

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 447 Residential Property Insurance

SPONSOR(S): Proctor and others

TIED BILLS: IDEN./SIM. BILLS: SB 876

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance, Business & Financial Affairs Policy Committee		Callaway	Cooper
2) General Government Policy Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill allows insurers meeting specified criteria to use a rate for personal lines residential and commercial lines residential property insurance that is different than the insurer's filed rate. In order to qualify to use rates different than the filed rate, an insurer must hold a certificate of authority to write property insurance in Florida and not purchase coverage in the Florida Hurricane Catastrophe Fund for the temporary increase in coverage limit options. Under the bill, residential property insurance policies that exclude windstorm coverage or are depopulated from Citizens Property Insurance Corporation (Citizens) cannot have rates different than the insurer's filed rate. The Office of Insurance Regulation (OIR) is only authorized to disapprove a rate different than an insurer's filed rate if the rate is inadequate or uses rating factors that discriminate on the basis of race, color, creed, marital status, sex, or national origin.

The bill requires policyholder notification and acknowledgement before an insurance company can charge rates different than the company's filed rates. Policyholders must also be given a premium estimate for the premium charged by Citizens when offered a policy with rates different than an insurer's filed rates. Insurance companies must give policyholders 180 days' notice of nonrenewal if the company nonrenews a policy which charges rates different than the insurer's filed rates.

The bill makes policyholders insured by Citizens on the day a Citizens Policyholder Surcharge is levied responsible for paying the surcharge when their policy is renewed or cancelled or when they obtain a new policy. Policyholders who obtain insurance from Citizens within 12 months of Citizens' levy of its surcharge or within the surcharge collection period must also pay the surcharge. The bill requires existing or potential Citizen's policyholders to sign an acknowledgment related to potential surcharges that can be imposed on their property insurance policy by Citizens.

The fiscal impact on the private sector is indeterminate because the impact is primarily dependent on the insurance policy rate change resulting from the bill. It is likely insurance policies offered in accordance with the bill will have higher premiums than policies with rates that are fully regulated by the OIR. The private sector fiscal impact is also dependent on the willingness of the voluntary insurance market to assume some of the risks currently insured by Citizens and is dependent on policyholder behavior to the offer of insurance policies with rates different than filed rates. If the bill results in large property insurance premium increases, then Citizens is likely to grow as policyholders opt to move from an insurer in the voluntary market to Citizens due to the policy premium difference. (See Fiscal Analysis for additional information).

There is no fiscal impact on local governments. The OIR does not believe the bill has a fiscal impact on the agency. (See Fiscal Analysis for additional information).

The bill is effective on January 1, 2011.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

"Property insurance," as defined by s. 624.604, F.S., includes insurance covering personal lines residential risks, commercial lines residential risks, and commercial nonresidential risks as follows:

- Personal lines residential coverage - homeowner's, mobile home owner's, dwelling, tenant's, condominium unit owner's, cooperative unit owner's and similar policies,
- Commercial lines residential coverage - coverage provided by condominium association, cooperative association, apartment building and similar policies, and
- Commercial nonresidential coverage - coverage provided by commercial business policies.<sup>1</sup>

Generally, residential property insurance covers a policyholder's residence, providing reimbursement due to damages sustained by the residence, including windstorm damage.

#### **Rate-making Regulation for Property, Casualty, and Surety Insurance**

The Rating Law for property, casualty, and surety insurance is located in Part I of ch. 627, F.S., (ss. 627.011 – 627.311, F.S.). The primary purpose of the Rating Law is to ensure insurance rates are not excessive, inadequate, or unfairly discriminatory. This standard applies to every property insurance rate.

Section 627.0645, F.S., requires every property insurance company to make a rate filing with the Office of Insurance Regulation (OIR) each year. The rate filing contains the insurance company's proposed rates. The OIR reviews the rate filing and either approves or disapproves the proposed rates. If an insurance company does not want to change its rates one year, instead of a rate filing, the insurer can file a certification by an actuary that the existing rate level produces rates which are actuarially sound and which are not inadequate.

In determining whether a rate is excessive, inadequate, or unfairly discriminatory, the OIR uses the following statutory factors.<sup>2</sup>

- Past and prospective loss experience in Florida and in other jurisdictions.
- Past and prospective expenses.
- Degree of competition to insure the risk.

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<sup>1</sup> s. 627.4025, F.S.

<sup>2</sup> s. 627.062(2), F.S.

- Investment income reasonably expected by the insurer.
- Reasonableness of the judgment reflected in the filing.
- Dividends, savings, or unabsorbed premium deposits returned to Florida insureds.
- Adequacy of loss reserves.
- Cost of reinsurance.
- Trend factors, including those for actual losses per insured unit.
- Catastrophe and conflagration hazards, when applicable.
- Projected hurricane losses, when applicable.
- A reasonable margin for underwriting profit and contingencies.
- Cost of medical services, when applicable.
- Other relevant factors impacting frequency and severity of claims or expenses.

### **Excess Rates**

The consent to rate law (s. 627.171, F.S.) permits an insurer to use a rate in excess of the insurer's filed rate on a specific risk if the insurer obtains the signed, written consent of the insured prior to the policy inception date. The signed consent form must include the filed rate and the excess rate for the risk insured. An insurer may not use excess rates for more than 5 percent of its personal lines insurance policies written or renewed in each calendar year.

### **Effect of Proposed Changes Relating to Use of Rates In Excess of an Insurer's Filed Rate**

#### *Eligibility For Use*

The bill allows insurers meeting specified criteria to use a rate for personal lines residential and commercial lines residential property insurance<sup>3</sup> that is different than the insurer's filed rate. The bill does not allow insurance companies to charge rates different than filed rates for commercial nonresidential property insurance policies (i.e. property insurance covering businesses). Rates different than an insurer's filed rate used in accordance with the bill will not count in the insurer's five percent consent to rate limitation.

In order to qualify to use rates different than the filed rate, an insurer must:

- hold a certificate of authority to write property insurance in Florida and
- not purchase coverage in the Florida Hurricane Catastrophe Fund for the temporary increase in coverage limit options (TICL options).<sup>4</sup>

Citizens Property Insurance Corporation (Citizens) will not be able to offer property policies with rates different than the rate filed and approved by OIR because Citizens does not hold a certificate of authority, one of the conditions of eligibility provided in the bill for insurers to use rates higher than their filed rates.<sup>5</sup>

Even if an insurance company meets the eligibility provided in the bill to offer rates different than the insurer's filed rates, not every residential property policy written by the insurer will qualify for these rates. Under the bill, residential property insurance policies that exclude windstorm coverage<sup>6</sup> or are

<sup>3</sup> Personal lines residential property insurance policies include homeowner, mobile homeowner, dwelling, tenant's, condominium unit owner's, and cooperative unit owner's policies. Commercial lines residential property insurance policies include condominium association, cooperative association, apartment building and similar policies.

<sup>4</sup> The TICL options allow insurers to purchase reinsurance through the Florida Hurricane Catastrophe Fund in an amount up to \$10 billion in excess of the reinsurance required by law to be purchased through the Fund.

<sup>5</sup> Citizens is a governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market. It is not an insurance company and thus not required to obtain a certificate of insurance in order to transact insurance. (s. 627.3351(6)(a)1., F.S.)

<sup>6</sup> Insurance companies in the private market are only allowed to write property insurance policies that exclude windstorm coverage in the wind-zone areas of Citizens. In these areas, Citizens writes the windstorm coverage and an insurance company in the voluntary market writes the non-windstorm (or other peril) coverage. Insurance companies in the private market are also allowed to write property insurance policies in areas outside the wind-zone areas only if the policyholder opts to exclude windstorm coverage in accordance with s. 627.712(2), F.S. (i.e. written request to exclude windstorm coverage and approval of the property mortgage or lien holder, if any)

depopulated from Citizens<sup>7</sup> cannot have rates different than the insurer's filed rate. Thus, rates on these types of property insurance policies must be approved by the OIR as under current law.

The bill does not require an insurance company to offer property insurance policies with rates different than the insurer's filed rate; the company has the option to offer this type of policy. And if offered by the insurer, the bill does not require the consumer to purchase the policy. The bill, however, also does not require an insurance company to offer policies with regulated rates. Accordingly, it is possible every insurer in the private market eligible to offer policies with rates different than filed rates will do so and will not offer any policies with regulated rates. However, it is also possible no insurer in the private market eligible to offer policies with rates different than their filed rates will offer these policies and all eligible insurers will offer policies with regulated rates. And, it is possible eligible insurers in the private market will offer a number of policies with rates different than their filed rates and a number of policies with regulated rates. Citizens, however, will always offer policies with regulated rates as they are not eligible to offer policies with rates different than their filed rates under the bill and explained previously.

#### *Review of Rates by the OIR*

Although the rates allowed by the bill must be filed with the OIR, the bill does not make these rates subject to the same rate regulation as residential property insurance policies with rates filed with and approved by the OIR. Rather, the OIR is only authorized to disapprove a rate for residential property policies different than the insurer's filed rate if the OIR determines the rate is inadequate or uses rating factors that discriminate on the basis of race, color, creed, marital status, sex, or national origin. It cannot disapprove the rate because the rate is excessive or unfairly discriminatory on the basis of other factors.<sup>8</sup>

#### *Policyholder Notification and Acknowledgement*

Before a property insurance policy with a rate different than the insurer's filed rate can be issued or renewed by an insurer, the insurer must provide notice to the applicant or policyholder in 12-point boldfaced type the policy's rate is not fully regulated by the OIR and may have a higher rate than a policy with a rate that is regulated and approved by the OIR. The notice must also indicate a policy subject to full rate regulation may be purchased. The bill specifies how this notice must be given for policy renewals.

An insurance company writing a policy with a rate different than their filed rate must provide an applicant for new coverage with a premium estimate for a similar policy written by Citizens. This estimate must be given before the effective date of the new policy. Likewise, a premium estimate for a similar policy written by Citizens must be given before renewal to an existing policyholder whose policy is going to have a rate different than the insurer's filed rate at renewal.

An applicant or renewal policyholder must also sign an acknowledgement form relating to review of the required disclosures and premium comparison, an acknowledgement about the deregulated rate applicable to the policy and the availability of a policy with a regulated rate, and a notification about the assessability of the policy for deficits in Citizens. This acknowledgment form must be retained by the insurance company or insurance agent for at least three years. If an insurance company receives a premium payment for a policy with a rate different than the filed rate, the insurer is deemed to comply with the acknowledgment form and premium estimate requirements as long as the company provided the acknowledgment form and premium estimate to the policyholder before the premium payment was remitted.

#### *Policy Nonrenewal Notification*

The bill requires a property insurance company to give a policyholder 180 days written notice of nonrenewal if the policyholder has a policy with the insurer with a rate that is different than the insurer's filed rate. Current law<sup>9</sup> requires a 100 day written notice, or notice by June 1<sup>st</sup>, whichever is earlier, for

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<sup>7</sup> Section 627.351(6)(q)3., F.S., requires Citizens to adopt a program to reduce new and renewal writings in Citizens (i.e. a depopulation program). The depopulation process for Citizens is further governed by s. 627.3511, F.S.

<sup>8</sup> Section 627.062(2)(e), F.S., enumerates what standards the OIR can use under current law to find a rate filing is excessive, inadequate, or unfairly discriminatory.

<sup>9</sup> s. 627.4133(2), F.S.

property insurance policies with rates approved by the OIR and 180 days written notice for policyholders insured by the insurer for the previous five years.

### *Policy Cancellation*

Insurers cancelling property insurance policies with rates different than the insurer's filed rate must follow the cancellation protocol listed in current law (s. 627.4133, F.S.) Generally, this protocol requires written notice of cancellation 100 days before the cancellation is effective or by June 1<sup>st</sup>, whichever is earlier, or written notice 180 days before the cancellation's effective date if the policyholder has been insured with the company for the prior five years. Cancellation of a policy for nonpayment of premium only requires a 10 day written notice.

## **Citizens Property Insurance Corporation (Citizens)**

### *Background*

Citizens Property Insurance Corporation (Citizens) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.<sup>10</sup> It is not a private insurance company.<sup>11</sup> Citizens' book of business is divided into three separate accounts<sup>12</sup>:

1. **Personal Lines Account (PLA) – Multiperil Policies<sup>13</sup>**  
Consists of homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners and similar policies covering damage to property from windstorm and from other perils.
2. **Commercial Lines Account (CLA) – Multiperil Policies**  
Consists of condominium association, apartment building and homeowner's association policies covering damage to property from windstorm and from other perils.
3. **High-Risk Account (HRA) – Wind-only<sup>14</sup> and Multiperil Policies**  
Consists of personal lines wind-only policies, commercial residential wind-only policies and commercial non-residential wind-only policies issued in limited eligible coastal areas which cover damage to property from windstorm only. Also consists of personal and commercial residential multiperil policies in specified coastal areas (wind-only zones) issued since 2007 which cover damage to property from windstorm and from other perils.

Each Citizens' account is a separate statutory account and therefore has separate calculations of surplus and deficits. By statute, assets of each account may not be commingled or used to fund losses in another account.<sup>15</sup>

### *Assessments*

In the event Citizens incurs a deficit (i.e. its obligations to pay claims exceeds its capital plus reinsurance recoveries), it may levy assessments on most of Florida's property and casualty insurance policyholders in a specific sequence set by statute.<sup>16</sup> The three Citizens' accounts calculate deficits and resulting assessment needs independently.

**Citizens Policyholder Surcharges:**<sup>17</sup> If Citizens incurs a deficit, Citizens will first levy surcharges on its policyholders of up to 15% of premium per account in deficit for a maximum total of 45%. This surcharge is collected over twelve months and is collected at the time a new Citizens' policy is written

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<sup>10</sup> Admitted market means insurance companies licensed to transact insurance in Florida.

<sup>11</sup> s. 627.351(6)(a)1., F.S.

<sup>12</sup> s. 627.351(6)(b)2., F.S.

<sup>13</sup> A multi-peril policy is defined as a package policy, such as a homeowners or business insurance policy, that provides coverage against several different perils. It also refers to the combination of property and liability coverage in one policy. (<http://www2.iii.org/glossary/>) Multi-peril property insurance policies include coverage for damage from windstorm and from other perils, such as fire, theft, and liability.

<sup>14</sup> A wind-only policy is a property insurance policy that provides coverage against windstorm damage only. Coverage against non-windstorm events such as fire, theft, and liability are available in a separate policy.

<sup>15</sup> s. 627.351(6)(b)2.b., F.S.

<sup>16</sup> s. 627.351(6)(b)3.a., d., and i., F.S.

<sup>17</sup> s. 627.351(6)(b)3.i., F.S.

or at renewal of an existing Citizens' policy. Thus, a policyholder that is insured by Citizens would be subject to the Citizens Policyholder Surcharge only if the policyholder renewed with Citizens during the 12 month collection period.

*Regular Assessments.*<sup>18</sup> Upon the exhaustion of the Citizens Policyholder Surcharge for a particular account, Citizens may levy a regular assessment of up to 6% of premium or 6% of the deficit per account, for a maximum total of 18%. The regular assessment is levied on virtually all property and casualty policies in the state but is not levied on Citizens' policies.<sup>19</sup> Mechanically, property casualty insurers with policies subject to the regular assessment "front" the assessment to Citizens and recover it from their policyholders at the issuance of a new policy or at renewal of existing policies. Thus, Citizens will collect funds raised by a regular assessment quickly after the assessment is levied, usually within 30 days after levy.

*Emergency Assessments.*<sup>20</sup> Upon the exhaustion of the Citizens Policyholder Surcharge and regular assessment for a particular account, Citizens may levy an emergency assessment of up to 10% of premium or 10% of the deficit per account, for a maximum total of 30%. This assessment can be collected for as many years as is necessary to cure a deficit. Emergency assessments are levied on virtually all property and casualty policies in the state, including Citizens' own policies.<sup>21</sup> Mechanically, property and casualty insurers with policies subject to the emergency assessment collect the assessment from policyholders at the issuance of a new policy or at renewal of existing policies and then remit the assessments periodically to Citizens. Thus, Citizens will not collect funds raised by an emergency assessment immediately after the assessment is levied but will collect funds intermittently throughout the collection period as policies are renewed and new policies written.

### **Effect of Proposed Changes to Citizens Policyholder Surcharges**

The bill requires insurance agents issuing property insurance in Citizens to obtain an acknowledgement signed by the applicant for insurance relating to the potential surcharges imposed on the policy by Citizens. The agent is also required to obtain the same acknowledgement form for existing Citizens policies before the policy renews with Citizens. Thus, potential and current policyholders of Citizens will be informed about the potential surcharges that can be imposed on their policy. The signed acknowledgement creates a conclusive presumption the potential or current policyholder understood and accepted the Citizens' surcharge liability. Citizens is required to keep a copy of the signed acknowledgement.

The bill makes policyholders insured by Citizens on the day a Citizens Policyholder Surcharge is levied responsible for paying the surcharge when their policy is renewed or cancelled or when they obtain a new policy.<sup>22</sup> Current law requires Citizens to collect the surcharge over 12 months, but does not specify Citizens' policyholders are responsible for paying the surcharge. Current law also does not use the date of the surcharge levy as the date establishing who is responsible for paying the surcharge. Policyholders who renew a Citizens' policy during the 12 month surcharge collection period and policyholders who obtain insurance in Citizens during the 12 month surcharge collection period are responsible for paying the Citizens Policyholder Surcharge.

Under current law, policyholders of Citizens can avoid paying a Citizens Policyholder Surcharge by nonrenewing their Citizens policy during the 12 month surcharge collection period and obtaining property insurance from an insurer in the voluntary market. The bill prevents the avoidance of surcharge payment in this manner by making Citizens' policyholders at the time the surcharge is levied responsible for payment of the surcharge. Citizens can collect the surcharge from unearned premium on the policy for policies that are cancelled by the policyholder before the expiration of the policy term so it is likely Citizens will be able to obtain payment of the surcharge under this circumstance.<sup>23</sup>

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<sup>18</sup> s. 627.351(6)(b)3.a. and b., F.S.

<sup>19</sup> The assessment is not levied on workers' compensation, medical malpractice, accident and health, crop or federal flood insurance policies.

<sup>20</sup> s. 627.352(6)(b)3.d., F.S.

<sup>21</sup> This assessment is not levied on workers' compensation, medical malpractice, accident and health, crop or federal flood insurance policies.

<sup>22</sup> The date the surcharge is levied will not be the date the surcharge starts to be collected and will occur prior to the collection start.

<sup>23</sup> Unearned premium is the portion of a premium already received by the insurer under which protection has not yet been provided. The entire premium is not earned until the policy period expires, even though premiums are typically paid in advance. (<http://www2.iii.org/glossary/>)

The bill maintains Citizens' ability to collect a Citizens Policyholder Surcharge from new Citizens' policyholders. Under the bill, policyholders who are not insured by Citizens on the day the surcharge is levied are still responsible for paying the surcharge if they acquire insurance with Citizens within one year of the Citizens' surcharge levy or within the surcharge collection period. Current law is similar in that it allows Citizens to charge new policyholders the surcharge but the time period for charging the new policyholders is different than under the bill. Currently, Citizens is required to collect the surcharge from new Citizens' policyholders for 12 months *after the surcharge begins to be collected*, whereas, the bill requires the surcharge collection for new policyholders for 12 months *after the surcharge is levied*.<sup>24</sup>

### **Effect of Proposed Changes to Regular Assessments**

The bill also clarifies current law relating to the timing of Citizens' levy of regular assessments against insurance companies. The bill does not allow Citizens to levy regular assessments against insurance companies until Citizens levies a Citizens Policyholder Surcharge in the maximum statutorily allowed amount against Citizens' policyholders. According to a representative of Citizens, this is consistent with how Citizens currently levies regular assessments.<sup>25</sup>

#### **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 627.062, F.S. relating to rate standards.

**Section 2:** Amends s. 627.351, F.S. relating to Citizens Property Insurance Corporation.

**Section 3:** Creates s. 627.7031, F.S. relating to residential property insurance option.

**Section 4:** Provides an effective date of January 1, 2011.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

None.

##### **2. Expenditures:**

The OIR submitted the following comments regarding the fiscal impact of the bill on the agency:

HB 447 is proposing to allow, with certain restrictions, an insurer to use a rate for residential property insurance different from an otherwise applicable filed rate. The rate that an insurer used shall be filed with the Office as a separate filing. The Office is given the authority to disapprove a rate for being inadequate or for charging any insured or applicant a higher premium solely because of the race, color, creed, marital status, sex or national origin of the insured or applicant. The Office would not have the authority to disapprove the rate for being excessive or unfairly discriminatory or for violations of other provisions of Florida Statutes, such as the Unfair Insurance Trade Practices Act (other than as stated above). In addition, an insurer would not be subject to the limitations imposed on excess rating by s. 627.171(2) and if an insurer chooses to rate insureds under this new limited-regulation option, they would not qualify to purchase coverage from the Florida Hurricane Catastrophe Fund under the temporary increase in coverage limit option.

The proposed s. 627.062(2)(1)1. states that an insurer may use a rate "different from the otherwise applicable filed rate". This implies that the

<sup>24</sup> The surcharge levy date will always be earlier than the date in which the surcharges begin to be collected because surcharges have to be levied before they can be collected. Thus, the bill makes the surcharge collection period start earlier than under current law.

<sup>25</sup> Conversation with a representative of Citizens on March 9, 2010.

insurer would have to have a filed and approved rating plan (under full rate regulation) in place from which they would be deviating. When they wish to deviate, they would also have to file the new rates to the Office for a “less regulated” review. This may result in an increased workload rather than decreasing the workload of the Office since both the full rate regulation rates and limited regulation rates would have to be filed for each insurer.

With companies responding to recent legislative changes and to the ever-evolving marketplace, we have seen an unprecedented increase in the number of filings made by insurance companies. In 2008, PCPR<sup>26</sup> received 84% more rate filings than were received in 2004, as shown in the chart below.

Year	Rate Filings
2009*	6,132
2008	7,332
2007	7,522
2006	5,635
2005	4,236
2004	3,974
2003	4,431
2002	3,854

\*2009 values estimated based on filing counts as of September 3, 2009.

Every year since 2004, PCPR has viewed this increasing workload as a temporary phenomenon. We have recruited employees with other core responsibilities to lend a hand and have postponed carrying out some of our other responsibilities within OIR in order to handle the filing workload. However, although we initially viewed it as temporary, the filing counts continue to increase, indicating that this is not a temporary phenomenon.

Currently PCPR has 24 positions directly responsible for reviewing rate filings, including seven actuaries. Rate analysts reviewed on average 172 filings per year during 2002-2005. During 2006-2008, each rate analyst reviewed 285 filings on average per year. If each analyst handled the same number of filings on average in 2006-2008 as they did in 2002-2005, PCPR would need sixteen additional rate analysts to handle the extra workload.

It is not anticipated that this bill would result in a fiscal impact. Should HB 447 be enacted, there might be a slight reduction in the number of residential property filings subject to full rate regulation but there is also a possibility of an increased workload. Even if the bill were to result in a slightly decreased workload, this would only provide relief for the additional requirements placed on PCPR by the increases in filing counts and may allow PCPR to resume its other responsibilities within OIR, including working with Legal Services (analyzing data and filings to ensure compliance with applicable statutes and rules), Property and Casualty Financial Oversight (collecting and analyzing data to support solvency regulation), Market Investigations and Examinations (reporting suspected issues that arise during filing review for follow-up), and Market Research (providing data to stakeholders and interested parties), as

<sup>26</sup> PCPR refers to the Property and Casualty Product Review Unit of the OIR. (footnote added by staff of the Insurance, Business & Financial Affairs Policy Committee)



well as providing risk management and insurance services to other government entities as outlined in law.

## B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

### 1. Revenues:

None.

### 2. Expenditures:

None.

## C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Property policies with rates different than the insurer's filed rates are likely to have higher premiums than those property policies with rates that are fully regulated by the OIR, but some homeowners may be willing to pay the higher premium in exchange for obtaining a policy from a particular insurer.

The number of policies in Citizens may increase as a result of this bill. If property insurance premiums increase as insurer's offer policies with rates different than their filed rates and if the premium increases make the premium for a policy from the insurance company in the voluntary market over 15 percent higher than a comparable policy from Citizens, then some policyholders of insurers in the voluntary market may opt to cancel their existing property insurance policy and obtain a policy from Citizens due to the premium difference in the policies. The actual number of policies that may move from the voluntary market to Citizens cannot be calculated as that number is dependent on the premium increases made by voluntary market insurers and the resulting behavior of their policyholders. Policyholders who buy property insurance based solely on price are more likely to move their policy to Citizens under this scenario. However, policyholders who base their property insurance purchase on loyalty to an insurer or being insured by a particular insurer may opt to stay with their insurer in the private market even if that company increases the rate on the policy as allowed by the bill and regardless of the price difference between that policy and a Citizens policy.

The bill may incent insurance companies in the private market to write multi-peril policies<sup>27</sup> currently written by Citizens. If the private market insurer determines it is advantageous for the company to write these policies at rates different than their filed rates, then private market insurers will write multi-peril policies currently written by Citizens. However, the policyholder would have to choose to move from Citizens to the private market insurer. As stated previously, policyholders who buy property insurance based solely on price may choose not move their policy to the private market insurer if that insurer charges more than Citizens does. However, policyholders who base their property insurance purchase on being insured by an insurer in the private market may opt to move to the private market insurer for the multi-peril policy currently written by Citizen even if that company charges more for the policy than the price of the Citizens' policy.

The bill may also incent insurance companies in the private market to assume the wind coverage on wind-only policies<sup>28</sup> currently written by Citizens. In this case, the private market insurer will write a multi-peril policy. If the bill's allowance for private market insurers to charge rates different than their filed rates results in insurers in the private market determining it is advantageous for the company to write the wind portion of policies currently in Citizens as wind-only policies, then some of the wind-only policies currently written by Citizens could be written by the private market. However, the policyholder would have to choose to move from Citizens to the private market insurer. As stated previously, policyholders who buy property insurance based solely on price may not move their policy to the private market insurer if that insurer charges more than they currently pay for a policy with non-wind coverage from the insurer plus a policy with wind only coverage from Citizens. However, policyholders who base

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<sup>27</sup> A multi-peril policy is defined as a package policy, such as a homeowners or business insurance policy, that provides coverage against several different perils. It also refers to the combination of property and liability coverage in one policy. (<http://www2.iii.org/glossary/>) Multi-peril property insurance policies include coverage for damage from windstorm and from other perils, such as fire, theft, and liability.

<sup>28</sup> A wind-only policy is a property insurance policy that provides coverage against windstorm damage only. Coverage against non-windstorm events such as fire, theft, and liability is available in a separate policy.

their property insurance purchase on being insured by a particular insurer or that want one property insurance policy may opt to move to the private market insurer for a property insurance policy with wind and non-wind coverage even if that company charges more for the policy than the price of the Citizens wind-only policy added to the price of the private insurer's non-wind coverage.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None provided in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Citizens' position regarding the bill's provision requiring Citizens' surcharge to attach on the date of levy is that for those policyholders who nonrenew their Citizens' policy during the 12 month period after the surcharge levy and obtain coverage in the voluntary market, this provision requires the insurer in the voluntary market to collect the Citizens Policyholder Surcharge before coverage for the former Citizens policyholder can be issued.<sup>29</sup>

The OIR submitted the following comments in their agency bill analysis:

**The Office is opposed to this proposal.**

**Reinsurance:**

While this legislation does not permit insurers using the rate deregulation provision to purchase coverage under the TICL reinsurance option of the FHCF, the legislation does not prohibit the purchase of FHCF coverage in its entirety.

An insurer exempt from rate regulation and review will benefit from lower cost reinsurance from the FHCF, thus increasing the insurer's profit margin. The purpose of the FHCF is to provide low cost reinsurance to insurers doing business in Florida, thus lowering the premium paid by consumers. To allow insurers to benefit from this reinsurance program and not pass through that savings to policyholders is antithetical to the purpose of this program.

Insurers filing under this provision should be prohibited from purchasing reinsurance from the FHCF to reinsure these policies.

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<sup>29</sup> The insurance company will also have to remit the surcharge it collects for Citizens to Citizens. Additionally, some sort of notification to insurers in the voluntary market of the names of Citizens' policyholders who nonrenew during the 12 month surcharge collection period would be required.

**Impact on Property Insurance Rates:**

The Office is concerned that this change will yield dramatic rate increases for consumers – a concern bolstered by previous experience in Florida when motor vehicle insurance rates were “deregulated” in the 1960’s and again when the change to consent to rate laws led to dramatic increases in condominium association rates in the early years of this decade.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

None.