

Insurance

Legislation was enacted during a January 2007 Special Session which exposed Florida's businesses to potential hurricane taxes in the billions of dollars by expanding the state-run Citizens Property Insurance as an unfair market competitor. The legislation rolled back Citizens' rates and froze them at the 2005 level. In addition, the legislation gave regulators additional power to suppress private insurers' rates. As a result, there is a shortage of private insurers willing to write property insurance and Citizens lacks the liquidity (cash and bonding capacity) to meet its projected obligations in the event of a major hurricane.

- In an encouraging reversal from 2007, the 2009 Legislature passed an AIF priority bill lifting the four-year freeze on Citizens' rates and authorizing rate increases up to 10 percent. Citizens' actuaries stated that it needs to increase rates in excess of 40 percent to become actuarially sound.
- However, despite Citizens' actuarial findings and the incredible potential for billions of dollars in property damage in high-risk coastal areas, Insurance Commissioner Kevin McCarty increased rates for Citizens by only 5.2 percent for coastal homeowners and 5.4 percent for other policyholders.

A Category 2 storm hitting one of Florida's high-risk coastal areas — which is basically most of the state — would amount to billions of dollars in damages which Citizens is unable to cover. Unfortunately, taxes levied on all businesses' automobile, liability, and property insurance premiums in the form of assessments will be used to fill the gap.

AIF believes protecting homes against hurricane damage is the best long-term strategy in managing Florida's hurricane risk and will bring costs down over time while immediately protecting homeowners' families against bodily harm.

- Since 2003, insurers have been required to provide premium discounts on residential property insurance for homes that have construction features designed to reduce the amount of damage in a hurricane.
- The Financial Services Commission enacted a rule in 2007 doubling required discounts without updating the study upon which discounts were originally based and without consideration of the financial impact on insurers.
- Since the enactment of this rule, many insurers



cite the discounts as a primary reason they are not collecting enough premium to cover their hurricane risk and in some cases non-wind losses.

AIF believes competition should be the primary determiner of insurance rates as opposed to state regulation. Under current law, the Office of Insurance Regulation (OIR) reviews proposed insurance rates and either approves them or disapproves them based on its interpretation of a number of statutory standards. OIR has used this statutory power to prevent insurers from changing rates in a timely manner necessary to have sufficient monies to pay claims and make a reasonable profit. The OIR rate review process discourages national insurers from entering, expanding or remaining in Florida. OIR rate suppression is the major contributor to the transformation of Florida's homeowners' insurance market from well-capitalized national insurers to Florida-only underfunded insurers that didn't exist five years ago.

For the 2010 Legislative Session, AIF will be advancing legislation in the following areas of insurance:

Consumer Choice & Florida's Insurance Rate Regulatory Process

AIF SUPPORTS legislation which makes competition the primary determinant of insurance rates, including consumer choice for homeowners, flex rating for insurers and exemption from OIR prior approval of rates for certain commercial policies. Consumer choice legislation will allow homeowners to choose between Citizens and a private insurer with unregu-

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lated higher rates for coverage. Flex rating will allow an insurer to vary their rates up or down from a rate approved by the OIR within a specified range without obtaining specific approval. These provisions put insurance pricing power into the hands of the consumer to help ensure a vibrant, competitive private-insurance market while providing for necessary consumer protections.

Citizens Rate Increase Glide Path

AIF SUPPORTS legislation requiring a 10 percent rate increase for all Citizens policyholders each year until its rates are actuarially sound. Making Citizens' rates actuarially sound will substantially reduce the likelihood of claims-paying deficits and, thus, hurricane taxes on insurance premiums.

Hurricane Mitigation Discounts

AIF SUPPORTS a fair and supportable mitigation insurance premium discount process as a secondary incentive for homeowners to spend monies to install proven features that protect their homes and families against hurricanes. AIF supports requiring Florida's homeowners to provide proof of new construction which strengthens the roofs, doors and windows of their homes before receiving hurricane premium mitigation discounts, an independent actuarial process to ensure appropriate discounts, and measures to reduce fraud and abuse in obtaining mitigation discounts. AIF further supports funding mitigation educational



Rep. Bryan Nelson (R-Apopka) receives a 2009 Legislator of the Year award for his work on restoring Florida's private property insurance market.

programs with emphasis on the need to protect one's family against bodily harm as the primary incentive to retrofit homes against hurricane damages.

Stranger Originated Life Insurance (STOLI) Arrangements

AIF SUPPORTS the Insurance Commissioner's efforts to pass legislation to eliminate abuses associated with stranger originated life insurance (STOLI) arrangements. STOLI arrangements undermine the purpose upon which life insurance is based — financial protection for families and businesses. Under a STOLI arrangement an investor induces a senior to purchase life insurance. For an upfront payment and payment of the premiums by the investor, the senior makes the investor the beneficiary of the policy. The investor profits if the death benefit collected after the senior dies exceeds the upfront payment and premiums paid. The sooner the senior dies, the higher the profit. In addition to undermining the purpose of life insurance, STOLI arrangements, if found to be investment products by the Internal Revenue Service, will jeopardize favorable income tax treatment for businesses and individuals.

Long Term Care Insurance

A decision recently made by the Florida 3rd District Court of Appeals significantly altered the method in which long term care insurance policies are defined. Consumers purchase long term care insurance to assist in paying medical bills later in life. Prior to the Court's decision, these policies were purchased with the knowledge that they would be renewed upon payment of the premium and the law at the time of purchase would be "locked" in. However, the Court decided in *Beckerman vs. Continental Casualty* that any law change occurring after the initial purchase would affect the contract and that the rate can go up to reflect such changes. **AIF will SUPPORT legislation to assist both consumers who have purchased long term care insurance and businesses that sell such policies.**

AIF Lobby Team Members Assigned to the Area of Insurance Include:

Nick Iarossi – Property Insurance

Gerald Wester – Property Insurance
General Insurance Issues