


ASSOCIATED INDUSTRIES OF FLORIDA

LEGISLATIVE DAILY BRIEF



P.O. Box 784 • Tallahassee, FL 32302 • Phone: (850) 224-7173 • Fax: (850) 224-6532 • Internet: <http://aif.com> • fbnnet.com

FROM JANUARY 16, 2007

Today marked the first full day of the 2007 Special Session. Lawmakers have been tasked this week with addressing the state's property insurance crisis. Several bills have been filed dealing with multiple topics, each aimed at reducing rates. Both the Senate and House held committee meetings during the afternoon to workshop these bills. It is expected that the main proposals will be voted out of committee on Wednesday, January 17th in order for them to be debated on the floor - Thursday and Friday of this week. At that point the legislature will go into conference presumably during the weekend in order to pass the final proposals on Monday or Tuesday of next week.

Senate Insurance Proposals

The Senate Banking and Insurance Committee considered SB 4A Relating to Hurricane Preparedness and Property Insurance by Senator Bill Posey (R-Rockledge) today. This is the Senate's main proposal for addressing the property insurance crisis in Florida. This comprehensive bill includes multiple provisions, each affecting a different aspect of property insurance in Florida. For starters, the bill makes several changes to the Florida Hurricane Catastrophe Fund (CatFund) including offering insurers additional CatFund coverage of up to \$3 billion below the industry retention of \$6 billion (estimated) for 2007 and 2008. In addition, it offers insurers additional CatFund coverage of up to \$3 billion above the maximum CatFund coverage of \$16 billion (estimated) for 2007 and 2008. In both cases the bill requires insurers to file a rate filing to reflect the savings these additional levels of coverage would have on insurance premiums.

The bill also includes several provisions dealing with Citizens Insurance Company, Florida's insurer of last resort. Among the most important changes, the bill:

- Deletes the requirement that Citizens charge rates sufficient to purchase reinsurance to cover specified levels of probable maximum loss for each of its three accounts. D
- Deletes the requirement that Citizens' rates be non-competitive and no lower than the top 20 insurers. Requires rates to be actuarially sound and subject to the standards that generally apply to property insurers. Requires the Office of Insurance Regulation (OIR) to annually establish Citizens' rates within 45 days after Citizens files recommended rates.
- Rescinds the approved rate increase that took effect January 1, 2007. Requires Citizens to provide refunds to persons who have paid this rate. Freezes rates at Dec. 31, 2006, level for remainder of 2007. Requires new (actuarially sound) rate filing, effective January 1, 2008.

- Authorizes Citizens to write multiperil policies (as well as wind-only policies) in the areas eligible for coverage in the High Risk Account.
- Expands the assessment base of Citizens (property insurance) to be the same as the Florida Hurricane Catastrophe Fund (property and casualty insurance, including auto insurance, medical malpractice, etc., but not workers' compensation or accident and health).

One of the more dramatic proposals in the bill is an idea generated by Senator Steve Geller (D-Hallandale Beach) that would create the Florida Hurricane Excess Loss Program (FHELP). Under this program the state of Florida would assume 90 percent of losses for amounts above those covered by the CatFund – insurers would still be liable for 10 percent of these losses. In other words, if a storm hit Florida and it produced an excess of \$22 billion dollars in losses the state of Florida would cover 90 percent of the difference between the total amount of losses and the \$22 billion dollars of coverage provided by the CatFund. Insurers are not required to pay premiums for the FHELP coverage, which is funded separately from the CatFund. According to the legislation's intent funding for the FHELP would be provided from up to 10 percent of state revenues.

The bill also calls for the repeal of the “panhandle exemption” from the Florida Building code, it requires insurers to make it available to policyholders the option to exclude windstorm coverage, it eliminates maximum allowable deductibles, and authorizes local government entities and hospitals to form self-insurance funds and issue bonds. The bill also calls for the creation of the Windstorm Mitigation Study Commission, but does not pump in additional dollars for mitigation grants.

During the meeting, several committee members expressed concerns over the expansion of Citizens. Senator Al Lawson (D-Tallahassee) pointed out that in effect, the bill is laying the groundwork for the state to take over the insurance market. Chairman Posey replied by saying that currently there is very little, if any, competition throughout much of the state and that “we are the free-market folks; we would normally lay out our bodies in front of the tracks to stop something like this, but it is a crisis and something must be done.”

There was much discussion as well regarding the FHELP concept. The main question seemed to be how the state would pay for such exposure to risk. Senator Geller assured that the likelihood of a storm of that magnitude hitting Florida was not very likely and that at most the state would be responsible for about 2 to 3 billion dollars which could be covered by general revenues or through a 1 or 2 penny sales tax increase.

Although the committee did not take a vote, several amendments were considered including one by Senator Ronda Storms (R-Brandon) that dealt with the issue of “cherry-picking.” Cherry-picking is the slang term for insurance companies that sell auto insurance in Florida but do not sell other lines such as property insurance because they are less profitable. Senator Storms’ amendment would define this practice as an “unfair and deceptive practice.” Chairman Posey expressed his concerns with this amendment, but promised to think it over. Other substantive amendments included one by Senator JD Alexander (R-Lake Wales) which would reinstate an exemption that precluded medical malpractice insurance from any assessments to pay deficits resulting from past hurricanes. Currently, most types of insurance except workers’ compensation make up the assessment base for Citizens and the CatFund.

The committee took some comments from the public, but ran out of time before the majority of the speakers were able to comment on the bill. Some of the testimony came from members of the public who expressed their dissatisfaction over the increase in property insurance rates. Some members of the insurance industry including Mark Delegal from State Farm Insurance Company testified in opposition to the bill.

AIF and the Florida Hurricane Crisis Coalition (FHCC) will continue to work with the Senate members to try to achieve meaningful legislation that achieves positive impacts on rates while not creating an onerous regulatory environment.

House Insurance Proposals

The House Jobs and Entrepreneurship Council heard three property insurance bills this afternoon. The Council unanimously passed all three bills and they are all now scheduled to be heard by the House Policy & Budget Council tomorrow morning at 8:00 in 202 Knott Building.

The first bill to be considered was HB 1A Relating to Hurricane Preparedness & Insurance by Representatives David Rivera (R-Miami), Denise Grimsley (R-Sebring), Jack Seiler (D-Pompano Beach), and Audrey Gibson (D-Jacksonville). This bill has three primary areas of concern that the business community raised. All of the concerns expressed at the meeting today are based on the guiding principles established by the Florida Hurricane Crisis Coalition (FHCC). First, the bill would require all property insurers to pay or deny claims submitted by the policyholders within 90 days. This could create significant problems in expanding litigation for bad faith cases and could cause companies to pay for claims that they should not pay, which will result in increased costs overall.

The next area of concern is a requirement to return all excess profits to policyholders. If adopted, Florida would be the only state to have such a requirement. This would also discourage companies from writing new business in the state of Florida.

Finally, the provisions prohibiting the licensure of new “pup” companies, or wholly-owned subsidiaries of national companies, to write property insurance in Florida, is another measure that would not lower rates but would only discourage companies from doing business in Florida.

The next bill presented to the committee was HB 9A Relating to Hurricane Preparedness by Representatives Ellyn Bogdanoff (R-Ft. Lauderdale) and Janet Long (D-St. Petersburg). This bill will be referred to as the "Citizens Reform and Private Market Restoration Act". There are no significant measures in the bill that are contrary to the FHCC guiding principles. The bill contains several provisions designed to allow more entities to pool their risks or self-insure for property insurance and provides guidelines and restrictions for such. New entities allowed by the bill to self-insure are alliances of specified hospitals if all hospitals in the alliance are non-profit; non-profit corporations; 10 or more associations of condominium associations, cooperative associations, homeowner’s associations, vacation and timeshare associations, and mobile home park lot tenant associations; and less than 10 community associations if the group formed is non-profit and meets other statutory requirements.

The last bill presented today was HB 3A by Representatives Dick Kravitz (R-Jacksonville), Jack Seiler (D-Pompano Beach), and Priscilla Taylor (D-Riviera Beach). This bill focuses on deleting the rapid cash build up requirement of the CatFund reimbursement premium formula factor. The one concern over this issue is that it could open the door for additional assessments. However, even with the continuation of the cash build up mechanism, assessments can be increased under current law.

AIF and the FHCC will continue to work with the House members to try to achieve meaningful legislation that achieves positive impacts on rates while not creating an onerous regulatory environment.

Building Code

HB 7A Relating to Building Code Hurricane Preparedness by Representative Marti Coley (R-Marianna) was passed unanimously by the House Government Efficiency & Accountability Council. The bill requires the Florida Building Commission to repeal the “panhandle exemption” and requires them to develop “Code Plus” guidelines aimed further strengthening new construction and developing tougher building standards. The only real discussion centered on the bill's language which essentially locks in current wind maps.

Testimony from the Home Builders, the Department of Community Affairs and AIF all called for the language to allow the maps to be changed by the Florida Building Commission, as they are periodically updated by the American Society of Civil Engineers. Representative Coley agreed to further look at the issue, but suggested they may pass it now and consider modifying it during the regular session.

AIF and FHCC support the basic concept of repealing the “panhandle exemption” and developing the strongest building code possible. We urge the legislature to consider allowing the wind maps to be changed periodically according to updates by the American Society of Civil Engineers.

Mitigation

HB 5A, The Home Enhancement and Loss Prevention Act by Representatives Trey Traviesa (R-Tampa) and Franklin Sands (D-Weston) was taken up and heard today in the House Council on Economic Expansion and Infrastructure. Representative Franklin Sands spoke briefly on the importance of mitigation, as “an ounce of prevention” for Florida homeowners and Representative Trey Traviesa presented the bill in its entirety to the council and then introduced four amendments which were adopted. The bill passed unanimously as a committee substitute.

The bill is intended to strengthen a home’s resistance to wind damage a form of mitigation prior to a storm by:

- Specifying eligibility requirements for grants and use of grant funds;
- Outlining requirements for wind mitigation inspectors;
- Authorizing the Department of Financial Services to contract with a not-for-profit corporation to conduct all or portions of the Florida Comprehensive Hurricane Damage Mitigation Program;
- Authorizing the Department of Financial Services to establish a home grading scale,
- Creates the Windstorm Mitigation Study Committee to address mitigation in Florida and issues a report by March 6, 2007.
- Requiring insurance agents to be familiar with the available premium discounts for mitigation and offer them to their clients
- Requiring insurers to account for hurricane mitigation measures when determining rates and offer deductible reductions for mitigation measures;
- Requires a uniform mitigation verification inspection form.

The first amendment required the department to maintain and regulate a list of wind mitigation inspectors. This was adopted by the council with the exception of Representative Susan Bucher (D-West Palm Beach). All other amendments were adopted unanimously. The second amendment augmented background checks, amendment three regulated how long inspections will be valid; and the fourth and final amendment modified appropriations to conform the bill.

AIF and the FHCC are strong supporters of mitigation as one of the solutions for dealing with the property insurance crisis in Florida. In its recommendations submitted to the Legislature, the FHCC calls for the expansion of the state’s mitigation program for homeowners and the creation of home grading system as ways to help Floridians strengthen their homes and protect the most value resource –human life.

National Catastrophe Insurance Program

The Senate Banking and Insurance Committee considered SM 6A Relating to a National Catastrophe Insurance Program by Senator Jeff Atwater (R-North Palm Beach). This Senate memorial urges the US Congress to create a National Catastrophe Insurance Program. The Program would include:

- Private market residential insurance that provides all-perils coverage to consumers;
- Tax-advantaged disaster savings accounts that individuals manage for the purpose of paying for mitigation enhancements and catastrophic losses;
- Tax-deferred catastrophe reserves for insurance companies;
- A national catastrophe financing mechanism that would provide risk management and financing for mega-catastrophes; and Aggregate risk pooling of natural disasters funded

Most committee members praised Senator Atwater for bringing this memorial up and expressed their support for this proposal. Several examples were given of times when Floridians have paid their share of Federal programs not specifically designed to help them such as Federal crop subsidies and Federal Flood Programs.

The House also has its version of a memorial, HM 11A by Representative Adam Hasner (R-Delray Beach). HB 11A received unanimous approval today by the House Government Efficiency & Accountability Council. The House's version differs a bit from the Senate memorial in that it request Congress to participate in a federal/state issues summit to be held in Florida to discuss and develop policy positions on current and emerging issues of state importance.

Further, the resolution request federal tax exemptions for catastrophe premium equalization deductions which would be held by the State of Florida in a segregated account for the benefit of insurers in the event of a catastrophe and the Florida Property and Casualty Joint Underwriting Association. It would also create a federal personal tax deduction for individuals to offset the dramatic rise in the cost of residential property insurance.

Lastly, the resolution supports the National Hurricane Research Initiative, which is intended to foster a better understanding of hurricane prediction, intensity, and mitigation on coastal populations, infrastructure, and the environment.

Keyna Cory, Chief Lobbyist for AIF, spoke in favor of HM 11A. She informed the Council that AIF and the FHCC have been working on the insurance crisis since August 2006. Cory noted that the insurance crisis is not unique to Florida but is a growing problem for many states throughout our nation.

Mitigation is a major issue to help lower insurance rates and the tax credits in this House Memorial will go a long way in helping Floridians harden their homes.

AIF and the Florida Hurricane Crisis Coalition (FHCC) support the effort to raise awareness in the US Congress about the property insurance crisis faced by the people of Florida. We applaud the Florida legislature for their efforts in lobbying for a National Catastrophe Program that would spread the risk across the country for events such as earthquakes in California, tornadoes in the Mid-West, and hurricanes in the Southeast.

Please send your comments or suggestions to us at aif@aif.com or call the Governmental Affairs department at (850)224-7173.

- For more information on all of the important legislative information concerning the business community, go to our “members only” Florida Business Network web site at <http://fbnnet.com>
- Send us your E-mail address and we will begin to send this report to you automatically via E-mail.