

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 1006

INTRODUCER: Senator Flores

SUBJECT: Depopulation of Citizens Property Insurance Corporation

DATE: March 20, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Knudson	BI	Pre-meeting
2.			AGG	
3.			AP	

I. Summary:

SB 1006 makes changes to the depopulation of Citizens Property Insurance Corporation under s. 627.3511, F.S. The bill requires that Citizens must provide to a policyholder selected for takeout a comparison of coverages and rates between Citizens policy and the private insurer's policy. The bill requires that Citizens must obtain the affirmative consent of a policyholder before a policy can be removed from Citizens. The bill requires that insurers that remove policies from Citizens through a takeout agreement under this section must maintain the citizen's glide path rate cap on such policies for 3 years.

II. Present Situation:

Citizens Property Insurance Corporation (Citizens)

Citizens Property Insurance Corporation (Citizens) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.¹ Citizens is not a private insurance company.² Citizens was statutorily created in 2002 when the Florida Legislature combined the state's two insurers of last resort, the Florida Residential Property and Casualty Joint Underwriting Association (RPCJUA) and the Florida Windstorm Underwriting Association (FWUA). Citizens operates in accordance with the provisions in s. 627.351(6), F.S., and is governed by an eight member Board of Governors³ (board) that administers its Plan of Operations, which is reviewed and approved by the Financial Services Commission. The Governor, President of the Senate, Speaker of the House of Representatives, and Chief Financial

¹ Admitted market means insurance companies licensed to transact insurance in Florida.

² s. 627.351(6)(a)1., F.S. Citizens is also subject to regulation by the Office of Insurance Regulation.

³ The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives.

Officer each appoints two members to the board. Citizens is subject to regulation by the Florida Office of Insurance Regulation.

Citizens offers property insurance in three separate accounts. Each account is a separate statutory account with separate calculations of surplus and deficits.⁴ Assets may not be commingled or used to fund losses in another account.⁵

The Personal Lines Account (PLA) offers personal lines residential policies that provide comprehensive, multiperil coverage statewide, except for those areas contained in the Coastal Account. The PLA also writes policies that exclude coverage for wind in areas contained within the Coastal Account. Personal lines residential coverage consists of the types of coverage provided by homeowners, mobile homeowners, dwellings, tenants, and condominium unit owner's policies.

The Commercial Lines Account (CLA) offers commercial lines residential and nonresidential policies that provide basic perils coverage statewide, except for those areas contained in the Coastal Account. The CLA also writes policies that exclude coverage for wind in areas contained within the Coastal Account. Commercial lines coverage includes commercial residential policies covering condominium associations, homeowners' associations, and apartment buildings. The coverage also includes commercial nonresidential policies covering business properties.

The Coastal Account offers personal residential, commercial residential and commercial non-residential policies in coastal areas of the state. Citizens must offer policies that solely cover the peril of wind (wind only policies) and may offer multiperil policies.⁶

Takeout Bonus Agreements

Section 627.3511, F.S., was created by the Legislature in 1995⁷ and at that time applied to the depopulation of the Residential Property and Casualty Joint Underwriting Association. After the Legislature merged the two underwriting associations to create Citizens in 2002, this section was amended to apply to the depopulation of Citizens Property Insurance Corporation.

Take out agreements that were approved under this section allowed for a per policy bonus to be paid to each participating insurer provided that they removed a given number of policies for a set number of years. Today, takeouts from Citizens are no longer approved through takeout bonus agreements. The last Citizens takeout bonus agreement under this section was in November of 2007.

⁴ The Personal Lines Account and the Commercial Lines account are combined for credit and Florida Hurricane Catastrophe Fund coverage.

⁵ s. 627.351(6)(b)2b., F.S.

⁶ In August of 2007, Citizens began offering personal and commercial residential multiperil policies in this limited eligibility area. Additionally, near the end of 2008, Citizens began offering commercial non-residential multiperil policies in this account.

⁷ s. 10, ch.95-276, L.O.F.

Takeout Non-Bonus Agreements

In January of 2008, Citizens Board of Governors adopted a takeout non-bonus plan that was approved by the Office of Insurance Regulation (OIR) in March of that year. Since that time most takeout agreements between Citizens and private carriers have occurred under this plan. In addition to the requirements of the approved plan the OIR has on occasion required additional requirements to be included in such takeout agreements. According to the OIR, until 2009, the OIR required private carriers that removed policies from Citizens through a takeout agreement to write the risk at a rate below the rate of Citizens at that time.⁸ Additionally, in November of 2013 the OIR began requiring takeout companies to provide information to the policyholder detailing a rate comparison between the Citizens rate and the private insurer's rate.⁹

Depopulation

Florida law requires Citizens to create programs to help return Citizens policies to the private market and reduce the risk of additional assessments for all Floridians.¹⁰ Policyholders whose policies are selected for takeout are sent a letter notifying them of the pending takeout and provided instructions on how they can elect (opt-out) to remain with Citizens, if eligible and should they wish to do so Policyholders who do not opt-out within the opt-out timeframe will receive a Notice of Assumption, a non-renewal from Citizens and a Certificate of Assumption. The policyholder still has an additional timeframe from the receipt of these notices to elect to remain with Citizens. Citizens encourage policyholders who receive private-market offers to consider them carefully and discuss the advantages of such coverage with their agents. Accepting an offer from a private insurer can decrease a Citizens policyholder's potential of assessment.

In November of 2011, Citizens reported a policy count of 1,472,391 policies insured. As of March 13, 2015, Citizens reports their policy count was at 598,408 policies insured.¹¹ Much of the success of Citizens reduction in size is the result of depopulation through takeout agreements. In the years 2012, 2013, and 2014 a total of 1,059,323 policies were removed from Citizens and placed into the private market through the use of the current takeout agreement process.¹²

III. Effect of Proposed Changes:

The bill requires that Citizens must provide to a policyholder selected for takeout under s. 627.3511, F.S., a comparison of coverages and rates between Citizens policy and the private insurer's policy. This cannot be done in any takeout agreement as Citizens does not have access to private insurers rating data. Currently, the OIR requires private carriers to provide such information to Citizens policyholders selected through a non-bonus takeout agreement.

The bill requires that Citizens must obtain the affirmative consent of a policyholder before a policy can be taken out of Citizens under s. 627.3511, F.S. The requirement that policyholders who receive a takeout letter must give their affirmative consent could drastically effect the

⁸ Information received from the OIR on March 19, 2015. (On file with the Banking and Insurance Committee)

⁹ Id.

¹⁰ s. 627.351(6), F.S.

¹¹ Citizens Policy Inforce Weekly Summary Report March 16, 2015.

¹² Citizens President's Report to the Board of Governors March 18, 2015.

takeout process. Citizens reports that in 2014 a total of 575,738 takeout offer letters were mailed to their policyholders under the current non-bonus takeout plan. During that year, Citizens received 10,195 takeout related phone calls, 242 written complaints and 1,072 written inquiries about take outs. Collectively, a total of 11,509 out of 575,738 policyholders or 2 percent of those who received a takeout letter in 2014 responded to Citizens via phone or mail about their takeout letter. Additionally, 416,623 out of the 575,738 policyholders or 72 percent of those who received a takeout letter in 2014, were moved into the private market through takeout agreements that were all approved by the Office of Insurance Regulation.

The bill requires that insurers that remove policies from Citizens through a bonus takeout agreement under this section cannot implement more than a 10 percent rate increase, per policy removed, per year, for t3 years.

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:

Due to the bill being drafted to a statute that is no longer utilized by Citizens, the bill does not impact the current takeout process.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

In order to apply the requirements in the bill to the current non-bonus takeout process approved for Citizens, s. 627.351(6)(c), F.S., would need to be amended.

Lines 32-35 should require the private insurer to provide the comparison of coverages and rates as Citizens does not have access to such data.

Lines 78 and 113 should say assessments instead of surcharges. The Citizens policyholder surcharge only applies to policies that are in Citizens.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.3511, 627.351, and 627.3517.

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.