



FROM JANUARY 21, 2007

Negotiations between the Senate and House on the issue of property insurance reform began on Friday, January 19th and continued throughout the weekend. All of the almost 87 provisions in both House (HB 1A, 3A, 5A, 7A, and 9A) and Senate (SB 4A) proposals have been agreed to. Below is a recap of the major provisions in the consensus conference committee bill. The entire conference committee must vote on the consensus bill before going to the floor; it is expected that this will take place around 10:00 am Monday morning. Both the Senate and House are scheduled to begin session at 1:00 pm Monday, January 22nd. At that time a final vote will be taken on the conference committee bill.

Florida Catastrophic Hurricane Fund (CatFund)

One of the major proposals aimed at reducing property insurance rates deals with the Florida CatFund and its coverage levels. The CatFund was created in November 1993 during a special legislative session after Hurricane Andrew. The purpose of the CatFund is to protect and advance the state's interest in maintaining insurance capacity in Florida by providing reimbursements to insurers for a portion of their catastrophic hurricane losses.

The bill addresses several issues regarding the CatFund including:

- Retaining the current retention level of \$6 billion (this is the amount insurance companies must pay in losses resulting from a hurricane before the CatFund coverage is triggered);
- Retaining CatFund coverage of \$16 billion for hurricane losses above the insurance companies' retention level at the current rate on line (all residential property insurance companies must purchase this coverage);
- Providing insurance companies the option to purchase coverage above the current \$16 billion level at a rate which is substantially below the cost of reinsurance in the private sector (rate online of 2.33 percent); the CatFund will provide \$12 billion additional coverage;
- Eliminating the 25 percent surcharge on CatFund premiums collected from insurance companies, which was enacted last year, to speed up the build up of cash in the CatFund
- Authorizing the State Board of Administration (SBA) at their option to provide \$4 billion coverage above the \$12 billion to increase the optional coverage from \$12 billion to \$16 billion.

In summary, the total exposure of the CatFund has been increased from \$16 billion to \$28 billion. The SBA may at their discretion increase this amount to \$32 billion. For this increased exposure, no upfront funding was provided, thereby increasing the potential of future assessments on all property and casualty insurance premiums (except workers' compensation and medical malpractice liability insurance).

Insurance companies are required to pass through to consumers 100 percent of the savings from the additional CatFund coverages. Insurers that elect to purchase the additional coverage must make a rate filing with OIR, which reflects savings. Insurers who do not purchase the optional coverages may not include in their rate filing the cost of private reinsurers, which exceeds that of the CatFund. The legislature estimates that the new CatFund coverages and the elimination of the 25 percent surcharge on insurers' premium will result in a 15 to 30 percent reduction in policyholders' premiums.

Citizens Insurance Company

Another major element in property insurance reform deals with Citizens Insurance Company. The conferees approved a proposal by Citizens to expand its deficit base from residential property premiums to all property and casualty premiums such as personal auto, commercial auto, commercial property, commercial liability, etc. (except workers' compensation and medical malpractice insurance). The bill also contains several changes to the way Citizens Insurance Company does business. Some of the major changes include:

A rollback of the 22 percent average Citizen rate increase approved by OIR as actuarial sound in early 2006;

Repealing the provisions in the 2006 legislation which would have required an average of 57 percent rate increase effective Jan. 1 2007 further making Citizens rates actuarially unsound;

Providing eligibility for Citizens coverage if an applicant offer of coverage by a private insurer is more than 25 percent greater than the premium for comparable coverage provided by Citizens (under current law an applicant is not eligible for Citizens coverage if they are offered comparable coverage by a private insurer at an actuarially sound rate approved by OIR)

Requiring Citizens to submit a business plan and obtain approval from Financial Services Commission and the Legislative Budget Committee prior to offering multiperil coverage in coastal areas (under current law Citizens can only offer windstorm coverage in these high risk areas and the private insurers provide coverage for other perils such as burglary, theft, and personal injury liability); and

Repealing the current commercial property joint underwriting association (PCJUA) and transferred its commercial property policies into Citizens.

The reduction in Citizens' rates greatly increases the potential for deficits resulting from hurricane losses and assessments (taxes) against all property and casualty insurance premiums (except workers' compensation and medical malpractice). More importantly, the cumulative affect of these changes puts Citizens, with unsound rates and state subsidizes, in direct competition with private insurers who must have actuarially sound rates.

Property Self-Insurance Programs

The bill authorizes new property self-insurance programs for hospitals, local government entities, and condominium associations. Any reductions in the cost of property insurance for local governments and hospitals will reduce the cost of services provided by these two entities.

Insurance Company Accountability Provisions

The bill imposes several well-intended, new requirements on insurance companies in an effort to restore the public's confidence in the pricing of insurance products and claims payment practices including:

- Requiring Chief Executive Officer or Chief Financial Officer of an insurance company to attest in a signed statement that the information accompanying a rate filing is true
- Suspended the "use and file" approval option for insurers until January 31, 2009.
- Suspended the use of arbitration to resolve disputes with the Office of Insurance Regulation (OIR) regarding rate filings until January 31, 2009
- Requires the Insurance Consumer Advocate to provide an annual report card on insurance companies
- Requires property insurance companies to deny or pay a personal residential property claim within 90 days following notice of the claims
- Requires property insurers to include on premium notices the amount of CatFund, Citizens, and Guaranty Fund (FIGA) assessments and the amount of the premium attributed to change in rate or coverages.

While these changes are well intended, they will require extensive system changes for property insurance companies, which will increase their cost of doing business. These increased costs will be passed on to consumers in the form of premium increases.

The vast majority of claims are currently paid within a 90-day period. Requiring insurers to pay or deny all claims within 90 days will result in many unsupported or fraudulent claims being paid, which could result in additional premium increases.

Consumer Deductible Options

The bill provides additional options for consumers to increase their property insurance deductibles. The idea is that higher deductibles will result in premium reductions. An additional proposal tying deductibles to home equity and mortgage balance was rejected because it would have jeopardized the re-sale of mortgages in the secondary mortgage market.

Building Code

The repeal of the “panhandle exemption” was a topic of much debate during this special session. Conferees accepted a proposal that eliminates this exemption from the Florida Building Code by requiring adoption of the International Building Code and International Residential Code without exceptions. In addition, the bill prohibits future changes to the building code unless the changes enhance the structural integrity of the code as it relates to wind resistance or prevention of water intrusion. Finally, the bill requires the Florida Building Commission to develop voluntary “code-plus” guidelines for increasing the hurricane resistance of buildings.

Mitigation

On the subject of mitigation, the conferees accepted a proposal to appoint a committee to make recommendations to improve the already existing mitigation grant program. The bill also requires the Department of Financial Services (DFS) to develop and maintain a list of authorized wind mitigation inspectors and a list of contractors authorized to conduct wind mitigation inspections. Also of note, is a proposal in the bill to require the creation of a uniform home grading scale to grade a home’s ability to withstand wind damage. Finally, the bill authorizes DFS to contract with a not-for-profit corporation to conduct all or portions of the state’s mitigation program.

Other Issues

The conferees rejected proposals to eliminate Florida subsidiaries of national insurance companies commonly referred to as “pup” companies which are formed to write property insurance in Florida. These companies write over one half of the property insurance policies in Florida; eliminating them would cause a substantial disruption in the market, especially with regards to the availability of property insurance.

On the so-called issue of “cherry-picking” the conferees accepted a proposal that requires insurers that offer homeowners policies in other states and offer auto insurance in Florida to sell homeowners insurance in Florida. This proposal will discourage certain companies from doing business in Florida and will certainly be a deterrent for new companies to write business in Florida.

AIF supports efforts by the legislature to reduce property insurance rates for all Floridians. However, we cannot support any legislation that expands Citizens Insurance Company on the back of our member companies and other businesses in Florida. We are very concerned with primarily funding future hurricane losses with debt, which in our view will have a negative impact on Florida's excellent bond rating. In addition, we are also concerned with provisions in the bill, which will discourage new or existing insurance companies from doing business in Florida. AIF will continue to voice its concerns about the problematic portions of this bill now and throughout the regular session.

Once the final bill is passed we will be providing our members with an in-depth overview of each of the bill's provisions and its impact on the business community as a whole.

Please go to <http://aif.com/fhccindex.htm> for further information on AIF and the Florida Hurricane Crisis Coalition's position on insurance reform.

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.