Florida Update: High Noon on the Sunshine State

Intermediaries & Reinsurance Underwriters Association

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PROFESSIONAL BIOGRAPHY OF FRED E. KARLINSKY

- Fred E. Karlinsky, a shareholder in Colodny, Fass, Talenfeld, Karlinsky and Abate in Fort Lauderdale and Tallahassee, focuses his practice on insurance regulatory matters, insurance legislative matters, insurance transactional matters and governmental affairs.
- An “AV” rated Martindale Hubbell attorney, Mr. Karlinsky was named to Florida Trend Magazine’s Florida Legal Elite in 2005 and 2006, named as a Top Lawyer by the South Florida Legal Guide for 2005 through 2007, and selected as a Super Lawyer and featured in the 2007 and 2008 Florida Super Lawyer Magazine.

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PROFESSIONAL BIOGRAPHY OF FRED E. KARLINSKY

- Mr. Karlinsky currently serves as Florida counsel to the Property Casualty Insurers Association of America (PCI) and general counsel and chief lobbyist for the Florida Property and Casualty Association (FPCA), among other clients.
- Mr. Karlinsky is a graduate of the University of Miami (B.S., 1989) and Florida State University College of Law (J.D., 1992).
- A member of the Florida Bar, Mr. Karlinsky is admitted to practice in all Florida state and appellate courts, the United States District Court for the Southern, Middle and Northern Districts of Florida, the United States Court of Appeals for the 11th Circuit, the United States Court of Federal Claims, the United States Tax Court and the United States Supreme Court.

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PROFESSIONAL BIOGRAPHY OF FRED E. KARLINSKY

- Mr. Karlinsky currently is an adjunct Professor at Florida State University College of Law, teaching a class entitled "Insurance Law: A Law and Economics Perspective."

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OUTLINE

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- Current Pending Florida Legislation
- Conclusion

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FLORIDA'S POLITICAL SCENE

Statewide Officials

Charlie Crist (R-St. Petersburg): Elected Governor in 2006. Defeated Jim Davis in the General Election. Term began January 2007.

- Native Floridian: Born in St. Petersburg.
- Served for 6 years in the Florida Senate beginning in 1992.
- Appointed by then Governor Jeb Bush as the Deputy Secretary of the Department of Business and Profession Regulation.
- Elected Commissioner of Education in 2000.
- Elected Attorney General in 2002.

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FLORIDA'S POLITICAL SCENE

Bill McCollum (R- Winter Park): Elected Attorney General in 2006. Defeated Skip Campbell in the General Election. Term began January 2007.

- Native Floridian: Born in Brooksville.
- Served on active duty and as an officer in the Judge Advocate General's Corps in the U.S. Navy.
- Served in the United States Congress from 1981 until 2001.
- Returned to private practice with the firm of Baker and Hostetler, LLP, until he was elected as the Attorney General.

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FLORIDA'S POLITICAL SCENE

Alex Sink (D- Tampa): Elected Chief Financial Officer in 2006. Defeated Tom Lee in the General Election. Term began January 2007.

- Former President of Bank of America, Florida's Largest Bank.
- Appointed by Governor Lawton Chiles to the Commission on Government Accountability to the People.
- Served as Vice Chair of Florida Tax Watch.

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FLORIDA'S POLITICAL SCENE

Charles Bronson (R- Tallahassee): Re-elected Agricultural Commissioner in 2006. Defeated Eric Copeland in the General Election. Term began January 2007.

- Native Floridian: Born in Kissimmee.
- Appointed Agricultural Commission in 2001 and Elected in 2002.
- Elected to the Florida Senate in 1994 and re-elected in 1998.

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FLORIDA'S POLITICAL SCENE

Kevin McCarty: Florida's First Appointed Insurance Commissioner, January 2003.

- Appointed by the Financial Services Commission comprised of the Governor and Cabinet.
- Served with the Department of Labor and Employment Security beginning in 1998.
- Served with the Florida Department of Insurance beginning in 1991.

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FLORIDA'S POLITICAL SCENE

Florida Senate

Current Composition of the Florida Senate

- 26 Republicans.
- 14 Democrats.
- 21 Senate seats were up for election in 2008.
- 7 first term Senators were elected in 2008.

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FLORIDA'S POLITICAL SCENE

Florida Senate

Sen. Jeff Atwater (R- North Palm Beach): President of the Florida Senate, 2008-2010.

Sen. Al Lawson (D- Tallahassee): Minority Leader Florida Senate, 2008-2010.

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FLORIDA'S POLITICAL SCENE

Sen. Mike Haridopolos (R-Melbourne): President Elect of the Florida Senate, 2010 - 2012.

Sen. Nan Rich (D- Sunrise): Democratic Leader Elect of the Florida Senate, 2010 - 2012.

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FLORIDA'S POLITICAL SCENE

Florida House of Representatives

Current Composition of the Florida House

- 76 Republicans.
- 44 Democrats.
- All House seats were up for election in 2008.
- 35 first term Representatives were elected in 2008.

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FLORIDA'S POLITICAL SCENE

Representative Larry Cretul (R- Ocala): Speaker of the Florida House of Representatives 2009-2010.

Representative Franklin Sands (D- Plantation): Minority Leader the Florida House of Representatives 2008-2010.

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FLORIDA'S POLITICAL SCENE

Representative Dean Cannon (R-Winter Park): Speaker Designate of the Florida House of Representatives for 2010-2012.

Representative Will Weatherford (R-Zephyrhills): Speaker Designate of the Florida House of Representatives for 2012-2014.

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FLORIDA'S POLITICAL SCENE

Representative Ron Saunders (D- Key West): Elected Minority Leader Designate of the Florida House of Representatives for 2010-2012.

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FLORIDA'S POLITICAL SCENE

Florida's Federal Representation

Current Composition of the Florida Representatives

- 15 Republicans.
- 10 Democrats.
- All 25 House seats were up for election in 2008.
- 3 Incumbents were defeated in the 2008 election.
- 1 first term Representative was elected in 2008.

No Florida Senators were up for reelection in the 2008 election.

- Mel Martinez (R) has announced he will not seek reelection 2010.
- Bill Nelson (D) is up for reelection in 2012.

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FLORIDA'S POLITICAL SCENE

Florida Regular Legislative Session

- 60 day Session held annually. Generally, from the beginning of March until the beginning of May.
- 2009: March 3 to May 1.

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FLORIDA'S POLITICAL SCENE

- **"Two things you don't want to watch being made are legislation and sausages."**

  Attributed to Otto von Bismarck, who served as Germany's chancellor in the 19th century.

- **"No man's property is safe when the legislature is in session."**

  Mark Twain 1866

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FLORIDA'S POLITICAL SCENE

"The property of no man, woman, child, stepchild, parent, step parent, grandparent, sibling, aunt, uncle, cousin, or family pet, whether natural or adopted, natural person, animal, whether domesticated or wild, business entity, including without limitation, any corporation, unincorporated association or business, limited liability company, business trust, real estate investment trust, common law trust, or other trust, general partnership, limited liability partnership, limited partnership, joint venture, or two or more persons having a joint or common economic interest, any state, local, federal, or foreign government, governmental subdivision, agency, or instrumentality, or any other domestic or foreign entity that is formed pursuant to the provisions of applicable law is safe when the legislature is in session."

Fred E. Karlinsky 2008

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FLORIDA'S POLITICAL SCENE

Florida Budget Deficit

- The budget crisis is the single biggest issue discussed in the Legislature this year.
- A Special Session was called in January 2009 to fill a $2.4 billion shortfall for the 2008-2009 Fiscal Year (FY).
- The 2009-2010 FY budget is expected to be $5 to $7 billion less than the prior year. On February 20, 2009, Governor Crist unveiled his proposed $66.5 billion budget.

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FLORIDA'S POLITICAL SCENE

- Economists at the Florida Office of Economic and Demographic Research General Revenue Fund Estimating Conference ("Conference") met on March 13, 2009 to evaluate the impact of state tax collections for the remainder of the fiscal year 2008-2009, and for 2009-2010.
- Over the budget year beginning July 1, 2009, tax revenues are predicted to fall by $2.3 billion, which is more than what Governor Crist, lawmakers and economic experts were expecting.
- Economists blame the unexpected tax shortfall on the lingering credit crisis, slowing sales of cars and decreasing spending on household goods and leisure.

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FLORIDA'S POLITICAL SCENE

- Florida's sales tax, which provides three-fourths of the state's overall tax revenue, is now expected to fall for a fourth consecutive year.
- Therefore, the actual state budget required may be closer to $72 billion, instead of the Governor's $66.5 billion proposal.

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FLORIDA'S POLITICAL SCENE

- Federal Stimulus Bill
  - On February 17, 2009 President Barack Obama signed a $787 billion stimulus bill.
  - Florida is expected to receive $12.2 billion over the next 2 ½ years, primarily for roads, childcare, unemployment, job training and Medicaid costs.
  - Officials estimate Florida will receive $3.2 billion for 2008-2009 FY, $4.7 billion for 2009-2010 FY and $4.3 billion for 2010-2011 FY.

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FLORIDA'S POPULATION GROWTH

	Florida		U.S.	
Year	**(in thousands)**	**% change**	**(in thousands)**	**% change**
1980	9,747	-	227,726	-
1990	12,938	32.7%	248,791	9.3%
2000	15,983	23.5	281,425	13.1
2010 (projected)	18,881	24.6	308,936	9.8
2020 (projected)	21,417	17.9	335,805	8.7

Source: Office of Economic and Demographic Research, The Florida Legislature (February 2009), and U.S. Census Bureau.

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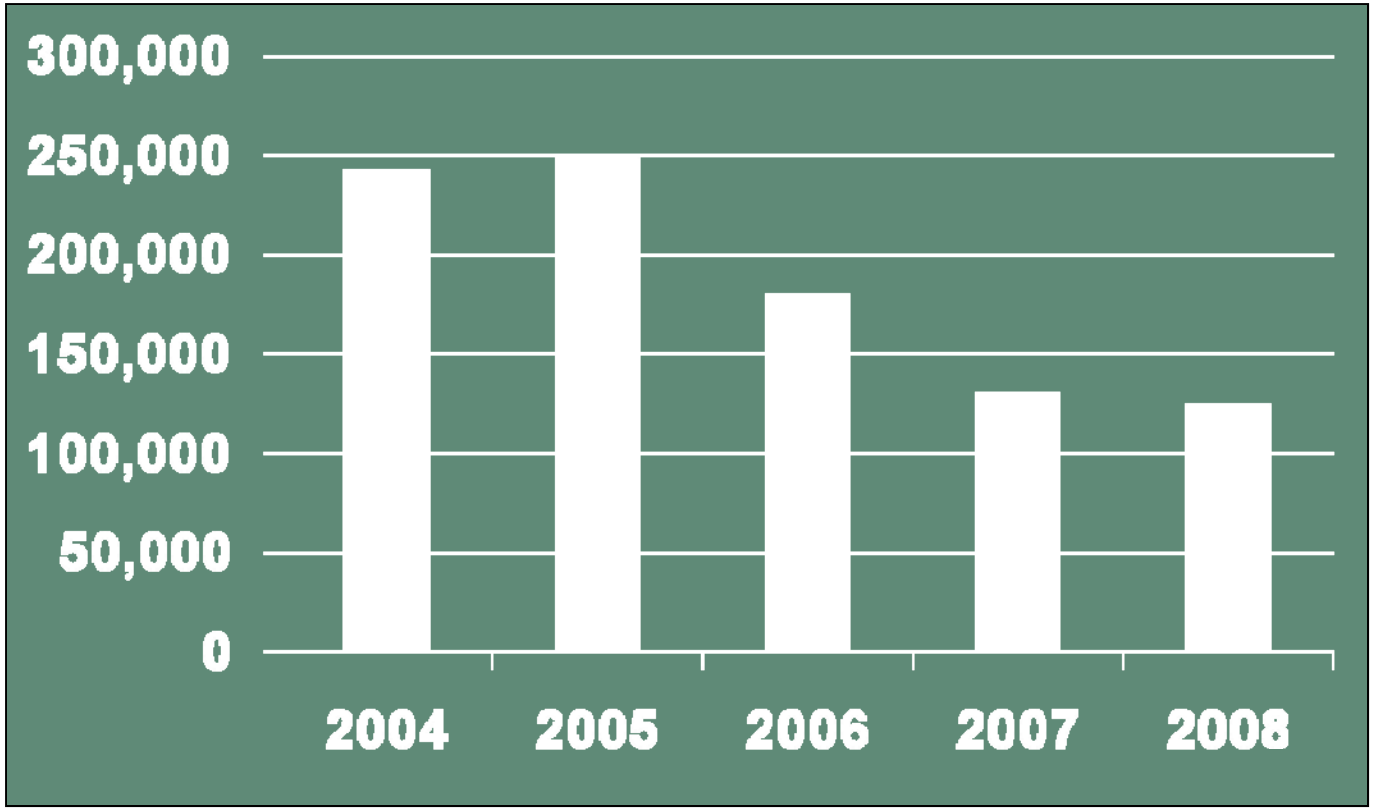
FLORIDA'S REAL ESTATE MARKET

Sales of Existing Single-Family Homes



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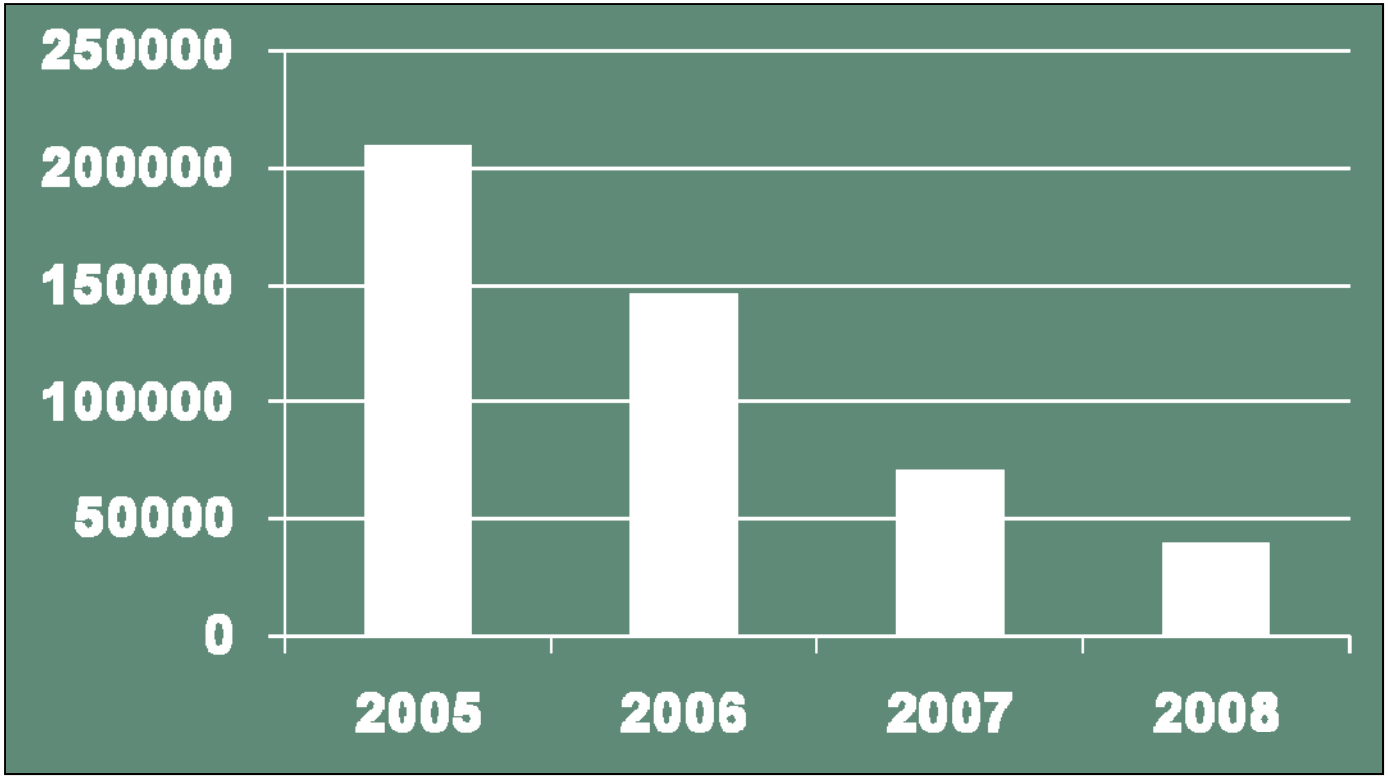
FLORIDA'S REAL ESTATE MARKET

New Housing Starts – Single Family Homes



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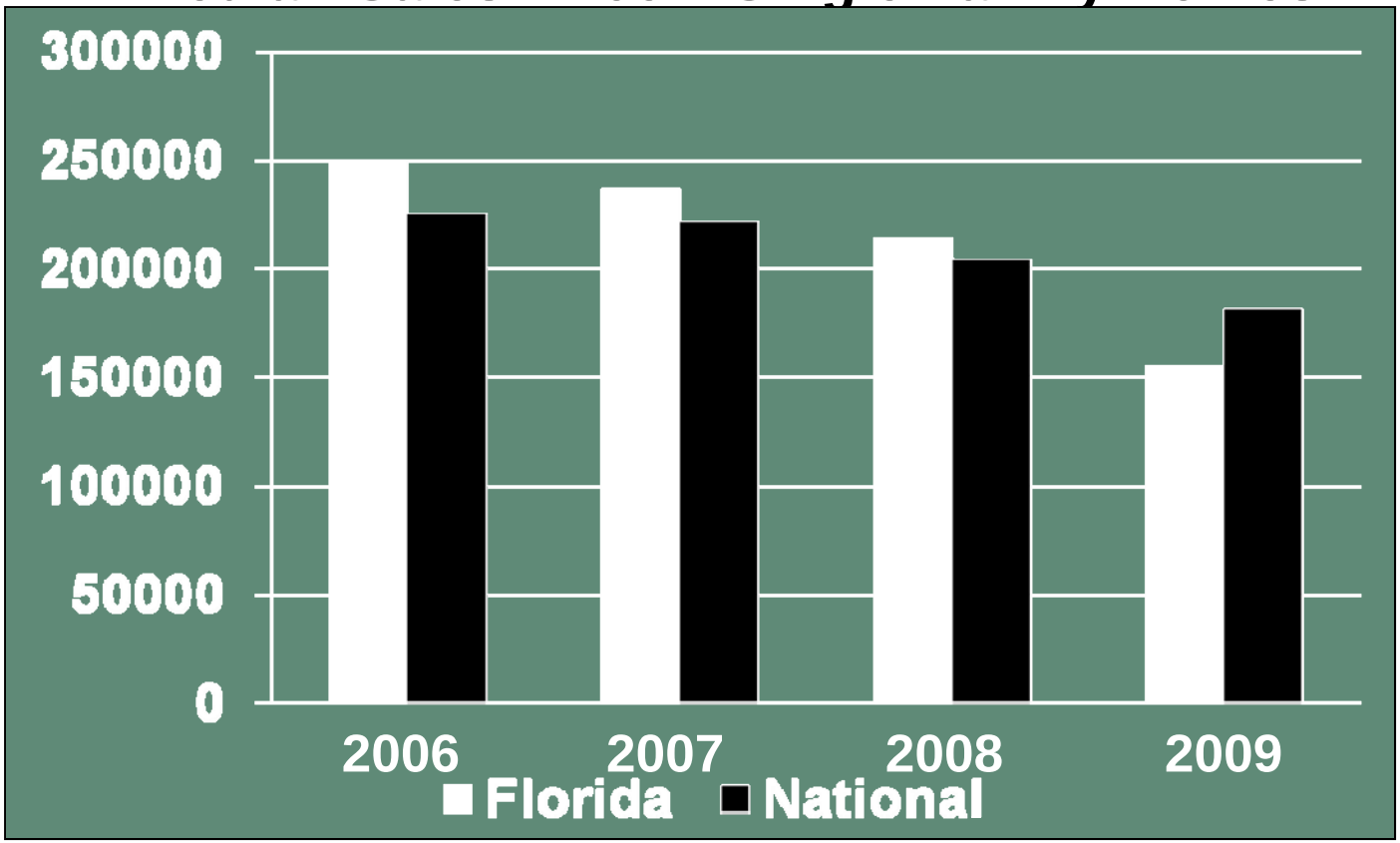
FLORIDA'S REAL ESTATE MARKET

Median Sales Price – Single Family Homes



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FLORIDA'S REAL ESTATE MARKET

Foreclosure Filings

2008 Florida Total	2008 National Total
501,396	3,157,806
Up 133% from 2007	Up 81% from 2007
1 in 22 Homes 2nd Highest Foreclosure Rate In U.S.	1 in 54 Homes

January 2009 Florida Total	January 2009 National Total
40,770	274,399

Source: Realtytrac

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NEW FLORIDA HOMEOWNERS MARKET

2004 (4)	2005 (4)	2006 (13)	2007 (10)	2008 (6)
▪Coral Insurance ▪Gulfstream ▪St. Johns ▪Universal NA	▪First Home ▪Florida Peninsula ▪Security First ▪Southern Oak	▪American Capital ▪American Integrity ▪American Traditions ▪Ameriprise ▪Auto Club ▪Edison ▪Hillcrest ▪HomeWise Preferred ▪Northern Capital ▪Royal Palm ▪Safe Harbor ▪Seaside ▪Southern Fidelity	▪American Coastal ▪American Keystone ▪American Sentinel ▪Ark Royal ▪Homeowners Choice ▪Landmark One ▪Main Street America ▪Modern USA ▪Olympus ▪Privilege Underwriters	▪ASI Preferred ▪Avatar ▪Magnolia ▪People's Trust ▪Infinity Property & Casualty ▪ACE Insurance Company of the Midwest

Source: Florida Office of Insurance Regulation (Excludes companies merged or inactive)

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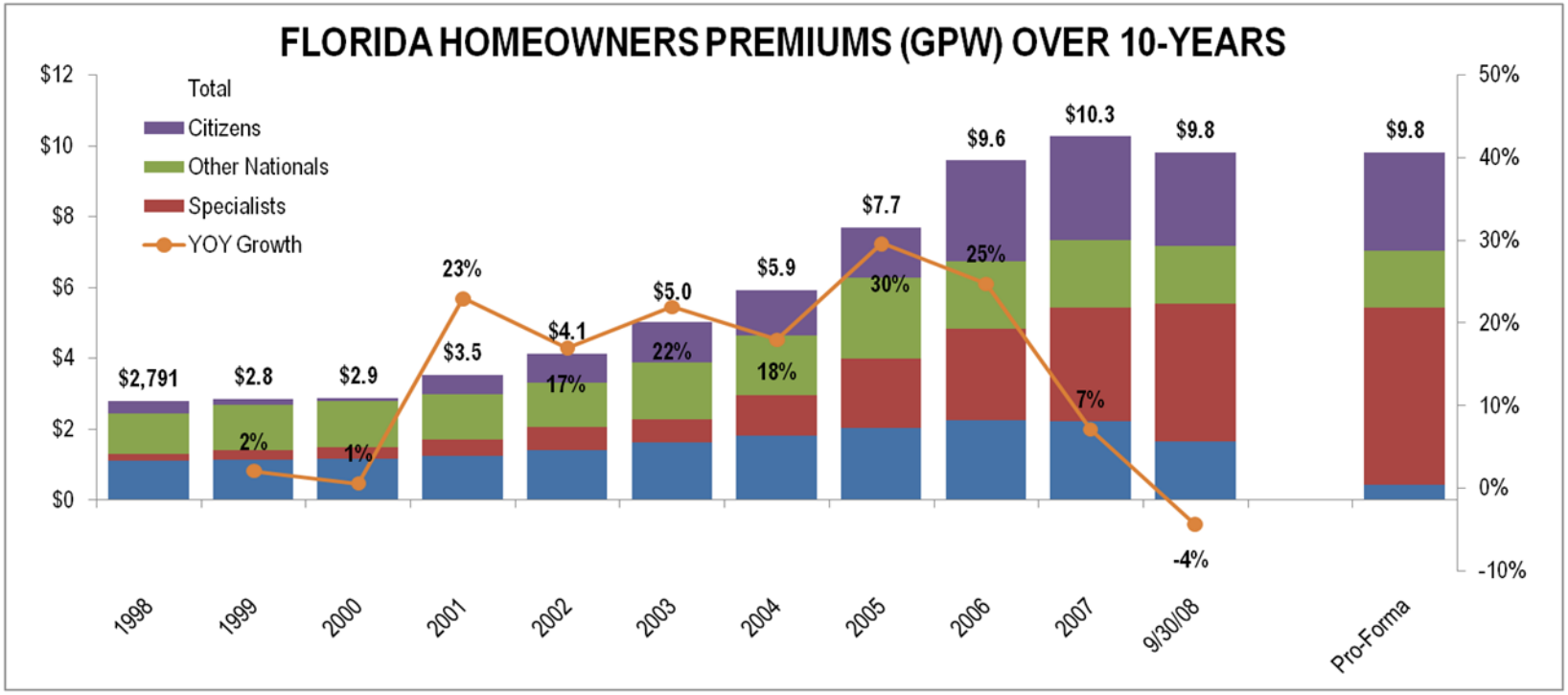
NEW FLORIDA HOMEOWNERS MARKET

Past, Present and Future



Source: Dowling and Partners

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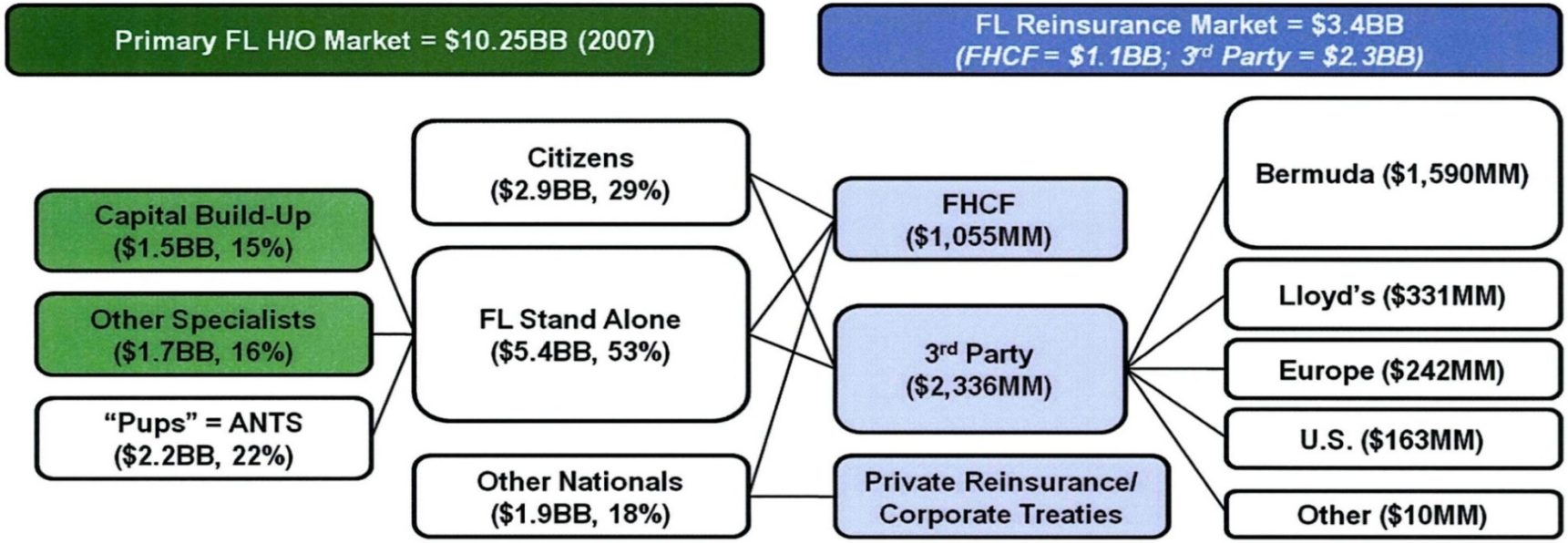
NEW FLORIDA HOMEOWNERS MARKET

Premium Flow 2007



Source: Dowling and Partners

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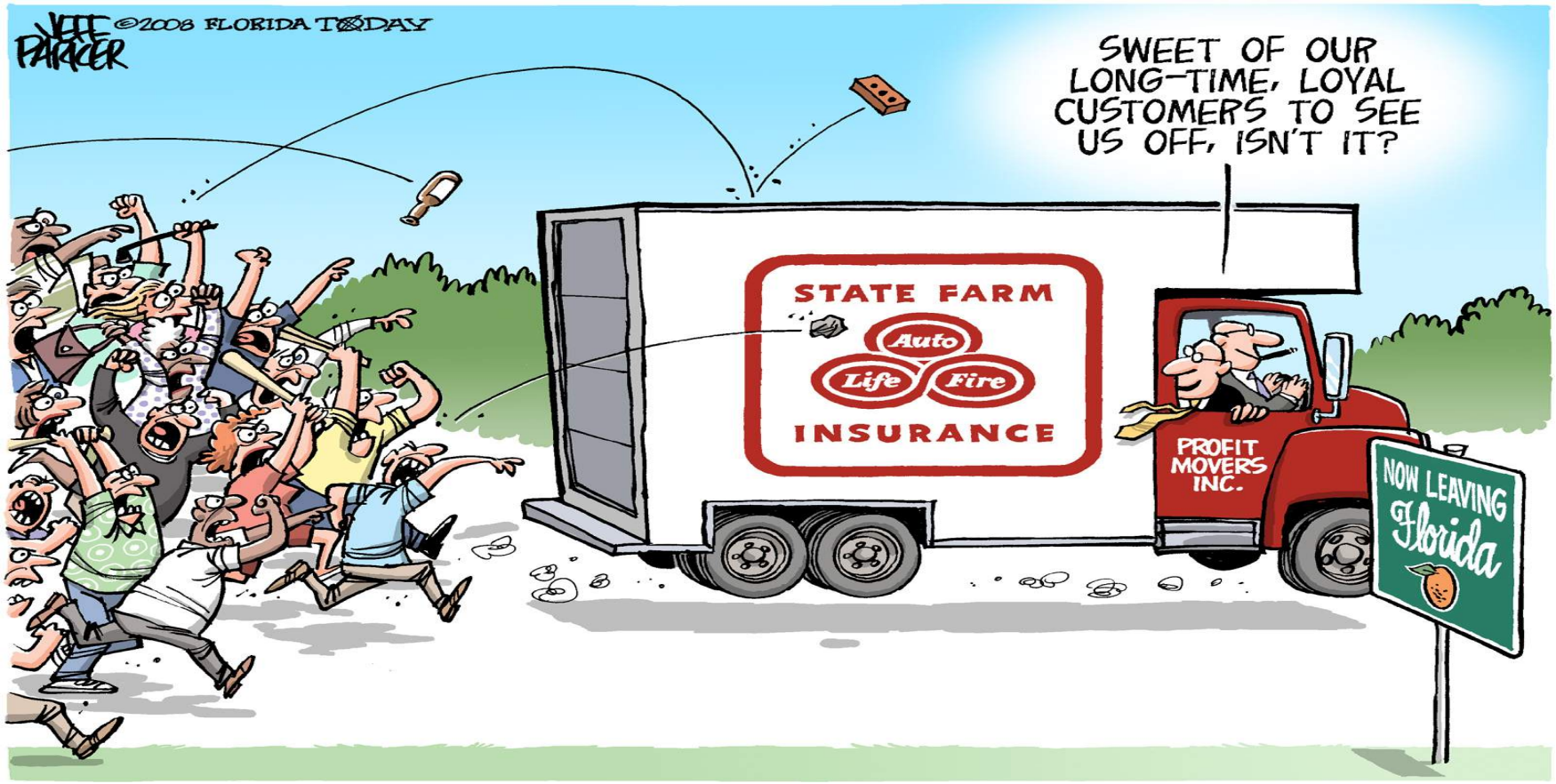
STATE FARM'S EXIT



Source: Jeff Parker 2008 Florida Today

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STATE FARM'S EXIT

- State Farm Florida Insurance Company announced on January 27, 2009 that it is beginning the process to non-renew policies and halt all sales of homeowners policies in the state.
- The withdrawal will impact approximately 1.2 million customers with State Farm policies.
- In response to the withdrawal, Governor Crist stated, "I think that Floridians will be much better off without them."
- State Farm expects to begin the non-renewal process in November 2009.

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STATE FARM'S EXIT

- On February 13, 2009, Commissioner McCarty issued an order approving State Farm's withdrawal plan with several conditions including:
  - State Farm must surrender its Certificate of Authority within 30 days.
  - State Farm must not place any policies, directly or indirectly, in Citizens Property Insurance Corporation ("Citizens").
  - State Farm must allow its agents to write with other private insurers.

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STATE FARM'S EXIT

- State Farm filed a petition on March 6, 2009 requesting an administrative hearing to dispute the Office of Insurance Regulation ("OIR") findings of fact in its conditional approval of the withdrawal plan.
- On March 24, 2009, OIR denied State Farm's petition for an administrative hearing on the basis that the petition is legally deficient and merely reflects State Farm's displeasure with the terms of OIR's order. OIR is allowing State Farm to file an amended petition no later than April 14, 2009.
- Encompass Insurance Company is also leaving the Florida homeowner's property insurance market. Encompass has approximately 13,000 property insurance customers.

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HOUSE BILL 1A

- In January 2007, a Special Session of the Florida Legislature was called specifically to address the affordability and availability of property insurance in the State of Florida.
- The Special Session produced CS/HB 1-A, a bill aimed at reducing hurricane-related insurance costs for Florida homeowners and businesses.

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HOUSE BILL 1A

- The legislation, which passed unanimously in the Florida Senate and by a vote of 116-2 in the Florida House of Representatives, made considerable changes to both the Florida Hurricane Catastrophe Fund ("Cat Fund" or "FHCF") and Citizens Property Insurance Corporation, among other things.
- In an attempt to provide immediate rate relief to Citizens' policyholders, the bill deleted the requirement that Citizens' rates be non-competitive and no lower than the top 20 insurers.

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HOUSE BILL 1A

- Instead, Citizens' rates were required to be "actuarially sound" and subject to the standards that generally apply to property insurers.
- A new applicant to Citizens was not eligible for coverage if he or she received an offer from an insurer at its approved rate unless the insurer's premium was more than 25 percent greater than the premium for comparable coverage from Citizens.
- Policyholders of Citizens remained eligible for Citizens coverage regardless of any offer of coverage from a private market insurer.

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HOUSE BILL 1A

- The requirement that Citizens charge rates sufficient to purchase reinsurance up to specified PMLs was eliminated.
- The bill froze Citizen's rates at the December 31, 2006 level for the remainder of 2007, rescinded the approved rate increase that took effect January 1, 2007, and required Citizens to provide refunds to persons who had paid this rate.

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HOUSE BILL 1A

- Under the bill, Citizens was authorized to offer multiperil coverage for commercial nonresidential properties in all areas of Florida, subject to the qualifications applicable to Citizens' High Risk Account ("HRA").
- Citizens was entering the commercial lines market through the assumption of the Property and Casualty Joint Underwriting Association ("PCJUA").

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HOUSE BILL 1A

- The bill substantially increased the amount of hurricane losses covered by the Cat Fund.
- The bill created new Temporary Increase in Coverage Limit options ("TICL"). The TICL options, available to residential property insurers for the 2007 through 2009 hurricane seasons, allowed an insurer to purchase additional reinsurance of up to $12 billion, in $1 billion increments, above the Cat Fund industry limit of $16 billion estimated for 2007 (for a total of $28 billion).
- The SBA had the right to further increase the $12 billion coverage limits up to an additional $4 billion (for up to a total of $32 billion).

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HOUSE BILL 1A

- The bill created Temporary Emergency Additional Coverage Options (“TEACO”), which allowed residential property insurers to purchase additional coverage below each insurer’s market share of the Cat Fund retention.
- Insurers were allowed to select their share of an industry retention level of $3 billion, $4 billion or $5 billion for 2007, 2008, and 2009 to cover 90 percent, 75 percent, or 45 percent of their losses up to the normal retention for the mandatory Cat Fund coverage.

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HOUSE BILL 1A

- Coverage based on a $3 billion retention would be priced at an 85 percent rate-on-line; $4 billion retention at an 80 percent rate-on-line; and $5 billion retention at a 75 percent rate-on-line.
- The TEACO coverage applied to two hurricanes for each contract year.
- The bill also allowed eligible residential property insurers to purchase up to $10 million in additional Cat Fund coverage at a level significantly below the normal Cat Fund rate. The $10 million coverage amount was above a retention equal to 30 percent of the insurer's surplus, as of December 31, 2006.

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HOUSE BILL 1A

- The premium was set a 50 percent of the coverage amount (*i.e.*, $5 million for $10 million coverage). The coverage applied to two hurricanes and was offered only for the 2007 contract year.
- This coverage, which was previously available only to the "limited apportionment companies" described in Section 627.351(6)(c), was now available to insurers who participated in 2006, limited apportionment companies who began writing property insurance in 2007, and insurers approved to participate in either 2006 or 2007 for the Insurance Capital Build-Up Incentive Program. This coverage was available through May 31, 2008.

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HOUSE BILL 1A

- Residential property insurers were required to make a rate filing with the OIR reflecting the savings or reduction in loss exposure to the insurer due to the expanded Cat Fund coverage.
- Each rate filing had to take into account the “presumed factors” calculated by OIR for any policy written or renewed on or after June 1, 2007 to reflect all expanded Cat Fund coverage options available to the insurer, whether or not the insurer purchased the coverage.

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HOUSE BILL 1A

- The bill provided options for coverage exclusions and deductibles.
- All rate increase filings made on or before December 31, 2008 had to be “file and use” filings.
- Under the bill, all property insurers were required to submit a certification under oath by the insurer’s chief executive officer or chief financial officer and chief actuary with all rate filings.

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HOUSE BILL 1A

- The bill extended the period of notices of nonrenewal and cancellation, with certain exceptions, from 90 days to 100 days and provided that notices to cancel or nonrenew policies during hurricane season must be sent the earlier of 100 days in advance or by June 1st.
- An Emergency Rule, which was proposed by Governor Crist and approved by the Cabinet, prohibited insurers from nonrenewing personal residential insurance policies until an insurer made a rate filing incorporating the presumed factors.

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HOUSE BILL 1A

- Additionally, the Rule provided that rates for residential property insurance coverage shall remain at the rates in effect as of the date CS/HB 1-A became law until a new rate filing reflecting the effects of CS/HB 1-A was made and approved.
- Insurers were permitted to make filings for rate reductions and for changes that did not result in increases in policyholder premiums.

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SENATE BILL 2860

- The Homeowner's Bill of Rights Act passed during the 2008 Regular Legislative session.
- In addition to providing major changes for insurers regarding market conduct examinations, unfair trade practices and penalties, and rate standards and determinations, the bill provided major changes to Citizens, including increasing the types of policies eligible for coverage from Citizens, continuing the rate freeze until 2010, and changing assessment tiers and allowable percentages.

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SENATE BILL 2860

- The bill also created the Citizens Mission Review Task Force to review Citizens' mission and provide recommendations to return Citizens to its role as insurer of last resort.
- In addition, the bill made several specific changes to Citizens, including:
  - Removed distinctions between homestead and non-homestead property;
  - Provided that a personal lines residential property valued at $2 million or more (instead of $1 million or more) is ineligible for Citizens coverage;

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SENATE BILL 2860

- Effective January 1, 2010, prospective purchasers of properties in the wind-borne debris region valued at $500,000 or more must receive a written disclosure of the structure's windstorm mitigation rating;
- The maximum percentage for Citizens' assessments was reduced from 10% to 6% of statewide premium;
- For deficits incurred in or after 2008, a surcharge upon renewal or issuance of policies shall be issued for up to twelve months, and the maximum policyholder surcharge upon renewal or issuance of a policy was increased to 15%.

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SENATE BILL 2860

- Any excess amounts recouped by assessments shall be retained by Citizens in a reserve;
- Citizens must make an actuarially sound rate filing beginning July 15, 2009, to be effective no earlier than January 1, 2010;
- Forced-purchase of Citizens bonds by insurers was repealed;
- Citizens is allowed to release underwriting files.

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CITIZENS TASK FORCE

- Pursuant to Senate Bill 2860, the Citizens Property Insurance Corporation Mission Review Task Force (Task Force) was created and directed to analyze and compile available data and to develop a report setting forth the statutory and operations changes needed to return Citizens to its former role as an insurer of last resort.
- The membership of the Task Force was statutorily specified and consisted of 11 members, who met four times in 2008 and once in 2009.

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CITIZENS TASK FORCE

What did the Task Force Learn?

1. Citizens insures more than single family homes. One third of Citizens' premium ($860 million) and over 50% of Citizens' exposure to hurricane losses comes from providing coverage to 25,000 commercial residential risks. Citizens controls two thirds of the market for this type of business.

Source: Citizens Mission Review Task Force

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CITIZENS TASK FORCE

Citizens Property Insurance Corporation

Examples of Pricing for Commercial Residential Risks

Fall 2008

Bldg	Risk Description	Expiring Premium	Renewal Premium	78% of Renewal Premium (22% Acquisition Cost)	Cost of FHCF	Citizens Remaining Premium
1	Broward County, Joisted Masonry, $1,440,000	$8,512	$4,203	$3,278	$3,243	$36
2	Miami-Dade, Fire Resistive (AAA), $2,048,400	$9,137	$4,523	$3,528	$3,037	$491
3	Broward, Fire Resistive (AAA), $9,463,960	$23,038	$12,981	$10,125	$12,243	-($2,118)
4	Miami-Dade, Fire Resistive (AAA), $6,658,000	$23,059	$13,576	$10,589	$10,481	$108

Citizens' remaining premium is what is left to pay the retention for hurricane losses and all non-hurricane losses.

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CITIZENS TASK FORCE

What did the Task Force Learn?

2. **The private sector has not abandoned the Florida insurance market.**
   - Over 50 companies are actively writing new business.
   - Private companies provide wind coverage to 83% of the homes in Florida.

Source: Citizens Mission Review Task Force

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CITIZENS TASK FORCE

What did the Task Force Learn?

3. Freezing Citizens' rates at 2005 levels has made Citizens the lowest priced insurance company in many of Florida's most heavily populated counties.

Source: Citizens Mission Review Task Force

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CITIZENS TASK FORCE

Rate Comparison – HO-3 Policy

$200,000 Masonry Home Built in 1985

$1,000 AOP Deductible, 2% Hurricane Deductible

Southwest Florida

County	Rating Territory	Citizens	*7 Florida Co.'s- Avg	State Farm
Collier	Coastal	$3,970	$3,733	$7,925
Collier	Inland	$2,877	$2,893	$5,367
Lee	Coastal	$2,378	$3,104	$6,742
Lee	Inland	$2,260	$2,504	$3,070
Charlotte	Coastal	$2,495	$3,001	$5,600
Charlotte	Inland	$2,123	$2,395	$3,903
Sarasota	Coastal	$2,513	$2,967	$5,600
Sarasota	Inland	$1,975	$2,212	$3,512
Manatee	Coastal	$2,799	$3,225	$8,027
Manatee	Inland	$2,069	$2,200	$3,473

***Royal Palm, Universal NA, St. Johns Insurance Company, ASI, Universal P&C, United P&C, Towerhill**

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CITIZENS TASK FORCE

What did the Task Force Learn?

4. The average Citizens' customer pays $173/month for their HO-3 Homeowner policy. Other customers pay less.

Source: Citizens Mission Review Task Force

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CITIZENS TASK FORCE

What did the Task Force Learn?

5. A significant portion of the personal residential business in the PLA account can be considered “non-standard.” The physical characteristics of the risks are significantly different from the risks found in the standard portfolios of private insurance carriers.

Source: Citizens Mission Review Task Force

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CITIZENS TASK FORCE

Citizens PLA Account

Distribution of Policies by Type of Risk, Policy Form, and Age

Product	Policies	% of PLA	% Built prior to 1980
HO-3	344,868	43.0%	66.2%
DP1/DP3	208,673	26.0%	68.9%
Condo (HO-6)	50,947	6.4%	52.7%
Tenants (HO-4)	8,760	1.1%	35.5%
Dwelling Total	**613,248**	**76.5%**	**65.5%**
			% Built prior to 1996
MH3	90,551	11.3%	84.8%
DP1	96,950	12.1%	83.4%
MH4	660	0.1%	77.1%
MH Total	**188,161**	**23.5%**	**84.1%**
Grand Total	**801,409**	**100.0%**	**69.9%**

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CITIZENS TASK FORCE

Citizens Property Insurance Corporation

Insurance to Value - PLA Account

September 30, 2008

	HO-3		DP3 (xMH)	
Coverage A Per Sq. Ft.	**Count**	**%**	**Count**	**%**
Less than or equal to $75	**84,086**	**19.5%**	**12,258**	**6.8%**
$76-$100	51,839	12.0%	29,798	16.5%
$101-$124	157,909	36.7%	74,471	41.2%
$125-$150	104,017	24.2%	45,730	25.3%
Over $150	32,673	7.6%	18,545	10.2%
Total	**430,524**	**100.0%**	**180,711**	**100.0%**

A significant portion of Citizens' risks appear to be insured for significantly less than replacement cost.

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CITIZENS TASK FORCE

What did the Task Force Learn?

6. The rates charged by Citizens are not actuarially sound as required by law. FS 627.351(6)(m)5.

Source: Citizens Mission Review Task Force

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Current law requires that Citizens *"make its best efforts to procure catastrophe reinsurance at reasonable rates, to cover its projected 100 year probable maximum loss"* FS 627.351(6)(c)9

Citizens Property Insurance Corporation

Cost of Purchasing Reinsurance to the 100 Year Event

Account	Amount Required	Estimated Rate Online	Estimated Premium
PLA/CLA	$2,900,000,000	10%-15%	$290,000,000-$440,000,000
HRA	$5,700,000,000	11%-16%	$630,000,000-$910,000,000
Total	**$8,600,000,000**		**$920,000,000-$1,350,000,000**

A reinsurance surcharge between 35%-52% of Citizens' Written Gross Premium of $2.6 billion would be required to pay for this coverage in 2009

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What did the Task Force Learn?

7. Citizens' current surplus of more than $4 billion would be inadequate to pay all of its claims after a large hurricane or a series of smaller events.

Source: Citizens Mission Review Task Force

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CITIZENS TASK FORCE

Citizens' Potential Exposure to Aggregate Wind Losses *June 30, 2008 (In Billions)*				
Return Time	**PLA**	**HRA**	**CLA**	
250 Years	$9.97	$26.10	$4.07	
100 Years	**$6.07**	**$15.69**	**$2.46**	
50 Years	$4.01	$10.00	$1.59	
25 Years	$2.58	$5.97	$0.96	
10 Years	$1.24	$2.77	$0.41	
Avg. Annual Loss	**$0.46**	**$1.11**	**$0.16**	

Amounts in billions of dollars according to RMS RiskLink Version 7.0

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CITIZENS TASK FORCE

- The Task Force provided its report to the Governor, Senate President and House Speaker on January 30, 2009.
- The Task Force recommended the following changes to bring Citizens back to its role as the state insurer of last resort:
  - Create programs to encourage the strengthening of homes.
  - Provide a “glide-path” to implement rate increases upon the expiration of the Citizens rate freeze limited to a 10% statewide increase per year.

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CITIZENS TASK FORCE

Task Force Recommendations

- Enforce the 15% Eligibility Rule by requiring agents and applicants for coverage to certify the applicant is eligible for coverage under the law.
- Require agents and policyholders to affirm each year that the policyholder is still eligible for coverage with Citizens.
- Enact a statute to require that Citizens obtain a new application from all policyholders who have had a policy in force with Citizens for more than three years.
- Enact a statute to limit automatic renewals for Citizens business to two.

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CITIZENS TASK FORCE

Task Force Recommendations

- Enact a statute to provide for the adoption of fines or other penalties for applicants who violate Citizens' eligibility standards.
- Eliminate the statutory provision that allows companies to offer multi-policy discounts on automobile business when the same agent places a homeowners' policy with Citizens.
- Repeal the law that prohibits agents from discussing the existence of the Florida Insurance Guaranty Association.

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CITIZENS TASK FORCE

Task Force Recommendations

- Enact a statute to provide that no new structure erected seaward of the 30 year erosion projection line or in the Coastal Barrier Resources System designated areas is eligible for coverage with Citizens.
- Readdress the boundaries of the High-Risk Account in an effort to make them more geographically consistent, with the goal of reducing Citizens' wind exposure.
- Repeal the language that requires Citizens to write commercial non-residential wind-only and commercial non-residential multi-peril coverage.

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CITIZENS TASK FORCE

Task Force Recommendations

- Require that a study be undertaken to determine what actions could be taken to move more of Citizens' commercial residential business to the private market.
- Amend current law to require that agents demonstrate annually an appointment with at least one property insurer that is actively writing and not engaged in massive non-renewals.

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CITIZENS TASK FORCE

- Rep. Alan Hays (R- Umatilla) is pursuing legislative avenues to incorporate many of these changes recommended by the Task Force.
- Senate President Atwater expressed his support of the Task Force recommendation to allow for a “glide-path” approach to allow Citizens’ rates to increase.
- According to Senate President Atwater, “We will have to allow Citizens rates to begin to move closer to market-driven rates. I will do so carefully and thoughtfully, so there’s not an extraordinary knee-jerk that falls upon the citizens of Florida that are so dependent on Citizens’ insurance.”

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CITIZENS PROPERTY INSURANCE COPORATION

- Citizens is currently the largest property insurer in Florida with approximately 1.075 million policies and coverage for almost $400 billion of insured property, and represents approximately 27% of the residential premium in the State.
- Citizens currently has a $3.1 billion surplus and $7.2 billion available to pay claims.

Source: Citizens Presentation to House Insurance Business & Financial Affairs Policy Committee Jan. 30, 2009

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- On March 20, 2009, OIR issued an Order approving the issuance of High-Risk Account Senior Secured Bonds, Series 2009, by Citizens in an aggregate principal amount not to exceed $2.5 billion.
- The Series 2009 Bonds are being issued to provide Citizens with additional resources in the payment of High-Risk Account claims and expenses.

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- Enormous financial risk now rests squarely on the state's shoulders by virtue of the expanded exposure of Citizens and the FHCF.
- Bond liquidity and cash reserves of Citizens and FHCF remain significant issues.

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FLORIDA HURRICANE CATASTROPHE FUND

- Florida's exposure to hurricane risk was expanded significantly from a 2007 increase in the size of the FHCF to a total of approximately $28 billion.
- Currently, the FHCF has $13.3 billion in estimated capacity, leaving a $18.43 billion potential shortfall.
- The lack of liquidity in the financial markets has significantly reduced the ability of the FHCF to acquire the necessary bonds to fund its obligations.

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CURRENT PENDING FLORIDA LEGISLATION

Florida Hurricane Catastrophe Fund - House Bill 437

- In 2008, Florida's Chief Financial Officer Alex Sink proposed reforms to the FHCF to reduce the potential for future FHCF assessments on Florida's insurance consumers.
- In 2009, Rep. Kevin Rader (D- Boynton Beach) filed similar legislation - HB 437. The bill:
  - Reorganizes the FHCF by creating a "Division" of the FHCF to report directly to the State Board of Administration consisting of the Governor and the Cabinet.

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CURRENT PENDING FLORIDA LEGISLATION

Florida Hurricane Catastrophe Fund - House Bill 437

- The proposal eliminates the TICL coverage options of $10 billion, $11 billion, and $12 billion, so that a maximum of $9 billion will be offered.
- The proposal would only offer reimbursement of 70% of the insurer's losses within the TICL layer purchased, as opposed to the current maximum of 90% that the vast majority of insurers have selected.
- This bill does not extend the TICL layer beyond the 2009 hurricane season.
- The Bill has no companion and has not been heard.

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CURRENT PENDING FLORIDA LEGISLATION

Citizens Rate Freeze - Senate Bill 862 / House Bill 1273

- Senate Bill 862 by Sen. Fasano (R- New Port Richey) and House Bill 1273 by Rep. Eddy Gonzalez (R-Hialeah Gardens) extend the Citizens rate freeze one year to 2011.

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CURRENT PENDING FLORIDA LEGISLATION

Statewide Wind Pool – Senate Bill 2384 / House Bill 1157

- Sen. Mike Fasano (R- New Port Richey) and Rep. Ellyn Bogdanoff (R- Fort Lauderdale) are working on similar legislation that would transfer all of the wind exposure to the state. House Bill 1157 contains the following provisions:
  - Creates the Florida Hurricane Protection Program and expands uses of moneys in the Florida Hurricane Catastrophe Fund to include Florida Hurricane Protection Program costs.
  - Revises provisions with respect to issuance and use of revenue bonds and emergency assessments.

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CURRENT PENDING FLORIDA LEGISLATION

Statewide Wind Pool - Senate Bill 2384 / House Bill 1157

- Revises the TICL coverage levels to a maximum of $9 billion and only offers 70% reimbursement.
- Provides for transitional rates and form filings by insurers.
- Specifies applicability of insurance premium tax to policies issued by the program.
- Requires the program to make payments to the Department of Revenue.
- Prohibits Citizens from issuing or renewing specified types of policies after a specified date.

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CURRENT PENDING FLORIDA LEGISLATION

Statewide Wind Pool - Senate Bill 2384 / House Bill 1157

- Provides exceptions to restrictions on acceptance of specified offers of coverage.
- Requires the State Board of Administration to adopt a program plan of operation for the Florida Hurricane Protection Program.
- Requires insurer contractual participation.
- Provides sanctions for noncompliance.
- Provides limitations on liability.
- Provides requirements for adoption of rates and forms.

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CURRENT PENDING FLORIDA LEGISLATION

Statewide Wind Pool - Senate Bill 2384 / House Bill 1157

- Provides criteria and requirements for the calculation of reinsurance needs and optional reinsurance.
- Requires Citizens to provide access to specified policy information by insurance agents.
- Requires Citizens to transfer a specified portion of surplus to the Florida Hurricane Catastrophe Fund.
- Specifies areas in which certain property insurance policies must include coverage for catastrophic ground cover collapse and separate sinkhole coverage must be made available.

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CURRENT PENDING FLORIDA LEGISLATION

Sinkholes - Senate Bill 742 / House Bill 351

- Senate Bill 742 by Sen. Fasano (R- New Port Richey and House Bill 351 by Rep. John Legg (R- Port Richey) would require insurance companies writing property insurance policies in the state to consider county ordinances and amendments to the Florida Building Code when setting property insurance rates. In effect, the bills would require insurers to take into account sinkhole mitigation or prevention factors enacted by local governments.

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CURRENT PENDING FLORIDA LEGISLATION

Public Adjusters – Senate Bill 2676 / House Bill 1239

- Sen. Chris Smith (D- West Palm Beach) and Rep. Janet Long (D- St. Petersburg) filed Senate Bill 2676 and House Bill 1239 respectively that would restrict public adjuster solicitation similar to the restrictions that attorneys must follow.
  - No unsolicited electronic or written communications within 30 days of a loss.
  - Any communication must not contain:
    - False or misleading information
    - Testimonials
    - Unsubstantiated fact.

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CURRENT PENDING FLORIDA LEGISLATION

Public Adjusters –Senate Bill 2676 / House Bill 1239

- Written communications would be subject to the following restrictions:
  - Must be plainly marked as “advertisement.”
  - Must only be sent via regular U.S. mail.
  - Must be accompanied by a statement dealing with the background, training and experience of the public adjuster.
  - If a contract is mailed, it must contain the word “SAMPLE” and phrase “DO NOT SIGN.”

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CURRENT PENDING FLORIDA LEGISLATION

Insurance Premium Financing - Senate Bill 1432 / House Bill 741

- Senate Bill 1432 by Sen. Rhonda Storms (R- Brandon) and House Bill 741 by Rep. Pat Patterson (R- Deland) specify the nonapplication of the premium finance laws to actuarially justified and approved discounts for insureds paying entire premium for entire policy period at beginning of term.

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CURRENT PENDING FLORIDA LEGISLATION

Surplus Lines – Senate Bill 1984 / House Bill 853

- Senate Bill 1984 by Sen. Bennett (R- Bradenton) and House Bill 853 by Rep. Patterson (R- Deland regarding the applicability of the Florida Insurance Code to surplus lines carriers – provisions include: specification of non-application of provisions of Chapter 627, Florida Statutes, to surplus lines insurers and provides for retroactive application.

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CURRENT PENDING FLORIDA LEGISLATION

Civil Remedies Against Insurers – Senate Bill 960 / House Bill 1051

- Senate Bill 960 by Sen. Gaetz (R- Niceville) and House Bill 1051 by Rep. Carl Domino (R- Juno Beach). These bills:
  - Authorize a person to bring a civil action against Citizens when such person is damaged by the commission of specified acts or specified violations of state law.
  - Prohibit the assessment of punitive damages against Citizens.

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CURRENT PENDING FLORIDA LEGISLATION

My Safe Florida Home Program – Senate Bill 1344 / House Bill 359

- Senate Bill 1344 by Sen. Bennett (R- Bradenton) and House Bill 359 by Rep. Richard Steinberg (R- Miami Beach) would authorize condominium unit owners to apply for My Safe Florida Home Program grants to retrofit their properties to make them less vulnerable to hurricane damage.

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CURRENT PENDING FLORIDA LEGISLATION

My Safe Florida Home Program – Senate Bill 2078

- Senate Bill 2078 by Sen. Charlie Justice (R- St. Petersburg) would revise the criteria for eligibility of mitigation grants, expand the list of uses for the grants, revise the parties eligible to sign the mitigation forms, and appropriate $25,000,000. Because of budget constraints, the appropriation is unlikely.

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CURRENT PENDING FLORIDA LEGISLATION

Unfair Method of Competition and

Unfair or Deceptive Act – Senate Bill 410

- Senate Bill 410 by Sen. Fasano (R- New Port Richey) would provide that an insurer's failure to offer in this state any kind or line of insurance which it offers in another jurisdiction constitutes an unfair method of competition and unfair or deceptive act.

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CURRENT PENDING FLORIDA LEGISLATION

Property Insurance - House Bill 1495

- Rep. Bryan Nelson (R- Apopka) filed House Bill 1495 relating to insurance. As originally filed, the bill would make the following changes to the FHCF and Citizens:
  - Florida Hurricane Catastrophe Fund
    - Extends the TICL layer through the 2015 hurricane season.
    - Reduces TICL reimbursements as follows:
      - For 2010-2011 to 45% or 75%.
      - For 2011-2012 to 45% or 65%.
      - For 2012-2013 to 45% or 55%.
      - For 2013-2014 to 45%.

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CURRENT PENDING FLORIDA LEGISLATION

Property Insurance - House Bill 1495

- For 2014-2015 to 30%.
- For 2015-2016 to 15%.

- Citizens Property Insurance Corporation
  - Defines "actuarially sound rate" to include a rate sufficient to cover losses plus 15% capital charge.
  - Limits rate increases to 10% statewide This rate increase shall cease upon the filing of "actuarially sound rates."
  - Requires rate increases to be used for the My Safe Florida Home Program.

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CURRENT PENDING FLORIDA LEGISLATION

Property Insurance - Amendment to House Bill 1495

- On Friday April 3, 2009, Rep. Nelson offered a strike-all amendment to HB 1495. The general concepts in the strike-all amendment, which are subject to modification as the legislation progresses, include the following:
  - Specific authorization for the State Board of Administration ("SBA") to purchase FHCF bonds.
  - Provides a "cash build-up factor" for FHCF beginning in 2009 and increasing incrementally until the factor reaches 25%.

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CURRENT PENDING FLORIDA LEGISLATION

Property Insurance – Amendment to House Bill 1495

- Re-authorizes, until December 31, 2011, an additional $10 million of coverage from the FHCF for limited apportionment companies, participants in the Insurance Capital Build-Up Incentive Program, and insurers that purchased this coverage in 2008.
- Extends portions of the TICL layer until 2013; however, beginning in 2009, the TICL layer would be reduced by $2 billion in total capacity and the co-pay would increase by 25 %. Each year thereafter, the TICL layer will continue incremental reductions. Also, the cost of purchasing the TICL layer will increase incrementally.

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CURRENT PENDING FLORIDA LEGISLATION

Property Insurance – Amendment to House Bill 1495

- Prohibits Citizens from purchasing the TICL layer.
- Deletes the option for the SBA to authorize the $4 billion layer above TICL.
- Provides an allowance for an insurer to pass through the cost of reinsurance coverage (up to 10%), that duplicates the TICL layer.
- Delays until 2012 the exclusion from Citizens of high-value homes without certain mitigation features.
- Increases the amount allowed in an initial Citizens' assessment to Citizens' policyholders from 15% to 25% in the event of a deficit.

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CURRENT PENDING FLORIDA LEGISLATION

Property Insurance – Amendment to House Bill 1495

- Establishes a “glide path” for increasing Citizens’ rates of 10% statewide average per year, not to exceed 20% per any single policy.
- Requires 10% of Citizens’ rate increase to allocated toward funding the My Safe Florida Home Program.
- Provides certain parameters for inspections and inspectors in the My Safe Florida Home Program.
- Provides for Condominium Mitigation program in the My Safe Florida Home Program.

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CURRENT PENDING FLORIDA LEGISLATION

Property Insurance – Amendment to House Bill 1495

- Allowance of a rating "flex ban" of 10% for residential-only policies beginning January 1, 2010, provided that the increase does not result in an increase of (approximately) 15% in any one territory. This option could be exercised once a year.
- Prohibits multi-line discounts for policies issued after January 1, 2010, if the homeowner's policy remains in Citizens.
- Allows agents to explain the Florida Insurance Guaranty Association ("FIGA").

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CURRENT PENDING FLORIDA LEGISLATION

Property Insurance - Senate Bill 1950

- Senate Bill 1950, sponsored by Banking and Insurance Chairman, Sen. Garrett Richter (R-Naples), was introduced on March 31, 2009. It is the Senate's version of House Bill 1495. It presents a variety of remedial insurance measures, such as, but not limited to, the following.
- Citizens Property Insurance Corporation
  - The bill establishes a "glide path" to implement a rate increase of no more than 10% per year for any single policyholder over a multi-year period. The rate glide path will cease once actuarially sound rates are achieved.

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CURRENT PENDING FLORIDA LEGISLATION

Property Insurance - Senate Bill 1950

- Allocates 10% of Citizens' rate increase to the My Safe Florida Home program to be used for mitigation grants for single family homes for Citizens' policyholders.
- Allows Citizens to increase its rates to cover the cost of paying the FHCF for higher reimbursement premiums under a 5 year "cash build up" program.
- Allows authorized insurers to offer ex-wind policies to specified homeowners who are no longer eligible for Citizen's coverage and are in the high risk account area ("HRA").

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CURRENT PENDING FLORIDA LEGISLATION

Property Insurance - Senate Bill 1950

- Extends for 3 years the requirement that Citizens reduce its HRA boundaries to lower its 100-year probable maximum loss.
- Florida Hurricane Catastrophe Fund
  - Authorizes the FHCF to implement a “cash build up” factor (for the mandatory layer of FHCF coverage) based on increased premiums that the FHCF charges Citizens and private insurers, to be phased in over a 5 year period. Increases would be 5% per year until a total of 25% is reached.

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CURRENT PENDING FLORIDA LEGISLATION

Property Insurance - Senate Bill 1950

- Phases out the TICL coverage over a 6 year period at a rate of $2 billion per year. TICL coverage available would be reduced from $12 to $10 billion for the 2009-2010 hurricane season. As the TICL option is phased out, its pricing will increase each year until TICL is eliminated.
- Provides insurers with the option of purchasing private reinsurance to replace the TICL layer and to recover the cost in rates up to 10% of total premium. The rate recovery would be limited to the reinsurance increase and prohibits recovery for added expense or profit factors.

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CURRENT PENDING FLORIDA LEGISLATION

Property Insurance - Senate Bill 1950

- Authorizes the State Board of Administration to be allowed to purchase FHCF revenue bonds.
- Extends until January 1, 2012, the availability of an additional amount of FHCF reimbursement coverage of up to $10 million for limited apportionment companies, for insurers that purchased such coverage in 2008, and for insurers that qualified for the Insurance Capital Build-Up Incentive Program.

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CURRENT PENDING FLORIDA LEGISLATION

Property Insurance - Senate Bill 1950

- Private Insurers
  - Allows insurers to make a separate expedited rate filing which is limited to the recovery of (1) the incremental cost increase of the cash build up factor for the mandatory layer of FHCF coverage; (2) the incremental cost of replacing reinsurance layers that had formerly been covered by TICL with coverage for the same layer by a private reinsurer; and (3) the incremental cost resulting from the increase in the price for the remaining TICL layers.

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CURRENT PENDING FLORIDA LEGISLATION

Property Insurance - Senate Bill 1950

- Allows insurers to make an annual expedited rate filing for residential property insurance based on the most recent Cost (Inflation) Trend Increase for major lines of insurance published by the Insurance Services Office.
- Repeals the current provision which prevents the OIR from applying attorney client privilege or work product confidentiality to OIR attorney communications, unless the communication occurred exclusively for litigation purposes.

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CURRENT PENDING FLORIDA LEGISLATION

Property Insurance - Senate Bill 1950

- Changes the means through which private insurers may recoup assessments that have been imposed by Citizens or FIGA. Insurers would be able to submit recoupment coverage to FIGA or Citizens, rather than send pro rata amounts back to each policyholder.
- Extends until December 31, 2010, the prohibition against property insurers using the “use and file” rate filing procedure.
- The Bill is being heard today in the Senate Banking & Insurance Committee.

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CONCLUSION

- Last Thursday, at a news conference, Representative Alan Hays (R-Umatilla) warned that, “Florida is facing the potential of a major financial crisis because of the way it has handled property insurance”.
- In light of political pressures and Florida’s dire economic environment, legislators are very sensitive about raising insurance rates. Therefore, any of the recent proposals will certainly be highly scrutinized.

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