HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB5057 PCB JEC 08-10 Insurance Capital Build-Up Incentive Program

SPONSOR(S): Jobs & Entrepreneurship Council; Reagan
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Jobs & Entrepreneurship Council	16 Y, 1 N	Overton/Topp	Thorn
1) Policy & Budget Council	31 Y, 1 N, As CS	Martin	Hansen
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

In 2006, the Insurance Capital Build-Up Incentive Program (ICBIP) was created to increase the availability of residential property insurance covering the risk of hurricanes and mitigating premium increases by providing a low-cost source of capital to write additional residential property insurance. The State Board of Administration (SBA) administers the ICBIP. The SBA makes available, upon application, loans (surplus notes) of up to $25 million, or 20 percent of the total funds available, to qualifying new or existing residential property insurers. ICBIP loans are memorialized in surplus note agreements, repayable over 20 years, with interest at the 10 year treasury rate on unpaid principal. Payments for the first three years are of interest only.

The bill:

- Extends the deadline until September 1, 2008 for an insurer to apply to the ICBIP and receive surplus note of up to $25 million in the amount equal to the new capital contributed by the insurer.
- Revises a minimum writing ratio of premium to surplus an insurer must maintain.
- Provides that an insurer must also commit to writing at least ten percent of its net or gross written premium for new policies, not including renewal premiums, for policies taken out of Citizens Property Insurance Corporation, during each of the first 3 years after receiving the surplus note.
- Allows the SBA to charge a late fee for repayments.
- Provides that amendments made by the act do not affect the terms of surplus notes approved prior to January 1, 2008, but authorizes the SBA and an insurer to renegotiate such terms consistent with such amendments.

Citizens Property Insurance Corporation is directed to transfer $250 million to the General Revenue Fund on or after December 1, 2008, but before December 31, 2008 for appropriation by the Legislature to the Insurance Capital Build-Up Incentive Program. While this bill makes available $250 million to the General Revenue Fund for the ICBIP, it does not provide an appropriation of those funds to the program. The appropriation is made in House Bill 5001, the proposed General Appropriations Act for Fiscal Year 2008-2009.

Beginning July 1, 2009, the SBA is directed to quarterly transfer any interest and principle repaid on any surplus notes issued after December 1, 2008 to Citizens provided that the surplus notes were funded exclusively by an appropriation to the ICBIP by the Legislature for the 2008-2009 fiscal year.

The bill is effective July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill will encourage the private insurance market to take policies out and keep polices out of the Citizens Property Insurance Corporation. The bill will expand the ICBIP.

B. EFFECT OF PROPOSED CHANGES:

In 2006, the Insurance Capital Build-Up Incentive Program (ICBIP)[1] was created to increase the availability of residential property insurance covering the risk of hurricanes and mitigating premium increases by providing a low-cost source of capital to write additional residential property insurance. The Legislature appropriated $250 million from the General Revenue Fund to fund the program.[2]

The State Board of Administration (SBA) administers the ICBIP. The SBA makes available, upon application, loans (surplus notes) of up to $25 million, or 20 percent of the total funds available, to qualifying new or existing residential property insurers. ICBIP loans are memorialized in surplus note agreements, repayable over 20 years, with interest at the 10 year treasury rate on unpaid principal. Payments for the first three years are of interest only.

Insurers participating in the ICBIP must contribute an amount of new capital to its surplus that is at least equal to the amount of the loan it receives, maintain a 2 to 1 ratio of net written premium to surplus, and have a minimum surplus of $50 million ($14 million for manufactured home insurers).

The ICBIP had a deadline for applications of July 1, 2006 for an insurer to apply to the ICBIP and receive a surplus note in the amount equal to the new capital contributed by the insurer. For applications received after the deadline but before June 1, 2007, the amount of the surplus note was limited to one-half of the new capital that the insurer contributes to its surplus, except that an insurer writing only manufactured housing policies was eligible to receive a surplus note of up to $7 million.

The SBA began receiving ICBIP applications in June 2006 and had dispersed all allotted funds to 13 qualifying residential property insurers by the end of June 2007. In 2007, three insurers that had received loans under the ICBIP participated in takeouts from Citizens Property Insurance Company, removing 165,497 policies, or more than 66 percent of all policies taken out of Citizens that year. As of March 11, 2008, ICBIP insurers had removed another 33,841 policies from Citizens, or over 34% percent of Citizens' takeouts year to date.

Additionally, at least two participating insurers have assumed policies from private carriers, thus keeping additional policies from being written by Citizens, and four are writing a significant number of new policies. Overall, based on new policies, renewal rights agreements, and takeout activity an estimated 480,000 policies have potentially been kept out of Citizens due to the ICBIP.

The bill revises the legislative finding to reflect the state of insurance market upon entering the 2008 hurricane season. Findings relative to the 2006 hurricane season are repealed. The following findings are added:

- Citizens Property Insurance Corporation has over 1.2 million policies in force and has the largest market share of any insurer writing residential property insurer in the state, and faces the threat of a catastrophic loss that must be funded by assessments against insurers and policyholders, unless otherwise funded by the state.

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[1] Section 215.5595, F.S.

[2] Section 43, Chapter 2006-12, Laws of Florida

- The ICBIP has a substantial positive effect on the depopulation efforts of the Citizens Property Insurance Corporation since companies participating in the ICBIP have removed over 199,000 policies from the Citizens Property Insurance Corporation.
- Companies participating in the ICBIP have issued a significant number of new polices thereby keeping an estimated 480,000 new polices out of the Citizens Property Insurance Corporation.
- Extending the Insurance Capital Build-up Incentive Program will provide an incentive for investors to commit additional capital to Florida's residential insurance market.

Citizens Property Insurance Corporation is directed to transfer $250 million to the General Revenue Fund on or after December 1, 2008, but before December 31, 2008 for appropriation by the Legislature to the Insurance Capital Build-Up Incentive Program. The transfer will be made after the end of the Atlantic Hurricane Season.

The deadline is extended until September 1, 2008 for an insurer to apply to the ICBIP and receive surplus note of up to $25 million in the amount equal to the new capital contributed by the insurer. For applications received after the deadline but before June 1, 2009, the amount of the surplus note is limited to one-half of the new capital that the insurer contributes to its surplus, except that an insurer writing only manufactured housing policies is eligible to receive a surplus note of up to $7 million.

Presently, an insurer in the ICBIP must meet a minimum writing ratio of net written premium[3] to surplus of at least 2:1. The bill revises this requirement to provide that the insurer must commit to increase its writings of residential property insurance, including the peril of wind, and to meet a minimum writing ratio of net written premium to surplus of at least 1:1 for the first calendar year after receiving the state funds or renegotiation of the surplus note, 1.5:1 for the second calendar year, and 2:1 for the remaining term of the surplus note. Alternatively, the insurer must meet a minimum writing ratio of gross written premium to surplus of at least 3:1 for the first calendar year after receiving the state funds or renegotiation of the surplus note, 4.5:1 for the second calendar year, and 6:1 for the remaining term of the surplus note.

The bill also amends the definition of "surplus" for the purpose of calculating the minimum writing ratios to provide that it means the new capital and the surplus note. Formally, the entire surplus of the insurer was considered. Under the revised definition a company's existing surplus will not be considered in calculating the minimum writing ratio; therefore, a company with existing surplus will no longer have to write at a more aggressive ratio than a new company. For example, Company A has $100 million in existing surplus, provides $25 million in new surplus, and receives a $25 million surplus note and Company B has no existing surplus, provides $25 million in new surplus, and receives a $25 million surplus note. If both companies write a ratio of net written premium to surplus of 1:1, under the present law Company A will have to write $150 million in premiums and Company B will only have to write $50 million in premiums. Under the bill, both companies will have to write $50 million in premiums.

Additionally, the insurer who makes an initial application after July 1, 2008 must also commit to writing at least ten percent of its net or gross written premium for new policies, not including renewal premiums, for policies taken out of Citizens Property Insurance Corporation, during each of the first 3 years after receiving the surplus note. The Office of Insurance Regulation shall determine that an insurer meets the requirement for taking policies out of Citizens, by written notice to the SBA, upon a finding that the insurer made offers of coverage to policyholders of Citizens which would have resulted in meeting this requirement had the policyholders accepted the offer.

If the required ratio or the required writings for policies taken out of Citizens is not maintained during the term of the surplus note, the SBA may increase the interest rate, accelerate the repayment of interest and principal, or shorten the term of the surplus note.

[3] Net written premium is a financial measure which represents the premiums charged on policies issued during a fiscal period less any reinsurance.

The bill authorizes the SBA to charge late fees of up to 5 percent for late payments or other late remittances by participants in the ICBIP.

The amendments to Insurance Capital Build-Up Incentive Program made by the bill do not affect the terms or conditions of the surplus notes that were approved prior to January 1, 2008. However, the SBA may renegotiate the terms of any surplus note issued by an insurer prior to January 2008, upon the agreement of the insurer and the SBA, consistent with the requirements of the ICBIP as amended in 2008.

The bill provides that beginning July 1, 2009, the SBA quarterly will transfer any interest and principle repaid for any surplus notes issued after December 1, 2008 to Citizens provided that the surplus notes were funded exclusively by an appropriation to the ICBIP by the Legislature for the 2008-2009 fiscal year.

C. SECTION DIRECTORY:

Section 1 amends s. 215.5595, F.S. relating to the Insurance Capital Build-Up Incentive Program.

Section 2 provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill directs the Citizens Property Insurance Corporation to transfer $250 million to the General Revenue Fund on or after December 1, 2008, but before December 31, 2008 for appropriation by the Legislature to the Insurance Capital Build-Up Incentive Program.

   The bill provides that beginning July 1, 2009, the SBA quarterly will transfer any interest and principle repaid for any surplus notes issued after December 1, 2008 to Citizens provided that the surplus notes were funded exclusively by an appropriation to the ICBIP by the Legislature for the 2008-2009 fiscal year.

2. Expenditures:

   None. See Fiscal Comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent additional insurers participate in the ICBIP, more Floridians will be able to obtain residential property insurance policies outside of the Citizens Property Insurance Corporation.

D. FISCAL COMMENTS:

While this bill makes available $250 million to the General Revenue Fund for the ICBIP, it does not provide an appropriation of those funds to the program. The appropriation is made in House Bill 5001, the proposed General Appropriations Act for Fiscal Year 2008-2009.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision does not apply because this bill does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

Not applicable since this is a proposed council bill.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On April 3, 2008, the Policy & Budget Council adopted an amendment that:

- Increased from $100 million to $250 million the amount that Citizens Property Insurance Corporation must transfer to the General Revenue Fund.
- Delayed the transfer of the $250 million by Citizens until on or after December 1, 2008, but before December 31, 2008.
- Provided that beginning July 1, 2009, the SBA quarterly transfer any interest and principle repaid for any surplus notes issued after December 1, 2008 to Citizens provided that the surplus notes were funded exclusively by an appropriation to the ICBIP by the Legislature for the 2008-2009 fiscal year.
- Provides that insurer writing ratios requirements apply to a calendar year and apply to both new and renegotiated surplus notes.
- Provides that for the purpose of calculating the insurer writing ratio requirements "surplus" means the new capital and the surplus note.

The bill was reported favorably as a council substitute.