Property Insurance Issues and Options

(Options that are in bold and italics have been adopted by the Committee)

I. Florida Hurricane Catastrophe Fund (and other State Reinsurance Coverage Options)

Current Law:
$5.3 billion retention for all insurers combined for 2006, increased annually by the same percentage as the growth in the Fund's exposure. (Legislation in 2005 reset retention to $4.5 billion, which grew to $5.3 billion in 2006). A separate retention is calculated for each insurer, based on its percentage of total Cat Fund premiums; e.g., an insurer paying 10% of the total Cat Fund premiums has a retention of $530 million (10% of $5.3 billion).

The full retention applies to *each* hurricane, but drops to one-third of full retention for the third and each additional hurricane (in order of loss magnitude) in a single year.

Cat Fund premiums must be set at the "actuarially indicated" amount (generally, the average annual expected loss) based on hurricane loss projection models approved by the Florida Commission on Hurricane Loss Projection Methodology, plus a 25% "rapid cash build-up factor"(per SB 1980). The 2006 premium equals 6.7% of the coverage amount (i.e., a 6.7% "rate on line").

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Temporary Offer of Cat Fund Coverage Below Retention

Current Law: SB 1980 allowed limited apportionment companies ($25 million in surplus or less and writing at least 25% of its property premiums in Florida) to purchase up to $10 million in coverage above a retention equal to 30 percent of the insurer's surplus (well below the current retention), at a premium of 50% of the coverage amount selected (i.e., 50% "rate on line"). Coverage is reinstated at no additional premium for a second hurricane, but not for additional hurricanes. Available only for the 2006 contract year.

4. ***Offer all insurers (not just limited apportionment companies) the option of purchasing coverage below the retention, at rates comparable to (or less than) market level prices for a limited time.*** **For example, assuming the retention in 2007 remains at $5.3 billion, offer each insurer its share of $4.3 billion excess of $1 billion at a 60% rate on line, $3.3 billion excess of $2 billion at a 50% rate on line, and $2.3 billion excess of $3 billion at a 45% rate on line. Reimbursement would be provided for 90% of losses. Coverage would be automatically reinstated at no additional charge for a second hurricane.**

Issue #3: Increase Maximum Limit of Cat Fund Coverage

Current Law:
Annual reimbursement to all insurers is limited to $15 billion annually, increased annually by the same percentage as the growth in the Fund's exposure, but not to exceed the dollar growth in the cash balance of the Fund. Due to Cat Fund losses in 2004 and 2005, the $15 billion limit has not increased since it was legislatively increased to $15 billion in 2004.

A separate annual reimbursement limit is calculated for each insurer, based on its share of total Cat Fund premiums. For example, an insurer that pays 10% of total Cat Fund premiums is limited to a maximum annual reimbursement of $1.5 billion (10% of $15 billion).

Left to the discretion of the Legislature after a cost/benefit anaysis

Issue #5: Changing the Renewal Date of the Cat Fund to Conform with the Global Reinsurance Market

Current Law: Currently, the contract year for Cat Fund coverage begins on June 1. However, according to OIR, most property casualty reinsurance contracts are negotiated and renewed in January of each year. Asian and some European catastrophic risk reinsurance are renewed in March/April, while most Florida property reinsurance is negotiated and renewed for a June renewal date to coincide with the FHCF. That is, many Florida insurers are going to the market after the rest of the global reinsurance market has largely cleared. In tight markets, such as those Florida companies are currently facing, this puts additional stress on both availability and affordability. According to OIR, if the renewal date for Cat Fund coverage were changed to have Florida companies in the market in March or April, or possibly even January, the market opportunities and competitive pressures would work more to the benefit of Florida companies and consumers.

Option:

9. Change the renewal date for Cat Fund coverage from June 1 to an earlier date, such as January, March, or April if there is a determination that a savings in reinsurance cost can be achieved.

Issue #9: Appropriations from the Cat Fund

Current Law:
The Florida law (statute) requires that the assets of the Cat Fund be used exclusively for paying hurricane loss obligations, debt service on revenue bonds and financing arrangements, reinsurance costs, administrative expenses, and an annual appropriation for hurricane loss mitigation programs.

The law requires an annual appropriation for hurricane loss mitigation programs of at least $10 million, but not to exceed 35 percent of the prior year's investment income. Legislation in 1999 required that the $10 million must be appropriated to the Department of Community Affairs, of which $7 million must be used for programs to improve the wind resistance of residences and mobile homes and $3 million must be used to retrofit existing facilities used as public hurricane shelters. The law further directs that 40 percent of the $7 million ($2.8 million) be used to inspect and improve tie-downs for mobile homes and that 10 percent ($700,000) be allocated to the State University System dedicated to hurricane research.

Beginning in 1997, the Legislature appropriated $10 million each year from the Cat Fund, but appropriated $30 million in 2002 and $20 million in 2003, largely for beach renourishment purposes. Following the 2004 hurricanes, the Legislature appropriated $150 million from the Cat Fund to reimburse policyholders for the expense of paying multiple deductibles from two or more hurricanes.

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Option:

14. Amend the State Constitution to limit the use of the assets of the Cat Fund (i.e., restrict legislative appropriations) to the purposes currently required by statute (as summarized in first paragraph under Current Law). Also require that any appropriation from the Cat Fund in excess of $10 million be in a separate bill for that purpose only and be approved by a super-majority (e.g., three-fourths) of the membership of each house of the Legislature.

II. Mitigation/Premium Discounts

Issue #1: Funding Mitigation Measures

Current Law:
For 2006-2007, $250 million of non-recurring funds was appropriated from General Revenue for the Florida Comprehensive Hurricane Damage Mitigation Program within the Department of Financial Services (DFS). The unexpended balance reverts after three years (June 30, 2009). The program provides for free inspections of site-built, residential property, to determine what mitigation measures are needed to reduce vulnerability to hurricane damage and provides for 50 percent matching grants (up to $5,000) to encourage retrofitting of homes. Up to 100 percent grants (up to $5,000) are available to low-income homeowners.

DFS must adopt rules establishing priorities for grants based on objective criteria that gives priority to reducing the states' probable maximum loss for hurricanes and may further establish priorities based on the insured value, whether the dwelling is insured by Citizens, and whether the area has sufficient resources to perform the retrofitting.

Options:

16. Maintain and expand the State's financial commitment to fund the program.

17. Require uniform home inspection forms to be developed for all insurers. Specify the length of time an executed form is valid (spoilage).

18. Provide for state funded research concerning mitigation of commercial structures and whether strengthening the state's building code for commercial structures should be considered.

19.. ***Earmark a portion of future mitigation funding to be used for Citizens policyholders.***

22. Create a Sales Tax Rebate Program where consumers can apply to the Florida Department of Revenue for sales tax credits/rebates for approved mitigation materials and supplies.

Issue #2: Savings for Homeowners through Mitigation

Current Law:
Insurers are required by law to provide premium credits or discounts for homeowner's insurance for properties on which construction techniques have been installed which reduce the amount of loss in a windstorm. These construction techniques include roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protection, and window, door, and skylight strength, etc. Individual discounts or credits generally range from 3% to 25% and a fully mitigated property can qualify for total credits ranging from 20% to 42% off its wind insurance premium.

SB 1980 required OIR to reevaluate the insurance discounts and credits for homes built to meet the Florida Building Code and to determine the full actuarial value of such discounts, by July 1, 2007, for use by insurers in rate filings.

Insurers must notify policyholders upon application and renewal of the availability and range of premium discounts for mitigation techniques and describe generally what actions the policyholders must take to obtain the discounts. The prescribed form and a list of the range of premium discounts for each insurer must be available on the Internet website of DFS or OIR.

Options:

23. Ensure that insurance companies appropriately adjust premiums for homeowners when meaningful and verifiable mitigation measures are undertaken. (Premium discounts)

Issue #3: Standard Grading System for a Home's Hurricane Strength

Current Law:
SB 1980 required OIR to conduct a study and develop a program to provide an objective rating system that will allow homeowners to evaluate their home's ability to withstand the wind load from a hurricane. OIR is expected to enter into a contract with the University of Florida to develop a home rating/grading system for this purpose.

Options:

27. Require the state to adopt and fund a uniform grading system for evaluating the hurricane strength of homes.

28. Require home mitigation inspectors to be licensed or certified by the state (with exceptions for licensed contractors).

Issue #4: Building Code

Current Law:
Legislation in 2006 authorized the Florida Building Commission to amend the Florida Building Code and to identify those areas of the state from the eastern border of Franklin County to the Florida-Alabama line (the Panhandle region) that are subject to the windborne debris requirements of the code. The commission's initial designation of the windlines for this region must address the results of the Florida Panhandle Windborne Debris Region study.

This 2006 legislation allows the commission to eliminate or revise the statutory "Panhandle exception" limiting wind-borne debris requirements to within 1 mile of the coast and amend the wind design standards to incorporate the current edition of the national model building code engineering standard (American Society of Civil Engineers Standards 7, 2002 Edition). This would subject new construction in the Panhandle region to the same windborne debris requirements (enhanced door and window protection) applicable to other areas of the state.

Option:

30. Put a statewide building code in place that requires American Society of Civil Engineers (ASCE) wind lines to be adopted and prohibit any changes in future statewide building codes unless it is to strengthen the code.

III. Citizens Property Insurance Corporation (Citizens)

Issue #1: Eligible Property for Coverage in Citizens

Current Law:
Citizens offers three types of property and casualty insurance in three separate accounts: 1) Personal Lines Account (PLA) which covers homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners and similar policies; 2) Commercial Lines Account (CLA) covering condominium associations, apartment buildings and homeowners associations; and 3) High-Risk Account (HRA) which covers personal lines windstorm-only policies, commercial residential wind-only polices and commercial non-residential wind-only policies.

In the HRA, Citizens provides coverage in specially designated areas which have been determined to be particularly vulnerable to severe hurricane damage. In these "wind-only" zones, private insurers may offer other peril coverage, but are not required to provide windstorm coverage. The windpool designated areas were created as part of the process for determining eligibility for the Florida Windstorm Underwriting Association. Eligibility was limited to structures in eligible areas found by the Department of Insurance, after public hearings, to meet three criteria; the lack of windstorm coverage in the area was deterring development, causing mortgages to be in default, and causing financial institutions to deny loans; the area was subject to the requirements of the Southern Standard Building Code or its equivalent; and that extending windstorm coverage to the area was consistent with the policies and objectives of environmental and growth management.

As of June 30, 2006, Citizens provided coverage to 904,193 policyholders (excluding over 300,000 Poe policyholders), making Citizens the largest insurer in Florida. The numbers of policyholders in the three accounts are: PLA – 531,882; CLA – 4,537, and HRA – 367,774. Currently, Citizens is averaging 50,000 - 55,000 new applications for coverage per month.

Property is eligible for coverage with Citizens only if there is no other offer from an authorized insurer. The insurance agency and agent must use reasonable efforts to place personal or commercial insurance applicants with an authorized insurer prior to placing the risk with Citizens. Failure to do so is grounds for termination or suspension of the agent appointment.

Beginning March 1, 2007, non-homestead property is eligible in Citizens only if the property owner annually obtains three declinations of coverage from surplus lines insurers and one from an authorized insurer. The definition of homestead property for Citizens' purposes is more expanded than the definition used for property tax purposes.

"Homestead property" is defined as: 1) 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; 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 "non-homestead property."

Beginning July 1, 2008, homes insured for $1 million or more are ineligible for coverage in Citizens. Homes insured for $1 million or more by Citizens before July 1, 2008 can remain in Citizens for another 3 years if the homeowner annually gets three declinations of coverage from surplus lines insurers and one from an authorized insurer. However, such property can only be covered in the high-risk account and will be considered "non-homestead property." By June 30, 2011, Citizens will not insure any home insured for $1 million or more.

In February, Citizens reported that it had 6,431 residential policies in force that were insured for values greater than $1 million, with a total insured value of $16.7 billion with a total premium of $64.3 million.

In February, Citizens estimated restricting eligibility for coverage to homes with insured values of $1 million or more would reduce their probable maximum loss (PML) in the HRA by $809 million which equates to 12.5%. Additionally, this restriction would reduce Citizens' residential exposure by $16.7 billion or 14%.

SLOSH (Sea, Lake and Overland Surges from Hurricanes) is a computerized model run by the National Hurricane Center to estimate storm surge heights resulting from historical, hypothetical, or predicted hurricanes by taking into account:

- Pressure
- Size
- Forward speed
- Track
- Winds

The calculations are applied to a specific locale's shoreline, incorporating the unique bay and river configurations, water depths, bridges, roads and other physical features. The SLOSH model is generally accurate within plus or minus 20 percent. The SLOSH model is best used for defining the potential maximum surge for a location.

LIDAR (Light Detection and Ranging) is a remote sensing system used to collect topographic data used by the National Oceanic and Atmospheric Administration and NASA to document topographic changes along shorelines. LIDAR can:

- Measure distance
- Measure speed
- Measure rotation
- Measure chemical composition and concentration

of a remote target where the target can be a clearly defined object or a diffuse object. LIDAR has been tested to assess post-storm damage to beaches.

Issue #1: Eligible Property for Coverage in Citizens
Options:

33. Prohibit Citizens' from writing wind-only policies.
Note: Effect is that Citizens will write the whole policy in all areas of the state. (i.e., the wind-only zones for Citizens are repealed)
Note: Effect is that private insurers would no longer be allowed to write policies excluding wind coverage.

34. Require Citizens' policyholders to upgrade their homes to meet the statewide building code or risk higher hurricane deductibles applicable to the policy.

- ***Variation: Require Citizens' policyholders to take specified mitigation measures or risk higher hurricane deductibles.***
- ***Note: An exception can be made for low income policyholders.***
- ***Note: This can be made to only apply to properties with insured values higher than a specified dollar amount.***

35. Permit Citizens to surcharge properties until they are retrofitted to meet building Code requirements.

Issue #2: Citizens' Rates

Current Law:

In order to assure that Citizens rates are not competitive with the voluntary market, the current law requires that Citizens rates for its PLA be actuarially sound and that its average rates for each county must be no lower than the average rates charged by the insurer that had the highest average rate in that county among the 20 insurers (5 insurers for mobile home coverage) with the greatest direct written premium in the state for that line of business.
For its HRA (wind-only policies in coastal areas), the law more generally requires that Citizens rates be actuarially sound and not be competitive with approved rates charged by authorized insurers. However, the law further requires Citizens and the OIR to jointly develop a wind-only ratemaking methodology to meet this purpose, for rates effective on or after July 1, 2004. A wind-only rate methodology was developed that uses a variation of the "Top 20" approach mandated for personal residential multi-peril policies.

Under current law, there is no rate distinction between homestead and non-homestead property insured by Citizens. However, starting March 1, 2007, there is a rate distinction between property in the personal lines and commercial lines accounts and property in the high risk account.

For Citizens' policies in the personal lines account and the commercial lines account issued or renewed on or after March 1, 2007, a rate is deemed inadequate if the rate, including investment income, is not sufficient to provide for the purchase of reinsurance coverage from the Florida

Hurricane Catastrophe Fund and private reinsurance (whether or not purchased) and to pay all claims and expenses reasonably expected to result from a 100-year probable maximum loss event (i.e., a 1-in-100 year hurricane), without resort to
assessments or other outside funding sources.

For Citizens' policies in the high-risk account (wind-only coverage in coastal areas) issued or renewed on or after March 1, 2007, a rate is deemed inadequate if the rate, including investment income, is not sufficient to provide for the purchase of reinsurance coverage from the Florida Hurricane Catastrophe Fund and private reinsurance (whether or not purchased) and to pay all claims and expenses reasonably expected to result from a 70-year probable maximum loss event, without resort to assessments or other outside funding sources. For policies in the high-risk account issued or renewed in 2008 and 2009, the rate must be based upon an 85-year and 100-year probable maximum loss event, respectively.

As of June 30, 2006, Citizens' 100 year PML for its personal lines account is $5.891 billion and $12.187 billion for its high risk account.

In ratemaking, Citizens is also required to use the public hurricane loss model developed by Florida International University as the minimum benchmark for determining its windstorm rates after the public model has been found to be accurate and reliable by the Florida Commission on Hurricane Loss Projection Methodology (Commission). Because the public model has not been submitted to the Commission yet, Citizens is not yet required to use it in ratemaking.

<u>Issue #2: Citizens' Rates</u>
<u>Options</u>:

49. Require the Office of Insurance Regulation to set rates for Citizens on a quarterly basis, based on the highest rate approved for the voluntary market.

<u>Issue #5: Depopulation of Citizens</u>

<u>Current Law:</u>

Since 1995, Florida law has expressed the Legislature's intent to provide a variety of financial incentives to encourage the replacement of the highest possible number of policies written in the state's residual market with policies written by admitted insurers at approved rates. There is specific authority for Citizens to pay a "take-out bonus" to insurers of up to $100 for each policy removed from Citizens, under certain conditions. However, Citizens has implemented greater bonuses under conditions approved by its board and the OIR. In its 2006 operational audit of Citizens, the Auditor General found the bonus amount paid or escrowed for each policy taken out of Citizens averaged $148, although Citizens had several takeout programs paying take-out bonuses of $300 per policy.

Citizens adopted a new depopulation program in December 2005. This program has non-bonus and bonus components in it. Only policies taken out with wind coverage are eligible for a bonus. Take-out companies must assume a minimum number of policies or a minimum total insured value of the take-out policies under either the bonus or non-bonus component. Policies must be taken out for three or five years in order to be eligible for a bonus. Base bonus amounts range from 5% to 12.5% for dwelling policies; however, some policies are not eligible for bonuses. Base bonuses for condo unit/tenant contents and mobile home policies have different ranges. Take-out companies can receive an additional bonus amount for assuming a greater number of policies or for taking a policy out for 5 years. The additional bonus amounts range from 0% to 10%, depending on the number of bonus eligible policies or the total insured value of policies taken out.

In 2005, 480,319 policies were removed from Citizens reducing Citizens' exposure by almost $92.5 billion.

It has been questioned whether the take-out bonuses provide a cost-effective method for reducing Citizens' potential liability. On the one hand, payment of cash bonuses to insurers reduces Citizens' surplus to pay claims and may be a windfall to an insurer willing to take out a policy at its approved rate without the bonus. On the other hand, a take-out bonus may be viewed as a form of "reinsurance" that transfers 100% of liability for a policy for the period that a take-out insurer must continue to renew the policy, and reduces potential assessments on the entire market.

Beginning on January 1, 2008, SB 1980 limits the bonus amount to $100 per policy and requires any take-out bonus paid to an insurer be conditioned on the insurer keeping the policy for five years. Citizens must evaluate the cost-benefit of approved take-out plans for which a take-out bonus is paid, by tracking whether properties removed from Citizens are later insured by Citizens.

Issue #5: Depopulation of Citizens
Options:

64. Allow authorized insurers to write non-homestead Citizens' policies on an individual risk rate basis.

69. Permit take-out companies taking 50,000 or more policies out of Citizens to charge Citizens' rates for a period of three years after take-out.

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Issue #6 Agent Issues

Current Law:

One of the challenges to depopulating Citizens is the "Consumer Choice" law, enacted in 2002, the same year that Citizens was created. The prior law for the Residential Property and Casualty Joint Underwriting Association (RPCJUA) had provided that a policyholder was not eligible for coverage in the RPCJUA if an offer of coverage was made by an authorized insurer. But, the Consumer Choice law provides that a Citizens policyholder who receives an offer of coverage from an insurer in the voluntary market is not required to accept that offer and may remain in Citizens if the current agent of that insured is "unable or unwilling to become appointed for the takeout insurer." Therefore, the standard for eligibility for coverage from Citizens is no longer dependent on whether other coverage is available in the voluntary market, but on the status of the agent.

Citizens has adopted procedures in conjunction with OIR to comply with the Consumer Choice law while continuing to encourage the removal of policies from Citizens. Agent representatives associations assert, and Citizens representatives acknowledge, that the Consumer Choice law is much less disruptive to a Citizens policyholder and his or her agent and allows for a smoother transition to a take-out company, if the current agent is appointed by the take-out insurers. But, Citizens also reports that the law operates to reduce the number of policies taken out. Citizens estimates that for 2004, when about 158,000 policies were taken out of Citizens, an additional 39,000 policies were not taken out due to the provisions of the Consumer Choice law.

The Consumer Choice law is amended beginning July 1, 2007. As of July 1, 2007, Citizens has a 10-day waiting period for new applications. If an authorized insurer offers coverage during this period, the applicant is not eligible for coverage in Citizens regardless of whether the insurer appoints the agent who submitted the application.

Issue #6 Agent Issues
Options:

70. Provide insurance policy transparency
- provide the specific assessment information (CAT Fund, Citizens, FIGA, or PCJUA (if applicable)) by specific % and dollar amount. Contain no abbreviations for the entities.
- provide specific mitigation discounts by specific % and dollar amount for home mitigation by type of mitigation.
- provide insurance premium tax information by specific % and dollar amount.
- provide the agent's commission on the bill by specific % and dollar amount.

IV. Market Issues

Issue #1: Insurance Capital Build-Up Incentive Program

Current Law:
Senate Bill 1980 appropriated $250 million from General Revenue to the State Board of Administration (SBA) for lending state funds in the form of "surplus notes" to residential property insurers, under specified conditions:

- The insurer must contribute new capital to its surplus at least equal to the surplus note and must apply to the SBA by July 1, 2006.
- If the insurer applies after July 1, 2006, but before June 1, 2007, the surplus note is limited to one-half of the new capital contributed by the insurer. No applications are permitted after June 1, 2007.
- The amount of the surplus note may not exceed $25 million or 20 percent of total funds available for the program (resulting in a $50 million cap).
- The combination of surplus, new capital, and the surplus note must be at least $50 million.
- The surplus note must be repayable to the state, with a 20-year term, at the 10-year Treasury Bond interest rate (with interest-only payments for the first 3 years). The Insurance Commissioner must approve the payments on the surplus note, unless he determines the payment would substantially impair the financial condition of the insurer.
- The insurer must meet a minimum writing ratio of net written premiums to surplus of at least 2 to1 for the term of the surplus note, for residential property insurance in Florida covering the peril of wind. (The SBA has allowed flexibility on this requirement, based on its authority to increase the interest rate on the surplus note if the 2 to 1 ratio is not met.)
- The SBA may approve issuance of a surplus note to an applicant, unless the SBA determines that the financial condition of the insurer and its business plan place an unreasonably high level of financial risk to the state of nonpayment in full of the interest and principal.

Current Status: As of 9/28/06, a total of ten insurers have applied for $225.5 million in surplus notes. The SBA has approved the issuance of surplus notes of $20 million each to two insurers and $25 million to one insurer, with seven applications pending, requesting between $20-$25 million each.

<u>Options:</u>

83. Provide additional funding (e.g. $250 mil. - $500 million) for the program for 2007.

84. Lower the total surplus requirement (counting the surplus note) for an eligible insurer from $50 mil. (e.g., to $30 million or $40 million).

85. Give the OIR the discretion to approve, in conjunction with the Administrators of the program, the ability to approve a smaller company's business plan that may seek an amount of combined surplus at a level less than 50 million (perhaps a minimum of 20 million of combined surplus).

86. Relax the requirement that insurers maintain a 2 to 1 ratio of net premiums to surplus. For example, lower the minimum writing ratio to 1.5 to 1. Alternatively, establish a minimum "gross premium" rather than "net premium" to surplus ratio. (Net Premiums = Gross Premiums minus reinsurance premiums ceded)

87. Give the OIR the discretion to loosen the 2:1 ratio on a case by case basis (perhaps up to a 6:1 gross premium to surplus).

88. Provide that the date of application for a surplus note and the date of issuance of such funds must be prior to April 1, 2007. (Prior to the 2007 storm season and in time to purchase reinsurance)

Issue #4: Reinsurance and Capital Markets Alternatives

Current Law:

Florida law (s. 627.610, F.S.) allows for insurers to receive credit on their financial statements for reinsurance ceded to (purchased from) a reinsurer, referred to as the "assuming insurer" only if the assuming insurer is:

(a) authorized (licensed) in Florida;

(b) authorized or licensed in another state and has a surplus of at least $20 million (and meets certain other requirements); or

(c) an insurer (such a non-U.S. insurer) that maintains a trust fund in a qualified U.S. financial institution in an amount not less than the insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers (i.e., a 100% "collateral" requirement), plus at least $20 million (or $100 million for a group of underwriters, such as Lloyds). Such insurers must also submit to U.S. jurisdiction and to certain examination and filing requirements of U.S. regulators.

Options:

97. Allow OIR to reduce or eliminate the trust fund (collateral) requirement for non-U.S. insurers based on a determination by the OIR of the adequacy of regulation of the country of licensure and the financial strength of the assuming insurer.

Issue #5: Tax Deductibility of Catastrophe Reserves

Current Law;

U.S. tax law does not allow for an insurer to deduct from income taxation, as an expense, amounts established as a catastrophe reserve. Only reserves for known or incurred losses may be deducted.

Option:

103. Seek an IRS opinion allowing insurers to deduct catastrophe reserves if such reserves are deposited with and maintained by the state (such as the State Board of Administration).

104. Seek an IRS opinion allowing insurers to deduct a "catastrophe premium equalization tax" charged and held by the state in a segregated account for the benefit of insurers for use in the event of a catastrophe.

Issue #8: Commercial Property Insurance

Current Law:
The only commercial, non-residential, coverage provided by Citizens is wind-only coverage for commercial properties located in the designated "high-risk" territories. Coverage is limited to $1 million (i.e., a building valued over $1 million is eligible for coverage up to $1 million.)

Pursuant to an emergency rule adopted by the Financial Services Commission, the OIR recently activated the Florida Property and Casualty Joint Underwriting Association (FPCJUA), to write windstorm-only coverage for commercial property insurance statewide, other than in the high-risk territory of Citizens. Under the current plan, only buildings valued at $1 million or less are eligible for coverage. Any deficits are assessed against commercial property insurers, limited to 10% of net written premium. The assessment base is about $1.3 billion, which limits annual assessments to $130 million. (In comparison, each account of Citizens has an assessment base of about $8 billion.)

Options:

110. Expand the authority for PCCJUA to write commercial property insurance, rather than Citizens (in wind and non-wind areas). Prohibit Citizens from writing builders risk or commercial-commercial policies. Revise and update the PCJUA statute. (One entity – PCJUA)

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V. Consumer Issues

Issue #1: Insurance Consumer Advocate

Current law:

Section 627.0613, F.S., provides the powers and duties of the Consumer Advocate. The Consumer Advocate is appointed by the Chief Financial Officer (CFO) to represent the general public before the Department of Financial Services (Department) and the Office of Insurance Regulation (OIR). The Consumer Advocate can appear in any proceeding before the Department or the OIR, such proceeding before the Division of Administrative Hearings or an arbitration panel. The Consumer Advocate has access to all files, records or data in the Department or the OIR. The Consumer Advocate can examine any rate or form filing. Finally, the Consumer Advocate can hire consultants as necessary to fulfill its duties.

The total current budget of the Office of Consumer Advocate is just under one million dollars. Senate Bill 1980 appropriated $250,000 to the Office of the Insurance Consumer Advocate. Legislation in 2005 appropriated an additional $350,000 to this Office.

Options

125. Clarify the Consumer Advocate's independent authority.

127. Authorize the Office of the Consumer Advocate to be under the Financial Services Commission (Cabinet) rather than the CFO.

Issue #2: Restrictions on Non-Renewal

Current Law:

Insurers are generally allowed to non-renew policies in order to reduce the insurer's hurricane exposure or to non-renew particular policies pursuant to underwriting rules filed with OIR. However, the law prohibits insurers from non-renewing policies due to property insurance claims that are the result of an "act of God" unless the insured has failed to take actions reasonably necessary to prevent recurrence of damage The law also prohibits nonrenewal solely because of race, color, creed, marital status, sex, or nation origin.

Insurers are required to give policyholders 90 days' notice of cancellation or nonrenewal of a residential property insurance policy, except that 10 days' notice is required if cancellation is due to non-payment of premium.

Insurers are prohibited from canceling or nonrenewing a residential property insurance policy during the duration of a hurricane, until 72 hours after the last hurricane watch or warning is issued anywhere in the state. Insurers are also prohibited for canceling coverage for a dwelling damaged by a hurricane until 90 days after the dwelling has been repaired, with certain exceptions.

Options:

131. Prohibit non-renewal solely due to the age of the dwelling. (This would not restrict non-renewal based on specific structural conditions).

132. Prohibit the use of "age of home" as the sole underwriting reason for denying coverage. All homeowner mitigation and building code upgrades must be considered by carriers in reviewing whether coverage will be provided.

Issue #3: Excluding or Limiting Windstorm Coverage; Deductibles; Other

Current Law:

Current law requires residential property insurance policies to cover windstorm and hurricane losses, unless the policy is issued in the high-risk territory of Citizens.

Insurers must offer residential hurricane deductibles of 2%, 5%, and 10% of policy limits, but for homes valued under $100,000, the insurer must also offer a $500 hurricane deductible. The maximum allowable deductible is 10% of policy limits, except that no limit applies to homes valued in excess of $500,000 and higher deductibles are allowed for certain programs that were "grandfathered in." The secondary mortgage market where mortgages are bought and sold may restrict residential hurricane deductibles. For example, Fannie Mae, a secondary mortgage market company, accepts hurricane deductibles only up to 5%.

Options:

133. Allow (or require) insurers to offer a policy that excludes windstorm coverage from a residential property insurance policy if the policyholder signs a written rejection of such coverage on a form approved by OIR with appropriate disclosures. Insurers would still be required to offer a policy that includes windstorm coverage. (In windstorm and non-windstorm areas of the state)

134. Require insurers to offer dwelling limits for windstorm coverage that only covers the outstanding balance of the mortgage.

135. Eliminate maximum allowable deductibles. That is, allow insurers to offer deductibles of any amount in addition to the 2%, 5%, and 10% deductibles that must be offered.

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Issue #4: Disclosure of Premium Costs ("Transparency")

<u>Current Law</u>:
The premium notice for a residential property insurance policy must specify the amount of the premium that is for windstorm coverage.

Insurers must notify policyholders upon application and renewal of the availability and range of premium discounts for mitigation techniques and describe generally what actions the policyholders must take to obtain the discounts.

Insurers are allowed but not required (due to the law being silent) to itemize in the premium renewal notice the amounts recouped for assessments by Citizens, the Florida Hurricane Catastrophe Fund, or the Florida Insurance Guaranty Association.

For homeowners policies, insurers must provide a comprehensive checklist of coverage on a form adopted by the Financial Services Commission and an outline of coverage. The outline of coverage must include a description of the principal benefits and coverage and an itemization of the applicable premium. The outline must also include a description of the credit or surcharge plan that is being applied and the reason why the policy is being surcharged or is receiving a credit. The checklist must include discounts applied to the premium.

<u>Options</u>:

140. Require the premium notice to specify premium credits available for that particular policyholder for each mitigation measure and for a combination of various mitigation measures, in a format specified by OIR.

141. Require that the premium notice to identify amounts recouped for assessments by Citizens Property Insurance Corporation, the Florida Hurricane Catastrophe Fund, or the Florida Insurance Guaranty Association, respectively. Prohibit abbreviations.

142. Require the premium notice to identify the amount of any premium increase that is due to a rate increase and the amounts that are due to coverage changes.

143. Require the premium notice to include the amount (by dollar and percentage) of the agent's commission.