

FIRM UPDATE

FIRM members have been to Tallahassee twice so far this session to lobby on behalf of Monroe County for fair insurance rates. A listing of pending legislation prepared by Monroe County's lobbyist on insurance issues, Robert Reyes, follows this update.

HOUSE OF REPRESENTATIVES INSURANCE COMMITTEE

On March 14, the House Insurance Committee grilled Citizens Property Insurance Corporation officials over their rate-setting guidelines. Members of the House Insurance Committee are concerned that a potential post-storm deficit in Citizens coffers will require an assessment on all insurance policyholders in the state. The Committee's perspective is that windstorm insurance rates are too low, that the 2006 44% increases should have been approved, and that the entire industry should be deregulated.

FIRM members Colleen Repetto and Heather Carruthers attended the hearing. As the only member of the public permitted to speak at the March 14th session, Heather suggested that deregulation in the past did not bring the private insurance market into the Keys, that such an increase would have been (and still would be) devastating especially in light of the current economic climate, and that any potential assessment could be offset if the legislature dedicated unbudgeted excess sales tax revenues resulting from post-hurricane expenditures for this purpose.

On March 24, the House Insurance Committee held a hearing in which members grilled representatives from the Office of Insurance Regulation about the procedures for approving rates. Again, the House Committee opined that rates were too low and that prior increases should have been approved. OIR successfully defends their actions as consistent with legislation and responsible from the consumers' perspective.

There is currently legislation on the House side recommending considerable deregulation of the industry (including the return of "use and file"), abolishment of Citizens Property Insurance and the establishment of a new state-run entity to provide wind coverage only. FIRM believes this legislation would be detrimental to Monroe County as the private market has not filled our need. Because the new state entity would not be able to diversify its coverage offerings, all the wind risk in Florida would be concentrated within the government.

SENATE COMMITTEE ON INSURANCE AND BANKING

On March 25, the Senate's Insurance Committee reviewed legislation that appears to be decidedly more consumer friendly. SB 2860 sponsored by Senator Atwater as amended will include an extension of the freeze on Citizens' rates until January 1, 2010; a cap on subsequent increases of 10% per year for ex-wind and 15% per year for wind policies; permanent repeal of "use and file" statutes; greater latitude for OIR to require private insurers to cooperate with OIR requests for information; higher penalties for uncooperative insurance companies; greater transparency and standards of accountability in models; elimination of the million-dollar-home exclusion; better assessment of building strengths and application of mitigation credits; elimination of the homestead/non-homestead distinction in the levying of assessments; and the elimination of wind-only policies offered by Citizens.

Gary Sechen, Colleen Repetto and Heather Carruthers of FIRM attended the hearing. Colleen spoke in support of the elimination of the homestead/non-homestead distinction as it unfairly penalizes many full-time Floridians who own rental properties (along with, ultimately, their tenants). She encouraged the Committee to look at the excess post-storm sales tax revenues as a means to offset any assessments. Heather spoke in general support of SB 2860. In opposition to some testimony from insurance industry representatives, she reminded the Committee that the reason Citizens exists is that the private market has failed Floridians, especially in Monroe County. She also suggested that eliminating the Citizens wind-only policies would leave Monroe residents with no choice but to use Citizens for all of their property insurance needs, limiting consumer choice. Senator Atwater in particular seemed eager to address this potential problem with the legislation.

CFO ALEX SINK

Florida CFO Sink spoke in support of an amendment that would decrease the size of the Florida Catastrophe Fund in order to begin to limit the state's risk in the event of a significant storm. Because the private reinsurance market is slowly coming back into Florida after two quiet years, this action is not expected to have an impact on rates.

FIRM members had an opportunity to speak with the CFO after the Committee meeting as well as with Ben Diamond in the CFO's office. She expressed her strong support for dedicating post-storm excess sales tax revenues to storm-related expenses including enhancing the CAT fund, offsetting assessments and providing funds for mitigation.

SUMMARY

The House Insurance Committee seems to be behind the insurance industry and is advocating legislation that could harm Florida's consumers. It is not clear if the entire House supports such measures. The Senate Committee on Insurance and Banking is supporting pro-consumer legislation. It is not clear if the entire Senate supports such measures. The Executive Branch seems to lean towards the Senate's legislation, and understands the potential impact of increasing rates. The CFO recognizes the potential of using windfall sales tax revenues to address the insurance crisis. FIRM supports the work of the Senate and the position of CFO Sink. Look for action e-mails in the next few weeks to encourage the full legislature to support consumers.

Below is a listing of all property insurance issues that have been discussed or presented this Session. The list also includes up to date actions on the issues.

Property Insurance

Omnibus Senate Package, Including Select Senate Committee Recommendations (CS/SB 2860 & 1196). Passed by Senate Banking & Insurance Committee.

- Fines and criminal penalties: increasing maximum fines on insurers for Insurance Code violations.
- Providing that refusal to comply with a subpoena is a violation of public welfare and grounds for OIR to issue an immediate final order revoking or suspending a COA.
- Providing criminal penalties for insurance company officials who knowingly deceive OIR.
- Providing criminal penalties for insurance company officials who corruptly obstruct or impede an OIR investigation or examination.
- Requiring use of approved models in rate-making, without any modification to the model; requiring that approved models be used by an insurer in determining its PML.
- Requiring OIR approval of non-renewal plans involving more than 10,000 policies in a 12-month period to assure they are staggered over a reasonable period of time or that replacement coverage is available in the private market.
- Establishing a statutory moratorium on cancellations and non-renewals following a hurricane, subject to exceptions necessary to prevent a company's financial impairment.
- Non-renewal of policies: requiring insurers to certify that non-renewals are calculated in their rates; requiring a new rate filing if carrier has more non-renewals than included in the certification.
- Removing state antitrust law exemption for insurance companies and rating agencies and advisory bodies.
- Prohibiting insurers from considering age, race, income level, credit score or any other personal characteristic in evaluating or adjusting a property insurance claim.
- OIR indications; requiring insurers to certify they reviewed OIR indications in last rate filing and identify current factors that are inconsistent.
- Trade secrets: OIR establishing procedures for insurers to make trade secret assertion; makes insurers liable for attorneys fees and costs if trade secret claim is not upheld; OIR could make preliminary determination a document is not a trade secret and make it public; OIR could share trade secret documents with other state agencies.
- Profit & contingency factors: OIR to adopt rules establishing standards for profit & contingency factors; OIR to consider an insurer's stock buy-back program in approving factors.
- Repeals requirement guaranteeing insurer rating factor for catastrophic loss exposure not covered by

reinsurance.

- DOAH appeals: prohibits insurer from introducing information at a DOAH hearing that was not provided earlier to the Office of Insurance Regulation.
- Restrictions on insurer challenge of OIR order, including revocation of COA.
- New cause of action against insurers; provides that insurance code violations also violate the Florida Deceptive & Unfair Trade Practices Act.
- Regulation of reinsurance costs: OIR establishing standard for allowable reinsurance expenses; reinsurance from a parent or affiliated company could not include brokerage fees or reinstatement premium; rates could not include reinsurance costs that duplicate Cat Fund coverage.
- Excess profits law: deleting criteria that an insurer must have surplus equal to or greater than its 250-year PML; remaining criterion would be that the insurer earned an underwriting profit over a 10-year period that was in excess of 10 percent of earned premium above the anticipated underwriting profit approved in the insurer's rate filing.

Florida Hurricane Catastrophe Fund

- Cat Fund, reduction in TICL from \$12 billion to \$9 billion (HB 7021, SB 2156, SB 7058). Approved by House Jobs & Entrepreneurship Council; and Senate Banking & Insurance Committee.
- Reenactment of \$10 million special layer of Cat Fund coverage for limited apportionment companies. Not in any bill that is moving, so far.
- Creation of Florida Windstorm Insurance Program within the Cat Fund (HB 983, SB 2784). Approved by House Insurance Committee. Not likely this will come up in Senate.
- Allowing Cat Fund TICL to continue in some iteration beyond the 2009 hurricane season (HB 1497).
- Discussion of pledging the full faith and credit of the State of Florida behind Cat Fund bonds.

Citizens Property Insurance Corporation

- Wind-only policy in Citizens; Prohibits Citizens from issuing new wind-only policies, effective July 1, 2008. Citizens may continue to renew wind-only policies in effect on July 1, 2008, subject to the right under current law of the policyholder to elect multi-peril coverage. (CS/SB 2860 & 1196). Passed by Senate Banking & Insurance Committee.
- Extension of Citizens' rate freeze another year to Jan. 1, 2010, and caps on increases for each of the three following years (CS/SB 2860 & 1196). Passed by Senate Banking & Insurance Committee.
- Reducing Citizens' regular assessments from 10 percent a year to 8 percent (CS/SB 2860 & 1196). Passed by Senate Banking & Insurance Committee.
- Repeal of Citizens policyholder surcharges preceding statewide assessments CS/SB 2860 & 1196). Passed by Senate Banking & Insurance Committee.
- Deletes the provision that makes homes (personal lines residential structures) with a dwelling replacement cost of \$1 million or more ineligible for coverage, effective January 1, 2009. (CS/SB 2860 & 1196). Passed by Senate Banking & Insurance Committee.
- Citizens Property Insurance Corporation Mission Review Board (HB 269, SB 754).
- CE requirements for Citizens-appointed (HB 565, SB 2528). Approved by the House Government Efficiency & Accountability Council.
- Elimination of forced placement of Citizens bonds CS/SB 2860 & 1196). Passed by Senate Banking & Insurance Committee.

Other Property Insurance Bills

New funding for Insurance Capital Build-up Incentive Program. (CS/SB 2860 & 1196). In big property package passed by Senate Banking & Insurance Committee, plus PCB JEC 08-10 passed by House Jobs & Entrepreneurship Council. Senate package:

- Revises the requirements for the Insurance Capital Build-Up Incentive Program if additional state funds are appropriated.
- Current Law: The program was created in 2006 and \$250 million was appropriated to provide loans (surplus notes) of up to \$25 million, repayable over 20 years at the 10-year Treasury bond rate, as approved by the State Board of Administration (SBA), to an insurer that contributes an equal amount of new surplus and commits to meeting a specified minimum premium-to-surplus writing ratio for residential policies with windstorm coverage.
- Revises legislative findings upon entering the 2008 hurricane season.

- Revises the minimum premium-to-surplus writing ratio and adds a requirement for writing a specified minimum amount of premiums for policies taken out of Citizens Property Insurance Corporation.
- Allows the SBA to charge a late fee for repayments.
- Provides that amendments made by the act do not affect the terms of surplus notes approved prior to January 1, 2008, but authorizes the SBA and an insurer to renegotiate such terms consistent with such amendments.

Other Property Issues

- Discussion of pledging the full faith and credit of the State of Florida behind Cat Fund bonds.
- Establish stronger requirements to implement the law requiring insurers who write auto in Florida to write homeowners in Florida if they sell it in another state.
- Requiring insurers to acknowledge Pasco County Building Code in property insurance rates (HB 701, SB 1524).
- Memorial urging Congress to enact National catastrophe fund (SM 2452). On April 1 agenda for Senate Banking & Insurance.
- Memorial urging Congress to exempt insurance reserves from taxation (SM 2488). On April 1 agenda for Senate Banking & Insurance.
- Public adjuster /revised regulation (HB 661, CS/ SB 1098). Approved by Senate Banking & Insurance Committee and Senate Judiciary. Public adjusters pushing major, weakening amendments.
- Licensing of umpires in the appraisal process (HB 563, CS/SB 1018). Approved by Senate Banking & Insurance Committee.
- Florida Building Code annual revisions (HB 697, SB 560), including adoption of pending revised ASCE wind map for Florida into the code. Approved by the Senate Community Affairs Committee.
- Non-assessable commercial property & casualty insurance policy (HB 1001, SB 1422). Approved by House Insurance Committee. On April 1 agenda for Senate Banking & Insurance.
- Restoring replacement coverage holdback or limiting OIR's interpretation of the holdback prohibition.
- Expansion of assessment base and indexing of insurance surcharges for emergency management.
- Sales tax "holiday" for hurricane preparedness purchases.
- Homeowners insurance premium assistance program (HB 1513, SB 1358).

Mitigation

- My Safe Florida Home Program; home inspector eligibility, requires insurers to accept uniform mitigation verification form (HB 245, SB 644). Approved by Senate Banking & Insurance Committee.
- My Safe Florida Home Program no interest loans
- Re-roofing mitigation requirements from 2007 mitigation package; push by roofers to repeal or delay the requirements. Issue will come up as part of annual Florida Building Code/Building Commission package of tweaks and updates.
- Requiring homeowners insurance discounts tied to the uniform home grading system (CS/SB 2860 & 1196). Passed by Senate Banking & Insurance Committee