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 Banking and Insurance Committee

BILL: SB 2878

INTRODUCER: Senator Atwater

SUBJECT: Citizens Property Insurance Corporation

DATE: March 24, 2008 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Deffenbaugh	Deffenbaugh	BI	**Pre-meeting**
2.			FT	
3.				
4.				
5.				
6.				

I. Summary:

Amends s. 627.351(6), F.S., related to Citizens Property Insurance Corporation (Citizens), as follows:

Extension of Rate Freeze; Limit on Future Rate Increases:

- Extends the prohibition on increasing rates in Citizens from January 1, 2009, to January 1, 2010. (Current rates have been frozen since January 1, 2007.)
- Requires Citizens to make an annual rate filing for each personal and commercial line of business it writes, beginning on or after January 1, 2010.
- For the three years 2010 through 2012, Citizens' rates may not be increased in any year by more than 10 percent for any policyholder (or 15 percent for wind-only polices) or more than 10 percent as a statewide average (or 15 percent for wind-only policies), not including surcharges or coverage changes.

Assessments for Deficits:

- Deletes the current method for funding a deficit in each of Citizens' three accounts that requires an immediate assessment of up to 10 percent of premium against all Citizens' nonhomestead policyholders and, if necessary, an additional assessment of up to 10 percent of premium against all Citizens' policyholders, which both operate to reduce the amount of any regular assessment on property and casualty insurers that may be recouped from their policyholders. The bill also deletes the additional surcharge that must be imposed on Citizens policyholders equal to the average percentage regular assessment imposed on insurers.

- Revises assessments to require up to a 10 percent of premium surcharge for 12 months on all Citizens' policies, collected upon issuance or renewal, which reduces the amount of the regular assessment on insurers.
- Lowers the maximum regular assessment against insurers (which may be recouped from their policyholders) to 8 percent rather than 10 percent of premium for most lines of property and casualty insurance, or 8 percent of the deficit, whichever is greater.

Prohibition on Issuing Wind-Only Policies:
- Prohibits Citizens from issuing new wind-only policies, effective January 1, 2009.
- Prohibits Citizens from renewing wind-only policies, effective January 1, 2010.

Eligibility for Homes Valued Over $1 million:
- Delays from January 1, 2010, to January 1, 2011, when homes with a dwelling replacement cost of $1 million or more are not eligible for coverage, with certain exceptions.

This bill substantially amends the following section of the Florida Statutes: 627.351(6).

II. Present Situation:

Overview of Citizens
Citizens is a state-created insurance company that is a government entity intended (since 2007) to provide affordable property insurance to applicants who are in good faith entitled to procure insurance through the voluntary market but are unable to do so. Legislation in 2007 provided that an applicant is eligible for coverage in Citizens unless the applicant has an offer of coverage from an authorized insurer at a premium that is not more than 15 percent greater than the premium charged by Citizens. A policyholder of Citizens may remain covered by Citizens regardless of any offer of coverage from an authorized insurer. The income to Citizens is a exempt from state and federal taxation.

Citizens is currently the largest writer of property insurance policies in Florida, with 1,255,749 polices as of February 29, 2008. A good measure of the percentage of the risk for hurricane losses for personal lines residential policies is Citizens' percentage of the total premiums paid by all insurers to the Florida Hurricane Catastrophe Fund (FHCF), which is about 42 percent. The premiums paid by insurers to the FCHF are based on hurricane loss models that take into account the risk of hurricane loss based on insured value, geographic area, type of construction, and other factors.

Citizens maintains three accounts, with the following policies and premiums as of 12/31/07:
- PLA – (Personal Lines) Homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners and similar policies. Standard personal lines property policy forms that are comprehensive multi-peril policies providing full coverage or a residential property equivalent to the coverage provided in the private insurance market.
    - 845,976 Policies in Force
    - $1.84 billion Direct Written Premium

- CLA – (Commercial Lines Account) Commercial residential - condominium association, apartment building and homeowner association policies; and commercial non-residential. Commercial Non-Residential policies are currently wind-only, beginning in 2008 multi-peril non-residential policies will be offered.
  - 12,911 Policies in Force
  - $566 million Direct Written Premium
- HRA – (High Risk Account) Provides windstorm coverage for properties within defined eligible areas. Includes personal residential, commercial residential and commercial non-residential properties. In August of 2007, Citizens began offering a multi-peril policy in the High Risk Account.
  - 446,181 Policies in Force
  - $1.131 billion Direct Written Premium

Citizens estimates that its 100-year probable maximum loss for the 1.3 million policies that it had at the end of 2007 was $23.9 billion for all three accounts combined ($14.6B for HRA, $6.7B for PLA and $2.6B for CLA).

Citizens estimates that its claims-paying ability, based on estimated year-end resources for 2008, are as follows, for the PLA/CLA and HRA combined[1]:

Unaudited Year-end 2007 Surplus	$2.643 billion
Projected 2008 Net Income	$1.538 billion
Total Available for Claims from Surplus	$4.181 billion
Pre-event Liquidity Available	$6.5 billion *
Total Funds Available to Pay Claims (prior to FHCF recoveries)	$10.681 billion
Projected FHCF Coverage (1st Layer only)**	$7.041 billion
Projected FHCF Coverage (TICL Layer only)**	$4.895 billion
Total Funds Available to Pay Claims	$22.617 billion

* Pre-event liquidity reflects current liquidity which will be replaced in approximately equal amount with other financing alternatives currently being structured.
** FHCF projections assume that the PLA/CLA and HRA represent approximately the same percentage of the FHCF as they did in 2007.

The preevent liquidity represent bond and notes that will have to be funded by assessments if they are required to be used to pay claims (as would a significant portion of the obligations of the FHCF). Citizens estimates that if the 100-year PML loss event of $23.89 billion occurred (as of 12/31/07), the source of claims payments would be as follows:

[1] Citizens PowerPoint presentation toe Senate Banking and Insurance Committee, March 11, 2008.

Surplus	\$4.181 billion (17.5 percent)
FHCF Recovery	\$11.936 billion (50 percent)
Assessments on Citizens' Policyholders	\$1.935 billion (8.1 percent)
Regular Assessment	\$3.809 billion (15.9 percent)
Emergency Assessment on P&C Policyholders	\$2.032 billion (8.5 percent)
Total	\$23.893 billion (100 percent)

The Impact to Citizens from the Hurricanes of 2004 and 2005; Legislative Changes in 2006
At the end of February 2006, after the 8 hurricanes impacted Florida in 2004 and 2005, Citizens provided coverage to 815,482 policyholders, making it the second largest insurer in Florida. At that time Citizens estimated its total losses for the 2004 and 2005 storms at \$2.92 and \$2.7 billion respectively. The Legislature in 2006 appropriated \$715 million from General Revenue to Citizens to offset the 2005 deficit, estimated to be about \$1.73 billion . This appropriation was expected to reduce an estimated \$920 million regular assessment against property insurers to about \$205 million, and thereby reduce an estimated average 11 percent premium surcharge to about 2.5 percent for property insurance policyholders in the state (including Citizens policyholders). The bill also required that the remaining estimated \$800 million of the deficit, which would require about an 8 percent emergency assessment on policyholders if billed in one year, to be amortized and collected from policyholders over a 10-year period.

Legislation in 2006[2] included the following changes to Citizens related to this bill:

- Required that rates in 2007 for the personal lines account and the commercial lines account be sufficient to provide for the purchase of reinsurance coverage to pay all claims and expenses expected to result from a 100-year probable maximum loss (PML) event (a 1-in-100 year hurricane), and that the rates for the high-risk account be sufficient to provide for the purchase of reinsurance coverage to cover a 70-year PML event increasing in 2008 and 2009 to an 85-year and 100-year PML, respectively.
- Required that effective March 1, 2007, nonhomestead property is not eligible for coverage in Citizens and is not eligible for renewal, with certain exceptions.
- Changed the method for funding deficits, beginning in 2007, by revising assessments as follows for each of the three accounts (high risk, personal lines, or commercial lines):
  1) An immediate assessment of up to 10 percent of premium against all Citizens' nonhomestead policyholders (as defined);
  2) If this is insufficient, an additional assessment of up to 10 percent of premium against all Citizens' policyholders (including nonhomestead), collected upon issuance or renewal of a policy;
  3) If this is insufficient, a regular assessment against insurers which may be recouped from their policyholders, of up to 10 percent of premium for most lines of property and casualty insurance, or 10 percent of the deficit, whichever is greater.
  4) Any remaining deficit is funded by a bond issue, funded by multi-year emergency assessments on policyholders of most types of property and casualty insurance, of up to 10 percent of premium, or 10 percent of the deficit, whichever is greater.

[2] ch. 2006-12, L.O.F. (CS/CS/SB 1980)

5) If a regular assessment is imposed under 3), above, Citizens must make a rate filing to impose a surcharge on Citizens policyholders equal to the average percentage regular assessment imposed on insurers (and recouped from non-Citizens policyholders).

- Defined "homestead property" as: a) property granted a homestead tax exemption under ch. 196, F.S.; b) property for which the owner has a written lease with a renter for a term of at least 7 months and which is insured by Citizens for $200,000 or less; c) an owner occupied mobile home permanently affixed to real property, owned by a Florida resident, and either granted a homestead tax exemption or, if the owner does not own the land, for which the owner certifies that the mobile home is his principal place of residence; d) tenants coverage; e) commercial lines residential property; or f) any county, district, or municipal hospital; not-for-profit hospital; or continuing care retirement community that is certified under ch. 651, F.S., and receives an ad valorem tax exemption under ch. 196, F.S. All other property is "nonhomestead property."
- Effective July 1, 2008, a personal lines residential structure that has a dwelling replacement cost of $1 million or more, or a single condominium unit that has a combined dwelling and contents replacement cost of $1 million or more, is not eligible for coverage by Citizens. Such dwellings insured by Citizens on June 30, 2008, may continue to be covered until the end of the policy term and may reapply for coverage for up to an additional three years if the property owner provides a sworn affidavit from one or more insurance agents that they have made their best efforts to obtain coverage and that the property has been rejected by at least one authorized insurer and three surplus lines insurers (for all agents combined).
- Requires Citizens to maintain separate accounting records that consolidate data for non-homestead properties, including number of policies, insured values, premiums written, and losses, and to annually report a summary of such data to OIR and the Legislature.

Citizens Legislation in 2007

Legislation enacted in the 2007-A Special Session[3]and the 2007 Regular Session[4] included the following changes to Citizens related to this bill:

- Revised the legislative findings for establishing Citizens, in order to support its tax-exempt status, finding that the absence of affordable property insurance threatens the public health, safety, and welfare and that the state has a compelling public interest in assuring that property is insured at affordable rates.
- Deleted the requirement added in 2006 that Citizens charge rates sufficient to purchase reinsurance to cover specified levels of probable maximum loss for each of its three accounts. This had the effect of avoiding the 56.5 percent average premium increase for Citizens' High-Risk-Account (HRA) that was under consideration by Citizens.
- Rescinded the approved, actuarially sound rate increase that took effect January 1, 2007, and required Citizens to provide refunds to persons who paid that rate. This had the effect of avoiding an average 23.1 percent rate increase in the HRA for homeowners' policies.
- HB 1-A froze rates at the December 31, 2006 level for the remainder of 2007, except for any rate decreases which was extended by CS/SB 2498 for one additional year through the end of

[3] Ch. 2007-1, L.O.F. (HB 1-A)
[4] Ch. 2007-90, L.O.F. (CS/SB 2498)

2008. The act required a new rate filing, under the standard to be actuarially sound, effective January 1, 2009.

- Substantially expanded the types of insurance that are subject to assessments to fund deficits of Citizens, previously limited to property insurance. As expanded, the assessment base is substantially the same as that of the FHCF, which includes all lines of property and casualty insurance, including auto insurance, but not workers' compensation or accident and health, or medical malpractice premiums.
- Delayed, until 2008, the requirement added in 2006 (SB 1980) that Citizens impose up to a 10 percent of premium assessment on its nonhomestead policyholders if a deficit occurs in any account, and if that assessment is insufficient, that Citizens impose an additional 10 percent renewal surcharge on all Citizens' policyholders, including nonhomestead policyholders.
- Deleted the provision added in 2006 (SB 1980) that nonhomestead property, as defined, is ineligible for coverage from Citizens, with exceptions, effective March 1, 2007.
- Placed Citizens in more direct competition with the voluntary market by providing that if a new applicant to Citizens is offered coverage from an insurer at its approved rate, the property is not eligible for a Citizens' policy, unless the insurer's premium is more than 25 percent greater (HB 1-A), changed to 15 percent greater (by SB 2390) than the premium for comparable coverage from Citizens. However, a policyholder of Citizens remains eligible for coverage regardless of any offer of coverage from a private market insurer. This allows a Citizens policyholder to stay in Citizens and reject any "take-out" offers from the voluntary market.
- Provides that as of January 1, 2009, to qualify for Citizens, properties within 2,500 feet landward of the Coastal Construction Control Line must be built to "Code-Plus" building standards developed by the Florida Building Commission.
- Authorized Citizens to provide commercial nonresidential (i.e., business) coverage, by including such coverage within the Commercial Lines Account (CLA), previously limited to commercial residential coverage. This authorizes multiperil coverage for commercial property in all areas of the state, except that non-wind coverage would be provided under the CLA for commercial property obtaining wind-only coverage in the HRA.. The act specified that the plan of operation may establish limits of coverage and may require commercial property to meet specified hurricane mitigation construction features as a condition of eligibility for coverage.
- Multiperil Coverage in High-Risk-Account of Citizens - Authorized Citizens, upon approval by the Financial Services Commission and the Legislative Budget Commission, to issue multiperil policies in its HRA. The expressed goal was to reduce average premiums by 10 percent or more for a Citizens' wind-only policyholder who obtains a multiperil policy from Citizens. It further allowed Citizens to offer multiperil coverage and wind-only coverage, or both, at the option of the policyholder, for risks located in areas eligible for coverage in the HRA
- Extended, until January 1, 2009 (rather than July 1, 2008) the ineligibility of coverage in Citizens for personal lines residential structures that have a dwelling replacement cost of $1 million or more (except for dwellings insured by Citizens on December 31, 2008, which may reapply and obtain coverage under certain conditions).

III. Effect of Proposed Changes:

Extension of Rate Freeze; Limit on Future Rate Increases:

- Extends the prohibition on increasing rates in Citizens from January 1, 2009, to January 1, 2010. (Current rates have been frozen since January 1, 2007.)
- Requires Citizens to make an annual rate filing for each personal and commercial line of business it writes, beginning on or after January 1, 2010.
- For the three years 2010 through 2012, Citizens' rates may not be increased in any year by more than 10 percent for any policyholder (or 15 percent for wind-only polices) or more than 10 percent as a statewide average (or 15 percent for wind-only policies), not including surcharges or coverage changes.

Assessments for Deficits

Revises the required assessments to fund a deficit in each of Citizens' three accounts (high risk, personal lines, or commercial lines) to:

1) Require up to a 10 percent of premium surcharge for 12 months on all Citizens' policies, collected upon issuance or renewal;
2) If this is insufficient, a regular assessment against insurers which may be recouped from their policyholders, of up to 8 percent (rather than 10 percent) of premium for most lines of property and casualty insurance or 8 percent of the deficit, whichever is greater;
3) Any remaining deficit is funded by a bond issue, funded by multi-year emergency assessments on policyholders on most types of property and casualty insurance, of up to 10 percent of premium for most lines of property and casualty insurance, or 10 percent of the deficit, whichever is greater.

The bill also deletes the definition of "homestead property" and the requirement for Citizens to account separately for homestead property since it would no longer be relevant to determining assessments or any other purpose.

The bill allows the board of Citizens the discretion to apply the amount of any assessment or surcharge which exceeds the amount of the deficit to various business purposes.

Prohibition on Issuing Wind-Only Policies

- Prohibits Citizens from issuing new wind-only policies, effective January 1, 2009.
- Prohibits Citizens from renewing wind-only policies, effective January 1, 2010.

Eligibility for Homes Valued Over $1 million

- Delays the date from January 1, 2010, to January 1, 2011, when homes with a dwelling replacement cost of $1 million or more are not eligible for coverage, with certain exceptions.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Continuing the rate freeze in Citizens for the third consecutive year (through 2009), and limiting rate increases for the following three years, protects policyholders of Citizens from rate increases, but exposes Citizens policyholders and all policyholders of most lines of property and casualty insurance to increased assessments following a major hurricane. It also acts to make Citizens rates increasingly more competitive with, and lower than, rates charged in the voluntary market, making it likely that Citizens will continue to increase its writings and make it more difficult for the private market to do so.

The revision to the method for assessments to fund deficits will benefit Citizens policyholders, by providing for a single 10 percent of surcharge assessment, upon renewal or issuance of a policy (for each of the three accounts, which could be up to 30 percent), rather than the multiple assessments under current law that may be much greater. This will also benefit Citizens itself, by not being required to immediately issue mid-term assessment notices to non-homestead policyholders and dealing with problems of uncollectability and cancellation of policies for non-payment.

The reduction in the maximum regular assessment from 10 percent to 8 percent of premium will benefit property and casualty insurers who will be relieved of this portion of an assessment, which must be paid within 30 days or 12 months, depending on the classification of the insurer. This will also act to limit the amount that is recouped by such insurers from their policyholders in the first rate filing to recoup this assessment, subject to increased emergency assessments in subsequent years.

Citizens reports that the change in the assessments will not impair its ability to pay claims.

The prohibition on Citizens issuing wind-only coverage will be detrimental to insurers in the voluntary market that issue non-wind policies to policyholders who have wind-only coverage with Citizens. At the time Citizens is prohibited from issuing or renewing wind-only policies, the insurer will be required to either offer full coverage or no coverage. From Citizens standpoint, this is expected to be financially beneficial, by receiving additional premium for the more predictable, non-catastrophic non-wind risk, without increasing its risk for windstorm losses. This would operate to benefit all property and casualty policyholders in the state, both in Citizens and the voluntary market. From the individual Citizens policyholder perspective, this might result in a rate increase, if the premium for the multiperil coverage with Citizens is greater than the combined premium for the non-wind coverage with the private insurer and the wind-only coverage with Citizens.

Owners of homes valued over one million dollars will benefit by being able to continue coverage in Citizens for an extended period. The impact to Citizens is unknown, since these homes do not necessarily result in greater net losses (or net profits) to Citizens, compared to lower value homes. However, these homes act to increase the estimated probable maximum loss which affects the cost for reinsurance.

C. Government Sector Impact:

The impact to Citizens (a governmental entity) is described in Private Sector, above.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.