1) In order to annually renew a mortgage lender license, a mortgage lender must, by December 31:

(a) Submit a completed license renewal form as prescribed by commission rule.

(b) Submit a nonrefundable renewal fee of \$475, the \$100 nonrefundable fee if required by s. 494.00172, and nonrefundable fees to cover the cost of further fingerprint processing and retention as prescribed by ~~set forth in~~ commission rule.

(c) Submit fingerprints in accordance with s.

494.00611(2)(d) for any new control persons who have not been screened.

(d) Provide proof that the mortgage lender continues to meet the applicable net worth requirement in a form prescribed by commission rule.

(e) Authorize the registry to obtain an independent credit report on each of the mortgage lender's control persons from a consumer reporting agency, and transmit or provide access to the report to the office. The cost of the credit report shall be borne by the licensee.

(f) Submit any additional information or documentation requested by the office and required by rule concerning the licensee. Additional information may include documentation of pending and prior disciplinary and criminal history events, including arrest reports and certified copies of charging documents, plea agreements, judgments and sentencing documents, documents relating to pretrial intervention, orders terminating

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 465 probation or supervised release, final administrative agency
 466 orders, or other comparable documents that may provide the
 467 office with the appropriate information to determine eligibility
 468 for renewal of licensure.

469 (2) The office may not renew a mortgage lender license
 470 unless the mortgage lender continues to meet the minimum
 471 requirements for initial licensure pursuant to s. 494.00611 and
 472 adopted rule.

473 (3) A licensed mortgage lender that fails to meet the
 474 requirements under this section for annual license renewal on or
 475 before December 31, but that meets such requirements after
 476 December 31 but before February 28, shall have such license
 477 status changed to "failed to renew" pending review and renewal
 478 by the office. A nonrefundable reinstatement fee of \$475 shall
 479 be charged in addition to and apart from any registry fees. The
 480 license status may not be changed until the requirements of this
 481 section have been met and all fees have been paid. If the
 482 licensee fails to submit the required information and pay the
 483 required fees by February 28, such license is expired and such
 484 person must apply for a new mortgage lender license under s.
 485 494.00611.

486 Section 14. Section 494.0066, Florida Statutes, is amended
 487 to read:

488 494.0066 Mortgage lender branch office license and license
 489 renewal offices.—

490 (1) Each branch office of a mortgage lender must be
 491 licensed under this section.

492 (2) The office shall issue a mortgage lender branch office
 493 license to a mortgage lender licensee after the office

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 494 determines that the mortgage lender has submitted a completed
 495 branch office application form as prescribed by commission rule
 496 ~~by the commission~~ and an initial nonrefundable branch office
 497 license fee of \$225 per branch office. Application fees may not
 498 be prorated for partial years of licensure. The branch office
 499 application must include the name and license number of the
 500 mortgage lender under this part, the name of the branch manager
 501 in charge of the branch office, and the address of the branch
 502 office. The branch office license shall be issued in the name of
 503 the mortgage lender and must be renewed in conjunction with the
 504 license renewal. An application is considered received for
 505 purposes of s. 120.60 upon receipt of a completed branch office
 506 renewal form, as prescribed by commission rule, and the required
 507 fees.

508 (3) A mortgage lender branch office license must be renewed
 509 annually at the time of renewing the mortgage lender license.

510 (a) In order to renew a branch office license, a mortgage
 511 lender must, by December 31:

512 1. Submit a completed license renewal form as prescribed by
 513 commission rule.

514 2. Submit a nonrefundable fee of \$225 per branch office
 515 ~~must be submitted at the time of renewal.~~

516 3. Submit additional information or documentation requested
 517 by the office and required by rule concerning the licensee.
 518 Additional information may include documents that may provide
 519 the office with the appropriate information to determine
 520 eligibility for licensure renewal.

521 (b) The office may not renew a branch office license unless
 522 the mortgage lender licensee continues to meet the minimum

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requirements for initial licensure pursuant to this section and adopted rule.

(c) A licensed branch office that fails to meet the requirements under this section for annual license renewal on or before December 31, but that meets such requirements after December 31 but before February 28, shall have such license status changed to "failed to renew" pending review and renewal by the office. A nonrefundable reinstatement fee of \$225 shall be charged in addition to and apart from any registry fees. The license status may not be changed until the requirements of this section have been met and all fees have been paid. If the licensee fails to submit the required information and pay the required fees by February 28, such license is expired and the mortgage lender licensee must apply for a new mortgage lender branch office license under subsection (2).

Section 15. Subsections (8) through (13) of section 494.0067, Florida Statutes, are amended to read:

494.0067 Requirements of mortgage lenders.—

(8) Each mortgage lender shall provide an applicant for a mortgage loan a good faith estimate of the costs the applicant can reasonably expect to pay in obtaining a mortgage loan. The good faith estimate of costs must be mailed or delivered to the applicant within 3 business days after the licensee receives a written loan application from the applicant. The estimate of costs may be provided to the applicant by a person other than the licensee making the loan. The good faith estimate must identify the recipient of all payments charged to the borrower and, except for all fees to be received by the mortgage broker and the mortgage lender, may be disclosed in generic terms, such

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as, but not limited to, paid to appraiser, officials, title company, or any other third-party service provider. The licensee bears the burden of proving such disclosures were provided to the borrower. The commission may adopt rules that set forth the disclosure requirements of this section.

(9) The disclosures in this subsection must be furnished in writing at the time an adjustable rate mortgage loan is offered to the borrower and whenever the terms of the adjustable rate mortgage loan offered have a material change prior to closing. The lender shall furnish the disclosures relating to adjustable rate mortgages in a format prescribed by ss. 226.18 and 226.19 of Regulation Z of the Board of Governors of the Federal Reserve System, as amended; its commentary, as amended; and the federal Truth in Lending Act, 15 U.S.C. ss. 1601 et seq., as amended; together with the Consumer Handbook on Adjustable Rate Mortgages, as amended; published by the Federal Reserve Board and the Federal Home Loan Bank Board. The licensee bears the burden of proving such disclosures were provided to the borrower.

(10) In every mortgage loan transaction, each mortgage lender shall notify a borrower of any material changes in the terms of a mortgage loan previously offered to the borrower within 3 business days after being made aware of such changes by the lender but at least 3 business days before signing the settlement or closing statement. The licensee bears the burden of proving such notification was provided and accepted by the borrower. A borrower may waive the right to receive notice of a material change if the borrower determines that the extension of credit is needed to meet a bona fide personal financial

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581 emergency and the right to receive notice would delay the
 582 closing of the mortgage loan. The imminent sale of the
 583 borrower's home at foreclosure during the 3-day period before
 584 the signing of the settlement or closing statement constitutes
 585 an example of a bona fide personal financial emergency. In order
 586 to waive the borrower's right to receive notice, the borrower
 587 must provide the licensee with a dated written statement that
 588 describes the personal financial emergency, waives the right to
 589 receive the notice, bears the borrower's signature, and is not
 590 on a printed form prepared by the licensee for the purpose of
 591 such a waiver.

592 (8)(11) A mortgage lender may close loans in its own name
 593 but may not service the loan for more than 4 months unless the
 594 lender has a servicing endorsement. Only a mortgage lender who
 595 continuously maintains a net worth of at least \$250,000 may
 596 obtain a servicing endorsement.

597 (9)(12) A mortgage lender must report to the office the
 598 failure to meet the applicable net worth requirements of s.
 599 494.00611 within 2 days after the mortgage lender's knowledge of
 600 such failure or after the mortgage lender should have known of
 601 such failure.

602 (10)(13) Each mortgage lender shall submit to the registry
 603 reports of condition which are in a form and which contain such
 604 information as the registry may require. The commission may
 605 prescribe by rule the deadline by which a mortgage lender must
 606 file a report of condition. For purposes of this section, the
 607 report of condition is synonymous with the registry's Mortgage
 608 Call Report.

609 Section 16. Section 494.0068, Florida Statutes, is

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610 repealed.

611 Section 17. Subsection (1) of section 494.007, Florida
 612 Statutes, is amended to read:

613 494.007 Commitment process.—

614 (1) If a commitment is issued, the mortgage lender shall
 615 disclose in writing:

616 (a) The expiration date of the commitment;

617 (b) The mortgage amount, meaning the face amount of credit
 618 provided to the borrower or in the borrower's behalf;

619 (c) If the interest rate or other terms are subject to
 620 change before expiration of the commitment:

621 1. The basis, index, or method, if any, which will be used
 622 to determine the rate at closing. Such basis, index, or method
 623 shall be established and disclosed with direct reference to the
 624 movement of an interest rate index or of a national or regional
 625 index that is available to and verifiable by the borrower and
 626 beyond the control of the lender; or

627 2. The following statement, in at least 10-point bold type:
 628 "The interest rate will be the rate established by the lender in
 629 its discretion as its prevailing rate . . . days before
 630 closing."; and

631 ~~(d) The amount of the commitment fee, if any, and whether~~
 632 ~~and under what circumstances the commitment fee is refundable;~~
 633 ~~and~~

634 (d)(e) The time, if any, within which the commitment must
 635 be accepted by the borrower.

636 Section 18. Section 494.0073, Florida Statutes, is amended
 637 to read:

638 494.0073 Mortgage lender when acting as a mortgage broker.—

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639 The provisions of this part do not prohibit a mortgage lender
640 from acting as a mortgage broker. However, in mortgage
641 transactions in which a mortgage lender acts as a mortgage
642 broker, the provisions of ss. 494.0038, ~~494.004(2)~~, 494.0042,
643 and 494.0043(1), (2), and (3) apply.

644 Section 19. Sections 494.0078, 494.0079, 494.00791,
645 494.00792, 494.00793, 494.00794, 494.00795, 494.00796, and
646 494.00797, Florida Statutes, are repealed.

647 Section 20. Section 494.008, Florida Statutes, is repealed.

648 Section 21. This act shall take effect July 1, 2014.



823074

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/18/2014	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Clemens) recommended the following:

Senate Amendment (with title amendment)

Delete lines 644 - 646.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 49 - 52

and insert:

F.S.; deleting a cross-reference; repealing s.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12-18-14

Meeting Date

Topic FIGA

Bill Number 346
(if applicable)

Name MONTY STEVENS

Amendment Barcode 191314
(if applicable)

Job Title DEP. CHIEF OF STAFF

Address 200 E. GAINES ST

Phone 413-5005

Street

TALLAHASSEE FL 32309

City

State

Zip

E-mail monty.stevens@flor.com

Speaking: ☒ For ☐ Against ☐ Information

Representing OIR

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2.18.14

Meeting Date

Topic FICA - INSURANCE

Bill Number SB 346
(if applicable)

Name TREY GOLDMAN

Amendment Barcode _____
(if applicable)

Job Title Legislative Counsel

Address 200 S. MARZOE
Street
Tallahassee FL 32301
City State Zip

Phone 850/224-1400

E-mail treyg@floridarealtors.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Realtors

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-18-14

Meeting Date

Topic FIGA

Bill Number 346
(if applicable)

Name LISA Miller

Amendment Barcode 191 314
(if applicable)

Job Title CEO

Address 331 N Monroe St

Phone 850 528 9229

Tallahassee FL 32301
City State Zip

E-mail lisa.miller@lisamiller
associates
com

Speaking: ☒ For ☐ Against ☐ Information

Representing American Integrity Ins Co

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/18

Meeting Date

Topic FIGA Reform Bill Number 346
(if applicable)
Name Jay Neal Amendment Barcode _____
(if applicable)
Job Title Pres. & CEO
Address 515 E Las Olas Blvd #120 Phone 954 366-2922
Street
City FTL, State FL Zip 33301
E-mail jneal@FloridaInsuranceReform.org
Speaking: ☒ For ☐ Against ☐ Information
Representing FAIR
Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

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 Committee on Banking and Insurance

BILL: CS/SB 346

INTRODUCER: Banking and Insurance Committee and Senator Lee

SUBJECT: Florida Insurance Guaranty Association

DATE: February 19, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Fav/CS
2.			CM	
3.			AGG	
4.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 346 revises provisions governing the Florida Insurance Guaranty Association (FIGA), which was created to provide a mechanism for the payment of covered claims, including unearned premiums, of insolvent property and casualty insurance companies. After an insolvency occurs, FIGA determines if an assessment is needed to pay claims or administration costs, or to pay bonds issued by FIGA and certifies the need for an assessment levy to the Office of Insurance Regulation (OIR). The OIR reviews the certification, and if it is sufficient, the OIR issues an order to all insurance companies subject to the FIGA assessment to pay their assessment to FIGA. The insurers must pay regular assessments within 30 days of the levy, and emergency assessments can be paid in a single payment, or over 12 months, at the option of FIGA. For both types of assessments, once an insurance company pays the assessment to FIGA, it may begin to recoup the assessment from its policyholders at the policy issuance or renewal. The bill provides the following changes:

- Creates a uniform assessment percentage to be collected from policyholders. The collection must begin at least 90 days after the certification of the assessment.
- Authorizes FIGA to use a monthly installment method for the collection of assessments from insurers in addition to the current pay and recoup method. Streamlines the reconciliation of collections and eliminates a regulatory filing with the OIR.

Codifies the OIR's interpretation of an admissible asset for purposes of statutory accounting treatment of FIGA assessments.

II. Present Situation:

Florida Insurance Guaranty Association

Part II of chapter 631, Florida Statutes., governs the operations of the Florida Insurance Guaranty Association (FIGA), a nonprofit corporation, which was created to provide a mechanism for the payment of covered claims, including unearned premiums, of insolvent property and casualty insurance companies.¹ Property and casualty insurance companies² doing business in Florida are required to be a member of FIGA as a condition of their authority to transact insurance.³ When a property and casualty insurance company becomes insolvent, FIGA is required to assume the claims of the insurer and pay the claims of the company's policyholders, which includes claims on residential and commercial property insurance, automobile insurance, and liability insurance, among others.

The maximum claim amount FIGA will cover is \$300,000, but special limits apply to damages to structure and contents on homeowners, condominiums, and homeowners' association claims. For damages to structure and contents on homeowners' claims, FIGA covers an additional \$200,000, for a total of \$500,000. For condominium and homeowners' association claims, FIGA covers the lesser of policy limits or \$100,000 multiplied by the number of units in the association.

FIGA Funding and Assessments

In order to pay the remaining covered claims and maintain the operations of an insolvent insurer, FIGA has several potential funding sources. For example, FIGA receives funds that are available from distributions of the estate of the insolvent insurance company. The Division of Rehabilitation and Liquidation in the Department of Financial Services is responsible for the liquidation of assets of insolvent insurance companies.⁴ In addition, FIGA also obtains funds from the liquidation of assets of insolvent insurers domiciled in other states, but having claims in Florida.

After insolvency occurs, FIGA is authorized to levy assessments against Florida member insurance companies under two separate statutory provisions. Under s. 631.57(3)(a), F.S., FIGA is authorized to levy an assessment as necessary for up to 2 percent of an insurer's net written premium for the kind of insurance included in the account for which the assessment is levied. This assessment is known as the "regular assessment." The second assessment is an emergency assessment authorized under s. 631.57(3)(e), F.S., which may be levied only to pay covered claims of an insurer that was rendered insolvent by the effects of a hurricane. At the discretion of FIGA, emergency assessments are payable in 12 monthly installments or in a single payment. The emergency assessment is capped at 2 percent of an insurer's net direct written premiums in Florida for the calendar year preceding the assessment.

¹ Section 631.51, F.S.

² Workers' compensation insurance is excluded from FIGA since the Florida Workers' Compensation Insurance Guaranty Association (FWCIGA) pays covered claims under chapter 440, F.S., Florida's Workers' Compensation Law.

³ Section 631.55(1), F.S.

⁴ Typically, insurers are placed into liquidation when the company is insolvent and the goal of liquidation is to dissolve the insurance company. See s. 631.061, F.S., for the grounds for liquidation.

The procedure used by FIGA to levy both regular and emergency assessments on member insurance companies and the procedure used by member insurance companies to pass the assessment on to their policyholders are provided in s. 631.57(3), F.S. The procedures are generally the same for regular and emergency assessments:

1. FIGA determines that an assessment is needed to pay claims or administration costs, or to pay bonds issued by FIGA.
2. FIGA certifies the need for an assessment levy to the OIR.
3. The OIR reviews the certification, and if it is sufficient, the OIR issues an order to all insurance companies subject to the FIGA assessment to pay their assessment to FIGA.
4. Regular assessments must be paid by the insurance companies within 30 days of the levy, and emergency assessments can be paid either in one payment at the end of that month, or spread out over 12 months, at the option of FIGA.
5. For both types of assessments, once an insurance company pays the assessment to FIGA, it may begin to recoup the assessment from its policyholders at the policy issuance or renewal.⁵

An insurer must submit an informational filing to the OIR at least 15 days before applying the recoupment factor to any policies. The factor is applied to policies issued or renewed by the insurer for 1 year under the affected lines of insurance. The 15-day requirement also applies if the insurer needs to continue applying the recoupment factor for an additional year. The factor is calculated to provide for the probable recoupment of assessments over a 1-year period, unless an insurer elects to recoup the assessment over a longer period. If the excess amount does not exceed 15 percent of the total assessment paid, the excess amount is remitted to FIGA within 60 days after the end of the 1-year period in which the excess recoupment charges were collected. Any excess recoupments remitted to FIGA are used to reduce future assessments. If the excess amount exceeds 15 percent of the total assessment paid, the excess amount is required to be returned to an insurer's current policyholders by refunds or premium credits.

There have been two instances (1993 and 2006) in the 43-year history of FIGA the assessment has been 4 percent.⁶ Insurers pay the assessments upfront and recoup the assessment from policyholders upon issuance or renewal of the policies.

Part II of ch. 631, F.S., provides a limited exception to the assessment. Subject to regulatory approval, an insurer may be exempted from any regular or emergency assessment if an assessment would result in the insurer's financial statement, reflecting an amount of capital or surplus less than the sum required by any jurisdiction in which the insurer is authorized to transact insurance.⁷

⁵ If an insurer's book of business is declining during the recoupment period, the assessment factor will be insufficient to recoup the total amount of assessment paid to FIGA. In those circumstances, the insurance company must continue to collect the assessment from policyholders beyond 12 months, until the assessment is recouped in full.

⁶ This occurred in 1993 following Hurricane Andrew and in 2006 following Hurricane Wilma and the other storms of the 2004/2005 hurricane seasons.

⁷ Section 631.57(4), F.S.

Accounting for Assessments

Statutory accounting principles (SAP) govern the preparation of an insurer's annual statement, which is filed with the state regulator, the OIR. The SAP is characterized as a more conservative approach; it measures the ability to pay claims in the future. In contrast, other users, such as shareholders, bondholders, banks, credit rating agencies, and the Securities and Exchange Commission, may require financial statements that are prepared in accordance with generally accepted accounting principles (GAAP). The GAAP financial statements attempt to match revenues to expenses.⁸ The OIR requires insurers to file annual SAP statements and independently audited financial reports.⁹

In some respects, GAAP differs from SAP in the treatment of certain transactions, such as the FIGA assessments. Under both accounting methods, a liability is recognized. However, SAP allows the recognition of an asset for the amount that is likely to be recovered from future premium surcharges for an assessment, which offsets or eliminates the negative effect on statutory surplus.¹⁰ For purposes of GAAP, the assessment recoverable from future premium writings does not qualify as an asset,¹¹ resulting in a reduction of retained earnings in the period an assessment is levied. The impact of the assessment on GAAP financial statements is essentially a timing issue; retained earnings are reduced in the year the assessment is paid; however, it is increased the following year as the assessment is recouped from policyholders.

III. Effect of Proposed Changes:

The bill significantly revises the assessment process for regular and emergency assessments.

In the OIR order levying the assessment, the bill requires the office to specify the assessment percentage to be collected uniformly from all assessable policyholders for the assessment year. The order must also specify the start of the assessment year, which is a 12-month period that may start on the first day of each quarter, beginning January 1. The assessment year is the 12 month period during which FIGA assessments are recouped or collected from assessable policyholders.

Insurers are required to make an initial payment to FIGA before the beginning of the assessment year, on or before the date specified in the order. The initial payment made by insurers that wrote insurance in the preceding calendar year is based on the net direct written premiums of the prior year multiplied by the uniform percentage. The initial payment made by insurers that did not write in the prior calendar year is based on a good faith estimate of the anticipated premiums that would be written for the assessment year, multiplied by the uniform percentage of premium. Currently, an insurer's prior year market share is used as a basis for determining an insurer's

⁸ The Financial Accounting Standards Board (FASB) Accounting Standards Codification is the single source of authoritative nongovernmental U.S. Generally Accepted Accounting Principles (GAAP), <http://www.fasb.org/jsp/FASB/Page/SectionPage&cid=1176154526495> (last visited February 16, 2014).

⁹ Section 624.424, F.S.

¹⁰ See Thomas Howell Ferguson P.A., *Accounting for Guaranty Fund Assessments*, memorandum to Sandy Robinson at FIGA, December 3, 2013, (on file with Senate Committee on Banking and Insurance).

¹¹ Asset recognition is measured based on projected future premium collections or policy surcharges from in-force policies, excluding expected renewals of short-duration contracts, which would disqualify the assessment future recoverable as an asset.

total assessment. The insurer calculates the recoupment factor to provide for the probable recoupment in 1 year.

The bill authorizes FIGA to use a monthly installment method for the collection of assessments from policyholders by the insurers. The monthly installment method may also be used in combination with the method requiring insurers to make an initial payment to FIGA and subsequently recoup that payment from policyholders. The bill provides FIGA with the discretion to use the installment plan based on FIGA's projected cash flow. If FIGA projects that it has cash on hand for the payment of expected claims in the applicable account for 6 months, FIGA may recommend a monthly assessment instead of a single payment.

Once the OIR issues an order requiring insurers to pay an assessment, insurers may begin collecting assessments from policyholders for the assessment year. The initial collection start date must be at least 90 days after the FIGA board certifies the need for an assessment. Under the current collection method, an insurer generally remits the regular assessment within 30 days of the levy; however, the emergency assessment currently may be payable as a single payment or in 12 monthly installments, at FIGA's option.

Insurers are required to file a reconciliation report with FIGA within 45 days after the end of the assessment year, indicating the amount of the initial payment to FIGA, whether the payment was based on prior year premiums or a good faith projection, the amounts collected. Reconciliation reports are subject to s. 626.9541(1)(e), F.S. Insurers are required to complete and submit a payment reconciliation to FIGA within 90 days after the end of the assessment year. If an insurer's collections exceed the initial payment to FIGA, the insurer would remit the excess amount to FIGA. If an insurer's collections were less than the initial payment to FIGA, FIGA would credit the insurer that amount against future assessments. This will streamline the current reconciliation process. The bill also eliminates the required informational filing with OIR regarding the amount of the recoupment factor and recoupment factor methodology.

The bill provides that assessments levied under s. 631.57(3), F.S., are levied upon insurers and this subsection does not create a cause of action by a policyholder with respect to the levying of, or a policyholders duty to pay, such assessments. The bill retains the current caps on assessments of 2 percent for the regular assessment and 2 percent for the emergency assessment per year.

The bill specifies that assessments levied before policy surcharges are collected result in a receivable, which is recognized as an admissible asset¹² under statutory accounting principles, to the extent the receivable is likely to be realized. This codifies the current practice of the OIR.¹³ The asset must be established and recorded separately from the liability. The insurer must reduce the amount recorded as an asset if it cannot fully recoup the assessment amount because of a reduction in writings or withdrawal from the market. For assessments that are paid after policy surcharges are collected pursuant to the monthly payment option created by the bill, the recognition of assets is based on actual premium written offset by the obligation to FIGA.

The effective date is January 1, 2014.

¹² As defined in the National Association of Insurance Commissioners' Statement of Statutory Accounting Principles No. 4.

¹³ Office of Insurance Regulation, Supplemental Memorandum to Information Memorandum OIR-06-023M (Dec. 1, 2006). <http://www.floir.com/siteDocuments/SupplementalMemo.pdf> (Last accessed by Banking and Insurance Committee Staff on February 20, 2014).

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill establishes an alternative assessment method, which would allow FIGA to use a monthly installment plan or a combination of methods for the collection of regular and emergency assessments. This would include the current method of collecting assessments upfront from insurers who would recoup from policyholders. However, for purposes of the emergency assessment used to defease bonds, the bill provides that the assessment is payable as a lump sum payment or in installments at the option of FIGA. Current law provides FIGA with the option of collecting the emergency assessment from insurers upfront or paying over 12 months.

Advocates of the bill contend that the current assessment mechanism poses a threat to the solvency of property insurers doing business in Florida after a storm. Advocates of the bill state that a monthly payment reduces the risk of insolvency.

The bill provides a more equitable assessment by creating a uniform percentage assessment of policyholders. The assessment would apply to insurers writing in the preceding year and new insurers writing insurance as of, or after the date of FIGA certifies the assessment. Under the current method, the amount of assessment is based on the market share of an insurer for the prior year. Insurers that did not write in the prior year but are currently writing are not subject to an assessment.

The bill streamlines the assessment recoupment, reconciliation, and reporting process for insurers by requiring insurers to file a reconciliation report and a payment reconciliation report with FIGA. The bill eliminates the requirement that an insurer must file an informational statement with the OIR prior to applying a recoupment factor on policies.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following section of the Florida Statutes: 631.57.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Banking and Insurance on February 18, 2014:

The CS provides the following changes:

- Creates definition of the term, “assessment year.”
- Authorizes an alternative assessment method that would provide FIGA with the option to use a monthly installment method for the collection of regular assessments. This method would be in addition to the current method of requiring a payment upfront from insurers and allowing the insurers to recoup the assessment over 12 months. The bill required the use of the installment method only.
- Revises assessment methodology to provide a uniform percentage assessment on policyholders.
- Eliminates provision authorizing FIGA to borrow funds necessary to ensure that its cash flow are met to pay covered claims when assessments are paid by insurers using the required monthly installment plan.
- Streamlines the assessment reconciliation, reporting, and payment process by requiring insurers to report and reconcile with FIGA.
- Eliminates repeal of requirement for an insurer to file an accounting report statement for informational purposes with the Office of Insurance Regulation 90 days after the insurer completes the recoupment process.
- Eliminates insurance premium tax exemption for the regular assessment.
- Provides that assessments levied under s. 631.57(3), F.S., are levied upon insurers and does not create a cause of action by a policyholder with respect to the levying of, or a policyholder’s duty to pay such assessment.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Lee

24-00322-14

2014346__

A bill to be entitled

An act relating to the Florida Insurance Guaranty Association; amending s. 631.57, F.S.; revising the duties of the association; authorizing the association to collect regular and emergency assessments directly from policyholders; clarifying that assessments are not considered premium for premium tax purposes; making technical and grammatical corrections; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (2) and (3) of section 631.57, Florida Statutes, are reordered and amended to read:

631.57 Powers and duties of the association.—

(2) The association may:

(a) Employ or retain such persons as are necessary to handle claims and perform other duties of the association;

(b) Borrow funds necessary to effect the purposes of this part in accord with the plan of operation, including borrowing funds necessary to ensure that its cash flow needs are timely met to pay covered claims when regular and emergency assessments are levied on policyholders under subsection (3);

(c) Sue or be sued, provided that service of process is ~~shall be~~ made upon the person registered with the department as agent for the receipt of service of process; and

(d) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this part. ~~Additionally,~~ The association may also enter into such contracts with a

Page 1 of 9

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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municipality, a county, or a legal entity created pursuant to s. 163.01(7)(g) ~~as are necessary~~ in order for the municipality, county, or legal entity to issue bonds under s. 631.695. In connection with the issuance of ~~any~~ such bonds and the entering into of ~~any~~ such ~~necessary~~ contracts, the association may agree to such terms and conditions as the association deems necessary and proper.

(3) (a) To the extent necessary to secure ~~the~~ funds for the respective accounts paying for the payment of covered claims, to pay the reasonable costs to administer such accounts ~~the same~~, and ~~to the extent necessary~~ to secure ~~the~~ funds for the account specified in s. 631.55(2)(b) or to retire indebtedness, including, without limitation, the principal, redemption premium, if any, and interest on, and related costs of issuance of, bonds issued under s. 631.695 and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, the office, upon certification of the board of directors, shall levy regular assessments directly upon policyholders, which shall be collected by insurers holding a certificate of authority.

1. The office shall issue an order specifying the date that the board requires such insurers to begin collecting the assessment, which must be at least 90 days after the date that the board certifies the assessment.

2. The order must specify a uniform percentage of the direct written premium for all lines of business in the applicable accounts, which may not exceed 2 percent of the premium in any one year. Such percentage shall be determined by

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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the board and verified by the office.

3. The insurers shall collect such assessments without being affected by any credit, limitation, exemption, or deferment.

4. Assessments collected by insurers shall be transferred regularly to the association as set forth in the order levying the assessment in the proportion that each insurer's net direct written premiums in this state in the classes protected by the account bears to the total of said net direct written premiums received in this state by all such insurers for the preceding calendar year for the kinds of insurance included within such account. Assessments shall be remitted to and administered by the board of directors in the manner specified by the approved plan. Each insurer so assessed shall have at least 30 days' written notice as to the date the assessment is due and payable. Every assessment shall be made as a uniform percentage applicable to the net direct written premiums of each insurer in the kinds of insurance included within the account in which the assessment is made. The assessments levied against any insurer shall not exceed in any one year more than 2 percent of that insurer's net direct written premiums in this state for the kinds of insurance included within such account during the calendar year next preceding the date of such assessments.

(f)(b) If sufficient funds from regular and emergency such assessments, together with funds previously raised, are not available in any one year in the respective account to make all the payments or reimbursements then owing to insurers, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available.

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(e) The Legislature finds and declares that all assessments paid by an insurer or insurer group as a result of a levy by the office, including assessments levied pursuant to paragraph (a) and emergency assessments, constitute advances of funds from the insurer to the association. An insurer may fully recoup such advances by applying a separate recoupment factor to the premium of policies of the same kind or line as were considered by the office in determining the assessment liability of the insurer or insurer group.

(e)(d) No State funds may not of any kind shall be allocated or paid to the said association or any of its accounts.

(b)(e)1.a. In addition to regular assessments otherwise authorized under in paragraph (a), and to the extent necessary to secure the funds for the account specified in s. 631.55(2)(b) for the direct payment of covered claims of insurers rendered insolvent by the effects of a hurricane and to pay the reasonable costs to administer such claims, or to retire indebtedness, including, without limitation, the principal, redemption premium, if any, and interest on, and related costs of issuance of, bonds issued under s. 631.695 and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, the office, upon certification of the board of directors, shall levy emergency assessments directly upon policyholders, which shall be collected by insurers holding a certificate of authority.

1. The office shall issue an order specifying the date on which the board will require such insurers to begin collecting

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the assessment, which must be at least 90 days after the date on which the board certifies the assessment. The order must specify a uniform percentage of the direct written premium for all lines of business in the applicable accounts, which may not exceed 2 percent of the premium in any one year. Such percentage shall be determined by the board and verified by the office. The insurers shall collect such assessments without being affected by any credit, limitation, exemption, or deferment. Assessments collected shall be transferred regularly to the association as specified in the order levying the assessment. The emergency assessments payable under this paragraph by any insurer shall not exceed in any single year more than 2 percent of that insurer's direct written premiums, net of refunds, in this state during the preceding calendar year for the kinds of insurance within the account specified in s. 631.55(2)(b).

2.b. Any Emergency assessments authorized under this paragraph shall be levied by the office only upon insurers referred to in sub-subparagraph a., upon certification as to the need for such assessments by the board of directors. If in the event the board of directors participates in the issuance of bonds in accordance with s. 631.695, emergency assessments shall be levied in each year that bonds issued under s. 631.695 and secured by such emergency assessments are outstanding, in such amounts up to such 2-percent limit as required in order to provide for the full and timely payment of the principal of, redemption premium, if any, and interest on, and related costs of issuance of, such bonds. The emergency assessments provided for in this paragraph are assigned and pledged to the municipality, county, or legal entity issuing bonds under s.

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631.695 for the benefit of the holders of such bonds, ~~in order to enable such municipality, county, or legal entity~~ to provide for the payment of the principal of, redemption premium, if any, and interest on such bonds, the cost of issuance of such bonds, and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, without ~~the necessity of any~~ further action by the association, the office, or any other party. ~~If To the extent~~ bonds are issued under s. 631.695 and the association secures ~~determines to secure~~ such bonds by a pledge of revenues received from the emergency assessments, ~~such bonds, upon such pledge of revenues, shall be secured by and payable from the proceeds of such emergency assessments, and the~~ proceeds of emergency assessments levied under this paragraph shall be remitted directly to and administered by the trustee or custodian appointed for the payment of such bonds.

~~c. Emergency assessments under this paragraph may be payable in a single payment or, at the option of the association, may be payable in 12 monthly installments with the first installment being due and payable at the end of the month after an emergency assessment is levied and subsequent installments being due not later than the end of each succeeding month.~~

3.d. If emergency assessments are imposed, the report required under by s. 631.695(7) must ~~shall~~ include an analysis of the revenues generated from the emergency assessments imposed under this paragraph.

4.e. If emergency assessments are imposed, the references in sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to

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regular assessments levied under paragraph (a) must ~~shall~~ include emergency assessments imposed under this paragraph.

~~5.2-~~ If the board of directors participates in the issuance of bonds in accordance with s. 631.695, an emergency annual assessment under this paragraph must ~~shall~~ continue while the bonds issued with respect to which the assessment was imposed are outstanding, including any bonds the proceeds of which were used to refund bonds issued pursuant to s. 631.695, unless adequate provision has been made for the payment of the bonds in the documents authorizing the issuance of such bonds.

~~(c)3-~~ Emergency Assessments under this subsection paragraph are not premium and are not subject to the premium tax, to any fees, or to any commissions. An insurer is liable for all emergency assessments that the insurer collects and shall treat the failure of an insured to pay an emergency assessment as a failure to pay the premium. An insurer is not liable for uncollectible emergency assessments.

~~(d)(f)~~ The recoupment factor applied to policies in accordance with paragraph (a) or paragraph (b) ~~(e)~~ shall be selected by the board and verified by the office ~~insurer or insurer group~~ so as to provide for the probable recoupment of both assessments levied pursuant to paragraph (a) and emergency assessments over a period of 12 months, unless the insurer or insurer group, at its option, elects to recoup the assessment over a longer period. The recoupment factor applies ~~shall apply~~ to all policies of the same kind or line as were considered by the office in determining the assessment liability ~~of the insurer or insurer group issued or renewed during a 12-month period~~.

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1. If the recoupment factor ~~insurer or insurer group~~ does not collect the full amount needed ~~of the assessment~~ during one 12-month period, the ~~board insurer or insurer group~~ may apply recalculated recoupment factors to policies issued or renewed during one or more succeeding 12-month periods.

2. If, at the end of a 12-month period, the association ~~insurer or insurer group~~ has collected from the combined kinds or lines of policies subject to assessment more than the total amount of the assessment needed, ~~paid by the insurer or insurer group~~, the excess amount shall be disbursed as follows:

1. If the excess amount does not exceed 15 percent of the total assessment paid by the insurer or insurer group, the excess amount shall be remitted to the association within 60 days after the end of the 12-month period in which the excess recoupment charges were collected.

2. If the excess amount exceeds 15 percent of the total assessment paid by the insurer or insurer group, the excess amount shall be returned to the insurer's or insurer group's current policyholders by refunds or premium credits. the association shall use any remitted excess recoupment amounts to reduce future assessments.

~~(g)~~ Amounts recouped pursuant to this subsection for assessments levied under paragraph (a) due to insolvencies on or after July 1, 2010, are considered premium solely for premium tax purposes and are not subject to fees or commissions. However, insurers shall treat the failure of an insured to pay a recoupment charge as a failure to pay the premium.

~~(h)~~ At least 15 days before applying the recoupment factor to any policies, the insurer or insurer group shall file with

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the office a statement for informational purposes only setting forth the amount of the recoupment factor and an explanation of how the recoupment factor will be applied. Such statement shall include documentation of the assessment paid by the insurer or insurer group and the arithmetic calculations supporting the recoupment factor. The insurer or insurer group may use the recoupment factor at any time after the expiration of the 15-day period. The insurer or insurer group need submit only one informational statement for all lines of business using the same recoupment factor.

(i) No later than 90 days after the insurer or insurer group has completed the recoupment process, the insurer or insurer group shall file with the office, for information purposes only, a final accounting report documenting the recoupment. The report shall provide the amounts of assessments paid by the insurer or insurer group, the amounts and percentages recouped by year from each affected line of business, and the direct written premium subject to recoupment by year. The insurer or insurer group need submit only one report for all lines of business using the same recoupment factor.

Section 2. This act shall take effect July 1, 2014.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/18/2014	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Lee) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (2) through (9) of section 631.54, Florida Statutes, are renumbered as subsections (3) through (10), respectively, and a new subsection (2) is added to that section, to read:

631.54 Definitions.—As used in this part:

(2) "Assessment year" means the 12-month period specified



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11 in an order issued by the office directing insurers to pay an
12 assessment to the association. Upon entry of the order, insurers
13 may begin collecting assessments from policyholders for the
14 assessment year. The assessment year begins on the first day of
15 each quarter, beginning January 1.

16 Section 2. Subsection (3) of section 631.57, Florida
17 Statutes, is amended to read:

18 631.57 Powers and duties of the association.—

19 (3) (a) To the extent necessary to secure ~~the~~ funds for the
20 respective accounts for the payment of covered claims, to pay
21 the reasonable costs to administer such accounts ~~the same~~, and
22 ~~to the extent necessary~~ to secure ~~the~~ funds for the account
23 specified in s. 631.55(2) (b) or to retire indebtedness,
24 including, without limitation, the principal, redemption
25 premium, if any, and interest on, and related costs of issuance
26 of, bonds issued under s. 631.695 and the funding of ~~any~~
27 reserves and other payments required under the bond resolution
28 or trust indenture pursuant to which such bonds have been
29 issued, the office, upon certification of the board of
30 directors, shall levy assessments initially estimated in the
31 proportion that each insurer's net direct written premiums in
32 this state in the classes protected by the account bears to the
33 total of said net direct written premiums received in this state
34 by all such insurers for the preceding calendar year for the
35 kinds of insurance included within such account. Assessments
36 shall be remitted to and administered by the board of directors
37 in the manner specified by the approved plan and paragraph (f).
38 Each insurer so assessed shall have at least 30 days' written
39 notice as to the date the initial assessment payment is due and



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payable. Every assessment shall be ~~made as~~ a uniform percentage applicable to the net direct written premiums of each insurer in the kinds of insurance included within the account in which the assessment is made. The assessments levied against any insurer may ~~shall~~ not exceed in any one year more than 2 percent of that insurer's net direct written premiums in this state for the kinds of insurance included within such account during the calendar year next preceding the date of such assessments.

(b) If sufficient funds from such assessments, together with funds previously raised, are not available in any one year in the respective account to make all the payments or reimbursements then owing to insurers, the funds available shall be prorated and the unpaid portion ~~shall be~~ paid as soon ~~thereafter~~ as funds become available.

(c) The Legislature finds and declares that all assessments paid by an insurer or insurer group as a result of a levy by the office, including assessments levied pursuant to paragraph (a) and emergency assessments levied pursuant to paragraph (e), constitute advances of funds from the insurer to the association. An insurer may fully recoup such advances by applying the uniform assessment percentage levied by the office to all ~~a separate recoupment factor to the premium of policies~~ of the same kind or line as were considered by the office in determining the assessment liability of the insurer or insurer group as set forth in paragraph (f).

1. Assessments levied under subparagraph (f)1. are paid before policy surcharges are collected and result in a receivable for policy surcharges collected in the future. This amount, to the extent it is likely that it will be realized,



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meets the definition of an admissible asset as specified in the National Association of Insurance Commissioners' Statement of Statutory Accounting Principles No. 4. The asset shall be established and recorded separately from the liability regardless of whether it is based on a retrospective or prospective premium-based assessment. If an insurer is unable to fully recoup the amount of the assessment because of a reduction in writings or withdrawal from the market, the amount recorded as an asset shall be reduced to the amount reasonably expected to be recouped.

2. Assessments levied under subparagraph (f)2. are paid after policy surcharges are collected so that the recognition of assets is based on actual premium written offset by the obligation to the association.

(d) ~~No~~ State funds may not ~~of any kind shall~~ be allocated or paid to the ~~said~~ association or any of its accounts.

(e)1.a. In addition to assessments ~~otherwise~~ authorized in paragraph (a), and to the extent necessary to secure the funds for the account specified in s. 631.55(2)(b) for the direct payment of covered claims of insurers rendered insolvent by the effects of a hurricane and to pay the reasonable costs to administer such claims, or to retire indebtedness, including, without limitation, the principal, redemption premium, if any, and interest on, and related costs of issuance of, bonds issued under s. 631.695 and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, the office, upon certification of the board of directors, shall levy emergency assessments upon insurers holding a certificate of authority.



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The emergency assessments payable under this paragraph by any insurer ~~may shall~~ not exceed in any single year more than 2 percent of that insurer's direct written premiums, net of refunds, in this state during the preceding calendar year for the kinds of insurance within the account specified in s. 631.55(2) (b) .

~~2.b. Any~~ Emergency assessments authorized under this paragraph shall be levied by the office upon insurers referred to in subparagraph 1. ~~sub-subparagraph a.~~, upon certification as to the need for such assessments by the board of directors. If ~~In the event~~ the board ~~of directors~~ participates in the issuance of bonds in accordance with s. 631.695, emergency assessments shall be levied in each year that bonds issued under s. 631.695 and secured by such emergency assessments are outstanding, in ~~such~~ amounts up to such 2-percent limit as required in order to provide for the full and timely payment of the principal of, redemption premium, if any, and interest on, and related costs of issuance of, such bonds. The emergency assessments ~~provided for in this paragraph~~ are assigned and pledged to the municipality, county, or legal entity issuing bonds under s. 631.695 for the benefit of the holders of such bonds, in order ~~to enable such municipality, county, or legal entity~~ to provide for the payment of the principal of, redemption premium, if any, and interest on such bonds, the cost of issuance of such bonds, and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, without ~~the necessity of any~~ further action by the association, the office, or any other party. If ~~To the extent~~ bonds are issued under s. 631.695 and



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the association determines to secure such bonds by a pledge of revenues received from the emergency assessments, such bonds, upon such pledge of revenues, shall be secured by and payable from the proceeds of such emergency assessments, and the proceeds of emergency assessments levied under this paragraph shall be remitted directly to and administered by the trustee or custodian appointed for such bonds.

~~3.e.~~ Emergency assessments used to defease bonds issued under this ~~part paragraph~~ may be payable in a single payment or, at the option of the association, may be payable in 12 monthly installments with the first installment being due and payable at the end of the month after an emergency assessment is levied and subsequent installments being due by ~~not later than~~ the end of each succeeding month.

~~4.d.~~ If emergency assessments are imposed, the report required by s. 631.695(7) must ~~shall~~ include an analysis of the revenues generated from the emergency assessments imposed under this paragraph.

~~5.e.~~ If emergency assessments are imposed, the references in sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to assessments levied under paragraph (a) must ~~shall~~ include emergency assessments imposed under this paragraph.

~~6.2.~~ If the board of directors participates in the issuance of bonds in accordance with s. 631.695, an annual assessment under this paragraph shall continue while the bonds issued with respect to which the assessment was imposed are outstanding, including any bonds the proceeds of which were used to refund bonds issued pursuant to s. 631.695, unless adequate provision has been made for the payment of the bonds in the documents



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authorizing the issuance of such bonds.

7.3. Emergency assessments under this paragraph are not premium and are not subject to the premium tax, to any fees, or to any commissions. An insurer is liable for all emergency assessments that the insurer collects and shall treat the failure of an insured to pay an emergency assessment as a failure to pay the premium. An insurer is not liable for uncollectible emergency assessments.

~~(f) The recoupment factor applied to policies in accordance with paragraph (c) shall be selected by the insurer or insurer group so as to provide for the probable recoupment of both assessments levied pursuant to paragraph (a) and emergency assessments over a period of 12 months, unless the insurer or insurer group, at its option, elects to recoup the assessment over a longer period. The recoupment factor shall apply to all policies of the same kind or line as were considered by the office in determining the assessment liability of the insurer or insurer group issued or renewed during a 12-month period. If the insurer or insurer group does not collect the full amount of the assessment during one 12-month period, the insurer or insurer group may apply recalculated recoupment factors to policies issued or renewed during one or more succeeding 12-month periods. If, at the end of a 12-month period, the insurer or insurer group has collected from the combined kinds or lines of policies subject to assessment more than the total amount of the assessment paid by the insurer or insurer group, the excess amount shall be disbursed as follows:~~

1. The association, office, and insurers remitting assessments pursuant to paragraph (a) or (e) must comply with



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the following:

a. In the order levying an assessment, the office shall specify the actual percentage amount to be collected uniformly from all the policyholders of insurers subject to the assessment and the date on which the assessment year begins, which may not begin before 90 days after the association board certifies such an assessment.

b. Insurers shall make an initial payment to the association before the beginning of the assessment year, on or before the date specified in the order of the office.

c. Insurers that have written insurance in the calendar year before the year in which the assessment is certified by the board shall make an initial payment based on the net direct written premium amount from the prior calendar year as set forth in the insurers annual statement, multiplied by the uniform percentage of premium specified in the order issued by the office. Insurers that have not written insurance in the prior calendar year in any of the lines under the account which are being assessed, but which are writing insurance as of, or after, the date the board certifies the assessment to the office, shall pay an amount based on a good faith estimate of the amount of net direct written premium anticipated to be written in the subject lines of business for the assessment year, multiplied by the uniform percentage of premium specified in the order issued by the office.

d. Insurers shall file a reconciliation report with the association within 45 days after the end of the assessment year which indicates the amount of the initial payment to the association before the assessment year, whether such amount was



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based on net direct written premium contained in a prior calendar year annual statement or a good faith projection, the amount actually collected during the assessment year, and such other information contained on a form adopted by the association and provided to the insurers in advance. If the insurer collected from policyholders more than the amount initially paid, the insurer shall pay the excess amount to the association. If the insurer collected from policyholders an amount which is less than the amount initially paid to the association, the association shall credit the insurer that amount against future assessments. Such payment reconciliation report, and any payment of excess amounts collected from policyholders, shall be completed and remitted to the association within 90 days after the end of the assessment year. The association shall send a final reconciliation report on all insurers to the office within 120 days after each assessment year.

e. Insurers remitting reconciliation reports under this paragraph to the association are subject to s. 626.9541(1)(e).

f. Assessments levied under this subsection are levied upon insurers. This subsection does not create a cause of action by a policyholder with respect to the levying of, or a policyholder's duty to pay, such assessments. ~~If the excess amount does not exceed 15 percent of the total assessment paid by the insurer or insurer group, the excess amount shall be remitted to the association within 60 days after the end of the 12-month period in which the excess recoupment charges were collected.~~

2. The association may use a monthly installment method instead of the method described in sub-subparagraphs (f)1.b and



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c. or in combination thereof based on the association's projected cash flow. If the association projects that it has cash on hand for the payment of anticipated claims in the applicable account for at least 6 months, the board may make an estimate of the assessment needed and may recommend to the office the assessment percentage that may be collected as a monthly assessment. The office may, in the order levying the assessment on insurers, specify that the assessment is due and payable monthly as the funds are collected from insureds throughout the assessment year, in which case the assessment shall be a uniform percentage of premium collected during the assessment year and shall be collected from all policyholders with policies in the classes protected by the account. All insurers shall collect the assessment without regard to whether the insurers reported premium in the year preceding the assessment. Insurers are not required to advance funds if the association and the office elect to use the monthly installment option. All funds collected shall be retained by the association for the payment of current or future claims. ~~If the excess amount exceeds 15 percent of the total assessment paid by the insurer or insurer group, the excess amount shall be returned to the insurer's or insurer group's current policyholders by refunds or premium credits. The association shall use any remitted excess recoupment amounts to reduce future assessments.~~

(g) Amounts recouped pursuant to this subsection for assessments levied under paragraph (a) due to insolvencies on or after July 1, 2010, are considered premium solely for premium tax purposes and are not subject to fees or commissions. However, insurers shall treat the failure of an insured to pay a



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recoupment charge as a failure to pay the premium.

~~(h) At least 15 days before applying the recoupment factor to any policies, the insurer or insurer group shall file with the office a statement for informational purposes only setting forth the amount of the recoupment factor and an explanation of how the recoupment factor will be applied. Such statement shall include documentation of the assessment paid by the insurer or insurer group and the arithmetic calculations supporting the recoupment factor. The insurer or insurer group may use the recoupment factor at any time after the expiration of the 15-day period. The insurer or insurer group need submit only one informational statement for all lines of business using the same recoupment factor.~~

~~(h)-(i)~~ Within No later than 90 days after the insurer or insurer group has completed the recoupment process, the insurer or insurer group shall file with the office, for information purposes only, a final accounting report documenting the recoupment. The report must ~~shall~~ provide the amounts of assessments paid by the insurer or insurer group, the amounts and percentages recouped by year from each affected line of business, and the direct written premium subject to recoupment by year. The insurer or insurer group need submit only one report for all lines of business using the same recoupment factor.

Section 3. Section 631.64, Florida Statutes, is amended to read:

631.64 Recognition of assessments in rates.—The rates and premiums charged for insurance policies to which this part applies may include separate amounts sufficient to recoup a sum



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equal to the amounts paid or payable to the association by the member insurer less any amounts returned to the member insurer by the association, and such rates may ~~shall~~ not be deemed excessive because they contain an amount reasonably calculated to recoup assessments paid by the member insurer. Charges or recoupments shall be separately displayed on premium bills to enable policyholders to determine the amount charged for association assessments, and may not be included in rates filed and approved by the office.

Section 4. Subsection (5) of section 627.727, Florida Statutes, is amended to read:

627.727 Motor vehicle insurance; uninsured and underinsured vehicle coverage; insolvent insurer protection.—

(5) Any person having a claim against an insolvent insurer as defined in s. 631.54~~(6)~~ under ~~the provisions of~~ this section shall present such claim for payment to the Florida Insurance Guaranty Association only. In the event of a payment to a ~~any~~ person in settlement of a claim arising under ~~the provisions of~~ this section, the association is not subrogated or entitled to ~~any~~ recovery against the claimant's insurer. The association, however, has the rights of recovery as set forth in chapter 631 in the proceeds recoverable from the assets of the insolvent insurer.

Section 5. Subsection (1) of section 631.55, Florida Statutes, is amended to read:

631.55 Creation of the association.—

(1) There is created a nonprofit corporation to be known as the "Florida Insurance Guaranty Association, Incorporated." All insurers defined as member insurers in s. 631.54~~(7)~~ shall be



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members of the association as a condition of their authority to transact insurance in this state, and, further, as a condition of such authority, an insurer must ~~shall~~ agree to reimburse the association for all claim payments the association makes on the ~~said~~ insurer's behalf if such insurer is subsequently rehabilitated. The association shall perform its functions under a plan of operation established and approved under s. 631.58 and shall exercise its powers through a board of directors established under s. 631.56. The corporation shall have all those powers granted or permitted nonprofit corporations, as provided in chapter 617.

Section 6. This act shall take effect July 1, 2014.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to the Florida Insurance Guaranty Association; amending s. 631.54, F.S.; defining the term "assessment year"; amending s. 631.57, F.S.; revising provisions relating to the levying of assessments on insurers; specifying the conditions under which such assessments are paid; revising procedures and timeframes for levying the assessments; amending s. 631.64, F.S.; requiring charges or recoupments to be displayed separately on premium bills to policyholders and prohibiting their inclusion



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359 in rates; amending ss. 627.727 and 631.55, F.S.;

360 conforming cross-references; providing an effective

361 date.

Senate Banking and Insurance Committee
2014 Citizens Proposals
February 18, 2014

- 1. Citizens shall stop writing NEW multiperil Commercial-Residential policies in the Coastal Account and instead offer All Other Peril (AOP) policies along with Wind Only.**
 - Addresses an inequity in rates that results in commercial-residential buildings covered by a multi-peril policy paying less than the same building insured by Citizens with a wind-only policy and an AOP policy at current rates.
 - Citizens' AOP coverage is comparable to the private market, allowing for more takeout opportunities.
 - This proposal will not affect current Citizens commercial-residential multi-peril policyholders, who are allowed to continue renewing their multi-peril policies.

- 2. Shift 5 percent of the Citizens Policyholder Surcharge from the Personal Lines Account to the Coastal Account.**
 - The Citizens Policyholder Surcharge is paid by every Citizens policyholder, regardless of which Citizens account is levying the surcharge.
 - Under current law, each of the three accounts can surcharge up to 15 percent for a total liability to a Citizens policyholder of 45 percent.
 - The Personal Lines account on average is 3.7 percent below actuarially sound and the Coastal Account is on average 24.1 percent below actuarially sound.
 - Shifting 5 percent to the Coastal Account does not reduce or increase the total liability of 45 percent to a Citizens policyholder.
 - Will reduce the assessment liabilities on non-Citizens policies for storms that result in a Coastal Account deficit assessment of greater than 15 percent if the Personal Lines account does not exhaust its 10 percent assessment authority.

- 3. Applies a 15 percent limit on rate increases to all commercial non-residential policies.**
 - A 15 percent glide-path on rate increases for commercial non-residential policies should, based on current projections, result in all of Citizens commercial non-residential policies achieving close to actuarial soundness after 4 years.
 - There are 21,467 policies insuring 30,480 buildings with a total exposure of \$14.27 billion and a 1-100 PML of \$1.175 billion.
 - Average commercial non-residential wind-only policy is 24.3 percent below actuarially sound. The average commercial non-residential multi-peril policy in the Coastal account is 73.5 percent below actuarially sound.
 - Average commercial non-residential multi-peril policy in the Commercial Lines Account is right around being actuarially sound.
 - There has been a 42 percent drop in policy count since 2007.

- 4. Allows surplus lines insurers to participate in the Citizens clearinghouse.**
 - Proposal will allow surplus lines insurers to make offers through the clearinghouse only if admitted insurers do not make an offer.
 - An offer from a surplus lines insurer made through the clearinghouse cannot make a policy ineligible for coverage with Citizens.

Senate Banking and Insurance Committee
2014 Citizens Proposals
February 18, 2014

- Policyholders who leave Citizens for a surplus lines carrier may, within 36 months, choose to reapply with Citizens and their application through the clearinghouse will be rated as a renewal.
 - Surplus lines carriers must meet enhanced financial requirements and provide additional disclosures to the consumer.
 - In 2012 the Senate passed HB CS/CS/HB 245 allowing surplus lines insurers to participate in Citizens depopulation programs.
- 5. Allows Citizens 18 months to develop and establish a Citizens Clearinghouse for commercial residential policies.**
- A commercial clearinghouse would help enforce the 15 percent eligibility requirement for new Citizens applicants, and encourage private-market insurers to offer coverage to existing Citizens policyholders.
 - Private market insurers are actively writing commercial residential policies that insure newer buildings with a replacement cost greater than \$10 million.
 - Citizens estimates 5-15 percent of its current commercial residential policies would be attractive to the private market.
- 6. Removes a duplicative report required in s. 627.3519, F.S.**
- This same report is already required in s. 627.35191, F.S.
- 7. Requires Citizens to annually report their bonding capacity, claims paying capacity and their current cash balance as of December 31 of each year.**
- 8. Removes the requirement that insurers offer a \$500 deductible option for non-hurricane losses.**
- Insurers will be able to offer a \$500 deductible option for non-hurricane losses, but will not be required to do so.
- 9. Limits public adjuster (PA) fees to 15 percent of the total claim payment. Applies the existing 10 percent limit on PA fees based on an event that is declared a state of emergency to all such claims. Prohibits PAs from accepting a power of attorney that vests in the PA the authority to choose the persons that will perform repairs.**
- Will allow consumers to retain a greater percentage of their claims payments.
 - Currently, PA fees are 20 percent of the total claim payment from the insurance company; 10 percent if the claim results from a state of emergency and is made within 1 year of the state of emergency.
 - The House amendments to SB 1770 resulted in large PA fee increases on Citizens claims.
 - Pre SB 1770 (PA fee: 10% of difference) – Initial Citizens Offer: \$5,000, Settled Amount \$10,000 = \$500 PA fee and \$4,500 additional monies to the policyholder.

Senate Banking and Insurance Committee
2014 Citizens Proposals
February 18, 2014

- Current Law (PA fee: 20% of total settlement) – Initial Citizens offer: \$5,000, Settled Amount \$10,000 = \$2,000 PA fee and \$3,000 additional monies to the policyholder.

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A bill to be entitled
An act relating to property insurance; amending s.
627.351, F.S.; providing that the corporation will
discontinue offering certain new commercial lines
residential policies after a certain date; specifying
the amount of the surcharge to be assessed against
personal lines, commercial lines, and coastal accounts
to cover a projected deficit; deleting obsolete
provisions; revising the annual rate increase
implemented by the corporation for commercial
nonresidential policies after a certain date; amending
s. 627.3518, F.S.; defining the term "surplus lines
insurer"; requiring the corporation to implement
procedures for diverting commercial residential
policyholders from the corporation by a certain date;
authorizing eligible surplus lines insurers to
participate in the corporation's clearinghouse program
and providing criteria for such eligibility; repealing
s. 627.3519, F.S.; amending s. 627.35191, F.S.;
revising provisions related to an annual report
submitted by the corporation; amending s. 626.854,
F.S.; revising provisions relating to public adjuster
compensation; prohibiting public adjusters from
entering into contracts or accepting a power of
attorney for certain purposes; amending s. 627.701,
F.S.; deleting provisions relating to deductibles for
certain personal lines residential property insurance
policies; conforming cross-references; providing an
effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (b), (n) and (hh) of subsection (6) of section 627.351, Florida Statutes, are amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(b)1. All insurers authorized to write one or more subject lines of business in this state are subject to assessment by the corporation and, for the purposes of this subsection, are referred to collectively as "assessable insurers." Insurers writing one or more subject lines of business in this state pursuant to part VIII of chapter 626 are not assessable insurers; however, ~~but~~ insureds who procure one or more subject lines of business in this state pursuant to part VIII of chapter 626 are subject to assessment by the corporation and are referred to collectively as "assessable insureds." An insurer's assessment liability begins on the first day of the calendar year following the year in which the insurer was issued a certificate of authority to transact insurance for subject lines of business in this state and terminates 1 year after the end of the first calendar year during which the insurer no longer holds a certificate of authority to transact insurance for subject lines of business in this state.

2.a. All revenues, assets, liabilities, losses, and expenses of the corporation shall be divided into three separate accounts as follows:

(I) A personal lines account for personal residential policies issued by the corporation, or issued by the Residential

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59 Property and Casualty Joint Underwriting Association and renewed
60 by the corporation, which provides comprehensive, multiperil
61 coverage on risks that are not located in areas eligible for
62 coverage by the Florida Windstorm Underwriting Association as
63 those areas were defined on January 1, 2002, and for policies
64 that do not provide coverage for the peril of wind on risks that
65 are located in such areas;

66 (II) A commercial lines account for commercial residential
67 and commercial nonresidential policies issued by the
68 corporation, or issued by the Residential Property and Casualty
69 Joint Underwriting Association and renewed by the corporation,
70 which provides coverage for basic property perils on risks that
71 are not located in areas eligible for coverage by the Florida
72 Windstorm Underwriting Association as those areas were defined
73 on January 1, 2002, and for policies that do not provide
74 coverage for the peril of wind on risks that are located in such
75 areas; and

76 (III) A coastal account for personal residential policies
77 and commercial residential and commercial nonresidential
78 property policies issued by the corporation, or transferred to
79 the corporation, which provides coverage for the peril of wind
80 on risks that are located in areas eligible for coverage by the
81 Florida Windstorm Underwriting Association as those areas were
82 defined on January 1, 2002. The corporation may offer policies
83 that provide multiperil coverage and ~~the corporation~~ shall
84 ~~continue to~~ offer policies that provide coverage only for the
85 peril of wind for risks located in areas eligible for coverage
86 in the coastal account. Effective July 1, 2014, the corporation
87 shall cease offering new commercial residential policies

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88 providing multiperil coverage and instead may offer commercial
89 residential policies excluding wind and shall continue to offer
90 commercial residential wind only policies in the coastal
91 account. The corporation may, however, continue to renew a
92 commercial lines residential multiperil policy to cover a
93 building that is insured by the corporation on June 30, 2014,
94 under a multi-peril policy. In issuing multiperil coverage, the
95 corporation may use its approved policy forms and rates for the
96 personal lines account. An applicant or insured who is eligible
97 to purchase a multiperil policy from the corporation may
98 purchase a multiperil policy from an authorized insurer without
99 prejudice to the applicant's or insured's eligibility to
100 prospectively purchase a policy that provides coverage only for
101 the peril of wind from the corporation. An applicant or insured
102 who is eligible for a corporation policy that provides coverage
103 only for the peril of wind may elect to purchase or retain such
104 policy and also purchase or retain coverage excluding wind from
105 an authorized insurer without prejudice to the applicant's or
106 insured's eligibility to prospectively purchase a policy that
107 provides multiperil coverage from the corporation. It is the
108 goal of the Legislature that there be an overall average savings
109 of 10 percent or more for a policyholder who currently has a
110 wind-only policy with the corporation, and an ex-wind policy
111 with a voluntary insurer or the corporation, and who obtains a
112 multiperil policy from the corporation. It is the intent of the
113 Legislature that the offer of multiperil coverage in the coastal
114 account be made and implemented in a manner that does not
115 adversely affect the tax-exempt status of the corporation or
116 creditworthiness of or security for currently outstanding

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117 financing obligations or credit facilities of the coastal
118 account, the personal lines account, or the commercial lines
119 account. The coastal account must also include quota share
120 primary insurance under subparagraph (c)2. The area eligible for
121 coverage under the coastal account also includes the area within
122 Port Canaveral, which is bordered on the south by the City of
123 Cape Canaveral, bordered on the west by the Banana River, and
124 bordered on the north by Federal Government property.

125 b. The three separate accounts must be maintained as long
126 as financing obligations entered into by the Florida Windstorm
127 Underwriting Association or Residential Property and Casualty
128 Joint Underwriting Association are outstanding, in accordance
129 with the terms of the corresponding financing documents. If the
130 financing obligations are no longer outstanding, the corporation
131 may use a single account for all revenues, assets, liabilities,
132 losses, and expenses of the corporation. Consistent with this
133 subparagraph and prudent investment policies that minimize the
134 cost of carrying debt, the board shall exercise its best efforts
135 to retire existing debt or obtain the approval of necessary
136 parties to amend the terms of existing debt, in order ~~so as~~ to
137 structure the most efficient plan for consolidating ~~to~~
138 ~~consolidate~~ the three separate accounts into a single account.

139 c. Creditors of the Residential Property and Casualty Joint
140 Underwriting Association and the accounts specified in sub-sub-
141 subparagraphs a.(I) and (II) may have a claim against, and
142 recourse to, those accounts and no claim against, or recourse
143 to, the account referred to in sub-sub-subparagraph a.(III).
144 Creditors of the Florida Windstorm Underwriting Association have
145 a claim against, and recourse to, the account referred to in

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sub-sub-subparagraph a.(III) and no claim against, or recourse to, the accounts referred to in sub-sub-subparagraphs a.(I) and (II).

d. Revenues, assets, liabilities, losses, and expenses not attributable to particular accounts shall be prorated among the accounts.

e. The Legislature finds that the revenues of the corporation are revenues that are necessary to meet the requirements set forth in documents authorizing the issuance of bonds under this subsection.

f. The income of the corporation may not inure to the benefit of any private person.

3. With respect to a deficit in an account:

a. After accounting for the Citizens policyholder surcharge imposed under sub-subparagraph i., if the remaining projected deficit incurred in the coastal account in a particular calendar year:

(I) Is not greater than 2 percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year, the entire deficit shall be recovered through regular assessments of assessable insurers under paragraph (q) and assessable insureds.

(II) Exceeds 2 percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year, the corporation shall levy regular assessments on assessable insurers under paragraph (q) and on assessable insureds in an amount equal to the greater of 2 percent of the projected deficit or 2 percent of the aggregate statewide direct written premium for the subject lines of business for the prior

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175 calendar year. Any remaining projected deficit shall be
176 recovered through emergency assessments under sub-subparagraph
177 d.

178 b. Each assessable insurer's share of the amount being
179 assessed under sub-subparagraph a. must be in the proportion
180 that the assessable insurer's direct written premium for the
181 subject lines of business for the year preceding the assessment
182 bears to the aggregate statewide direct written premium for the
183 subject lines of business for that year. The assessment
184 percentage applicable to each assessable insured is the ratio of
185 the amount being assessed under sub-subparagraph a. to the
186 aggregate statewide direct written premium for the subject lines
187 of business for the prior year. Assessments levied by the
188 corporation on assessable insurers under sub-subparagraph a.
189 must be paid as required by the corporation's plan of operation
190 and paragraph (q). Assessments levied by the corporation on
191 assessable insureds under sub-subparagraph a. shall be collected
192 by the surplus lines agent at the time the surplus lines agent
193 collects the surplus lines tax required by s. 626.932, and paid
194 to the Florida Surplus Lines Service Office at the time the
195 surplus lines agent pays the surplus lines tax to that office.
196 Upon receipt of regular assessments from surplus lines agents,
197 the Florida Surplus Lines Service Office shall transfer the
198 assessments directly to the corporation as determined by the
199 corporation.

200 c. After accounting for the Citizens policyholder surcharge
201 imposed under sub-subparagraph i., the remaining projected
202 deficits in the personal lines account and in the commercial
203 lines account in a particular calendar year shall be recovered

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through emergency assessments under sub-subparagraph d.

d. Upon a determination by the board of governors that a projected deficit in an account exceeds the amount that is expected to be recovered through regular assessments under sub-subparagraph a., plus the amount that is expected to be recovered through surcharges under sub-subparagraph i., the board, after verification by the office, shall levy emergency assessments for as many years as necessary to cover the deficits, to be collected by assessable insurers and the corporation and collected from assessable insureds upon issuance or renewal of policies for subject lines of business, excluding National Flood Insurance policies. The amount collected in a particular year must be a uniform percentage of that year's direct written premium for subject lines of business and all accounts of the corporation, excluding National Flood Insurance Program policy premiums, as annually determined by the board and verified by the office. The office shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. The office shall notify assessable insurers and the Florida Surplus Lines Service Office of the date on which assessable insurers shall begin to collect and assessable insureds shall begin to pay such assessment. The date must be at least ~~may be not less than~~ 90 days after the date the corporation levies emergency assessments pursuant to this sub-subparagraph. Notwithstanding any other provision of law, the corporation and each assessable insurer that writes subject lines of business shall collect emergency assessments from its policyholders without such obligation being affected by any

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credit, limitation, exemption, or deferment. Emergency assessments levied by the corporation on assessable insureds shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to that office. The emergency assessments collected shall be transferred directly to the corporation on a periodic basis as determined by the corporation and held by the corporation solely in the applicable account. The aggregate amount of emergency assessments levied for an account ~~under this sub-subparagraph~~ in any calendar year may be less than but may not exceed the greater of 10 percent of the amount needed to cover the deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit, or 10 percent of the aggregate statewide direct written premium for subject lines of business and all accounts of the corporation for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the deficit.

e. The corporation may pledge the proceeds of assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other insurance and reinsurance recoverables, policyholder surcharges and other surcharges, and other funds available to the corporation as the source of revenue for and to secure bonds issued under paragraph (q), bonds or other indebtedness issued under subparagraph (c)3., or lines of credit or other financing mechanisms issued or created under this subsection, or to retire any other debt incurred as a result of deficits or events giving rise to deficits, or in any other way that the board determines

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will efficiently recover such deficits. The purpose of the lines of credit or other financing mechanisms is to provide additional resources to assist the corporation in covering claims and expenses attributable to a catastrophe. As used in this subsection, the term "assessments" includes regular assessments under sub-subparagraph a. or subparagraph (q)1. and emergency assessments under sub-subparagraph d. Emergency assessments collected under sub-subparagraph d. are not part of an insurer's rates, are not premium, and are not subject to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium. The emergency assessments ~~under sub-subparagraph d.~~ shall continue as long as any bonds issued or other indebtedness incurred with respect to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the documents governing such bonds or indebtedness.

f. As used in this subsection for purposes of any deficit incurred on or after January 25, 2007, the term "subject lines of business" means insurance written by assessable insurers or procured by assessable insureds for all property and casualty lines of business in this state, but not including workers' compensation or medical malpractice. As used in this sub-subparagraph, the term "property and casualty lines of business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers under s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the

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291 National Flood Insurance Program or the Federal Crop Insurance
292 Program. For purposes of this sub-subparagraph, the term
293 "workers' compensation" includes both workers' compensation
294 insurance and excess workers' compensation insurance.

295 g. The Florida Surplus Lines Service Office shall determine
296 annually the aggregate statewide written premium in subject
297 lines of business procured by assessable insureds and report
298 that information to the corporation in a form and at a time the
299 corporation specifies to ensure that the corporation can meet
300 the requirements of this subsection and the corporation's
301 financing obligations.

302 h. The Florida Surplus Lines Service Office shall verify
303 the proper application by surplus lines agents of assessment
304 percentages for regular assessments and emergency assessments
305 levied under this subparagraph on assessable insureds and assist
306 the corporation in ensuring the accurate, timely collection and
307 payment of assessments by surplus lines agents as required by
308 the corporation.

309 i. ~~In 2008 or thereafter,~~ Upon a determination by the board
310 of governors that an account has a projected deficit, the board
311 shall levy a Citizens policyholder surcharge against all
312 policyholders of the corporation.

313 (I) The surcharge shall be levied as a uniform percentage
314 ~~of the premium for the policy~~ of up to 10 percent of the policy
315 premium in the personal lines account, 15 percent of the policy
316 such premium in the commercial lines account, and 20 percent of
317 the policy premium in the coastal account, which funds shall be
318 used to offset the deficit.

319 (II) The surcharge is payable upon cancellation or

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320 termination of the policy, upon renewal of the policy, or upon
321 issuance of a new policy by the corporation within the first 12
322 months after the date of the levy or the period of time
323 necessary to fully collect the surcharge amount.

324 (III) The corporation may not levy any regular assessments
325 under paragraph (q) pursuant to sub-subparagraph a. or sub-
326 subparagraph b. with respect to a particular year's deficit
327 until the corporation has first levied the full amount of the
328 surcharge authorized by this sub-subparagraph.

329 (IV) The surcharge is not considered premium and is not
330 subject to commissions, fees, or premium taxes. However, failure
331 to pay the surcharge shall be treated as failure to pay premium.

332 j. If the amount of any assessments or surcharges collected
333 from corporation policyholders, assessable insurers or their
334 policyholders, or assessable insureds exceeds the amount of the
335 deficits, such excess amounts shall be remitted to and retained
336 by the corporation in a reserve to be used by the corporation,
337 as determined by the board of governors and approved by the
338 office, to pay claims or reduce any past, present, or future
339 plan-year deficits or to reduce outstanding debt.

340 (n)~~1.~~ Rates for coverage provided by the corporation must
341 be actuarially sound and subject to s. 627.062, except as
342 otherwise provided in this paragraph.

343 1. The corporation shall file ~~its~~ recommended rates for
344 each personal and commercial line of business it writes with the
345 office at least annually. The corporation shall provide any
346 additional information regarding the rates which the office
347 requires. The office shall consider the recommendations of the
348 board and issue a final order establishing the rates ~~for the~~

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corporation within 45 days after the recommended rates are filed. The corporation may not pursue an administrative challenge or judicial review of the final order of the office.

2. In addition to the rates otherwise determined pursuant to this paragraph, the corporation shall impose and collect an amount equal to the premium tax provided in s. 624.509 to augment the financial resources of the corporation.

3. After the public hurricane loss-projection model under s. 627.06281 has been found to be accurate and reliable by the Florida Commission on Hurricane Loss Projection Methodology, the model shall serve as the minimum benchmark for determining the windstorm portion of the corporation's rates. This subparagraph does not require or allow the corporation to adopt rates lower than the rates otherwise required or allowed by this paragraph.

~~4. The rate filings for the corporation which were approved by the office and took effect January 1, 2007, are rescinded, except for those rates that were lowered. As soon as possible, the corporation shall begin using the lower rates that were in effect on December 31, 2006, and provide refunds to policyholders who paid higher rates as a result of that rate filing. The rates in effect on December 31, 2006, remain in effect for the 2007 and 2008 calendar years except for any rate change that results in a lower rate. The next rate change that may increase rates shall take effect pursuant to a new rate filing recommended by the corporation and established by the office, subject to this paragraph.~~

~~4.5. Beginning on July 15, 2009, and annually thereafter,~~
The corporation must annually make a recommended actuarially sound rate filing for each personal and commercial line of

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business it writes, ~~to be effective no earlier than January 1,~~
~~2010.~~

5.6. Beginning on or after January 1, ~~2015~~2010, and notwithstanding the board's recommended rates and the office's final order regarding the corporation's filed rates under subparagraph 1., the corporation shall annually implement a rate increase which, except for sinkhole coverage:

a. For personal residential and commercial residential policies, does not exceed 10 percent for any single policy issued by the corporation, excluding coverage changes and surcharges.

b. For commercial non-residential policies, does not exceed 15 percent for any single commercial lines non-residential policy issued by the corporation, excluding coverage changes and surcharges.

~~5.7.~~ The corporation may also implement an increase to reflect the effect on the corporation of the cash buildup factor pursuant to s. 215.555(5) (b).

~~6.8.~~ The corporation's implementation of rates as prescribed in subparagraph 5. ~~6.~~ shall cease for any line of business written by the corporation upon the corporation's implementation of actuarially sound rates. Thereafter, the corporation shall annually make a recommended actuarially sound rate filing for each commercial and personal line of business the corporation writes.

(hh) The corporation must prepare a report for each calendar year outlining both the statewide average and county-specific details of the loss ratio attributable to losses that are not catastrophic losses for residential coverage provided by

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the corporation, which information must be presented to the office and available for public inspection on the Internet website of the corporation by March 1st ~~January 15th~~ of the following calendar year.

Section 2. Paragraph (e) is added to subsection (1) of section 627.3518, Florida Statutes, subsection (2) and paragraph (e) of subsection (4) of that section are amended, present subsections (5) through (11) of that section are redesignated as subsections (6) through (12), respectively, a new subsection (5) is added to that section, and present subsections (5) through (7) of that section are amended, to read:

627.3518 Citizens Property Insurance Corporation policyholder eligibility clearinghouse program.—The purpose of this section is to provide a framework for the corporation to implement a clearinghouse program by January 1, 2014.

(1) As used in this section, the term:

(e) "Surplus lines insurer" means an unauthorized insurer that has been made eligible by the Office of Insurance Regulation to issue coverage under the Surplus Lines Law.

(2) In order to confirm eligibility with the corporation and to enhance the access of new applicants for coverage and existing policyholders of the corporation to offers of coverage from authorized insurers and surplus lines insurers, the corporation shall establish a program for personal residential risks in order to facilitate the diversion of ineligible applicants and existing policyholders ~~from the corporation~~ into the voluntary insurance market. The corporation shall also develop appropriate procedures for facilitating the diversion of ineligible applicants and existing policyholders for commercial

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residential coverage into the private insurance market and
implement those procedures by October 1, 2015 ~~shall report such~~
~~procedures to the President of the Senate and the Speaker of the~~
~~House of Representatives by January 1, 2014.~~

(4) Any authorized insurer may participate in the program;
however, participation is not mandatory for any insurer.
Insurers making offers of coverage to new applicants or renewal
policyholders through the program:

(e) May participate through their single-designated
managing general agent or broker; however, the provisions of
paragraph (7) (a) ~~(6) (a)~~ regarding ownership, control, and use of
the expirations continue to apply.

(5) Effective January 1, 2015, an eligible surplus lines
insurer may make an offer of similar coverage on a risk
submitted through the clearinghouse program if no offers of
coverage were submitted by any authorized insurers participating
in the program and the Office of Insurance Regulation determines
that the eligible surplus lines insurer:

(a) Maintains a surplus of \$50 million on a company or
pooled basis;

(b) Is rated "A-" or higher by A.M. Best Company;

(c) Maintains reserves, surplus, reinsurance, and
reinsurance equivalents to cover the eligible surplus lines
insurer's 100-year probable maximum hurricane loss at least
twice in a single hurricane season, and submits such reinsurance
to the office for review for purposes of participation in the
program; and

(d) Provides prominent notice to the policyholder:

1. That the policyholder is not required to accept an offer

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of coverage from a surplus lines insurer and that eligibility for coverage from the corporation is not affected by the receipt or acceptance of an offer from a surplus lines insurer;

2. That a policyholder who accepts an offer of coverage from a surplus lines insurer may, at any time, submit a new application for coverage to the corporation.

3. That surplus lines policies are not covered by the Florida Insurance Guaranty Association;

4. That rates for surplus lines insurance are not subject to review by the Office of Insurance Regulation; and

5. Of any additional information required by the Office of Insurance Regulation.

~~(6)-(5)~~ Notwithstanding s. 627.3517, an ~~any~~ applicant for new coverage from the corporation is not eligible for coverage from the corporation if provided an offer of coverage from an authorized insurer through the program at a premium that is at or below the eligibility threshold established in s. 627.351(6)(c)5.a. or b. Whenever an offer of coverage for a personal lines or commercial lines residential risk is received for a policyholder of the corporation at renewal from an authorized insurer through the program, if the offer is equal to or less than the corporation's renewal premium for comparable coverage, the risk is not eligible for coverage with the corporation. If ~~In the event~~ an offer of coverage for a new applicant is received from an authorized insurer through the program, and the premium offered exceeds the eligibility threshold contained in s. 627.351(6)(c)5.a. or b., the applicant or insured may elect to accept such coverage, or may elect to accept or continue coverage with the corporation. If ~~In the~~

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~~event~~ an offer of coverage for a personal lines or commercial
lines residential risk is received from an authorized insurer at
renewal through the program, and the premium offered is more
than the corporation's renewal premium for comparable coverage,
the insured may elect to accept such coverage, or may elect to
accept or continue coverage with the corporation. Section
627.351(6)(c)5.a.(I) or b.(I) do ~~does~~ not apply to an offer of
coverage from an authorized insurer obtained through the
program. An applicant for personal lines residential coverage
from the corporation who was declared ineligible for coverage at
renewal by the corporation in the previous 36 months due to an
offer of coverage pursuant to this subsection is ~~shall be~~
considered a renewal under this section if the corporation
determines that the authorized insurer making the offer of
coverage pursuant to this subsection continues to insure the
applicant and increased the rate on the policy in excess of the
increase allowed for the corporation under s. 627.351(6)(n)4
~~627.351(6)(n)6~~.

(7)-(6) Independent insurance agents submitting new
applications for coverage or that are the agent of record on a
renewal policy submitted to the program:

(a) Are granted and must maintain ownership and the
exclusive use of expirations, records, or other written or
electronic information directly related to such applications or
renewals written through the corporation or through an insurer
participating in the program, notwithstanding s.

627.351(6)(c)5.a.(I)(B) and (II)(B) and b.(I)(B) and (II)(B).

Such ownership is granted for as long as the insured remains
with the agency or until sold or surrendered in writing by the

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523 agent. Contracts with the corporation or required by the
524 corporation must not amend, modify, interfere with, or limit
525 such rights of ownership. Such expirations, records, or other
526 written or electronic information may be used to review an
527 application, issue a policy, or for any other purpose necessary
528 for placing such business through the program.

529 (b) May not be required to be appointed by any insurer
530 participating in the program for policies written solely through
531 the program, notwithstanding ~~the provisions of~~ s. 626.112.

532 (c) May accept an appointment from an ~~any~~ insurer
533 participating in the program.

534 (d) May enter into ~~either~~ a standard or limited agency
535 agreement with the insurer, at the insurer's option.

536
537 Applicants ineligible for coverage in accordance with subsection
538 (6) ~~(5)~~ remain ineligible if their independent agent is
539 unwilling or unable to enter into a standard or limited agency
540 agreement with an insurer participating in the program.

541 (8) ~~(7)~~ Exclusive agents submitting new applications for
542 coverage or that are the agent of record on a renewal policy
543 submitted to the program:

544 (a) Must maintain ownership and the exclusive use of
545 expirations, records, or other written or electronic information
546 directly related to such applications or renewals written
547 through the corporation or through an insurer participating in
548 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
549 (II)(B) and b.(I)(B) and (II)(B). Contracts with the corporation
550 or required by the corporation must not amend, modify, interfere
551 with, or limit such rights of ownership. Such expirations,

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records, or other written or electronic information may be used to review an application, issue a policy, or for any other purpose necessary for placing such business through the program.

(b) May not be required to be appointed by any insurer participating in the program for policies written solely through the program, notwithstanding ~~the provisions of~~ s. 626.112.

(c) Must only facilitate the placement of an offer of coverage from an insurer whose limited servicing agreement is approved by that exclusive agent's exclusive insurer.

(d) May enter into a limited servicing agreement with the insurer making an offer of coverage, and only after the exclusive agent's insurer has approved the limited servicing agreement terms. The exclusive agent's insurer must approve a limited service agreement for the program for an ~~any~~ insurer for which it has approved a service agreement for other purposes.

Applicants ineligible for coverage in accordance with subsection (6) ~~(5)~~ remain ineligible if their exclusive agent is unwilling or unable to enter into a standard or limited agency agreement with an insurer making an offer of coverage to that applicant.

(13) An applicant for coverage from the corporation who within the previous 36 months was a policyholder of the corporation and who subsequently accepted an offer of coverage from a surplus lines insurer is considered a renewal under this section.

Section 3. Section 627.3519, Florida Statutes, is repealed.

Section 4. Section 627.35191, Florida Statutes, is amended to read:

627.35191 Annual report of aggregate net probable maximum

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581 losses, financing options, and potential assessments.—No later
582 than February 1 of each year, the Florida Hurricane Catastrophe
583 Fund and Citizens Property Insurance Corporation shall each
584 submit a report to the Legislature and the Financial Services
585 Commission identifying their respective aggregate net probable
586 maximum losses, financing options, and potential assessments.
587 The report issued by the fund and the corporation must include
588 their respective 50-year, 100-year, and 250-year probable
589 maximum losses; analysis of all reasonable financing strategies
590 for each such probable maximum loss, including the amount and
591 term of debt instruments; specification of the percentage
592 assessments that would be needed to support each of the
593 financing strategies; and calculations of the aggregate
594 assessment burden on Florida property and casualty policyholders
595 for each of the probable maximum losses. The report of the
596 corporation shall also include a statement of the estimated
597 borrowing capacity of the corporation within the next 12-month
598 period, the estimated claims-paying capacity of the corporation,
599 and the estimated balance of the corporation as of December 31
600 of that calendar year. Such estimates shall take into account
601 that the corporation, the Florida Hurricane Catastrophe Fund,
602 and the Florida Insurance Guaranty Association may all be
603 issuing debt instruments concurrently after a catastrophic
604 event.

605 Section 5. Paragraph (b) of subsection (11) and subsection
606 (18) of section 626.854, Florida Statutes, is amended to read:
607 626.854 “Public adjuster” defined; prohibitions.—The
608 Legislature finds that it is necessary for the protection of the
609 public to regulate public insurance adjusters and to prevent the

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unauthorized practice of law.

(11)

(b) A public adjuster may not charge, agree to, or accept from any source compensation, payment, commission, fee, or any other thing of value in excess of:

1. Ten percent of the amount of insurance claim payments made by the insurer for claims based on events that are the subject of a declaration of a state of emergency by the Governor. ~~This provision applies to claims made during the year after the declaration of emergency. After that year, the limitations in subparagraph 2. apply.~~

2. Fifteen ~~Twenty~~ percent of the amount of insurance claim payments made by the insurer for claims that are not based on events that are the subject of a declaration of a state of emergency by the Governor.

(18) A public adjuster, public adjuster apprentice, or any person acting on behalf of a public adjuster or apprentice may not enter into a contract or accept a power of attorney which vests in the public adjuster, public adjuster apprentice, or any person acting on behalf of a public adjuster or apprentice, or any person acting on behalf of a public adjuster or apprentice the effective authority to choose the persons, entities, or companies that will perform repair work.

(19) ~~(18)~~ The provisions of subsections (5) - (18) ~~(17)~~ apply only to residential property insurance policies and condominium unit owner policies as defined in s. 718.111(11).

Section 6. Subsection (7) of section 627.701, Florida Statutes, is amended to read:

627.701 Liability of insureds; coinsurance; deductibles.—

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~~(7) Prior to issuing a personal lines residential property insurance policy on or after April 1, 1997, or prior to the first renewal of a residential property insurance policy on or after April 1, 1997, the insurer must offer a deductible equal to \$500 applicable to losses from perils other than hurricane. The insurer must provide the policyholder with notice of the availability of the deductible specified in this subsection in a form approved by the office at least once every 3 years. The failure to provide such notice constitutes a violation of this code but does not affect the coverage provided under the policy. An insurer may require a higher deductible only as part of a deductible program lawfully in effect on June 1, 1996, or as part of a similar deductible program.~~

Section 7. This act shall take effect July 1, 2014.

CITIZENS PROPERTY INSURANCE CORPORATION
2312 KILLEARN CENTER BLVD., BUILDING A
TALLAHASSEE, FLORIDA 32309

TELEPHONE: (850) 513-3700 FAX: (850) 513-3903



January 13, 2014

The Honorable David Simmons
District 10, The Florida Senate
406 Senate Office Building
404 South Monroe Street
Tallahassee FL 32399-1100

Chairman Simmons,

Thank you for the opportunity to appear before the Senate Banking and Insurance committee on January 8. I am submitting this letter pursuant to your request for comment on the proposals currently under consideration by the committee. I share your commitment in identifying solutions that will make measurable gains in reducing the size of Citizens, spread storm risk away from the taxpayers of Florida, and do so without affecting the availability of quality property insurance for Florida buyers.

Our comments below address the proposals by number:

Proposal #1 – Commercial-Residential Clearinghouse

This initiative was enacted in SB 1770 last year and supported widely across the insurance and economic community, and Citizens is excited to report it is nearing fruition. A fully automated platform for “shopping” homeowners’ multi-peril policies on the open market, in near real-time as they are submitted to Citizens, is scheduled to “go live” on January 27 with five participating insurers. More insurers will be added regularly every few weeks; for example, six more insurers are scheduled for a March 10 release. In all, twenty insurers have signed contracts to participate and are developing technology and workflow to come online throughout 2014. What is especially exciting is that these insurers are in growth mode and actively writing new business all over Florida; the first five insurers wrote 17% of all new policies in the state in the last 12 months, and the twenty signed insurers together wrote over 40%. Renewals of existing Citizens customers will also be subjected to clearinghouse shopping beginning in the second quarter of 2014, and we expect the program to function as an effective way to keep policies out of Citizens that have affordable insurance options in the private market.

We submitted a report on the feasibility of a clearinghouse for commercial-residential properties (e.g. condominium association buildings) to you as required by SB 1770 at the end of 2013. We believe these properties are susceptible to a clearinghouse shopping approach, but that the workflow will be somewhat different. Insurance procurement for these risks is too complex to be fully automated, because policies typically insure multiple buildings at separate locations, and larger buildings are individually rated (A-rated) rather than class-rated using a standardized rate manual. However, a semi-automated platform, with some manual review of insurance applications during a waiting period, can be developed to achieve

Chris Gardner, Chairman, Orange County
Gary Aubuchon, Lee County • Juan Cocuy, Palm Beach County • Don Glisson, Jr., Duval County
Tom Lynch, Palm Beach County • Freddie Schinz, Okaloosa County • John Wortman, St. Johns County
Barry Gilway, President/CEO and Executive Director

the same outcomes as those of the Personal Lines Clearinghouse. We believe a commercial-residential clearinghouse could go live in approximately 18 months.

In contrast to personal lines, the private market for these properties is more concentrated among a few insurers – Citizens holds 43% market share, but the three largest private insurers hold market share of over 40% as well. However, these insurers are actively writing new business, and in fact have helped Citizens reduce its commercial-residential building count by over 50% in the past six years. They tend to focus on buildings with high insured values, such as coastal condominium towers, and well-engineered construction, which has implications for your other proposals discussed below.

Importantly, this part of the Citizens exposure represents low-hanging fruit for a return to the private market for several reasons. First, these properties contribute disproportionately to our storm risk, at less than 2% of our policy count, but well over 20% of our Probable Maximum Loss (PML, a benchmark scientific measure of storm risk, a hurricane loss amount that could be exceeded any year with a chance of 1%) and \$93 billion of Citizens' \$330 billion in insured value. Second, insurers specializing in this type of property are well-capitalized, highly skilled in evaluating the engineering of such structures, and aggressively pursue policies with high premiums per building. Even if only 5% to 15% of Citizens commercial-residential policies were kept out by the clearinghouse, the reduction of taxpayer risk would be significant and sustainable.

In short, we believe that additional legislative authority is required to allow us to implement the commercial-residential clearinghouse and that it would be feasible and effective under specified conditions.

Proposal #1 (second part) – Eligibility Step-Down

Again, some brief background. A step-down in the maximum insured value making a building eligible for Citizens was enacted for Coastal Account homeowners policies in SB 1770. The Board of Governors reduced the maximum Coastal policy size from \$2 million to \$1 million in 2012, and nearly all oversized policies over the maximum value have run off successfully. SB 1770 requires that we build on that success by stepping down maximum eligibility to \$700,000 in main structure insured value over the next three years.

Commercial-residential is the only product line in which Citizens currently has no maximum eligible insured value. We insure many buildings with values of tens of millions of dollars, located directly in harm's way during a hurricane. Legislative direction would assist Citizens in filing rules with the Office and determining the step-down that represents a balanced approach to reducing exposure in this product line. As you note, a step-down from an initial \$25 million maximum to an eventual \$5 million maximum over several years would eventually affect only about 5% of buildings, but would reduce Citizens' storm risk (for the commercial-residential book) by nearly 40%, or nearly \$2 billion. This reduction translates nearly dollar-for-dollar into reduced policyholder assessment risk in a large storm.

We should clarify one key point – any step-down will be much more straightforward to implement as a simple maximum eligible insured value, not a requirement that Citizens write up to a specified amount of insurance on a larger building. The latter would require development of a "first loss" rating plan that does not currently exist, and the Office would be required, absent other law changes, to establish those new rates for Citizens. Further, the market outcome may be that Citizens remains an insurer of the first layer of loss on these buildings (albeit with less total exposure), creating confusion for associations and their agents with multiple policies in force, and undercutting the benefits of reducing Citizens' policy count and market footprint.

Rate adequacy for commercial-residential buildings varies widely for several historical reasons. First, the multi-peril program and wind-only Coastal programs were inherited from two different predecessor entities – the FRPCJUA and FWUA (windpool), respectively. The contracts, rules, and rating plans differed greatly, and still do. Second, due to the “glide path” law limiting Citizens’ maximum annual rate increases to 10%, rate inadequacy persists in both programs, is more severe in the Coastal wind-only program, and will be perpetuated for several more years absent changes to the law. On average, multi-peril rates are close to adequate except in pockets around the state, but wind-only rates should be approximately half again as high as they are now.

Proposal #2 – Actuarially Sound Rates for Commercial Non-Residential Policies

Citizens currently maintains both a multi-peril non-residential commercial program limited to the first \$2.5 million in insured value, and a similar wind-only program limited to the first \$1 million in insured value. As with commercial-residential, the combination of two historical markets of last resort, plus the glide path law, have resulted in widespread and persistent rate inadequacy in both programs. However, in contrast, the “first loss” commercial programs, the rate inadequacy is concentrated near the coast. As you note, on average the rates should be about 25% higher for wind-only policies and in some cases, over 75% higher for multi-peril policies in coastal areas.

The vast bulk of Citizens’ commercial non-residential exposure (about \$12 billion) and storm risk (about \$1.1 billion in PML) is in the wind-only program.

Implementation of a higher glide path (higher maximum annual percentage rate change than 10%) or its elimination altogether is a straightforward actuarial and operational exercise at Citizens, for two reasons. First, actuarially sound rates are calculated for every product line separately – the imposition of the 10% annual cap is actually the final step before submission to the Office. Said differently, we know what the sound rates should be and can impose a different cap each year, or no cap at all, if directed by the Legislature. Second, rates are calculated separately by product line, so a change in commercial non-residential rates does not have financial or operational effects on other product lines.

Finally, it is important to note that commercial non-residential buildings do not qualify for reimbursement by the Florida Hurricane Catastrophe Fund (Cat Fund). Citizens is the largest customer of the Cat Fund, at approximately 30% of its coverage, and the Cat Fund provides a crucial source of liquidity and financial stability for Citizens after large hurricane events. This exposure is fully funded by Citizens, and losses fall directly to the bottom line toward potential deficits and assessments.

Proposal #6 – Clearinghouse Threshold for Higher Value Homes

SB 1770 provides that any offer to personal lines new business, for comparable coverage, that entails a premium less than 15% greater than the analogous Citizens premium makes the policy ineligible for Citizens. In contrast, any offer to a renewal policy shopped in the clearinghouse must receive a comparable offer that is at or lower than Citizens premium to become ineligible for Citizens. The Legislature could change either of these thresholds, and could change the threshold only for policies that exceed a certain proposed insured value; you proposed \$300,000. As you note, there are hundreds of thousands of policies above this threshold. However, the Legislature should be clear regarding whether the threshold applies to main structure coverage (Coverage A) only, or to the entire coverage amount combined for structures, contents, and loss of use.

One of the first steps in gathering data to shop a policy in the clearinghouse is the estimation of the home’s replacement cost. This replacement cost is calculated using Citizens’ cost estimation platform and is the basis of the comparative premium calculations across Citizens and all participating insurers. A

legislative threshold could be implemented in the clearinghouse by applying a comparison threshold that depends on the estimated replacement cost calculated by Citizens. This is the only criteria available to Citizens for the implementation of such a change.

In short, at legislative direction, it is feasible for Citizens to implement an estimated replacement cost threshold for an alternative premium comparison and potential ineligibility for higher value homes in the automated clearinghouse, though legislative intent should be carefully specified.

Proposal #5 – Glide Path Eligibility for Higher Value Homes

In the clearinghouse environment, increasing the maximum annual rate change for higher value homes would also eventually make more policies ineligible for Citizens, because a higher Citizens premium would mean that private market quotes compare more favorably to Citizens premium either upon renewal or at the submission of a new application. Even in the absence of a current clearinghouse environment, as with wind-only dwelling policies that will be added to the clearinghouse over time, a higher Citizens premium may encourage the consumer to shop in the open market directly or with the consumer's agent.

Citizens is not in a position to comment on issues of fairness, or to provide data on incomes or residency status. This data is not used in the application or underwriting process by either Citizens or private insurers. It is true that the average coverage amount on coastal wind-only policies is significantly higher than the corresponding average on statewide multi-peril policies.

However, as noted above, it is feasible to implement a rating plan that routes a home above an insured value threshold (you proposed \$400,000) to a rate table containing actuarially sound rates not capped by the glide path. The routing would require some systems changes, and could be implemented with the January 2015 cycle of rate changes. Citizens makes annual rate filings and the Office establishes our rates on this annual schedule. Once again, the Legislature should specify the applicability of the threshold carefully with respect to structure or combined total coverage, product lines, and the like.

Proposal #4 – Re-Allocate Citizens Policyholder Surcharge

As you note, current law imposes a first assessment of up to 15% of annual premium on Citizens policyholders only, and possibly in each account separately (the Personal Lines Account, Commercial Lines Account, and Coastal Account could all have Plan Year Deficits in the same year) before the next tiers of assessments would be imposed on insurers ("regular assessments" of up to 2% of premium in the Coastal Account only) or directly on policyholders ("emergency assessments" of up to 10% of premium per year in each account with a deficit). Importantly, all Citizens policyholders pay the surcharge for the deficit in any account – not just policyholders holding a policy in the account incurring a deficit. Therefore, changing the distribution of the Citizens Policyholder Surcharge to a maximum of 10% in the PLA and maximum of 20% in the Coastal Account, and retaining the 15% maximum in the CLA, would leave the total potential surcharge at 45%, but raise the burden of assessments to all Citizens policyholders if there is a deficit in (only) the Coastal Account. If multiple accounts incurred a deficit, all Citizens policyholders would still pay assessments, then all Florida policyholders would be affected by the remaining deficit due to the recoupment of regular assessments by insurers, and the pass-through of emergency assessments to them.

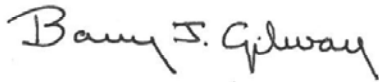
As this change affects the post-funding of hurricanes rather than the pre-funding of insurance losses through premiums and reinsurance, there would be no direct impact on the clearinghouse or premium shopping in the open market. However, some consumers do consider assessment burden when determining whether to seek a Citizens policy, and some may be incented to make decisions to take

private market policies even when they remain eligible for Citizens. Agents often make consumers aware of this risk as well.

Lastly, questions were raised at the January 8 meeting regarding the benefits of allowing surplus lines insurers to participate in the clearinghouse and other Citizens programs to reduce its size. We note that there has been a robust debate regarding surplus lines participation, both at the legislative level and at the Citizens Board of Governors. Many pros and cons have been discussed, many of which are outside our scope for comment. Ultimately, we do not have authority to evaluate the financial strength, market conduct, or business models of surplus lines insurers – that authority rests with the Office.

We appreciate the opportunity to comment on your proposals and look forward to providing insight on Citizens issues as you continue to work toward optimal public policy regarding Citizens' role in Florida's property insurance market.

Respectfully,

A handwritten signature in dark ink, reading "Barry J. Gilway". The signature is written in a cursive, slightly slanted style.

Barry Gilway
President/CEO and Executive Director

cc: Members of the Senate Banking and Insurance Committee

Citizens Property Insurance Corporation

Senate Banking & Insurance Committee – Response to data Request

January 3, 2014

Response to Legislative Requests

- Commercial Products
 - Fast facts
 - Exposure and storm risk
- Commercial Residential
 - Contributions to exposure and storm risk
 - Market share
 - Analysis of building total insured value >\$5M and >\$10M
 - Rate adequacy
- Commercial Non-Residential
 - Contributions to exposure
 - Rate adequacy
- Personal Lines
 - Occupancy and residency issues
 - Total insured value in \$100K bands
 - Multi-Peril non-catastrophe historic loss ratios by account
 - Wind-Only average premium
 - Wind-Only new business policy count

Citizens Commercial Lines Fast Facts

Commercial-Residential

- Citizens writes unlimited insured values for qualifying policies
- Commercial-residential, at about \$4.1B, is over 20% of Citizens' probable maximum loss (PML), a.k.a. storm risk in a 100-year scenario
- Citizens is a dominant insurer in commercial-residential with over 40% share, though trending downward as several private market insurers are active
- The predominant occupancy is condominium associations
- Citizens attracts older, smaller, and less wind-resistive buildings - but the large buildings we insure impact storm risk disproportionately
- Wind-only commercial-residential policies are the most underpriced (actuarially speaking)
- Rate need is consistent around the state, should be generally 20-70% higher than current rates depending on the property's features

Commercial Non-Residential

- Citizens writes only the first \$1 million of wind-only (Coastal, inherited from FWUA) or \$2.5 million of multi-peril (statewide, as authorized in 2007 by HB1A) coverage
- Commercial non-residential contributes over \$1B to Citizens storm risk
- Hard to gauge market share in non-residential because of light regulation and reporting
- Citizens inland multi-peril commercial rates are generally actuarially reasonable, but wind-only and Coastal policies are significantly underpriced

Commercial Lines are Disproportionate Contributors to Citizens Exposure and Storm Risk

	PML (000s)	Exposure (000s)
Non-Coastal Commercial Residential Multi-Peril	\$1,088,140	\$35,857,156
Coastal Commercial Residential Multi-Peril	\$751,724	\$12,855,967
Non-Coastal Commercial Non-Residential Multi-Peril	\$75,162	\$1,756,637
Coastal Commercial Non-Residential Multi-Peril	\$32,118	\$365,349
Coastal Commercial Residential Wind-Only	\$2,324,435	\$44,575,147
Coastal Commercial Non-Residential Wind-Only	\$1,072,314	\$12,159,995

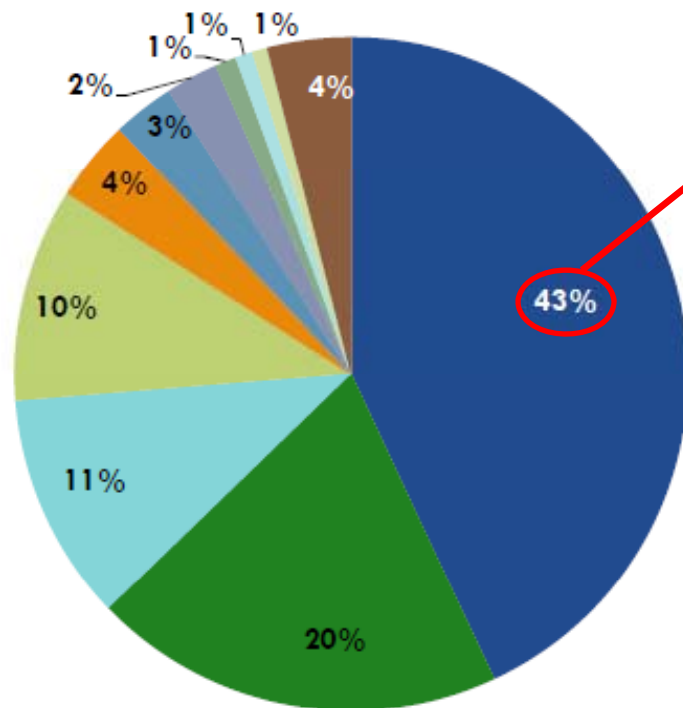
	PML (000s)	Exposure (000s)
Commercial Residential Multi-Peril	\$1,772,346	\$48,713,124
Commercial Residential Wind-Only	\$2,324,435	\$44,575,147
TOTAL Commercial Residential Lines	\$4,065,058	\$93,288,271
Commercial Non-Residential Multi-Peril	\$103,514	\$2,121,986
Commercial Non-Residential Wind-Only	\$1,072,314	\$12,159,995
TOTAL Commercial Non-Residential Lines	\$1,150,748	\$14,281,980

Notes:

- 1) Data as of 09/30/2013 for Commercial products only
- 2) PMLs represent Citizens modeled loss in a single storm with a 1% chance of exceeding this loss each year.
- 3) PMLs are not additive across product lines because multiple lines will be impacted in any one storm. Totals are true combined PMLs.

**Commercial Residential:
A Major Contributor to Exposure and Storm Risk**

Citizens is the Dominant Commercial-Residential Insurer, but Others are Growing



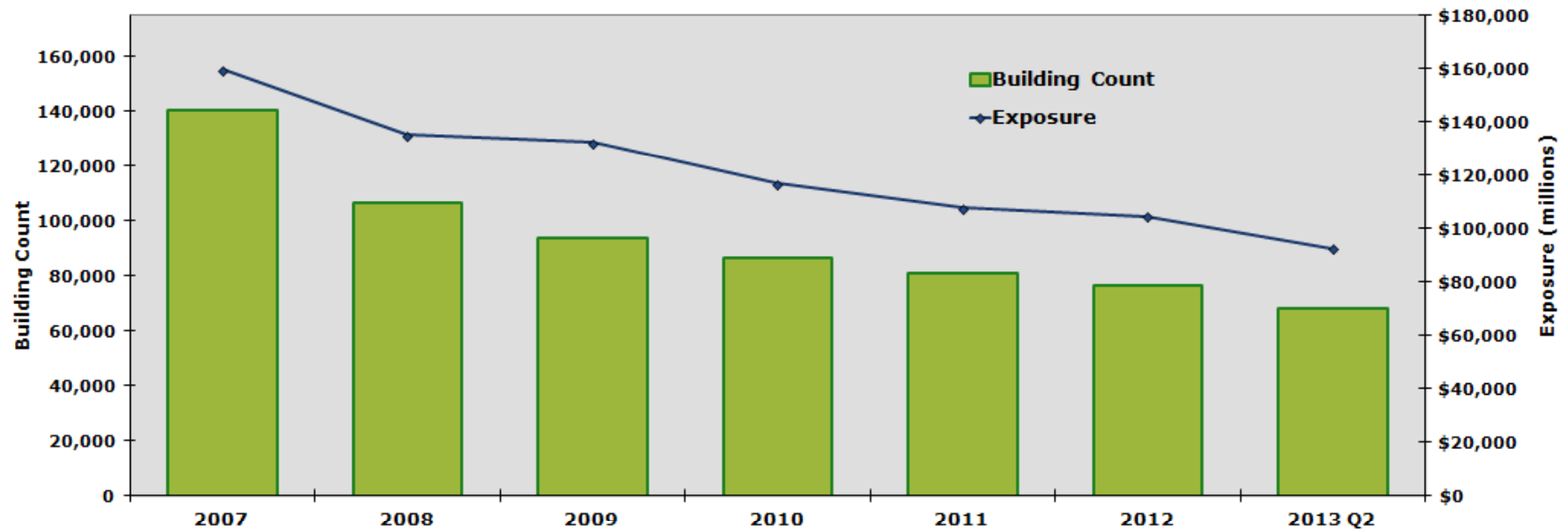
Carrier	Total Insured Value
Citizens Property Insurance Corporation	\$92,738,142,474
American Coastal Insurance Company	\$42,740,093,177
QBE Insurance Corporation	\$23,480,071,933
American Capital Assurance Corp.	\$22,157,936,645
Weston Insurance Company	\$8,464,492,746
State Farm Florida Insurance Company	\$6,372,605,563
Philadelphia Indemnity Insurance Company	\$5,427,746,215
Service Insurance Company	\$2,214,743,000
Nova Casualty Company	\$1,783,177,848
Sunshine State Insurance Company	\$1,555,923,161
All Other	\$8,681,736,157
Totals - All Carriers	\$215,616,668,919

OIR QUASR Data as of 06/30/2013

- Citizens Property Insurance Corporation
- American Coastal Insurance Company
- QBE Insurance Corporation
- American Capital Assurance Corp.
- Weston Insurance Company
- State Farm Florida Insurance Company
- Philadelphia Indemnity Insurance Company
- Service Insurance Company
- Nova Casualty Company
- Sunshine State Insurance Company
- All Other

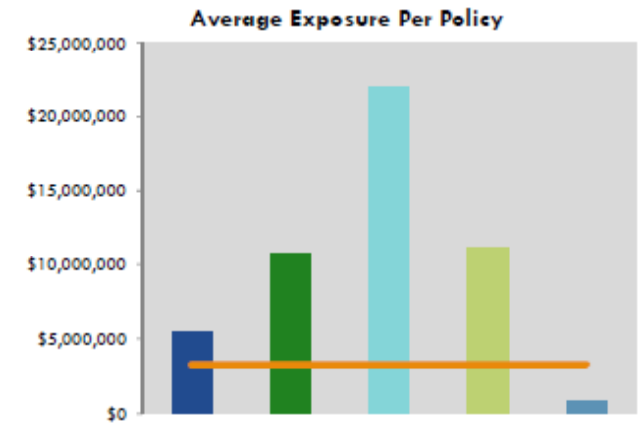
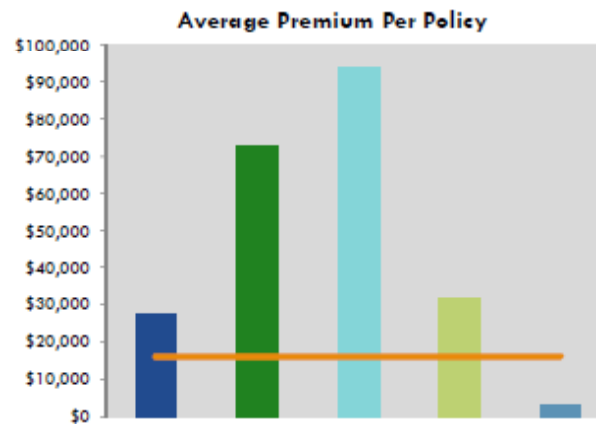
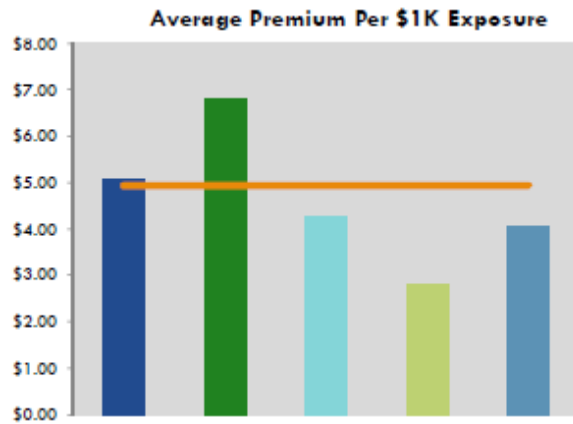
Commercial-Residential Historical Market Share

(Data as of 06/30/2013)



	Coastal Account			Commercial Lines Account			Total		
	Number of Policies	Number of Buildings	Exposure ¹ (millions)	Number of Policies	Number of Buildings	Exposure ¹ (millions)	Number of Policies	Number of Buildings	Exposure ¹ (millions)
2007	17,346	45,744	\$83,588	11,158	94,715	\$76,298	28,504	140,459	\$159,885
2008	15,887	43,266	\$80,075	8,810	63,354	\$55,134	24,697	106,620	\$135,209
2009	15,049	41,011	\$82,089	8,355	52,523	\$50,236	23,404	93,534	\$132,325
2010	14,440	40,797	\$74,778	7,323	45,504	\$42,107	21,763	86,301	\$116,885
2011	13,815	38,644	\$68,923	6,961	42,180	\$38,929	20,776	80,824	\$107,853
2012	13,139	37,166	\$66,711	6,602	39,637	\$38,052	19,741	76,803	\$104,764
2013 Q2	10,961	31,594	\$56,789	6,189	36,476	\$35,949	17,150	68,070	\$92,738
% Change from 2012 to 2Q 2013	-16.6%	-15.0%	-14.9%	-6.3%	-8.0%	-5.5%	-13.1%	-11.4%	-11.5%

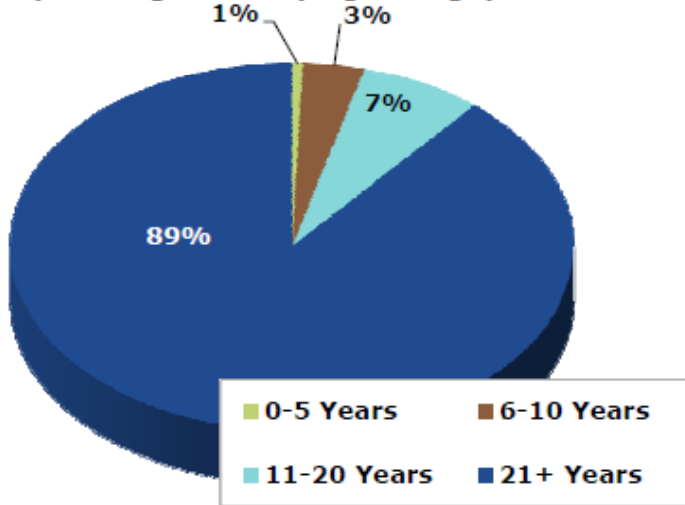
Commercial-Residential Premium and Policies



Carrier	Policies Inforce	Premium	Exposure	Average Premium Per \$1,000 Exposure	Average Premium Per Policy	Average Exposure Per Policy
Citizens Property Insurance Corporation	17,150	\$470,490,957	\$92,738,142,474	\$5.07	\$27,434	\$5,407,472
American Coastal Insurance Company	3,975	\$290,108,649	\$42,740,093,177	\$6.79	\$72,983	\$10,752,225
Q&E Insurance Corporation	1,071	\$100,414,172	\$23,480,071,933	\$4.28	\$93,757	\$21,923,503
American Capital Assurance Corp.	1,981	\$62,173,579	\$22,157,936,645	\$2.81	\$31,385	\$11,185,228
All Other	41,934	\$139,931,444	\$34,500,424,690	\$4.06	\$3,337	\$822,732
Total Market	66,111	\$1,063,118,801	\$215,616,668,919	\$4.93	\$16,081	\$3,261,434

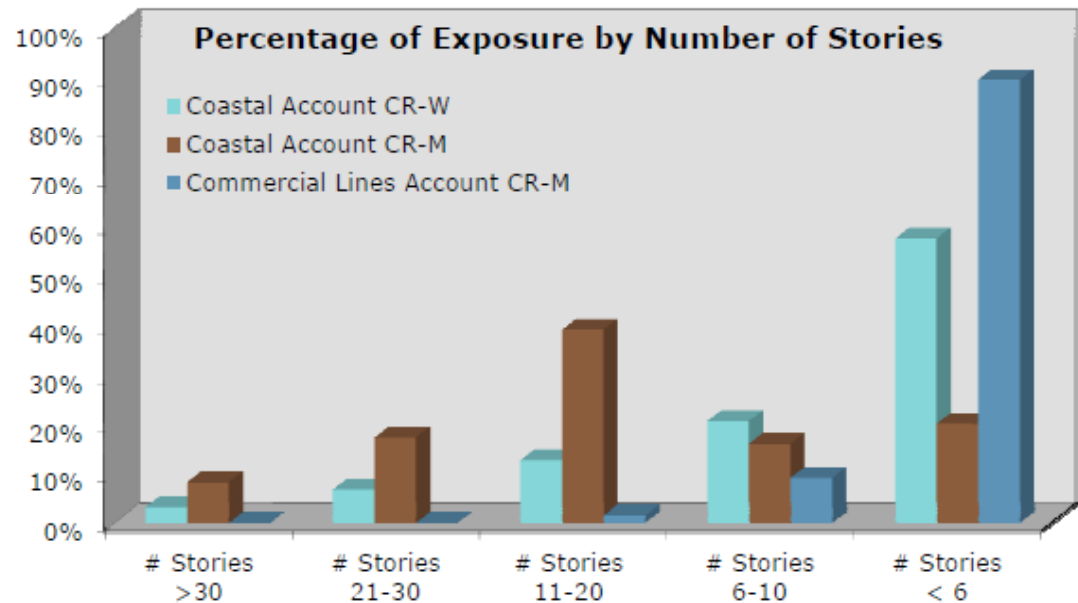
Commercial-Residential Buildings are Generally Older and Smaller, But Towers Contribute Most to Exposure

(Building Count by Age Range)



89% of all commercial residential buildings were built before 1992.

Only 1% of all commercial residential buildings are taller than 10 stories but account for 20% of total exposure for all commercial residential buildings.



Number of Stories	Coastal Account CR-W	Coastal Account CR-M	Commercial Lines Account CR-M
> 30	3.1%	8.2%	0.0%
21 to 30	6.6%	17.1%	0.0%
11 to 20	12.5%	39.1%	1.4%
6 to 10	20.5%	15.9%	9.0%
< 6	57.3%	19.8%	89.5%
Total	100.0%	100.0%	100.0%

Commercial Residential Multi-Peril and Wind-Only

Total Insured Value Ranges

Total Insured Value Range at Building Level	Building Count	Total Insured Value (\$'s in millions)	Building Level Premium (\$'s in millions)
\$25,000,000 +	323	\$14,820	\$83
\$20,000,000 to \$24,999,999	99	\$2,194	\$12
\$15,000,000 to \$19,999,999	153	\$2,625	\$14
\$10,000,000 to \$14,999,999	243	\$2,968	\$15
\$5,000,000 to \$9,999,999	2,918	\$20,659	\$55
\$4,999,999 and Less	64,850	\$49,136	\$246
Total	68,586	\$92,402	\$426

Notes:

- 1) Excludes special class risks. All commercial residential special class items are in the range below \$5 million with a total insured value of \$886,707,625.
- 2) CLA CRM includes 325 x-wind buildings consisting of: 14 buildings with total insured value of \$99,246,100 in the \$5 to \$9.9 range; 311 buildings with total insured value of \$227,519,900 in the \$4.9 and less range.
- 3) Building level premium is before policy level surcharges and includes FHCF build up premium in addition to building and contents premium.
- 4) Excludes buildings in policies tagged for takeout.
- 5) Data as of 09/30/2013

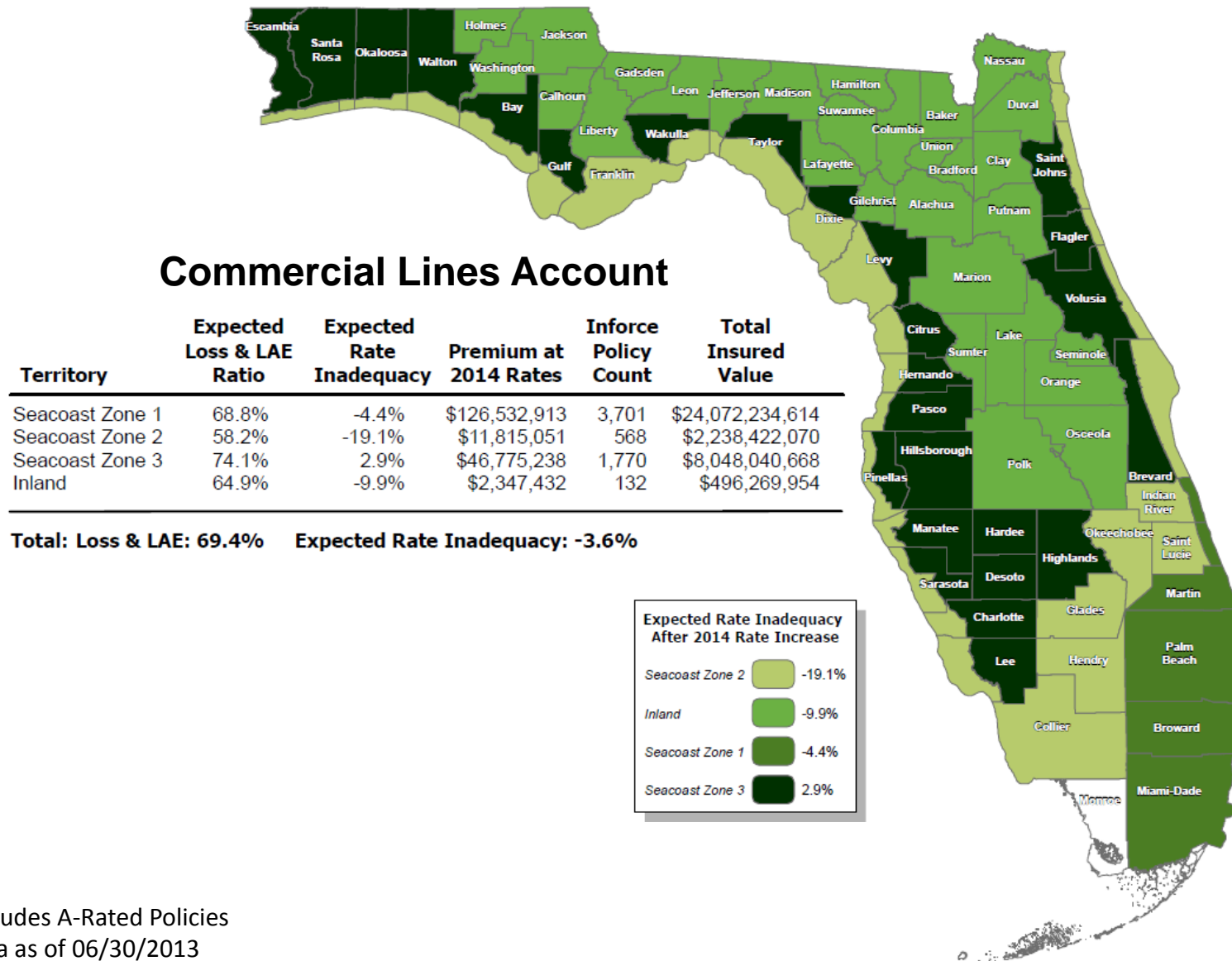
Commercial Residential Multi-Peril and Wind-Only Exposure Could Be Reduced by a Total Insured Value Cap of \$5M or \$10M

	Total Inforce	\$5 Million Cap		\$10 Million Cap	
(\$'s in millions)	Commercial Residential	Buildings with Total Insured Value >= \$5 M	% Reduction in Commercial Residential	Buildings with Total Insured Value >= \$10 M	% Reduction in Commercial Residential
Building Count	68,586	3,736	5%	818	1%
Total Insured Value	\$92,402	\$43,266	47%	\$22,607	24%
Building Level Premium	\$426	\$180	42%	\$125	29%
1 in 100 Yr PML	\$4,065	\$1,594	39%	\$925	23%

Notes:

- 1) Building Count, Total Insured Value, and Building Level Premium exclude special class risks. All commercial residential special class items are in the range below \$5 million with total a total insured value of \$886,707,625.
- 2) 1 in 100 Yr PML represents single event distribution, does not include a factor for LAE, and does include special class risks.
- 3) The 1 in 100 Yr PML is computed using AIR CLASIC/2 v15 including demand surge, excluding storm surge, 50K Event Set Weighted 1/3 long-term & 2/3 Warm Sea catalog.
- 4) Data as of 09/30/2013

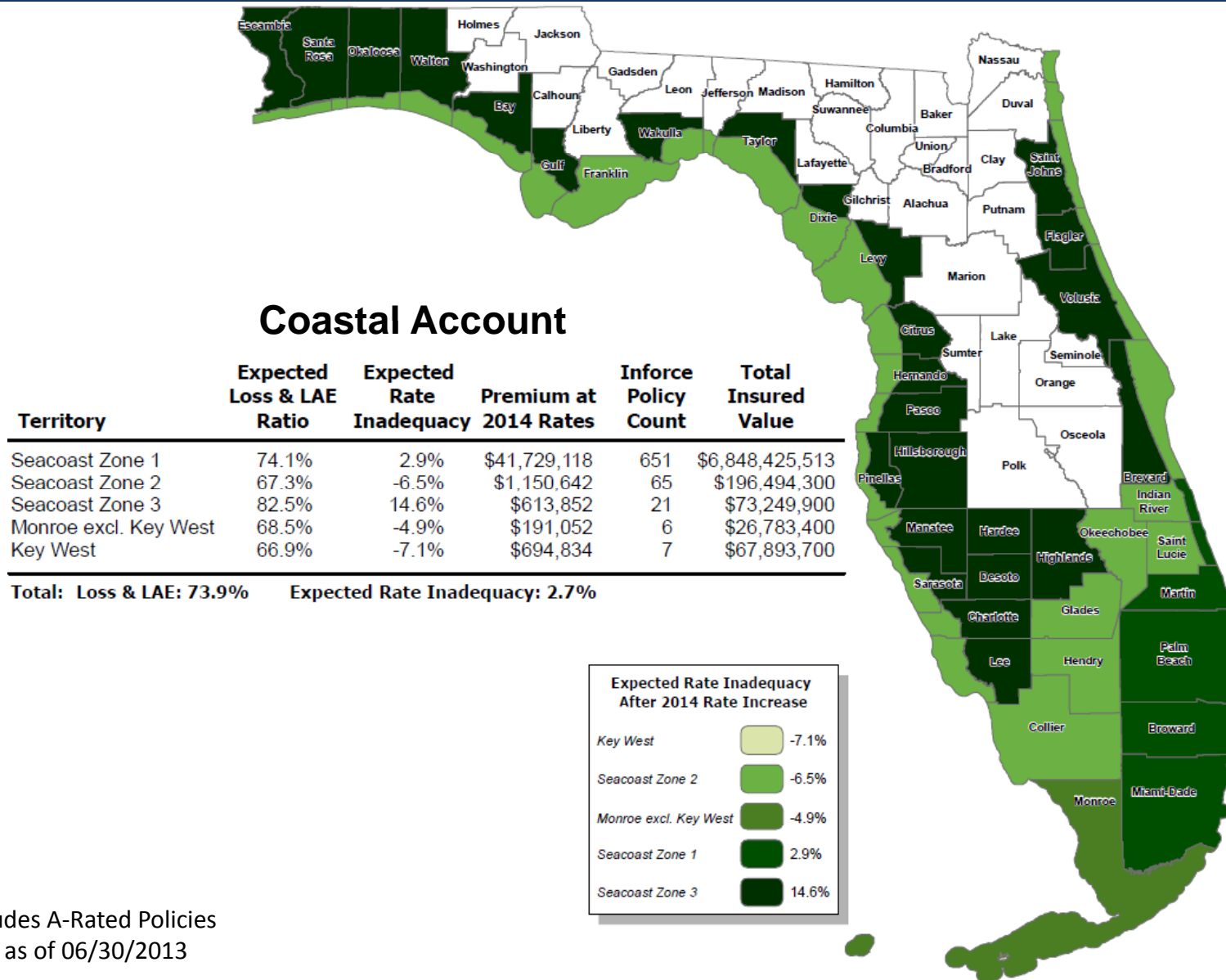
Statewide (CLA) Commercial Residential Multi-Peril Rates are Generally Near Adequate...



Notes:

- 1) Excludes A-Rated Policies
- 2) Data as of 06/30/2013

...as are Coastal Account Commercial Residential Multi-Peril Rates

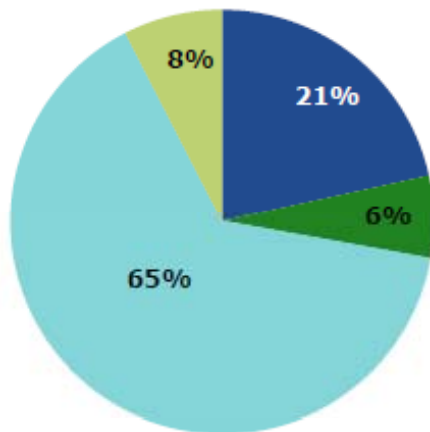


Notes:

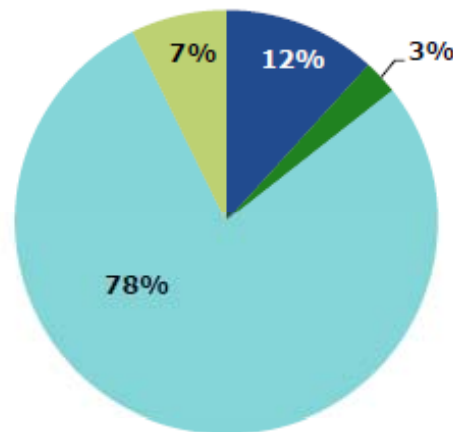
- 1) Excludes A-Rated Policies
- 2) Data as of 06/30/2013

Commercial Residential Wind-Only is About Half of Citizens Total C-R Exposure...

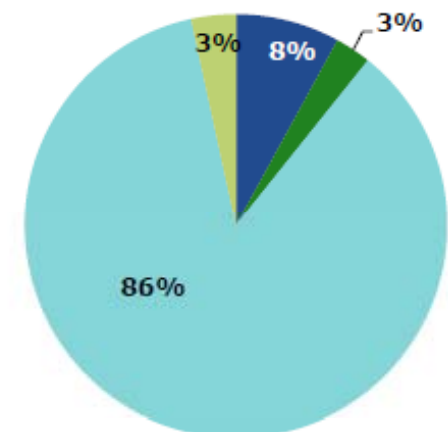
Building Count



Inforce Premium



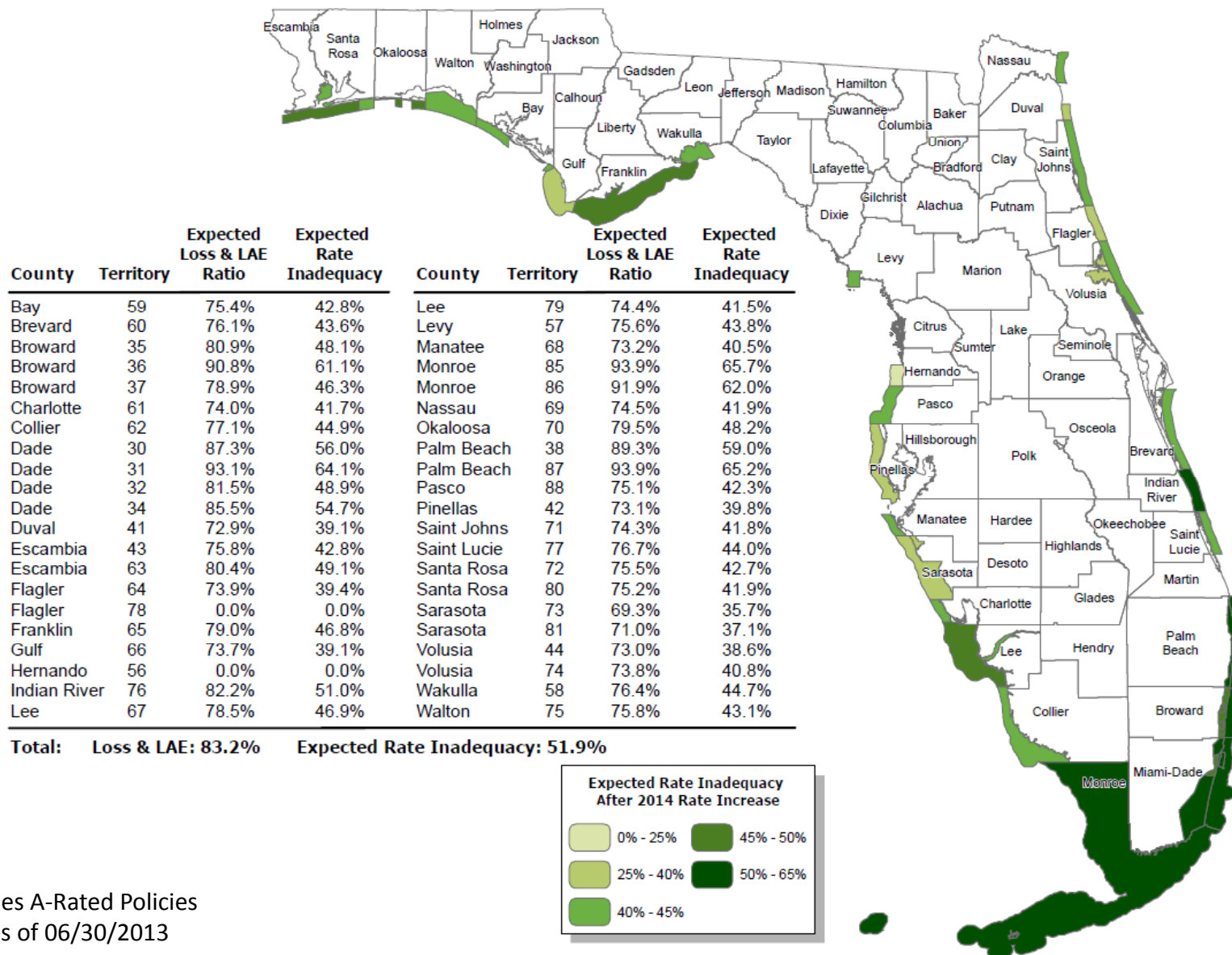
Total Insured Value



■ Apartment Bldg. ■ Homeowners Assn. ■ Condo Assn. ■ Other Comm. Res.

	Apartment Bldg.	Homeowners Assn.	Condo Assn.	Other Comm. Res.	Total
Policy Count	3,750	300	5,320	741	10,111
Building Count	6,301	1,847	18,932	2,214	29,294
Inforce Premium	\$23,469,666	\$5,309,149	\$156,859,097	\$14,572,063	\$200,209,975
Total Insured Value	\$3,531,037,871	\$1,229,858,896	\$37,969,999,599	\$1,513,491,738	\$44,244,388,104

...And Commercial Residential Wind-Only Rates are Severely Inadequate All Over Florida



Notes:

- 1) Excludes A-Rated Policies
- 2) Data as of 06/30/2013

Commercial Residential Wind-Only Rate Adequacy Breakdown

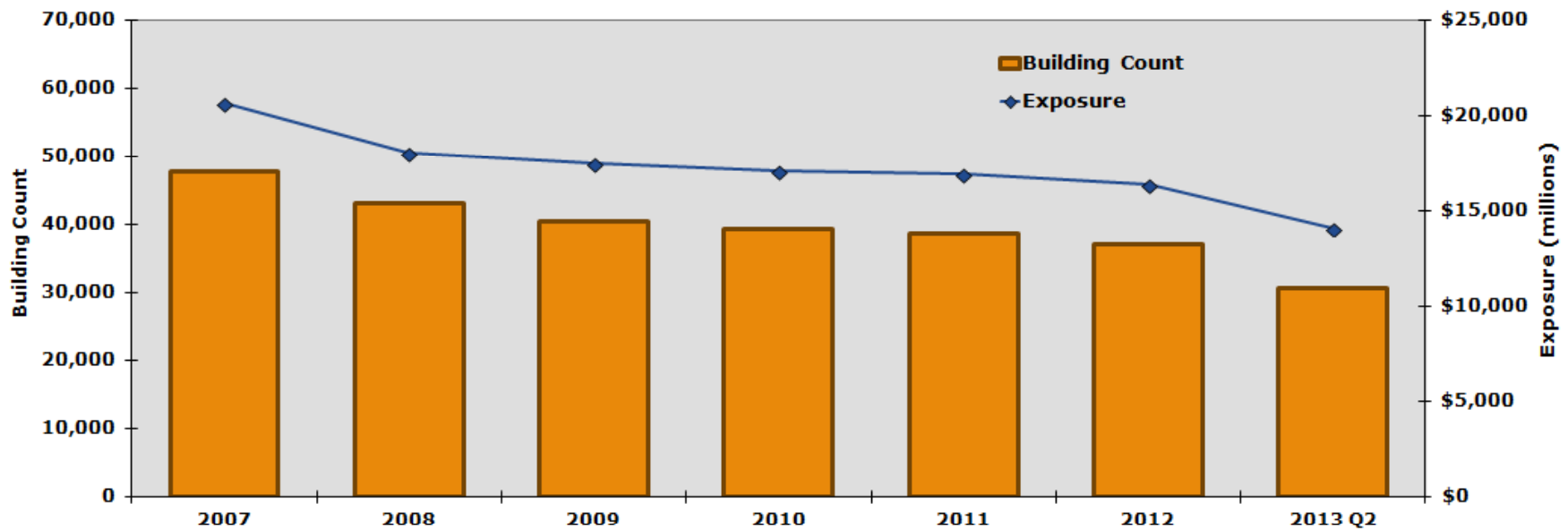
Indicated Total Rate Change Range		Inforce Policy Count	Inforce Premium (at 2014 Rate Level)	Average Inforce Premium (at 2014 Rate Level)	Expected Projected Loss & LAE Ratio	Expected Rate Need Using 2014 Rates	Total Insured Value
Minimum	Maximum						
Below	20%	699	\$721,336	\$1,032	62.3%	17.9%	\$ 129,550,274
20%	30%	3,074	\$4,856,162	\$1,580	67.3%	26.8%	\$ 794,437,350
30%	40%	3,432	\$26,649,362	\$7,765	70.4%	34.5%	\$ 5,111,567,162
40%	50%	3,354	\$46,582,327	\$13,889	77.7%	45.0%	\$ 11,412,261,468
50%	60%	630	\$11,635,300	\$18,469	83.0%	52.9%	\$ 2,744,327,760
60%	70%	2,787	\$60,221,905	\$21,608	93.5%	65.5%	\$ 12,827,736,991
70%	Above	1,490	\$702,230	\$471	177.7%	189.7%	\$ 73,364,888
TOTAL		15,466	\$151,368,621	\$9,787	83.2%	51.9%	\$ 33,093,245,893

Notes:

- 1) Excludes A-Rated Policies
- 2) Data as of 06/30/2013

Commercial Non-Residential: A Questionable Market for Citizens

Commercial Non-Residential Building Count and Exposure Has Been Stable in Recent Years

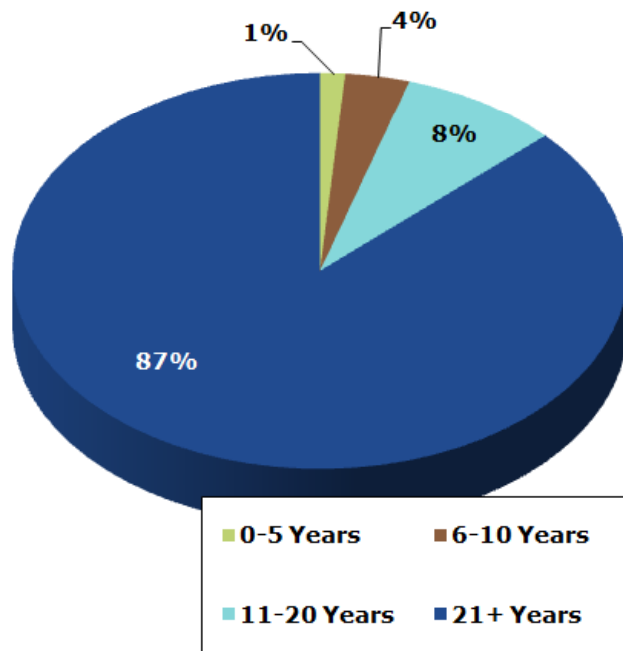


	Coastal Account			Commercial Lines Account			Total		
	Number of Policies	Number of Buildings	Exposure (millions)	Number of Policies	Number of Buildings	Exposure (millions)	Number of Policies	Number of Buildings	Exposure (millions)
2007	35,397	45,919	\$19,665	1,750	1,750	\$1,018	37,147	47,669	\$20,683
2008	32,166	42,227	\$17,675	760	760	\$323	32,926	42,987	\$17,998
2009	29,539	39,149	\$16,552	771	1,194	\$921	30,310	40,343	\$17,473
2010	28,248	37,585	\$15,794	1,130	1,659	\$1,312	29,378	39,244	\$17,105
2011	27,042	36,473	\$15,230	1,413	2,041	\$1,656	28,455	38,514	\$16,885
2012	25,455	34,675	\$14,537	1,544	2,262	\$1,790	26,999	36,937	\$16,327
2013 Q2	19,910	28,193	\$12,327	1,557	2,287	\$1,755	21,467	30,480	\$14,082
% Change from 2012 to 2Q 2013	-21.8%	-18.7%	-15.2%	0.8%	1.1%	-2.0%	-20.5%	-17.5%	-13.7%

Commercial Non-Residential Buildings Are Generally Older, Wind-Only Policies

Age Range	Building Count
0-5 Years	401
6-10 Years	1,033
11-20 Years	2,556
21+ Years	26,490
Total	30,480

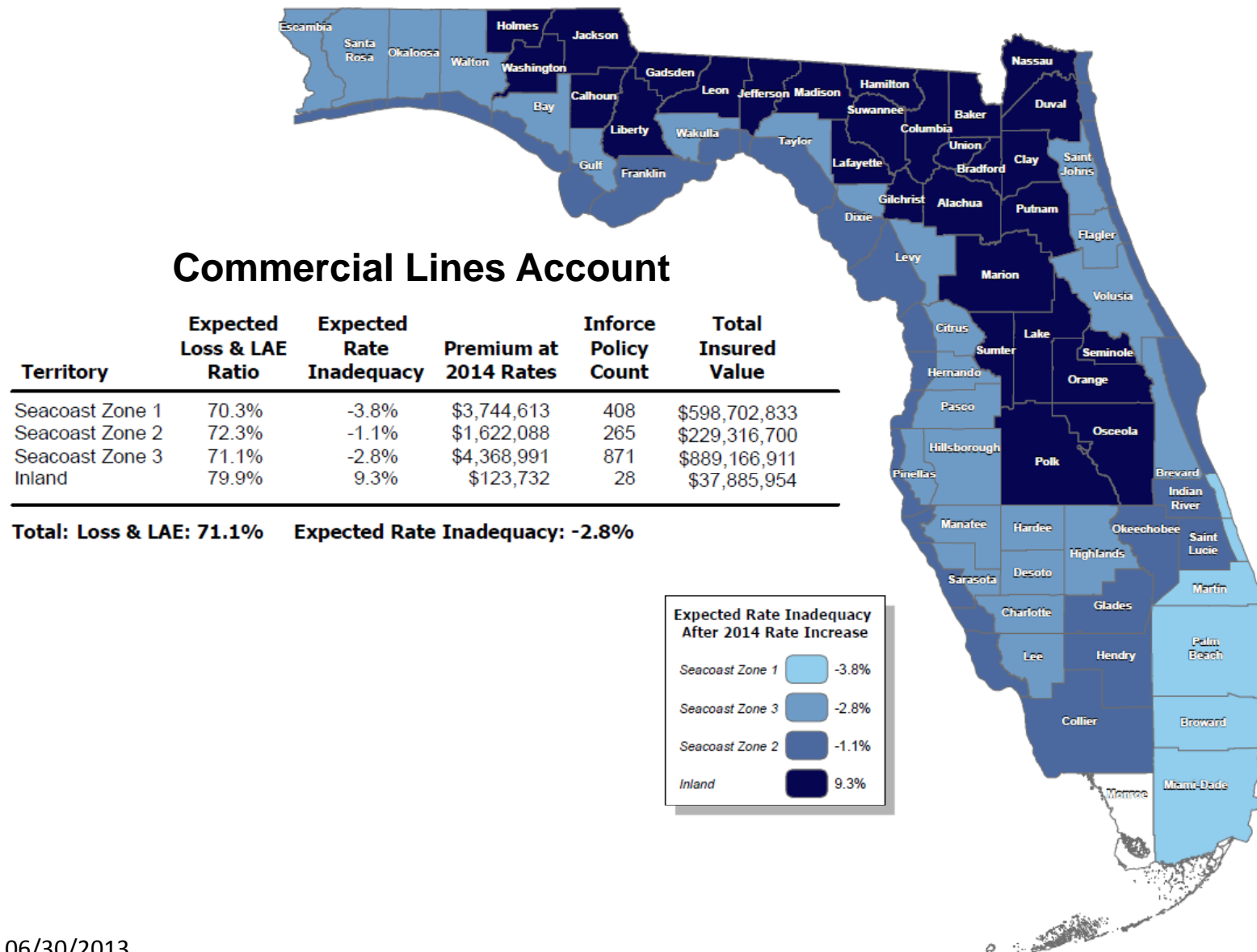
Building Count by Age Range



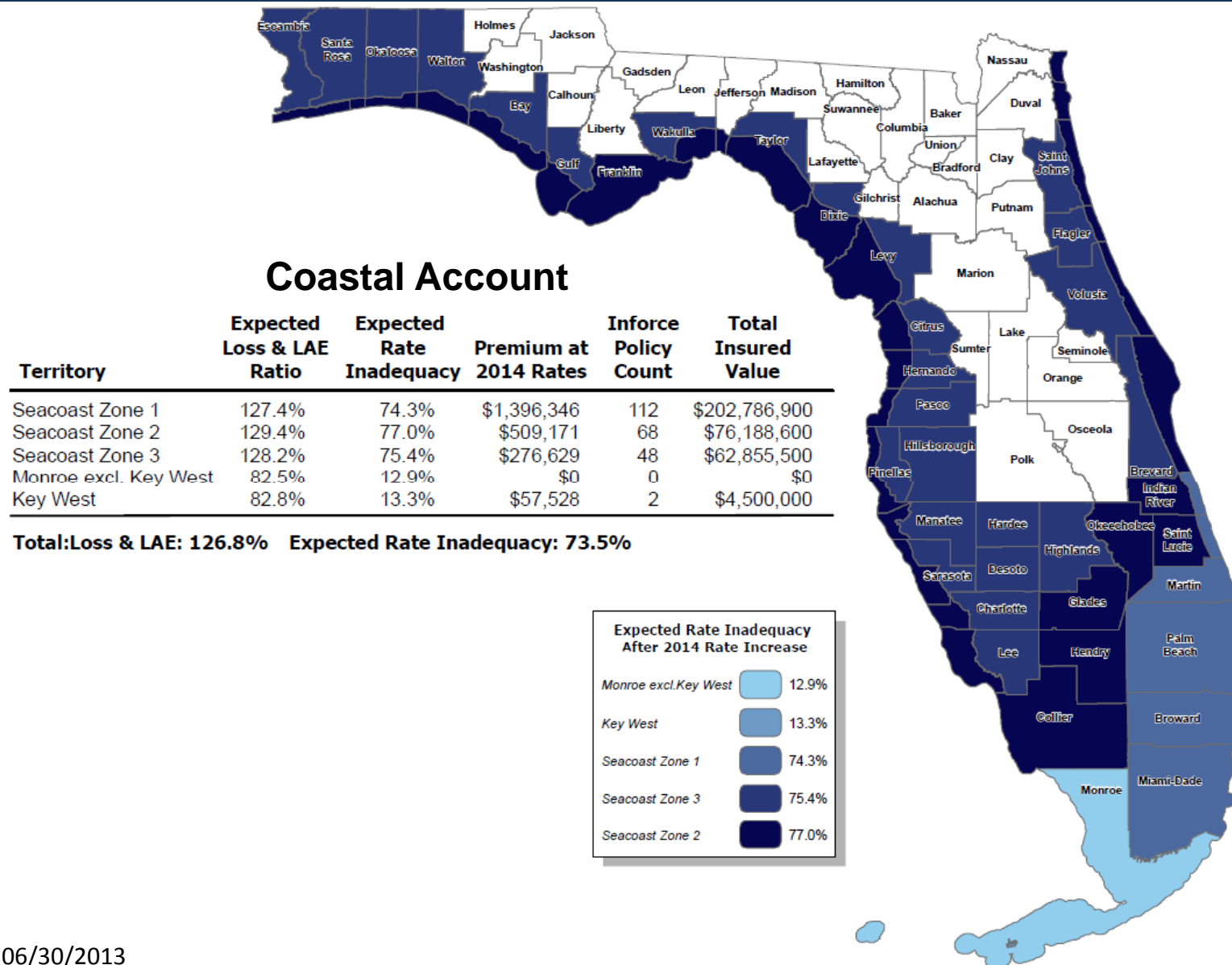
		Structure Coverage Range		TOTAL
		\$1,000,000 and Less	\$1,000,001 to \$2,500,000	
Commercial Non-Residential MULTI-PERIL	Building Count	1,986	622	2,608
	Exposure	\$908,345,298	\$1,193,058,100	\$ 2,101,403,398
Commercial Non-Residential WIND-ONLY	Building Count	27,869	3	27,872
	Exposure	\$11,928,910,853	\$5,800,000	\$ 11,934,710,853
Commercial Non-Residential TOTAL	Building Count	29,855	625	30,480
	Exposure	\$ 12,837,256,151	\$ 1,198,858,100	\$ 14,036,114,251

Data as of 06/30/2013

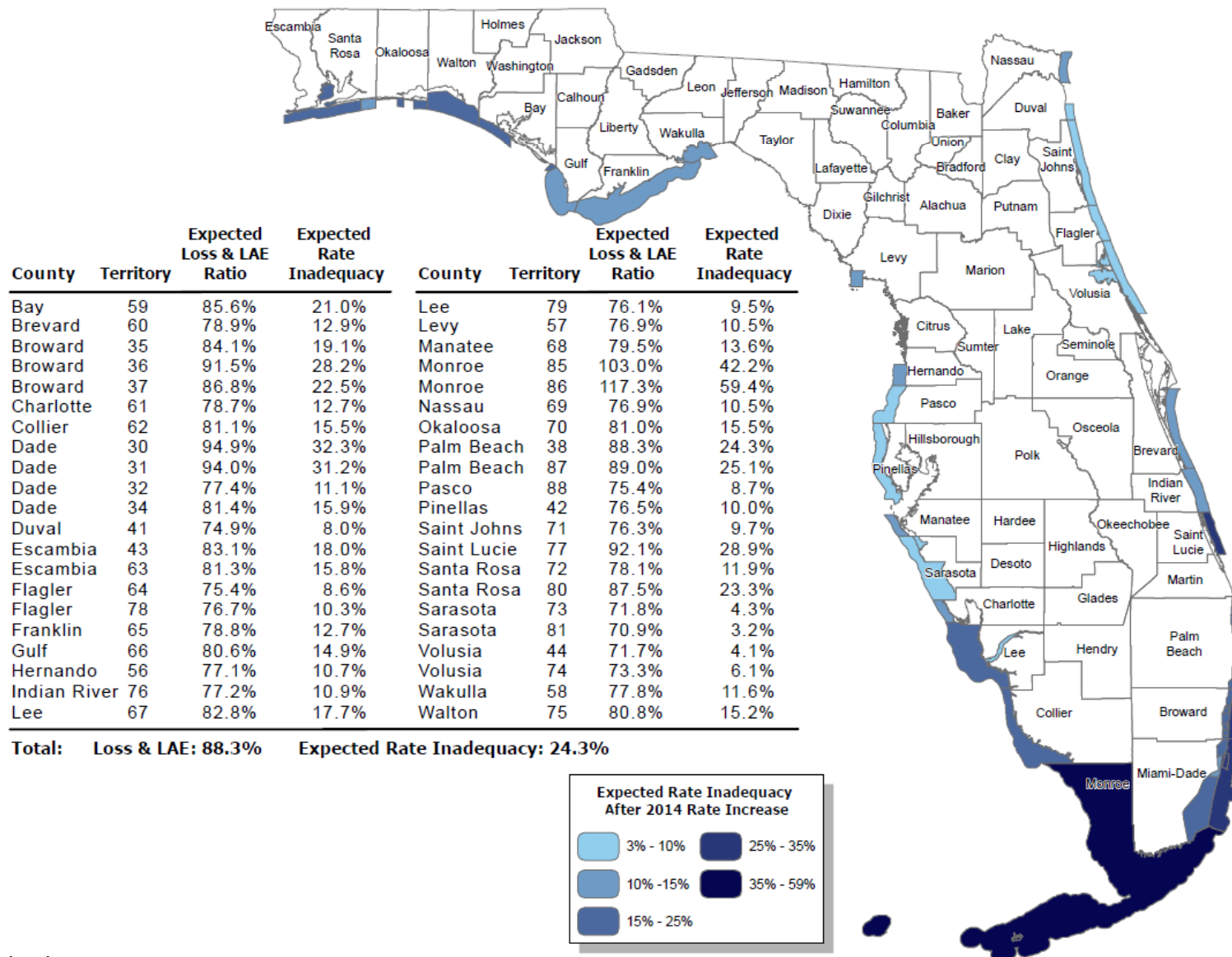
Commercial Non-Residential Multi-Peril Rates Are Generally Close to Adequate, Except Along Coast



Commercial Non-Residential Coastal Multi-Peril Rates Should be 70-80% Higher (ex-Monroe)



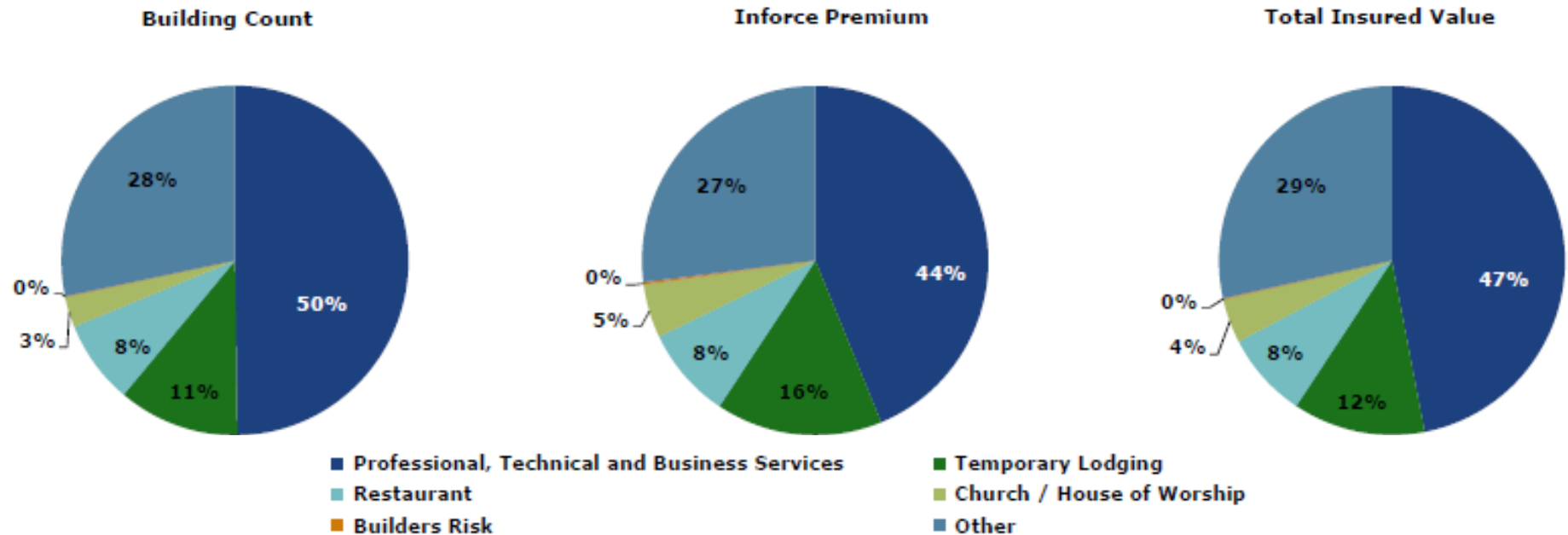
Commercial Non-Residential Wind-Only Rates Should be 5-30% Higher in Most Areas



Commercial Non-Residential Wind-Only Rate Adequacy Breakdown

Indicated Total Rate Change Range Minimum Maximum		Inforce Policy Count	Inforce Premium (at 2014 Rate Level)	Average Inforce Premium (at 2014 Rate Level)	Expected Projected Loss & LAE Ratio	Expected Rate Need Using 2014 Rates	Total Insured Value
Below	0%	0	\$0	\$0	0.0%	0.0%	\$ -
0%	10%	2,529	\$6,778,856	\$2,680	72.0%	4.5%	\$ 1,512,484,851
10%	20%	7,963	\$31,434,606	\$3,948	81.1%	15.6%	\$ 4,763,095,338
20%	30%	6,742	\$27,582,561	\$4,091	88.2%	24.2%	\$ 3,768,310,375
30%	40%	1,074	\$6,548,505	\$6,097	94.7%	32.1%	\$ 686,431,935
40%	50%	787	\$6,904,024	\$8,773	103.0%	42.2%	\$ 610,478,457
50%	Above	621	\$6,861,080	\$11,048	117.3%	59.4%	\$ 593,909,897
TOTAL		19,716	\$86,109,630	\$4,368	88.3%	24.3%	\$ 11,934,710,853

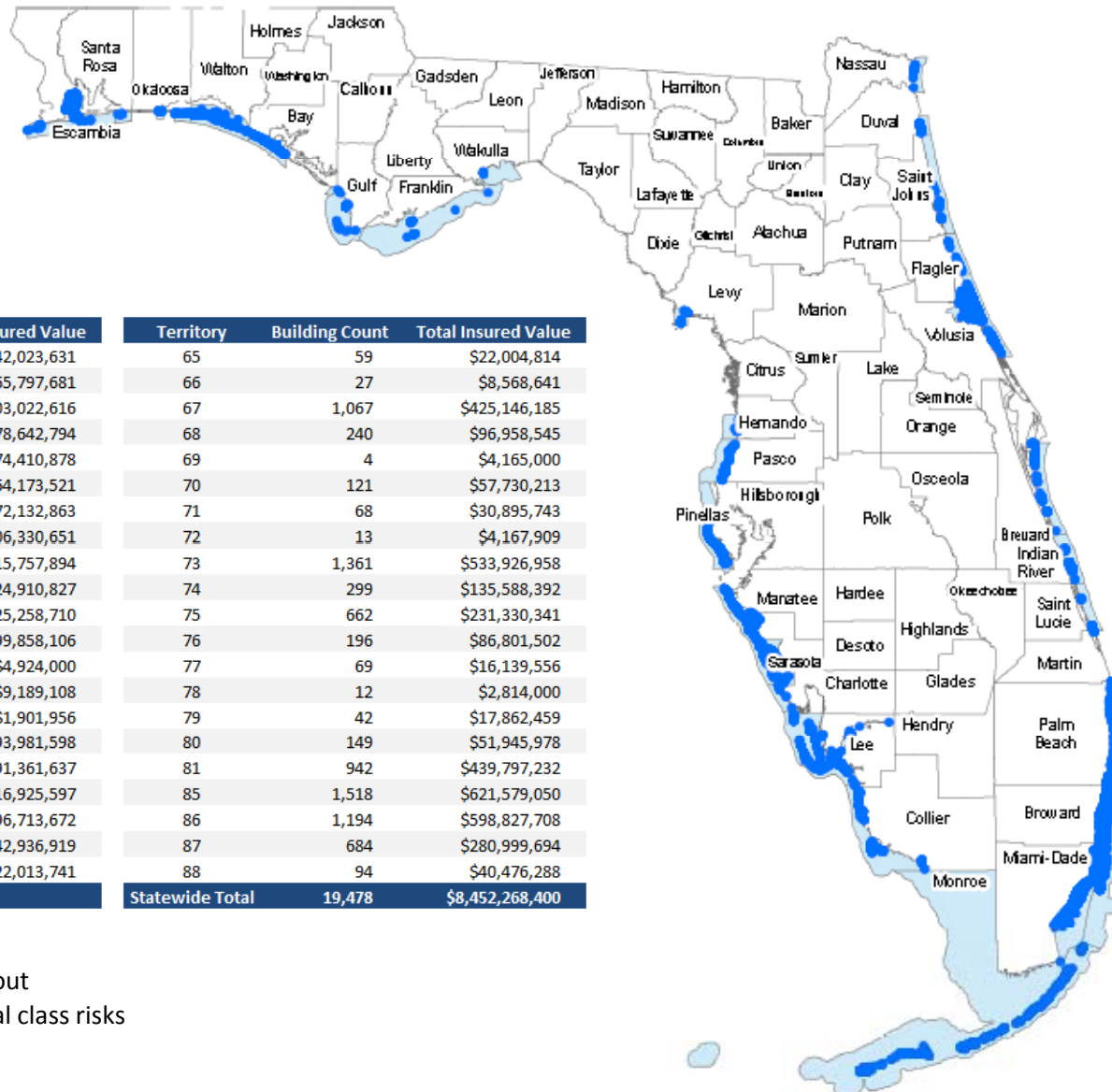
Commercial Non-Residential Wind-Only Counts, Premium and Insured Value



	Professional, Technical and Business Services	Temporary Lodging	Restaurant	Church / House of Worship	Builders Risk	Other	Total
Policy Count	11,418	1,074	1,890	500	14	4,785	19,681
Building Count	13,873	3,158	2,151	793	14	7,883	27,872
Inforce Premium	\$33,906,906	\$12,041,372	\$6,582,487	\$3,839,240	\$174,281	\$20,889,799	\$77,434,085
Total Insured Value	\$5,629,419,562	\$1,479,176,562	\$956,106,633	\$492,180,700	\$12,835,776	\$3,411,311,280	\$11,981,030,513

Commercial Non-Residential Wind-Only

Where are the Buildings Located?



Territory	Building Count	Total Insured Value	Territory	Building Count	Total Insured Value
30	1,014	\$542,023,631	65	59	\$22,004,814
31	431	\$165,797,681	66	27	\$8,568,641
32	1,467	\$703,022,616	67	1,067	\$425,146,185
34	1,977	\$878,642,794	68	240	\$96,958,545
35	2,561	\$1,074,410,878	69	4	\$4,165,000
36	565	\$264,173,521	70	121	\$57,730,213
37	2,474	\$1,072,132,863	71	68	\$30,895,743
38	4,523	\$1,906,330,651	72	13	\$4,167,909
41	43	\$15,757,894	73	1,361	\$533,926,958
42	762	\$324,910,827	74	299	\$135,588,392
43	1,199	\$525,258,710	75	662	\$231,330,341
44	707	\$299,858,106	76	196	\$86,801,502
56	13	\$4,924,000	77	69	\$16,139,556
57	40	\$9,189,108	78	12	\$2,814,000
58	7	\$1,901,956	79	42	\$17,862,459
59	546	\$193,981,598	80	149	\$51,945,978
60	477	\$191,361,637	81	942	\$439,797,232
61	35	\$16,925,597	85	1,518	\$621,579,050
62	460	\$196,713,672	86	1,194	\$598,827,708
63	108	\$42,936,919	87	684	\$280,999,694
64	69	\$22,013,741	88	94	\$40,476,288
Statewide Total		\$8,452,268,400	19,478		\$8,452,268,400

Notes:

- 1) Excludes risks tagged for takeout
- 2) Building Count excludes special class risks
- 3) Data as of 09/30/2013

Personal Lines Occupancy and Residency Issues

Personal Lines Policies Occupancy Types

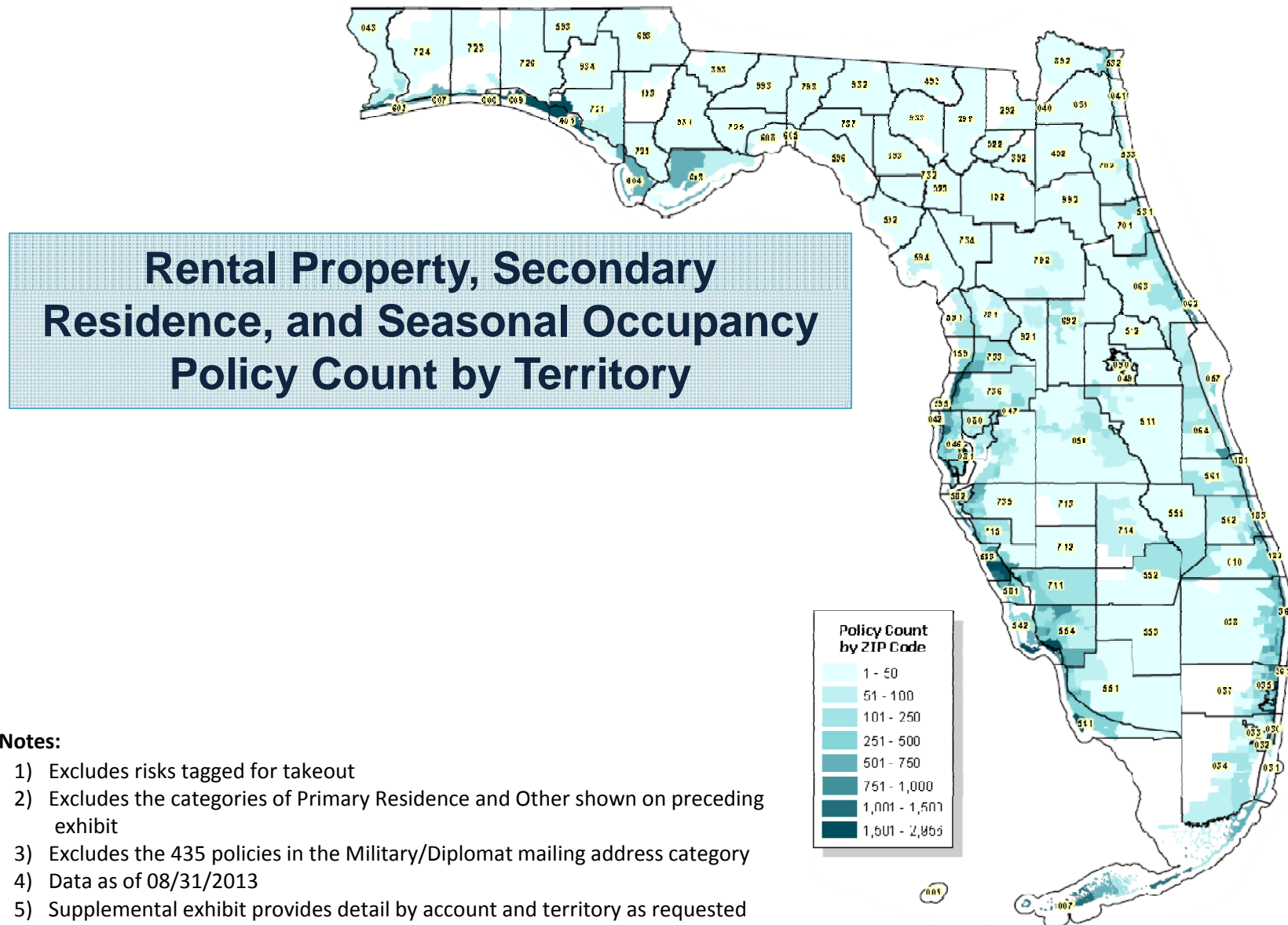
Citizens could adjust Seasonal surcharge or institute surcharges by occupancy type as written

Personal Lines Owner Occupied and Not Owner Occupied as of 8/31/13												
Policy Form	Primary Residence		Rental Property		Secondary Residence		Seasonal		Other		Total	
	Policy Count	Rate Need at 2014 Rates	Policy Count	Rate Need at 2014 Rates	Policy Count	Rate Need at 2014 Rates	Policy Count	Rate Need at 2014 Rates	Policy Count	Rate Need at 2014 Rates	Policy Count	Rate Need at 2014 Rates
Dwelling (DP1, DP3, and DW2)	6,139	6.0%	280,950	9.9%	3,224	7.5%	15,530	12.2%	97	0.1%	305,940	9.9%
Homeowners (HO3, HO8, and HW2)	551,528	11.5%	0	N/A	11,703	8.3%	13,745	32.5%	11	-8.0%	576,987	11.9%
Renters (HO4, HW4, MHO4, and MHW4)	18,738	N/A	0	N/A	116	N/A	124	N/A	0	N/A	18,978	N/A
Condo Owners (HO6 and HW6)	76,716	14.6%	40,478	12.3%	16,589	-0.7%	24,515	24.8%	0	N/A	158,298	14.3%
Mobile Home (MDP1, MHO3, MD1, and MW2)	65,106	N/A	21,114	N/A	6,572	N/A	35,758	N/A	34	N/A	128,584	N/A
Total for all Forms	718,227	11.6%	342,542	10.0%	38,204	5.7%	89,672	26.0%	142	-0.3%	1,188,787	11.6%
% of Total	60.4%		28.8%		3.2%		7.5%		0.0%		100.0%	

Notes:

- 1) Excludes risks tagged for takeout and DP1 rate need
- 2) "Other" category includes Farms, Ranches, and properties under construction
- 3) Seasonal category includes seasonal 3-6 months, seasonal > 6 months, and seasonal rental

Personal Lines Policies Occupancy Types Around Florida for Non-Florida Mailing Addresses



Personal Lines Policies Mailing Address

Issues with using policyholder's mailing address to determine if customer is a FL resident

- Mailing address is not indicative of FL residency
- Post office boxes distort results and are difficult to exclude
- Premium can be paid by someone else other than the insured

Mailing Address Categories	8/31/13 Policy Count	Percent of Total	Rate Need at 2014 Rates
Florida Mailing Address	998,601	84.0%	10.8%
<i>Mailing Matches Property Address</i>	<i>728,970</i>	<i>73.0%</i>	<i>10.3%</i>
<i>Mailing Does Not Match Property Address</i>	<i>269,631</i>	<i>27.0%</i>	<i>12.8%</i>
US Mailing Address (not FL)	163,979	13.8%	19.0%
Outside of US (not Military/Diplomat)	25,772	2.2%	13.2%
Military/Diplomat	435	0.0%	8.9%
Total	1,188,787	100.0%	11.6%

Personal Lines Policies by Insured Value (\$'s in 000's)

Total Insured Value Ranges	PLA PRM			Coastal PRM			Coastal PRW		
	Policy Count	Total Insured Value	Premium (with surcharges)	Policy Count	Total Insured Value	Premium (with surcharges)	Policy Count	Total Insured Value	Premium (with surcharges)
\$100,000 and Less	594	\$53,651,342	\$673,009	94	\$8,461,088	\$124,157	54	\$4,889,386	\$42,891
\$100,001 to \$200,000	87,099	\$14,831,580,436	\$152,024,971	14,963	\$2,564,603,379	\$33,414,889	13,617	\$2,331,341,421	\$17,501,248
\$200,001 to \$300,000	161,268	\$39,718,391,088	\$348,640,404	25,987	\$6,378,007,869	\$72,871,714	37,656	\$9,447,471,595	\$61,727,413
\$300,001 to \$400,000	77,790	\$26,651,150,221	\$200,744,794	12,030	\$4,132,879,304	\$43,100,793	30,928	\$10,754,770,523	\$64,606,670
\$400,001 to \$500,000	26,113	\$11,495,166,450	\$80,357,499	5,013	\$2,212,099,392	\$22,726,531	19,856	\$8,821,622,066	\$51,477,994
\$500,001 to \$600,000	9,126	\$4,954,607,934	\$33,895,151	2,157	\$1,175,805,691	\$12,041,619	11,423	\$6,236,963,341	\$35,538,900
\$600,001 to \$700,000	4,269	\$2,754,985,218	\$18,504,260	1,186	\$769,788,683	\$7,766,685	7,688	\$4,980,637,911	\$27,883,911
\$700,001 to \$800,000	1,755	\$1,303,366,052	\$9,079,951	521	\$386,751,907	\$3,760,292	4,276	\$3,185,302,060	\$17,393,642
\$800,001 to \$900,000	964	\$814,726,531	\$5,470,087	333	\$281,951,220	\$2,562,879	3,285	\$2,787,958,488	\$14,765,019
\$900,001 to \$1,000,000	629	\$596,809,039	\$4,027,090	210	\$200,102,775	\$1,896,927	2,846	\$2,705,904,132	\$13,706,868
\$1,000,001 to \$1,100,000	395	\$410,404,240	\$2,804,485	169	\$176,664,576	\$1,651,658	2,058	\$2,145,030,107	\$10,315,395
\$1,100,001 to \$1,200,000	175	\$201,481,838	\$1,309,302	103	\$118,729,868	\$956,972	1,274	\$1,463,184,546	\$6,376,755
\$1,200,001 to \$1,300,000	121	\$150,800,832	\$919,773	78	\$97,036,251	\$743,836	1,320	\$1,649,696,061	\$6,825,278
\$1,300,001 to \$1,400,000	90	\$120,868,256	\$730,477	67	\$89,876,190	\$688,870	1,287	\$1,730,929,831	\$7,016,591
\$1,400,001 to \$1,500,000	29	\$41,845,008	\$237,973	14	\$20,304,828	\$196,932	154	\$220,381,414	\$906,480
\$1,500,001 +	16	\$25,304,776	\$126,235	5	\$8,222,620	\$59,838	120	\$200,881,608	\$785,143
Total	370,433	\$104,125,139,261	\$859,545,461	62,930	\$18,621,285,641	\$204,564,592	137,842	\$58,666,964,490	\$336,870,198

Notes:

- 1) Excludes risks tagged for takeout
- 2) The total insured value is the sum of coverages A through D. Policies where the primary structure (coverage A) is valued over \$1 Million are in the process of being non-renewed.
- 3) Data as of 09/30/2013

Wind-Only vs. Multi-Peril

Non-Wind Loss Ratios for HO-3 Multi-Peril Policies are Highest in South Florida and Sinkhole Alley

Loss Ratio Excluding Hurricane and Sinkhole Perils

Territory	County Name	Territory Description	Personal Lines Account		Coastal Account	
			Calendar Year Non-Sinkhole Loss Ratio	Policy Count (inforce as of 09/30/13)	Calendar Year Non-Sinkhole Loss Ratio	Policy Count (inforce as of 09/30/13)
30	Miami-Dade	Miami Beach	23%	82	29%	522
31		Coastal Region	45%	56	19%	441
32		Miami	52%	7,579	31%	1,674
33		Hialeah	84%	10,212	n/a	0
34		Remainder of County excluding Hialeah, Miami, and Miami Beach	66%	76,384	56%	18,725
595	Pasco	Coastal Region	62%	354	18%	5,937
736		Remainder of County	23%	27,530	0%	22
35	Broward	Hollywood & Ft. Lauderdale	50%	5,984	24%	4,403
361		Coastal Region	14%	31	17%	347
37		Remainder of County excluding Hollywood and Ft. Lauderdale	51%	44,994	33%	7,784
542	Lee	Coastal Region	29%	71	7%	591
554		Remainder of County	43%	2,925	9%	303
Statewide Total			41%	370,433	33%	62,930

Notes:

- 1) Calendar Year Loss Ratio includes bulk reserves
- 2) Calendar Year Non-Sinkhole Loss Ratio excludes hurricane and sinkhole claims; includes wind portion of premium but excludes sinkhole portion of premium
- 3) Losses from 01/01/2011 to 09/30/2013
- 4) Territories with the largest loss ratios are in bold text; other territories within each county are shown for perspective

Average Premium for Wind-Only Policies

Homeowners (HW-2) average premium = \$2,045

➤ 60% of HW-2 policy premiums are between \$895 and \$2,895

Condominium Unit Owner (HW-6) average premium = \$703

➤ 60% of HW-6 policy premiums are between \$236 and \$928

Dwelling (DW-2) average premium = \$1,522

➤ 60% of DW-2 policy premiums are between \$633 and \$2,175

Notes:

- 1) Average premium does not include surcharges
- 2) Data as of 09/30/2013
- 3) Supplemental exhibit contains data by territory

Citizens Writes New Wind-Only Policies at a Pace Consistent with Real Estate Market Activity

Personal Residential Wind Only		
Calendar Year	New Business Policy Count	% Change
2011	26,730	
2012	28,399	6%
2013	28,028	-1%

Citizens Property Insurance Corporation

Impact from Shift of 5% PLA Policyholder Surcharge to Coastal Account

Sample Storm Scenarios based on 2013 Storm Season

1 in 50 Year Event Scenario		Existing Policyholder Surcharge Relationship		Proposed Policyholder Surcharge Relationship		There is <u>no</u> impact from the proposed shift in policyholder surcharge for this scenario. Risk transfer, FHCF, and surplus primarily cover the loss. This applies to all events below the 1 in 53 year event.
		PLA/CLA	Coastal	PLA/CLA	Coastal	
Event PML including 10% Loss Adjusted Expenses (in millions)		\$3,933	\$7,977	\$3,933	\$7,977	
Deficit remaining after surplus, FHCF and risk transfer (in millions)		\$0	\$86	\$0	\$86	
Policyholder Surcharge		0%	3%	0%	3%	
Regular Assessment		n/a	0%	n/a	0%	
Emergency Assessment		0%	0%	0%	0%	
		\$1,800 Average premium + surcharges and Assessments				Resulting Change from Shifting 5% Policyholder surcharge from PLA to the Coastal Account
Citizens policyholder		\$1,856		\$1,856		\$0
non-Citizens policyholder		\$1,800		\$1,800		\$0
Difference between Citizens policyholder and non-Citizens policyholder		\$56		\$56		

1 in 60 Year Event Scenario		Existing Policyholder Surcharge Relationship		Proposed Policyholder Surcharge Relationship		In this example, the impact from the proposed shift in policyholder surcharge is an \$89 increase in the surcharge paid by a Citizens policyholder and a decrease of \$7 for non-citizens policyholders.
		PLA/CLA	Coastal	PLA/CLA	Coastal	
Event PML including 10% Loss Adjusted Expenses (in millions)		\$4,536	\$9,001	\$4,536	\$9,001	
Deficit remaining after surplus, FHCF and risk transfer (in millions)		\$0	\$1,110	\$0	\$1,110	
Policyholder Surcharge		0%	15%	0%	20%	
Regular Assessment		n/a	2%	n/a	2%	
Emergency Assessment		0%	0%	0%	0%	
		\$1,800 Average premium + surcharges and Assessments				Resulting Change from Shifting 5% Policyholder surcharge from PLA to the Coastal Account
Citizens policyholder		\$2,071		\$2,160		\$89
non-Citizens policyholder		\$1,837		\$1,830		-\$7
Difference between Citizens policyholder and non-Citizens policyholder		\$234		\$330		

1 in 75 Year Event Scenario		Existing Policyholder Surcharge Relationship		Proposed Policyholder Surcharge Relationship		In this example, the impact from the proposed shift in policyholder surcharge is an \$83 increase in the surcharge paid by a Citizens policyholder and a decrease of \$7 for non-citizens policyholders.
		PLA/CLA	Coastal	PLA/CLA	Coastal	
Event PML including 10% Loss Adjusted Expenses (in millions)		\$5,421	\$10,428	\$5,421	\$10,428	
Deficit remaining after surplus, FHCF and risk transfer (in millions)		\$0	\$2,537	\$0	\$2,537	
Policyholder Surcharge		0%	15%	0%	20%	
Regular Assessment		n/a	2%	n/a	2%	
Emergency Assessment		0%	4%	0%	4%	
		\$1,800 Average premium + surcharges and Assessments				Resulting Change from Shifting 5% Policyholder surcharge from PLA to the Coastal Account
Citizens policyholder		\$2,142		\$2,225		\$83
non-Citizens policyholder		\$1,908		\$1,901		-\$7
Difference between Citizens policyholder and non-Citizens policyholder		\$234		\$324		

1 in 100 Year Event Scenario		Existing Policyholder Surcharge Relationship		Proposed Policyholder Surcharge Relationship		There is <u>no</u> impact from the proposed shift in policyholder surcharge in this scenario due to the algebraic relationship detailed below.
		PLA/CLA	Coastal	PLA/CLA	Coastal	
Event PML including 10% Loss Adjusted Expenses (in millions)		\$6,793	\$12,513	\$6,793	\$12,513	
Deficit remaining after surplus, FHCF and risk transfer (in millions)		\$906	\$4,622	\$906	\$4,622	
Policyholder Surcharge		30%	15%	25%	20%	
Regular Assessment		n/a	2%	n/a	2%	
Emergency Assessment		0%	10%	1%	9%	
		\$1,800 Average premium + surcharges and Assessments				Resulting Change from Shifting 5% Policyholder surcharge from PLA to the Coastal Account
Citizens policyholder		\$2,789		\$2,789		\$0
non-Citizens policyholder		\$2,015		\$2,015		\$0
Difference between Citizens policyholder and non-Citizens policyholder		\$774		\$774		

With the proposed shift of 5% PLA policyholder surcharge, the relationship between per account deficit and direct written premium (DWP) for all scenarios above the 1 in 98 year storm event will be:

For a Citizens policyholder, the additional percent of assessment follows

$$.43 + \{(\text{DeficitRemainingPLA/CLA} + \text{DeficitRemainingCoastal} - .43 * \text{DWPCitizens}) / \text{DWPSState}\}$$

For a non-Citizens policyholder, the additional percent of assessment follows

$$(\text{DeficitRemainingPLA/CLA} + \text{DeficitRemainingCoastal} - .43 * \text{DWPCitizens}) / \text{DWPSState}$$

Therefore, in any storm scenario where the remaining deficit results in Emergency Assessments on both PLA/CLA and Coastal, algebraically there is no impact from the proposed shift in policyholder surcharge on Citizens or non-Citizens premium no matter how one shifts the 45%

Notes:

DWPCitizens = Citizens Direct Written Premium = Citizens Policyholder Surcharge Base

DWPSState = Statewide Direct Written Premium = Emergency Assessment Base

Regular Assessment Base = Emergency Assessment Base - Citizens Policyholder Surcharge Base

Citizens Property Insurance Corporation
Commercial Residential Multi Peril and Wind Only
Total Insured Value \$10 Million + at the Building Level
Building Counts and Total Insured Value by County and Building Age

County Name	Commercial Lines Account				Coastal Account				Total Commercial Residential	
	20 Years and Younger		More than 20 Years Old		20 Years and Younger		More than 20 Years Old		Building Count	Total Insured Value
	Building Count	Total Insured Value	Building Count	Total Insured Value	Building Count	Total Insured Value	Building Count	Total Insured Value		
Brevard	0	\$0	0	\$0	0	\$0	4	\$57,979,883	4	\$57,979,883
Broward	0	\$0	9	\$126,117,185	6	\$265,876,200	139	\$4,087,280,682	154	\$4,479,274,067
Collier	0	\$0	0	\$0	5	\$253,483,413	35	\$851,013,901	40	\$1,104,497,314
Escambia	0	\$0	0	\$0	1	\$19,550,000	1	\$13,581,700	2	\$33,131,700
Hillsborough	0	\$0	3	\$39,828,100	0	\$0	0	\$0	3	\$39,828,100
Indian River	0	\$0	0	\$0	1	\$10,075,000	1	\$13,789,300	2	\$23,864,300
Lee	4	\$150,445,800	0	\$0	7	\$349,983,710	10	\$153,555,118	21	\$653,984,628
Manatee	0	\$0	0	\$0	0	\$0	1	\$13,263,209	1	\$13,263,209
Martin	0	\$0	4	\$69,673,900	0	\$0	0	\$0	4	\$69,673,900
Miami-Dade	7	\$71,520,662	9	\$130,770,400	49	\$2,445,976,690	207	\$7,061,478,168	272	\$9,709,745,920
Monroe	0	\$0	0	\$0	1	\$17,346,000	3	\$42,391,000	4	\$59,737,000
Palm Beach	2	\$21,466,100	3	\$33,418,100	8	\$170,797,550	114	\$2,424,332,128	127	\$2,650,013,878
Pinellas	12	\$157,514,600	44	\$760,511,064	9	\$190,495,535	22	\$412,164,889	87	\$1,520,686,088
Saint Lucie	0	\$0	0	\$0	4	\$56,183,300	11	\$254,766,800	15	\$310,950,100
Santa Rosa	0	\$0	0	\$0	1	\$10,033,046	0	\$0	1	\$10,033,046
Sarasota	0	\$0	0	\$0	18	\$582,188,452	46	\$878,128,982	64	\$1,460,317,434
Volusia	0	\$0	0	\$0	7	\$154,013,252	10	\$256,042,646	17	\$410,055,898
Total	25	\$400,947,162	72	\$1,160,318,749	117	\$4,526,002,148	604	\$16,519,768,406	818	\$22,607,036,465

Data as of 09/30/2013

Citizens Property Insurance Corporation

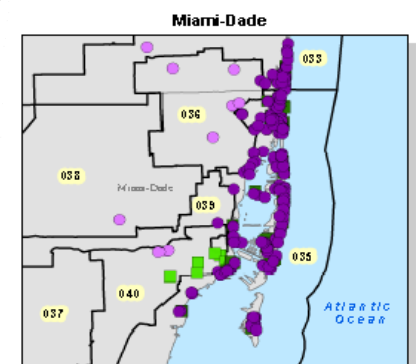
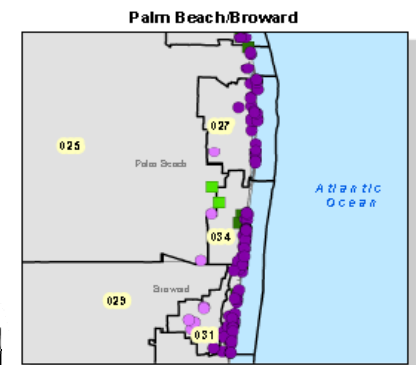
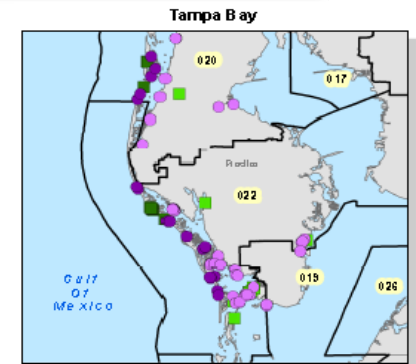
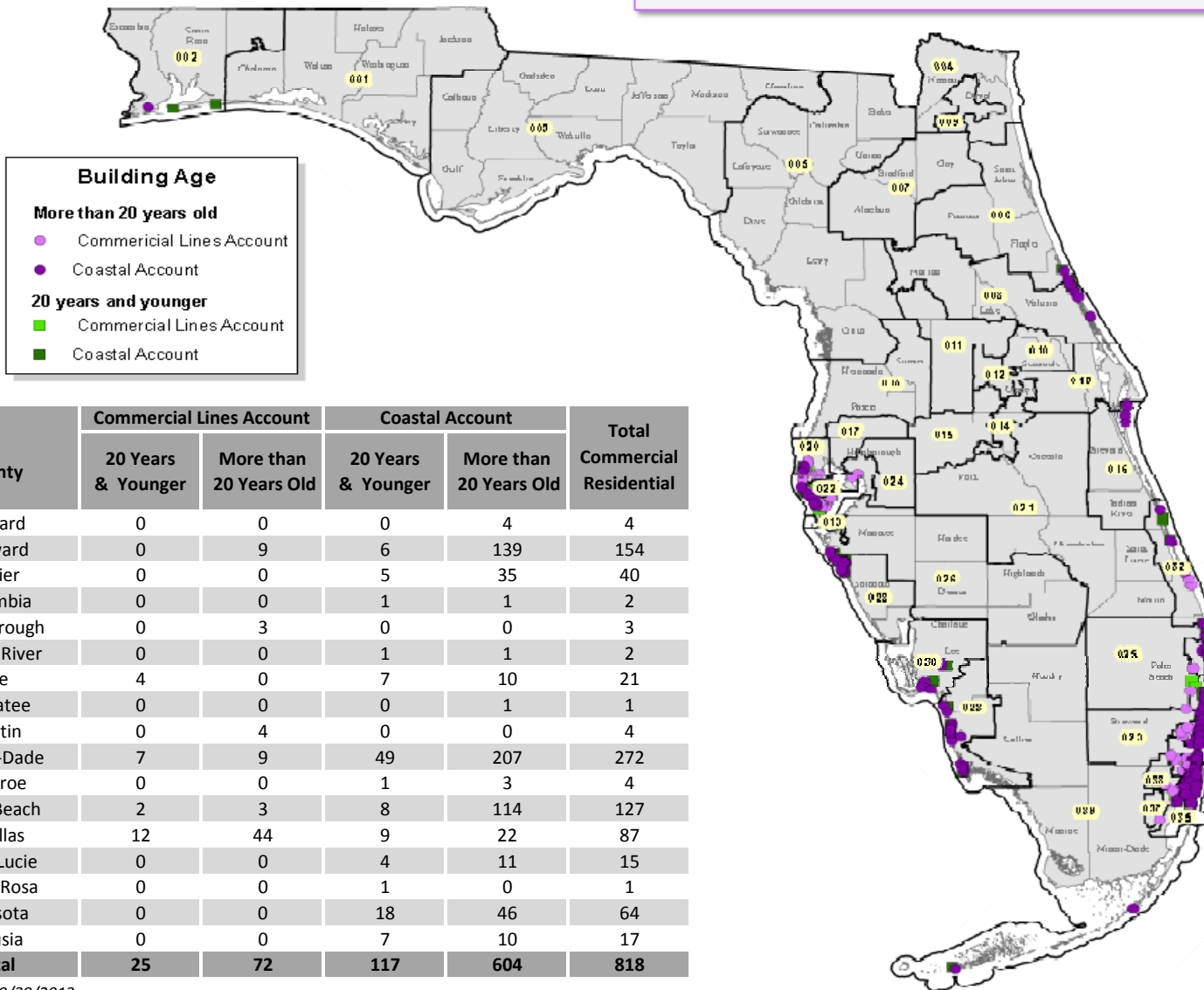
Commercial Residential Multi Peril and Wind Only

Total Insured Value \$10 Million + at the Building Level

Building Counts by County and Building Age

74% of Citizens' commercial residential buildings valued \$10 million or greater are in the Coastal Account and are more than 20 years old.

17% of Citizens' commercial residential buildings valued \$10 million or greater



Citizens Property Insurance Corporation

Commercial Residential Multi Peril and Wind Only

Average Premium per Policy vs. Average Premium per Building
Per Policy Data from OIR; Per Building Data from Citizens' Inforce Files
Data as of 09/30/2013

Commercial residential business can have multiple buildings per policy. Data collected by the Office of Insurance Regulation (OIR) is not at the policy level and does not include building age. Additionally, the OIR data is not listed by coverage amount and therefore, industry data for +\$10M coverage does not exist. Data below is for Citizens and All Other Carriers where Citizens' information is provided by per building for comparison.

OIR Per Policy Data - QUASR			
County Name	All Other Carriers Avg Premium per Policy	Citizens Avg Premium per Policy	Citizens Avg Premium per Building *
Alachua	\$4,094	\$8,152	\$1,970
Baker	\$842	n/a	
Bay	\$4,275	\$12,645	\$4,692
Bradford	\$1,192	n/a	n/a
Brevard	\$8,396	\$14,331	\$4,570
Broward	\$33,102	\$25,675	\$9,034
Calhoun	\$1,863	n/a	n/a
Charlotte	\$13,822	\$29,153	\$5,164
Citrus	\$2,124	\$16,055	\$5,114
Clay	\$1,329	\$10,236	\$5,152
Collier	\$40,009	\$30,983	\$6,462
Columbia	\$720	n/a	n/a
Miami-Dade	\$37,720	\$29,895	\$11,772
Desoto	\$3,294	n/a	n/a
Dixie	\$9,544	\$18,194	\$5,459
Duval	\$2,281	\$8,959	\$3,891
Escambia	\$2,756	\$21,694	\$5,055
Flagler	\$9,380	\$7,239	\$5,496
Franklin	\$7,197	\$7,574	\$2,775
Gadsden	\$1,066	\$3,660	\$3,681
Gilchrist	\$15,464	n/a	n/a
Glades	\$955	n/a	n/a
Gulf	\$5,207	\$5,571	\$4,645
Hamilton	\$2,427	n/a	n/a
Hardee	\$2,082	n/a	n/a
Hendry	\$1,307	\$15,749	\$4,998
Hernando	\$1,695	\$16,615	\$2,662
Highlands	\$2,635	\$9,665	\$4,194
Hillsborough	\$14,998	\$29,268	\$3,975
Holmes	\$2,901	n/a	n/a
Indian River	\$17,225	\$23,260	\$4,212
Jackson	\$2,268	n/a	n/a
Jefferson	\$1,530	n/a	n/a
Lafayette	\$4,375	n/a	n/a

OIR Per Policy Data - QUASR			
County Name	All Other Carriers Avg Premium per Policy	Citizens Avg Premium per Policy	Citizens Avg Premium per Building *
Lake	\$1,938	\$9,332	\$788
Lee	\$23,690	\$19,575	\$4,859
Leon	\$1,922	\$8,034	\$2,311
Levy	\$6,050	\$7,455	\$7,512
Liberty	\$2,272	n/a	n/a
Madison	\$921	n/a	n/a
Manatee	\$33,755	\$28,592	\$4,843
Marion	\$1,608	\$7,772	\$2,591
Martin	\$46,477	\$45,910	\$5,357
Monroe	\$2,344	\$32,719	\$9,415
Nassau	\$8,253	\$11,496	\$4,606
Okaloosa	\$3,683	\$17,168	\$5,370
Okeechobee	\$2,508	\$35,911	\$1,708
Orange	\$4,028	\$33,272	\$3,273
Osceola	\$3,096	\$17,884	\$2,330
Palm Beach	\$53,470	\$36,553	\$4,943
Pasco	\$12,751	\$30,544	\$2,445
Pinellas	\$33,384	\$25,630	\$7,515
Polk	\$1,901	\$8,740	\$2,014
Putnam	\$1,128	n/a	n/a
Santa Rosa	\$2,529	\$20,318	\$4,525
Sarasota	\$23,060	\$29,280	\$3,266
Seminole	\$3,319	\$36,226	\$2,995
Saint Johns	\$12,627	\$9,149	\$3,621
Saint Lucie	\$18,953	\$41,567	\$7,509
Sumter	\$1,259	n/a	n/a
Suwannee	\$1,508	n/a	n/a
Taylor	\$1,857	\$3,070	\$1,546
Union	\$1,135	n/a	n/a
Volusia	\$4,455	\$13,709	\$5,286
Wakulla	\$3,706	\$7,902	\$7,966
Walton	\$8,846	\$14,545	\$4,011
Washington	\$1,884	n/a	n/a
Total	\$12,448	\$27,904	\$6,889

* Average Premium per Building excludes special class risks and is an approximate representation of the total premium reported to the OIR via QUASR. In Citizens' commercial residential premium calculation, most surcharges are applied at the policy level as a percentage of the premium subtotal.

Citizens Property Insurance Corporation

Indicated Rate Change and Expected Loss Ratio

Data as of 06/30/2013

Commercial Lines Account - Commercial non-Residential Multi Peril

Indicated Total Rate Change Range Minimum Maximum		Inforce Policy Count	Inforce Premium (at 2014 Rate Level)	Average Inforce Premium (at 2014 Rate Level)	Expected Projected Loss & LAE Ratio	Expected Rate Need Using 2014 Rates	Total Insured Value
Below	-5.0%	0	\$0	\$0	0.0%	0.0%	\$ -
-5.0%	-2.5%	1,279	\$8,113,604	\$6,344	70.7%	-3.3%	\$ 1,487,869,744
-2.5%	0.0%	265	\$1,622,088	\$6,121	72.3%	-1.1%	\$ 229,316,700
0.0%	2.5%	0	\$0	\$0	0.0%	0.0%	\$ -
2.5%	5.0%	0	\$0	\$0	0.0%	0.0%	\$ -
5.0%	7.5%	0	\$0	\$0	0.0%	0.0%	\$ -
7.5%	Above	28	\$123,732	\$4,419	79.9%	9.3%	\$ 37,885,954
TOTAL		1,572	\$9,859,424	\$6,272	71.1%	-2.8%	\$ 1,755,072,398

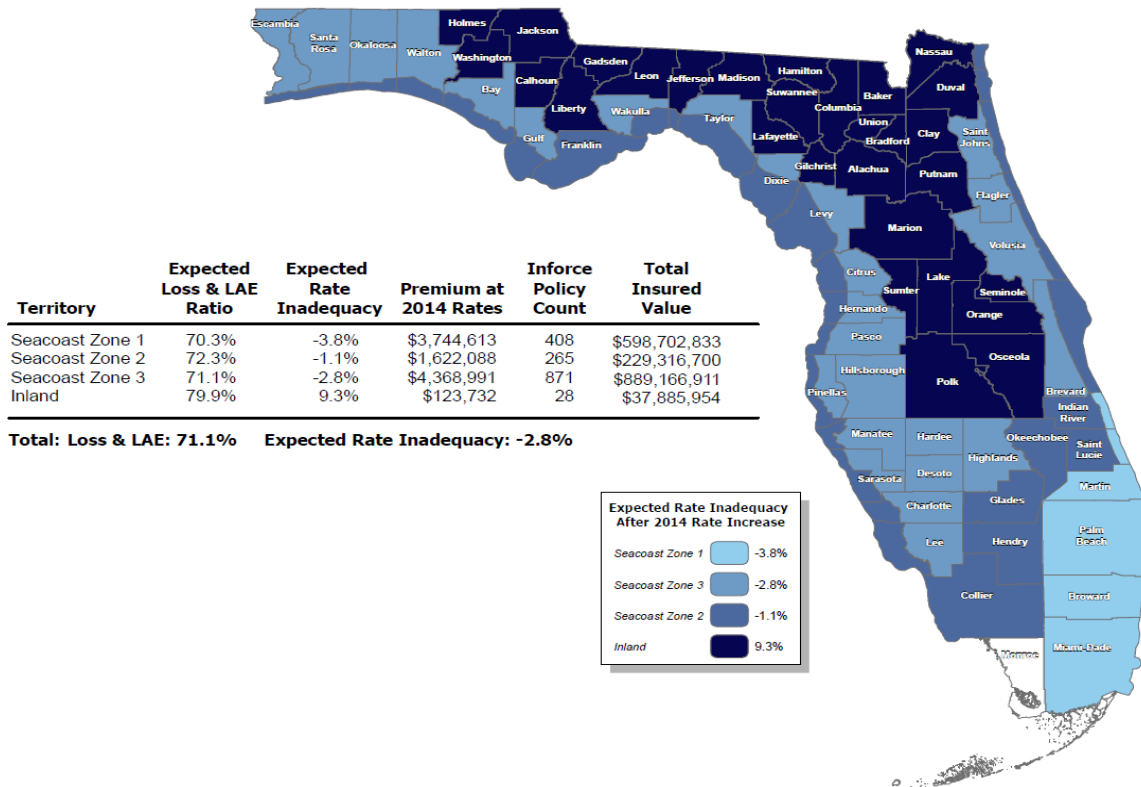
Coastal Account - Commercial non-Residential Multi Peril

Indicated Total Rate Change Range Minimum Maximum		Inforce Policy Count	Inforce Premium (at 2014 Rate Level)	Average Inforce Premium (at 2014 Rate Level)	Expected Projected Loss & LAE Ratio	Expected Rate Need Using 2014 Rates	Total Insured Value
Below	70%	2	\$57,528	\$28,764	82.8%	13.3%	\$ 4,500,000
70%	75%	112	\$1,396,346	\$12,467	127.4%	74.3%	\$ 202,786,900
75%	80%	116	\$785,800	\$6,774	129.0%	76.5%	\$ 139,044,100
80%	85%	0	\$0	\$0	0.0%	0.0%	\$ -
85%	90%	0	\$0	\$0	0.0%	0.0%	\$ -
90%	95%	0	\$0	\$0	0.0%	0.0%	\$ -
95%	Above	0	\$0	\$0	0.0%	0.0%	\$ -
TOTAL		230	\$2,239,673	\$9,738	126.8%	73.5%	\$ 346,331,000

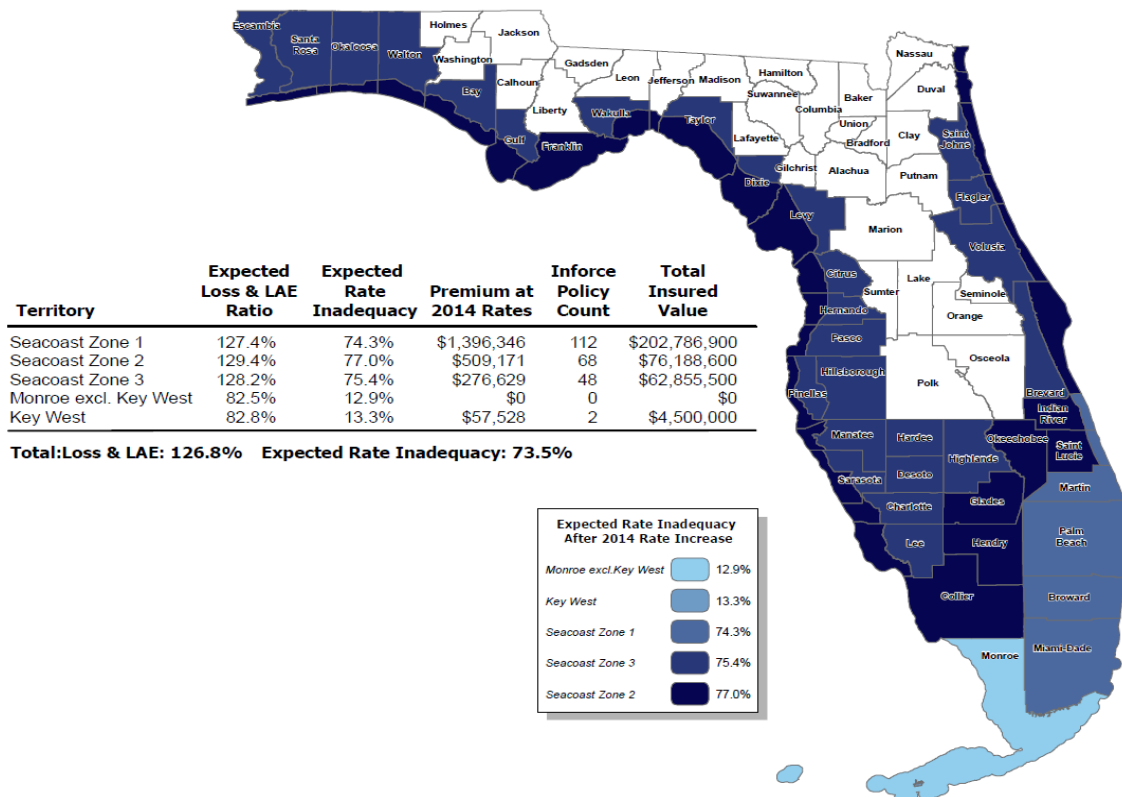
Citizens Property Insurance Corporation

Indicated Rate Change and Expected Loss Ratio

Commercial Lines Account - Commercial non-Residential Multi Peril



Coastal Account - Commercial non-Residential Multi Peril

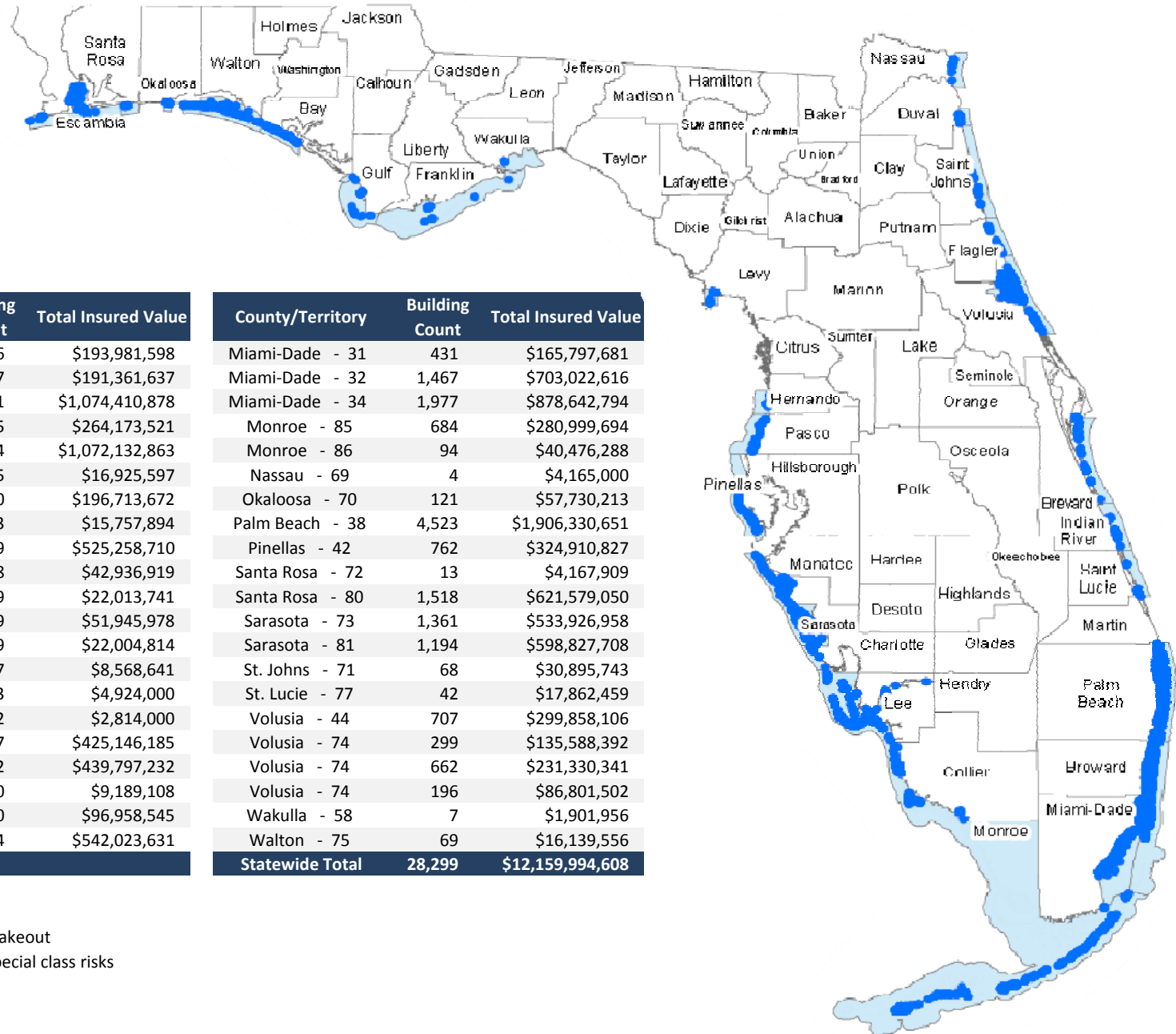


Data as of 06/30/2013

Citizens Property Insurance Corporation

Commercial Non-Residential Wind Only

Building Count and Total Insured Value by County and Territory



County/Territory	Building Count	Total Insured Value
Bay - 59	546	\$193,981,598
Brevard - 60	477	\$191,361,637
Broward - 35	2,561	\$1,074,410,878
Broward - 36	565	\$264,173,521
Broward - 37	2,474	\$1,072,132,863
Charlotte - 61	35	\$16,925,597
Collier - 62	460	\$196,713,672
Duval - 41	43	\$15,757,894
Escambia - 43	1,199	\$525,258,710
Escambia - 63	108	\$42,936,919
Flagler - 64	69	\$22,013,741
Flagler - 78	149	\$51,945,978
Franklin - 65	59	\$22,004,814
Gulf - 66	27	\$8,568,641
Hernando - 56	13	\$4,924,000
Indian River - 76	12	\$2,814,000
Lee - 67	1,067	\$425,146,185
Lee - 79	942	\$439,797,232
Levy - 57	40	\$9,189,108
Manatee - 68	240	\$96,958,545
Miami-Dade - 30	1,014	\$542,023,631

County/Territory	Building Count	Total Insured Value
Miami-Dade - 31	431	\$165,797,681
Miami-Dade - 32	1,467	\$703,022,616
Miami-Dade - 34	1,977	\$878,642,794
Monroe - 85	684	\$280,999,694
Monroe - 86	94	\$40,476,288
Nassau - 69	4	\$4,165,000
Okaloosa - 70	121	\$57,730,213
Palm Beach - 38	4,523	\$1,906,330,651
Pinellas - 42	762	\$324,910,827
Santa Rosa - 72	13	\$4,167,909
Santa Rosa - 80	1,518	\$621,579,050
Sarasota - 73	1,361	\$533,926,958
Sarasota - 81	1,194	\$598,827,708
St. Johns - 71	68	\$30,895,743
St. Lucie - 77	42	\$17,862,459
Volusia - 44	707	\$299,858,106
Volusia - 74	299	\$135,588,392
Volusia - 74	662	\$231,330,341
Volusia - 74	196	\$86,801,502
Wakulla - 58	7	\$1,901,956
Walton - 75	69	\$16,139,556
Statewide Total	28,299	\$12,159,994,608

Notes:

- 1) Excludes risks tagged for takeout
- 2) Building count excludes special class risks
- 3) Data as of 09/30/2013

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

02/18/14

Meeting Date

Topic

Citizens Property Insurance Corp. Workshop

Bill Number

N/A

(if applicable)

Name

Christine Ashburn

Amendment Barcode

(if applicable)

Job Title

Vice President Communications, Legislative + External Affairs

Address

2312 Killbuck Center Blvd. Bldg A

Phone

513.3757

Street

Tallahassee

State

FL

Zip

32307

E-mail

Speaking:

☐

For

☐

Against

☒

Information

Representing

Citizens

Appearing at request of Chair:

☐

Yes

☐

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/18/14

Meeting Date

Topic Public Adjusters

Bill Number _____
(if applicable)

Name Carolyn Johnson

Amendment Barcode _____
(if applicable)

Job Title Policy Director

Address 136 S Bronough St

Phone 521-1235

Street

Tallahassee

FL

32309

City

State

Zip

E-mail cjohnson@
flchamber.com

Speaking: ☒ For ☐ Against ☐ Information

Representing FL Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/18/14
Meeting Date

Topic CPIC

Bill Number PCB
(if applicable)

Name Keri Rayborn Silver

Amendment Barcode _____
(if applicable)

Job Title _____

Address PO Box 1565
Street

Phone 850-524-2394

Tallahassee FL 32302
City State Zip

E-mail Keri@raybornconsultants.com

Speaking: ☐ For ☐ Against ☐ Information

Representing Council of Property Claims Professionals, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____

Topic

~~SB 346 - Strike all 9 Bill~~

Bill Number

CPLC Referrals
~~346~~

(if applicable)

Name

Tim Meenan

Amendment Barcode

(if applicable)

Job Title

~~General Counsel, FGA~~

Address

204 S. Monroe St.

Phone

850 681-6710

Street

Tallahassee

Fl.

State

Zip

E-mail

tim@blanklaw.com

Speaking:

☐

For

☐

Against

☐

Information

Representing

~~FGA~~ Georgia specialty -

Appearing at request of Chair:

☐

Yes

☐

No

Lobbyist registered with Legislature:

☐

Yes

☐

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

02/18/2014

Meeting Date

Topic HOMEOWNERS DEDUCTIBLES

Bill Number _____
(if applicable)

Name DON BROWN

Amendment Barcode _____
(if applicable)

Job Title _____

Address POB 866

Phone 850 865 9280

Street

DFS, FL

City

State

32435

Zip

E-mail DON@DONBROWNFLORIDA.COM

Speaking: ☐ For ☐ Against ☒ Information

Representing SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

CourtSmart Tag Report

Room: EL 110
Caption: Senate Banking & Insurance

Case:
Judge:

Type:

Started: 2/18/2014 2:01:36 PM

Ends: 2/18/2014 3:54:35 PM

Length: 01:53:00

2:01:39 PM Meeting called to order
2:01:42 PM Roll call.
2:02:23 PM Chairman Simmons makes opening comments.
2:04:13 PM Senator Hukull recognized to present SB 134 - Tax-Exempt Income.
2:04:49 PM SB 134
2:05:23 PM Frank Meiners supporting AIF waives in support.
2:05:45 PM Senator Hukull recognized to close.
2:06:25 PM SB 134 passes favorably.
2:07:00 PM Senator Detert recognized to present SB 666 - Loan Originators, Mortgage Brokers & Mortgage Lenders.
2:07:51 PM SB 666.
2:09:05 PM Late filed amendment barcode 823074 by Senator Clemens.
2:09:23 PM Senator Detert objects to late filed amendment.
2:09:45 PM Senator Clemens recognized to present amendment barcode 823074.
2:11:13 PM Senator Detert recognized.
2:12:57 PM Amendment barcode 823074 withdrawn.
2:13:21 PM Senator Clemens recognized.
2:14:02 PM Senator Detert recognized.
2:15:04 PM Alice Vickers, attorney, Florida Consumer Action Network, recognized.
2:16:50 PM Senator Detert recognized.
2:17:25 PM Senator Detert waives close.
2:17:50 PM SB 666 passes favorably.
2:18:13 PM Senator Lee recognized to explain SB 346 - Florida Insurance Guaranty Association.
2:18:39 PM Senator Lee motion to be shown as favorable vote on SB 134.
2:18:52 PM Senator Lee begins overview of SB 346 and Florida Insurance Guaranty Association (FIGA).
2:21:20 PM Late filed delete all amendment barcode 191314 introduced. No objections.
2:21:41 PM Senator Lee explains delete all amendment barcode 191314.
2:24:50 PM Barcode amendment 191314 adopted. Back on bill as amended.
2:25:12 PM Senator Detert recognized.
2:26:26 PM Senator Lee responds to Senator Detert's question.
2:26:56 PM Doesn't effect what consumer pays, but cash flow of FIGA.
2:28:38 PM Senator Detert recognized.
2:29:17 PM Senator Lee responds.
2:31:22 PM Senator Richter recognized.
2:32:00 PM Has criteria been established?
2:32:15 PM Senator Lee responds.
2:33:02 PM Monte Stevens, Deputy Chief of Staff, Office of Insurance Regulation, waives in support.
2:33:28 PM Trey Goldman, Legislative Counsel, Florida Realtors, waives in support.
2:33:36 PM Lisa Miller, American Integrity Insurance Company, waives in support.
2:34:19 PM Jay Neal, President/CEO, FAIR, waives in support.
2:34:37 PM Senator Lee recognized to close on SB 346.
2:35:33 PM Motion for CS.
2:35:44 PM Roll call on SB 346.
2:36:03 PM SB 346 passes favorably.
2:36:32 PM Chairman Simmons speaks with regards to the workshop on Citizens Property Insurance Corporation.
2:37:53 PM Chairman Simmons asks committee to review Citizens Property Insurance Corporation proposed committee bill (PCB).
2:42:30 PM Senator Hays recognized.
2:43:57 PM Senator Hays seeks clarification.
2:44:02 PM Senator Detert recognized.
2:44:46 PM Chairman Simmons asks follow up to Senator Detert.
2:45:01 PM Senator Detert responds condo association and coastal account.
2:45:15 PM Chairman Simmons responds.

2:45:38 PM Senator Detert responds.
2:46:28 PM Chairman Simmons comments.
2:47:25 PM Chairman Simmons asks committee to review House bill provisions and whether or not the PCB should contain those.
2:48:46 PM Discussion of cesation of writing of multi peril commerical accounts (beginning at line 86 in PCB).
2:49:47 PM Senator Diaz de la Portilla makes motion to vote favorably for SB 134, SB 666, and SB 346.
2:50:43 PM Christine Ashburn, Vice President Communications, Legislative External Affairs, Citizens Property recognized.
2:51:25 PM Ms. Ashburn addresses issue.
2:54:24 PM Senator Lee recognized.
2:54:46 PM We are looking at a series of proposals which may be included in a proposed committee bill?
2:55:00 PM Chairman Simmons - yes, for discussion.
2:55:25 PM Senator Lee - how many policy holders/what type of rate shock would be felt by consumers?
2:56:22 PM Ms. Ashburn responds that it would not harm any current customer. For new customers only.
2:56:57 PM Senator Negron recognized.
2:57:03 PM Chairman Simmons poses question to Ms. Ashburn.
2:57:40 PM Very few commerical residential (700-800) multi-peril customers.
2:58:54 PM Chairman Simmons asks committee to look at page 13 (response Jan 3, 2014).
3:01:16 PM Discussion continues on actuarial soundness of the multi-peril customers.
3:01:52 PM Ms. Ashburn responds to Chairman Simmons comments.
3:03:05 PM Senator Hays recognized.
3:03:31 PM Chairman Simmons responds.
3:04:20 PM Senator Hays responds.
3:04:48 PM Senator Margolis recognized.
3:06:14 PM Chairman Simmons responds to Senator Margolis.
3:07:59 PM Senator Detert recognized.
3:09:12 PM Chairman Simmons responds.
3:09:55 PM Senator Detert recognized.
3:10:00 PM Senator Detert addresses her concerns.
3:11:40 PM Have the rules been changed to make things actuararily unsound?
3:12:04 PM Ms. Ashburn responds to Senator Detert's concerns.
3:15:50 PM Chairman Simmons addresses Ms. Ashburn's comments.
3:17:05 PM Will not raise any rates, but will exclude any potential abuse.
3:17:21 PM Senator Hays recognized.
3:18:12 PM Senator Margolis recognized.
3:19:41 PM Chairman Simmons comments.
3:21:15 PM Next item - shift 5% to coastal line account.
3:22:10 PM Ms. Ashburn recognized to address this particular issue. Comments Citizens supports this proposal.
3:23:08 PM Chairman Simmons responds.
3:24:07 PM Senator Lee recognized.
3:24:28 PM Ms. Ashburn responds.
3:25:02 PM Senator Lee makes follow up comments.
3:25:40 PM Ms. Ashburn responds.
3:26:33 PM Chairman Simmons makes a follow up comment.
3:26:49 PM Next item - apply 15% limit to rate increase to commerical polices (non-residential) to bring actuarial soundness.
3:27:59 PM No comments from committee members.
3:28:14 PM Next item - move Citizens report to March 1 for catastrophic losses. Leave in.
3:28:34 PM Next item - to allow surplus line insurers to make offers to clearinghouse.
3:29:01 PM Not obligatory, just an available option.
3:29:30 PM Senator Margolis recognized.
3:29:38 PM Do surplus lines get same assessment is there is a shortage in FIGA as regular policies?
3:29:59 PM Surplus lines are not backed by FIGA - no charge.
3:30:10 PM Ms. Ashburn responds.
3:30:33 PM Senator Detert recognized.
3:31:16 PM Ms. Ashburn responds.
3:31:58 PM Senator Margolis recognized.
3:32:51 PM Tim Meenan recognized to address Senator Margolis' comments.
3:34:30 PM Senator Detert recognized.
3:34:49 PM Mr. Meenan responds to Senator Detert.
3:35:14 PM Senator Hays comments - this is an excellent provision in this PCB.
3:36:18 PM Senator Lee comments on 36 month return to Citizens.

3:37:09 PM Chairman Simmons discusses next item in PCB.
3:38:18 PM Next item - removes duplicative report.
3:38:30 PM Next item - House bill provisions (beginning at line 595).
3:39:06 PM Public adjustor fees and power of attorney provision.
3:40:19 PM Senator Negron recognized.
3:40:27 PM Who is advocating regulating fees of public adjustors?
3:40:37 PM It is in house bill - Chamber of Commerce proposed change.
3:41:05 PM Kerry Osbourne recognized.
3:41:30 PM Trying to codify an existing rule at Department of Financial Services.
3:43:04 PM Senator Detert recognized.
3:43:18 PM Ms. Osbourne recognized to respond to Senator Detert's question.
3:43:54 PM Chairman Simmons responds to Senator Detert's question.
3:44:12 PM Senator Negron recognized.
3:44:34 PM Senator Negron questions why we need to reduce public adjustor fees.
3:45:12 PM Carolyn Johnson, Policy Director, FL Chamber of Commerce, recognized to respond to Senator Negron.
3:46:01 PM Senator Negron responds.
3:47:30 PM Chairman Simmons comments there is no consensus on this particular issue.
3:48:04 PM Chairman Simmons addresses last item.
3:48:40 PM Senator Negron recognized.
3:49:28 PM Chairman Simmons comments.
3:49:49 PM Don Brown recognized.
3:51:52 PM Senator Negron asks question of Chairman Simmons.
3:52:13 PM Senator Negron asks if provision is eliminated, where there be a new number or no number.
3:52:30 PM Chairman Simmons responds.
3:52:36 PM Senator Negron shares his concern - doesn't like idea of eliminating altogether, but is okay with a higher deductible.
3:53:34 PM Chairman Simmons suggest \$1,000 as a place holder.
3:53:50 PM Senator Detert recognized.
3:54:18 PM Senator Detert moves we rise.
3:54:26 PM Meeting adjourned.