

2008 INSURANCE LEGISLATION

Summary & Analysis with Comments

compiled by the

FLORIDA ASSOCIATION OF INSURANCE AGENTS

July 2008 *(updated)*

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SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
PROPERTY INSURANCE		
Property Insurance, CS/CS/CS/SB 2860		
<p>p. 9</p> <p>Insurance Capital Build-Up Incentive Program pp. 9-17, §215.5595</p>	<p>Names the act the “Homeowner’s Bill of Rights Act.”</p> <p>Revises the requirements for the Insurance Capital Build-Up Incentive Program (Program), which provides for surplus note loans to insurers 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).</p> <p>Insurers must apply by September 1, 2008, for a surplus note loan equal to the amount of new capital that an insurer contributes. Insurers that apply after September 1, but before June 1, 2009, may apply for a surplus note equal to one-half of the amount of new capital that the insurer contributes.</p> <p>The bill revises the minimum premiums that the insurer must commit to write by adding a minimum gross premium to surplus ratio requirement, as an alternative to the current net premium to surplus writing ratio requirement.</p> <p>Adds a requirement for the insurer to write at least 15 percent of its premiums for policies taken out of Citizens for each of the first three years of the surplus note.</p> <p>Requires the SBA to make annual reports to the Legislature on the results of the Program and each insurer’s compliance with the terms of its surplus note.</p>	<p><i>The 13 companies that participated in the 2006 Insurance Capital Incentive Build-Up Program took over 200,000 policies out of Citizens. The hope is that number of policies or more will be taken out with the 2008 program because of relaxed writing ratio requirements for the participating companies.</i></p> <p><i>The distinction is that net premiums deduct the reinsurance premiums that the insurer pays (cedes) to a reinsurer.</i></p>

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	<p>Requires the SBA to transfer to Citizens on January 15, 2009, uncommitted or unreserved funds that were funded by transfers from Citizens. However, Section 16 of the bill requires the SBA to do this on July 1, 2009. This section was vetoed by the governor.</p> <p>See Section 16 for the requirement for Citizens to transfer \$250 million to the SBA for this program. This section was vetoed by the governor.</p>	<p><i>Since insurers are allowed to apply for a surplus note until June 1, 2009, all of the funds would be “reserved” so that Citizens would not transfer any funds on January 15, 2009, unless hurricane losses exceed the threshold specified in Section 16.</i></p> <p><i>The appropriation of \$250 million is contained in the Conference Report for the General Appropriations Act.</i></p>
<p>Market Conduct Examinations; Required Filing of Claims-Handling Procedures p. 17, §624.3161</p>	<p>Authorizes the OIR to order an insurer to file its claims-handling practices and procedures as a public record based on findings of a market conduct examination.</p> <p>The OIR findings must be that the insurer had a pattern or practice of willful violations of an unfair insurance trade practice related to claims-handling causing harm to policyholders as prohibited by §626.9541(1)(i), F.S.</p> <p>The requirement applies to the claims-handling procedures for the line of insurance that was the subject of the market conduct exam. The filings must be held by the OIR for a 36-month period.</p>	
<p>Increased Administrative Fines for Violations pp. 17-19, §624.4211</p>	<p>Doubles all current fines that may be imposed upon an insurer for violation of the Insurance Code or any rule or order, or any person who violates an unfair insurance trade practice:</p> <ul style="list-style-type: none"> ◆ \$40,000 (rather than \$20,000) for a willful violation, not to exceed an amount equal to \$200,000 (rather than \$100,000), for all willful violations arising out of the same action. ◆ \$5,000 (rather than \$2,500) for a non-willful violation, not to exceed an amount of \$20,000 (rather than \$10,000) for all non-willful violations arising out of the same action. 	<p><i>The provision resulting in the doubling of fines for a violation of the Insurance Code is much better than earlier drafts that imposed fines as a percentage of surplus.</i></p>
<p>Requirements for Trade Secret Documents pp. 19-20, creates §624.4213</p>	<p>Specifies requirements for submission of a document to the OIR or the Department of Financial Services (DFS) in order for a person to claim that the document is a trade secret.</p>	<p><i>This provision prevents insurers from labeling every document a trade secret regardless of its content.</i></p>

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	<p>Requires each page or portion to be labeled as a trade secret and be separated from non-trade secret material.</p> <p>Requires the submitting party to include an affidavit certifying certain information as to the trade secret status of the documents.</p> <p>Authorizes the OIR to release a document marked as trade secret to a requester if the OIR provides the insurer with 30-days notice and opportunity to obtain a court order barring disclosure.</p> <p>Allows the OIR or the DFS to disclose a trade secret to an employee or officer of another governmental agency whose use of the trade secret is within the scope of their employment.</p>	
<p>Notice to OIR of Nonrenewal pp. 20-21, creates §624.4305</p>	<p>Requires an insurer planning to non-renew more than 10,000 policies within a 12-month period to notify the OIR 90 days before issuing any notices of nonrenewal.</p>	
<p>Increased Administrative Fines for Unfair Insurance Trade Practices p. 21, §626.9521</p>	<p>Doubles the maximum fines that may be imposed by the OIR or the DFS for a violation by any person of any unfair or deceptive act or practice related to insurance:</p> <ul style="list-style-type: none"> ◆ \$40,000 (rather than \$20,000) for a willful violation, not to exceed an amount equal to \$200,000 (rather than \$100,000), for all willful violations arising out of the same action. ◆ \$5,000 (rather than \$2,500) for a non-willful violation, not to exceed an amount of \$20,000 (rather than \$10,000) for all non-willful violations arising out of the same action. 	<p><i>The provision resulting in the doubling of fines for a violation of the Unfair or Deceptive Trade Practice Act relating to insurance is much better than earlier drafts that imposed fines as a percentage of an insurer's surplus.</i></p>
<p>Unfair Insurance Trade Practices; Payment of Undisputed Claim Amount pp. 21-23, §626.9541</p>	<p>Prohibits an insurer from failing to pay undisputed amounts of partial or full benefits owed under first-party property insurance policies within 90 days after determining the amount and agreeing to coverage, unless payment of the undisputed benefits is prevented by an act of God, prevented by the impossibility of performance, or due to actions by the insured or claimant that constitute fraud, lack of cooperation, or intentional misrepresentation regarding the claim for which benefits are owed.</p>	<p><i>Violations of this provision would be grounds for a private civil remedy action due to the cross-reference in current §624.155, F.S. This is a new cause of action that many fear will lead to increased litigation by Florida's trial lawyers.</i></p>

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Administrative Proceedings in Rating Determinations pp. 23-24, §627.0612	Specifies that an administrative law judge may make the following findings of fact in an administrative hearing on a property insurance rate filing: <ul style="list-style-type: none"> ◆ Whether factors used in a rate filing or applied by the office are consistent with standard actuarial techniques or practices or are otherwise based on reasonable actuarial judgment. ◆ Whether a factor for underwriting profit and contingencies is reasonable or excessive. ◆ Whether the cost of reinsurance is reasonable or excessive. Allows an administrative law judge to enter a recommended order that approves, modifies, or rejects the requested change, as supported by the record.	
Rating Law for Property and Casualty Insurance pp. 24-31, §627.062	<p>Repeal of Arbitration: Repeals the option for an insurer for any property and casualty insurance rate filing (or any other filing) to appeal a rate filing disapproved by the OIR to an arbitration panel in lieu of an administrative hearing.</p> <p>Expedited Hearings on Rate Filings: Provides for an expedited hearing process for rate filings by:</p> <ul style="list-style-type: none"> ◆ Requiring the Division of Administrative Hearings to hold the hearing within 30 days after the request for the hearing. ◆ Requiring the hearing officer to issue the recommended order within 30 days after the hearing (or after receipt of the transcripts). ◆ Requiring parties to submit written exceptions within 10 days. ◆ Requiring the OIR to enter a final order within 30 days after the entry of the recommended order. ◆ Requiring that timeframes may be waived upon agreement of all parties. ◆ Allowing an insurer to request an expedited appellate review of a final OIR rate order and providing legislative intent that the First District Court of Appeals (DCA) grant the insurer's request. <p>Extension of Prohibition on "Use and File:" Extends for one additional year, until December 31, 2009, the current prohibition on insurers using the use and file option for property insurance rate increases. This would continue to require that an insurer make a "file and use" filing that prohibits</p>	<p><i>Current law prohibits use of arbitration until January 1, 2009.</i></p> <p><i>This is the new appeal process for insurers that have a rate filing denied by the OIR. This compromise is a result of arbitration being repealed.</i></p>
		<p><i>Current law prohibits use and file rate increases until December 31, 2008.</i></p>

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<p>Required Use of Models Approved by FL Commission on Hurricane Loss Projection Methodology pp. 31-34, §627.0628</p>	<p>an insurer from increasing its rates prior to approval by the OIR, unless deemed approved by failure of the OIR to issue a notice of intent to disapprove within 90 days.</p> <p>Use of Approved Hurricane Loss Models: Requires that projected hurricane losses must be estimated using a model or method found to be accurate or reliable by the Florida Commission on Hurricane Loss Projection Methodology (as further provided in §627.0628, F.S., as amended in Section 11).</p> <p>Profit Factor: Deletes the requirement that the OIR approve a profit factor in a rate filing for an insurer that is commensurate with the risk for that portion of the rate covering hurricane losses for which the insurer has not purchased reinsurance.</p> <p>Requires that for purposes of a rate filing insurers must use, and may not modify or adjust, a model or method found to be accurate or reliable by the Commission on Hurricane Loss Projection Methodology (Commission).</p> <p>Deletes the current law that in order for an approved model to be admissible and relevant, the OIR must have access to all of the assumptions and factors used in developing the model.</p> <p>Requires the Commission to adopt findings related to the private model's PML calculations. An insurer must use and may not modify or adjust models found by the commission to be accurate or reliable in determining PML levels for rate filings made more than 60 days after the Commission has made such findings.</p> <p>Provides that the processes, standards, and guidelines of the Commission do not constitute final agency action or statements of general applicability that implement, interpret, or prescribe law and are exempt from Chapter 120, F.S.</p>	<p><i>This provision refers to the estimating of a company's Probable Maximum Loss (PML).</i></p> <p><i>By striking this language, the law would return to its pre-2006 version to require the OIR to consider "a reasonable margin for profit and contingencies."</i></p>

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<p>Hurricane Mitigation Premium Credits Tied to Uniform Home Rating Scale pp. 34-36, §627.0629</p>	<p>Requires the OIR to develop by February 1, 2011, a proposed method for insurers to establish windstorm mitigation premium credits (discounts) that correlate to the numerical rating of a structure pursuant to the uniform home rating scale.</p> <p>Requires the Financial Services Commission (FSC) to adopt rules by October 1, 2011, requiring insurers to make rate filings which revise their credits pursuant to this method, consistent with generally accepted actuarial principles and wind loss mitigation studies.</p> <p>Requires that the rules must allow a period of at least two years after the effective date of the revised credits for a property owner to obtain an inspection or otherwise qualify for the revised credit, during which time the insurer must continue to apply the old mitigation credit.</p>	<p>See also HB 7103.</p>
<p>Citizens Property Insurance Corporation pp. 37-98, §627.351</p>	<p>Extension of Rate Freeze: Extends the freeze on rate increases in Citizens from January 1, 2009, to January 1, 2010. Requires Citizens to make an annual, actuarially sound rate filing beginning July 15, 2009, to be effective no earlier than January 1, 2010.</p> <p>Assessments for Citizens Deficits: Revises the required assessments to fund a deficit in each of Citizens' three accounts (high-risk (HRA), personal lines (PLA), or commercial lines (CLA)) to:</p> <ul style="list-style-type: none"> ◆ Require up to a 15 percent (rather than the current 10 percent) of premium surcharge for 12 months on all Citizens' policies, collected upon issuance or renewal; ◆ If this is insufficient, a regular assessment against insurers, which may be recouped from their policyholders, of up to six percent (rather than 10 percent) of premium for all lines of property and casualty insurance, except workers' compensation and medical malpractice, or six percent of the deficit, whichever is greater; ◆ Any remaining deficit is funded by a bond issue, funded by multi-year emergency assessments on policyholders on most types of property and casualty insurance, of up to 10 percent of premium for most lines of property and casualty insurance, or 10 percent of the deficit, whichever is greater. 	<p><i>This was the number one priority of the Senate bill sponsors along with the prohibition of Citizens writing wind-only policies. Thanks in large part to the efforts of FAIA, the prohibition of Citizens writing wind-only policies did not pass.</i></p> <p><i>The bill replaces the current law on assessments for funding a deficit in each of Citizens' three accounts (HRA, PLA, or CLA) that currently requires:</i></p> <ol style="list-style-type: none"> 1. <i>An immediate assessment of up to 10 percent of premium against all Citizens' non-homestead policyholders (as defined);</i> 2. <i>If this is insufficient, an additional assessment of up to 10 percent of premium against all Citizens' policyholders (including non-homestead) collected upon issuance or renewal of a policy;</i> 3. <i>If this is insufficient, a regular assessment against insurers which may be recouped from their policyholders of up to 10 percent of premium for most lines of property and</i>

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	<ul style="list-style-type: none"> ◆ Deletes the definition of “homestead property” and the requirement for Citizens to account separately for homestead property since it would no longer be relevant to determining assessments or any other purpose. ◆ Allows the board of Citizens the discretion in how to use the amount of any assessment or surcharge that exceeds the amount of the deficit. 	<p><i>casualty insurance or 10 percent of the deficit, whichever is greater.</i></p> <p>4. <i>Any remaining deficit is funded by a bond issue, funded by multi-year emergency assessments on policyholders of most types of property and casualty insurance of up to 10 percent of premium or 10 percent of the deficit, whichever is greater.</i></p> <p>5. <i>If a regular assessment is imposed under 3 above, Citizens must make a rate filing to impose a surcharge on Citizens’ policyholders equal to the average percentage regular assessment imposed on insurers (and recouped from non-Citizens’ policyholders).</i></p>
	<p>Eligibility for Higher Value Homes: Provides that homes with a dwelling replacement cost of \$2 million or more (rather than \$1 million or more) are ineligible for any coverage from Citizens effective January 1, 2009, with limited exceptions for current policyholders who obtain rejections from three surplus lines insurers and one authorized insurer.</p>	<p><i>The original Senate bill had no cap.</i></p>
	<p>Eligibility for Properties Within 2,500 Feet of the Coast: Deletes the current law requiring that new properties constructed after January 1, 2009, within 2,500 feet of the coast must meet “Code Plus” requirements in order to be eligible for Citizens. By repealing this provision, the law would still require that any new home meet the Florida Building Code.</p>	<p><i>This same provision passed in HB 697 relating to the Florida Building Code. This was deleted because there is no statutory definition of “Code Plus.”</i></p>
	<p>Forced Purchase of Bonds: Deletes current law requiring insurers to purchase bonds that remain unsold for 60 days.</p>	<p><i>Under current law voluntary market insurers would have been required to purchase any unsold bonds.</i></p>
	<p>Access to Claims and Underwriting Files: Provides that a policyholder who has filed suit against Citizens has the right to discover the contents of his claims file to the same extent that discovery would be available from a private insurer. Allows Citizens to release confidential underwriting and claims file information under certain circumstances.</p>	<p><i>See also CS/CS/SB 2012.</i></p>

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	<p>Required Disclosure of Windstorm Mitigation Rating Upon Sale of Home (Citizens): Effective January 1, 2010, requires disclosure of a home’s windstorm mitigation rating, for a home insured by Citizens in the wind-borne debris region with an insured value of \$500,000 or more (also see Section 15).</p>	<p>See also HB 7103.</p>
<p>Increased Notice of Nonrenewal pp. 98–101, §627.4133</p>	<p>Increases the required notice of nonrenewal of a personal or commercial residential insurance policy from 100 days to 180 days if the policy has been written for five years or more.</p>	
<p>Required Disclosure of Windstorm Mitigation Rating Upon Sale of Home pp. 101-102, creates §689.262</p>	<p>Effective January 1, 2011, requires that a purchaser of residential property located in windborne debris region be informed of the windstorm mitigation rating of the structure, either in the contract for sale or as a separate document attached to the contract.</p> <p>Authorizes the FSC to adopt rules, including the form of the disclosure and the requirements for the inspection or report that is required.</p>	<p>After January 1, 2011, this notification applies to all insured homes with no dollar limitation. See also HB 7103.</p>
<p>Transfer of \$250 million from Citizens to General Revenue pp. 102-103</p>	<p>Requires Citizens to transfer \$250 million from its PLA and CLA to the General Revenue Fund on December 15, 2008, unless the estimated year-end surplus in the PLA and the CLA is less than \$1 billion. (Citizens currently estimates that its year-end surplus in these two accounts combined will be about \$2.6 billion if there are no hurricane losses.)</p> <p>Requires the “board” (apparently referring to the SBA), beginning July 1, 2009, to make quarterly transfers to Citizens of interest and principal payments for surplus notes that were funded by appropriations from Citizens in FY 2008–2009.</p>	<p>The appropriation of \$250 million from Citizens to the SBA for the Program is contained in the Conference Report for the General Appropriations Act.</p>
<p>Citizens May Not Increase Rates Due to Transfer p. 103</p>	<p>Prohibits Citizens from using any of the amendments to the Program or any transfer of funds as justification or cause in seeking any rate increase. However, this provision could not be read to limit the amount of an assessment that may be greater due to the transfer of these funds.</p>	
<p>Use of Public Hurricane Loss Model p. 103</p>	<p>Allows insurance companies to use the Public Hurricane Loss Model to determine rate requests in advance of filing, but requires the insurer to pay for use of the public model.</p>	

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Multi-Policy Discount pp. 103-104	<p>Requires the OIR (the “office” would actually be the FSC that has rulemaking authority for the OIR) to establish by rule, by January 1, 2009, a fee schedule for access and use of the model, reasonably calculated to cover only the actual costs.</p> <p>Allows insurers to offer a multi-policy discount if the policyholder has property coverage with Citizens or an insurer that has removed the policy from Citizens provided that the same insurance agent services both policies.</p>	
Citizens Property Insurance Corporation Mission Review Task Force pp. 104-107	<p>Creates the Citizens Mission Review Task Force to analyze and report on changes needed to return Citizens to its former role as a state-created, noncompetitive residual market mechanism providing property insurance coverage to risks otherwise entitled but unable to obtain such coverage in the private market.</p> <p>Requires the task force to submit reports by January 31, 2009, to the governor, the president of the Senate, and the speaker of the House of Representatives.</p> <p>The task force is composed of 11 members, as follows:</p> <ul style="list-style-type: none"> ◆ Two members appointed by the speaker of the House, representing insurance companies meeting certain criteria; ◆ Two members appointed by the president of the Senate, representing insurance companies meeting certain criteria; ◆ Three members appointed by the governor who are not affiliated with an insurance company, at least one of whom must be a consumer advocate; ◆ Two members appointed by the chief financial officer (CFO) representing insurance agents; ◆ One member representing Citizens appointed by its board; and ◆ The insurance commissioner or his designee. <p>The task force must be funded by Citizens and the members do not receive any compensation, but are entitled to travel and per diem. The task force shall employ consultants and staff.</p>	

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<p>Annual Report by CFO pp. 107-108</p>	<p>Requires the CFO to annually report to the governor and legislative presiding officers regarding the economic impact on Florida from a 1-in-100 year hurricane and the premium increase needed to fund such a hurricane.</p>	
<p>Transparency in Rate Regulation pp. 108-110, creates §627.0621</p>	<p>Requires the OIR to provide information for residential property insurance rate filings on an Internet website of:</p> <ul style="list-style-type: none"> ◆ All assumptions made by any OIR actuary; ◆ The overall rate change requested by the insurer; ◆ A statement describing any assumptions that deviate from actuarial standards of the Casualty Actuarial Society; and ◆ A certification by the OIR's actuary that, based on the actuary's knowledge, his or her recommendations are consistent with accepted actuarial principles. <p>In any administrative or judicial proceeding, work-product and attorney-client privilege exemptions from public disclosure do not apply to communications with office attorneys or records prepared by or at the direction of an OIR attorney except when both of the following conditions are met:</p> <ul style="list-style-type: none"> ◆ The communication or record reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the OIR that was prepared exclusively for civil or criminal litigation or adversarial administrative proceedings; ◆ The communication occurred or the record was prepared after the initiation of a court action, after issuance of a notice of intent to deny a rate, or after the filing by an insurer of a request for a hearing. 	
<p>Florida Hurricane Catastrophe Fund (FHCF); \$10 Million Coverage Option pp. 110-111</p>	<p>Requires the FHCF to offer \$10 million of additional coverage to qualified insurers in 2008 as was required in 2006 and 2007. This coverage would reimburse the insurer for up to \$10 million in losses for each of two hurricanes. The coverage will again be priced at a 50 percent rate on line (e.g., \$5 million premium for \$10 million in coverage) with a free reinstatement for a second storm. The insurer's retention for such coverage remains at 30 percent of the company's surplus. The bill provides that the coverage expires on May 31, 2009.</p>	<p><i>This coverage will again be made available to limited apportionment companies (having \$25 million in surplus or less and writing at least 25 percent of its premiums in Florida), insurers approved to participate in the Program, and insurers that purchased the supplemental coverage in 2007. See also CS/CS/SB 2012.</i></p>
<p>p. 112</p>	<p>Technical conforming change.</p>	

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<p>Exclusion of Windstorm Coverage pp. 112-113, §627.712</p>	<p>Provides that if a policyholder is eligible for a wind-only policy from Citizens, the insurer issuing the non-wind policy is not subject to the requirement to obtain a signed rejection of windstorm coverage; but requires notice to the mortgage holder under certain conditions.</p>	<p><i>This fixes the unintended glitch that required homeowners to sign a rejection of wind coverage from the admitted carrier when, in most cases, the homeowner would buy wind coverage if it was offered.</i></p>
<p>pp. 113-114</p>	<p>Provides that this bill controls over any conflicting provisions in HB 5057 (which relates to the Program).</p> <p>Effective date: July 1, 2008, except as otherwise provided. Governor vetoed specific line items. Chapter No. 2008-66, LOF.</p>	
<p>Department of Business and Professional Regulation, CS/CS/HB 601</p>		
<p>pp. 9-23, §718.111(11)</p>	<p>The bill amends §718.111(11), F.S., to revise and clarify the insurance requirements for condominiums.</p>	
<p>p. 10, §718.111(11)</p>	<p>Section 718.111(11)(a), F.S., maintains the current requirement for adequate insurance but uses the term “adequate hazard insurance” to specify the type of insurance that is required. It provides that adequate hazard insurance be based on the replacement cost of the property to be insured as determined by an independent insurance appraisal or update of a prior appraisal. The full insurable value must be determined at least every 36 months.</p>	<p><i>Adequate hazard insurance is based upon the replacement cost of the property regardless of “full insurable value,” “replacement cost,” or similar language in the declaration of condominium.</i></p>

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<p>p.10, §718.111(11)</p>	<p>Section 718.111(11)(a)1, F.S., permits condominium associations to provide adequate hazard insurance through a self-insurance fund that complies with §624.460–624.488, F.S. The bill deletes the provision that permits condominium associations to self-insure against claims against the association, the association property, and the condominium property required to be insured by an association. The bill also deletes the requirement that the association must make a copy of the policy available for inspection by the unit owners at reasonable times.</p>	
<p>pp. 10-11, §718.111(11)</p>	<p>Section 718.111(11)(a)2, F.S., maintains the current provision that permits three or more communities to obtain insurance for an amount equal to the PML for a 250-year windstorm event as determined through the use of a competent model that has been accepted by the Florida Commission on Hurricane Loss Projection Methodology.</p> <p>However, the bill requires that any policy providing such insurance coverage issued after July 1, 2008, must be reviewed and approved by the OIR, as follows:</p> <ul style="list-style-type: none"> ◆ Approval of the policy and related forms pursuant to §627.410 and §627.411, F.S.; ◆ Approval of the rates pursuant to §627.062, F.S.; ◆ A determination that the loss model approved by the Commission was accurately and appropriately applied to the insured structures to determine the 250-year probable maximum loss; and ◆ A determination that complete and accurate disclosure of all material provisions is provided to condominium unit owners prior to execution of the agreement by a condominium association. 	<p><i>This language was drafted and lobbied by FAIA in response to concerns of FAIA members that these insurance products were being sold to condominium associations without proper disclosure to the unit owners that these products had not been approved by OIR and that the coverage they provided may not be adequate due to the shared limit concept.</i></p> <p><i>The requirement for approval of forms and rates is required under current law if the policy is sold by an authorized (Florida licensed) insurer, but this is a new regulatory requirement for a surplus lines insurer selling this product. The additional requirements of a determination by the OIR that the loss model was accurately and appropriately applied and that a complete and accurate disclosure has been provided to unit owners are new requirements, whether sold by an authorized insurer or a surplus lines insurer.</i></p>

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p. 11, §718.111(11)	Section 718.111(11)(a)3, F.S., maintains the current provision that permits condominium associations to consider deductibles when determining the adequate amount of hazard insurance coverage.	
p. 11, §718.111(11)	Section 718.111(11)(b), F.S., changes the current requirement for developer-controlled associations to exercise due diligence to obtain and maintain insurance. The bill requires that the developer-controlled association must exercise its “best efforts” to obtain and maintain insurance.	<i>Failure to obtain and maintain adequate hazard insurance during any period of developer control would constitute a breach of the fiduciary responsibility of the developer-appointed board members, unless the members can show that they made the best efforts to acquire coverage even if they failed.</i>
pp. 11-12, §718.111(11)	Section 718.111(11)(c), F.S., maintains the current requirement that policies may include deductibles as determined by the board. The bill requires that insurance deductibles must be consistent with industry standards and the prevailing practice for communities of similar size and age, and having similar construction and facilities in the locale where the condominium property is situated. It permits the association board to determine the deductible on the basis of available funds, including reserve amounts, or predetermined assessment authority at the time the insurance is obtained, when determining adequate insurance.	
p.12, §718.111(11)	<p>Section 718.111(11)(c)3., F.S., provides the procedures for board meetings for establishing the amount of deductibles based upon the level of available funds and predetermined assessment authority at a meeting of the board. The bill requires that the meeting must be open to all members. The bill requires that the meeting notice must:</p> <ul style="list-style-type: none"> ◆ State the proposed deductible and the available funds; ◆ State the assessment authority relied upon by the board; and ◆ Estimate any potential assessment amount against each unit, if any. <p>The bill permits the meeting to be held in conjunction with a meeting to consider the proposed budget or budget amendment.</p>	
pp. 12-13, §718.111(11)	Section 718.111(11)(d), F.S., maintains the current requirement for unit-owner controlled associations to exercise their best efforts to obtain and maintain insurance required by this subsection.	

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
	<p>Section 718.111(11)(e), F.S., maintains the current provision that permits associations for land condominiums to not obtain insurance if the unit owners are required to obtain adequate insurance.</p> <p>Section 718.111(11)(e), F.S., also maintains the current provision that permits the association to obtain and maintain liability insurance for directors and officers, insurance for the benefit of association employees, and flood insurance for common elements, association property, and units.</p> <p>Section 718.111(11)(f), F.S., specifies the following primary coverage that every hazard insurance policy issued on or after January 1, 2009, must provide:</p> <ul style="list-style-type: none"> ◆ All original or replaced portions of the condominium property; and ◆ All alterations or additions made to the condominium property or association property pursuant to §718.113(2), F.S. 	
p. 13, §718.111(11)	<p>Section 718.111(11)(f)3, F.S., specifies the property that must be excluded from the association’s insurance coverage. The bill maintains most of the exclusions in current law and also requires that all personal property within the unit or limited common elements must be excluded from the coverage. The bill deletes the exclusion in current law for air conditioner or heating units whether or not they service only an individual unit or whether or not they are located within the unit boundaries.</p>	
p. 13, §718.111(11)	<p>Section 718.111(11)(g), F.S., specifies the provisions that must be contained in every hazard insurance policy issued or renewed on or after January 1, 2009, to an individual unit owner. The bill requires that an individual unit owner must include special assessment coverage of not less than \$2,000 per occurrence. An insurance policy issued to an individual unit owner providing coverage does not provide rights of subrogation against the condominium association.</p>	
p. 14, §718.111(11)	<p>Section 718.111(11)(g)1, F.S., requires that improvements or additions which do not benefit all of the unit owners must be insured by the unit owner or owners who use the improvement or addition. Alternatively, the bill permits the association to insure the improvements or additions at the expense of the unit owners who use them.</p>	

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
p. 14, §718.111(11)	Section 718.111(11)(g)2, F.S., requires the unit owners to provide evidence of a currently effective hazard and liability insurance policy upon request by the association. The association cannot require evidence of insurance more than once per year. If the unit owner fails to provide the evidence of insurance within 30 days, the association may purchase an insurance policy on behalf of the unit owner. The unit owner is responsible for the cost of the policy and for any reconstruction costs incurred by the association. These costs may be collected as assessments under §718.116, F.S.	
p. 14, §718.111(11)	Section 718.111(11)(g)3, F.S., provides that the association shall undertake all reconstruction work after a casualty loss. The unit owner may only undertake reconstruction work if he or she has the written consent of the board of administration, and the board must approve the repair methods, qualifications of the contractor, or the contract for repair. The bill requires that the unit owner obtain all required governmental permits and approvals before beginning any reconstruction.	
pp. 14-15, §718.111(11)	Section 718.111(11)(g)4, F.S., provides that unit owners are responsible for reconstruction costs of any part of property for which they must have casualty insurance. The association may charge the unit with an enforceable assessment under §718.116, F.S., for any work the association has undertaken. The bill requires that the association must be an additional named insured and loss payee on all casualty insurance policies of unit owners.	
p. 15, §718.111(11)	Section 718.111(11)(g)5, F.S., provides that multi-condominium associations may elect to operate as one condominium by majority vote for insurance purposes including, but not limited to, hazard insurance and the apportionment of deductibles and damages that exceed coverage. The election to do this must be treated as an amendment to the declaration of all the condominiums involved and recorded according to §718.110, F.S. Furthermore, the cost of insurance must be placed in the association budget.	
pp. 15-16, §718.111(11)	Section 718.111(11)(h), F.S., maintains the current requirement for insurance or fidelity bonding of all persons who control or disburse funds of the association.	

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
<p>p. 16, §718.111(11)</p>	<p>Section 718.111(11)(i), F.S., maintains the current provision that permits the association to amend the declaration of the condominium without regard to any requirement for mortgagee approval of amendments affecting insurance requirements.</p>	
<p>pp. 16-17, §718.111(11)</p>	<p>Section 718.111(11)(j)2., F.S., provides that any portion of condominium property, which is required to be insured for casualty loss by the association, that is damaged by casualty must be reconstructed, repaired, or replaced as necessary by the association as a common expense. Hazard insurance, deductibles, uninsured losses, and other damages in excess of hazard insurance coverage are also common expenses. However, the bill provides the following exceptions:</p> <ul style="list-style-type: none"> ◆ A unit owner is responsible for the cost of repair or replacement of condominium property which is not paid by insurance when damage is caused by intentional conduct, negligence, or failure to comply with the terms of the declaration or association rules by a unit owner, his or her family, tenants, guests, or invitees. The unit owner is also without subrogation rights. ◆ The unit owner is also financially responsible for the cost of repair or replacement of personal property of another unit owner or the association when the damage is caused by intentional conduct, negligence, or failure to comply with the terms of the declaration or association rules. ◆ If the unit owner is reimbursed by insurance proceeds that go to the association, then the association must reimburse the unit owner without a waiver of any subrogation rights. ◆ The association is not obligated to pay for reconstruction or repayment of casualty losses when losses were known or should have been known to a unit owner and were not reported to the association until after the insurance claim had been settled or denied by the insurance company because it was untimely filed. 	

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
p. 17, §718.111(11)	Section 718.111(11)(k), F.S., permits associations to opt out of the provisions for allocation of repair or reconstruction expenses in §718.111(j), F.S., if the majority of the total voting interests in the association approve. The association may instead allocate repairs or reconstruction costs in the manner provided in the declaration as originally recorded or as amended. The vote may be approved by voting interests of the association without regard to any mortgagee consent requirements.	
pp. 17-18, §718.111(11)	Section 718.111(11)(l), F.S., permits any condominium in a multi-condominium association that has not consolidated its financial operations under §718.111(6), F.S., to opt out of the provisions in §718.111(11)(j), F.S., with the approval of the majority of total voting interests in that condominium. Such a vote may be approved by the voting interests without regard to any mortgagee consent requirements.	
p. 18, §718.111(11)	Section 718.111(11)(m), F.S., requires that any association or condominium voting to opt out of the provision in §718.111(11)(j), F.S., to record the notice with the date of the opt-out vote and the official records book and page where the declaration is recorded. The opt-out is effective on the date of recording of notice in public records of the association. An association that has opted out may reverse that decision by the same majority vote required for the opt-out and record the notice in the official records.	
p. 18, §718.111(11)	Section 718.111(11)(n), F.S., provides that an association is not obligated to pay for reconstruction or repair costs due to casualty loss for any improvements installed by a current or former unit owner or developer as part of the original construction that only benefits the unit for which it was installed and is not a part of the standard improvements installed by the developer on all the units as part of the original construction. If there is insurance for a specific improvement, the bill further provides that any party is not relieved of its obligations regarding recovery.	
p. 18, §718.111(11)	Section 718.111(11)(o), F.S., provides that the insurance provisions of this subsection do not apply to timeshare condominium associations. It further provides that timeshare condominium associations must maintain insurance as provided in §721.165, F.S.	

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
pp. 23-24, §718.115 (1)	<p>The bill amends §718.115(1)(a), F.S., to provide that, unless the manner of payment or allocation of expenses is addressed elsewhere in the declaration, condominium expenses or items required by the federal, state, or local government, including fire safety equipment and water and sewer service, are common expenses whether or not identified as common expenses in the declaration of condominium, articles of incorporation, or the bylaws of the association.</p>	
pp. 24-25, §718.116(8)	<p>The bill amends the “estoppel certificate” requirement in §718.116(8), F.S., to include a unit owner’s designee or a mortgagee designee among the persons that are entitled, upon request, to a certificate signed by an officer regarding the assessments owed by the unit owner to the association. The bill provides that the fee for the certificate must be set forth in the certificate. The bill provides that the authority to charge a fee must be established by a written resolution adopted by the board in advance of the charge or provided by written management, bookkeeping, or maintenance contract. The bill provides that the fee must be payable upon the preparation of the certificate, and if the certificate is requested along with the sale or mortgage of the unit and the closing does not take place, the fee must be refunded upon written notice from the person requesting the certificate that the sale did not occur. The refund is the obligation of the unit owner and must be collected in the same manner as an assessment provided by §718.116, F.S.</p>	
pp. 25-26, §718.117	<p>The bill amends §718.117, F.S., to provide that the distribution of any sale proceeds to purchase-money lienholders on units must not exceed a unit’s share of the proceeds.</p> <p>Effective date: July 1, 2008. Chapter No. 2008-240, LOF.</p>	

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
Community Associations, CS/CS/HB 679		
VETOED	<p>This bill deals largely with community associations and their governance. However, there is one section that creates new statutory language regarding self-insurance funds formed by three or more condominium associations for the purpose of spreading liabilities for hurricane deductibles.</p>	
pp. 59-62	<p>The bill provides that three or more condominium associations may form a self-insurance fund for the purposes of pooling and spreading the liabilities of its participant associations arising from the deductible provisions of the commercial lines residential property insurance policies of the participants applicable to hurricane losses, if:</p> <ol style="list-style-type: none"> 1. The self insurance fund must be a not-for-profit corporation. 2. The fund must be implemented through contracts among the participating associations. 3. The liability of the fund for claims must be limited to funds available for the payment of claims. 4. The contract provided to a participating association must clearly disclose the obligations of the participants in the fund and the obligations of the fund, including the limited liability of the fund. The contract must also specify a reasonable date for the payment of claims. Before execution of the contract, the association must be provided a separate disclosure form specifying the limited liability of the fund and all fees and estimated expenses, and examples of the manner in which available funds will be allocated among claimants if claims exceed the funds available for payment thereof. The disclosure must be signed by a representative of the participating association before or at the time of execution of the contract. 5. The contributions charged for participating in the fund must be established by the fund and calculated as a percentage of the participant's hurricane deductible dollar amount. 	<p><i>As of this printing, this section of the bill has not been assigned a Florida statutory cite, but it will be assigned by the Statutory Revision Committee in the near future.</i></p>

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
	<p>6. All members of the governing board of the fund must be participating associations in the fund, and the governing board must have all powers necessary to establish and administer the fund. Decisions of the fund shall be based upon a majority vote of the governing board.</p>	
	<p>7. The fund must use and contract with knowledgeable persons and business entities to administer and service the fund, including marketing, policy, contract administration, claims administration, accounting services, and legal services.</p>	
	<p>8. The fund must use a properly licensed general lines insurance agent, who is a Florida resident, for solicitation and participation in the fund, and must not prevent, impede, or restrict any applicant or participant in the fund from maintaining or selecting an agent of choice. The fund may not favor one or more agents over another agent.</p>	<p><i>This language was suggested and drafted by FAIA.</i></p>
	<p>9. The organizational documents, the contract, and notices of disclosure must be filed with the OIR not less than 45 days prior to solicitation by the fund.</p>	
	<p>10. The fund must be audited by an independent auditor no less frequently than every two years.</p>	
	<p>The fund may accumulate funds or periodically distribute excess funds to its participants on a pro rata basis, reflecting loss experience of individual participants and proportionate contributions paid by participants.</p>	
	<p>Participants in the fund must have a deductible no greater than is provided in §627.701(8), F.S. (10 percent).</p>	
	<p>These funds are not subject to licensure requirements or regulation pursuant to the Florida Insurance Code (except for Part IX of Chapter 626, F.S., "Unfair Insurance Trade Practices," which may be enforced by the OIR or the DFS, as applicable), and are not subject to any fees, taxes, or assessments related to the writing or transaction of insurance in Florida.</p>	
	<p>Effective date: July 1, 2008.</p>	

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
AGENT & AGENCY ISSUES		
Insurance, CS/CS/SB 2012		
<p>Agent Issues pp.41-42, §626.221(2)</p>	<p>Late in the legislative session, this bill became the “train” for miscellaneous insurance legislation, which is summarized below. However, the bill’s most significant provisions to insurance agents are those provisions which were contained in FAIA’s CE bill, but which ultimately passed as part of this bill.</p> <p>Effective January 1, 2009, the bill allows applicants to be exempt from the customer representative licensing examination if they have earned an associate or bachelor’s degree with at least nine (9) hours of property and casualty insurance curriculum.</p>	<p><i>FAIA is currently working with several community colleges around the state to develop this curriculum.</i></p>
<p>pp. 42-45, §626.2815(2) and §626.381</p>	<p>The bill prohibits insurers, including Citizens Property Insurance Corporation (Citizens), from requiring appointed agents to complete specified continuing education (CE) courses offered by such insurers or Citizens, in order for the appointment to be issued or renewed. The bill provides an exception for insurers that appoint individuals who are employees or exclusive independent contractors. The bill allows Citizens to require its employees to take training relevant to his or her employment and to require its appointees to take courses which pertain solely to its internal procedures or products. In addition, the bill allows any insurer (including Citizens) to require an appointee to attend the training and education programs of the insurer in order to receive or maintain an appointment as long as the training programs are not wholly or partially approved for CE credit.</p>	<p><i>This language was drafted and lobbied by FAIA in response to Citizens’ attempt to tie an agent’s appointment with Citizens to the taking of a Citizens CE course.</i></p>
<p>pp. 43-44, §626.2815(4)</p>	<p>The bill authorizes independent study programs offering agents’ CE courses through correspondence to allow students to take a final closed book examination without being monitored or proctored provided that the student submits a sworn affidavit attesting that he or she did not receive assistance while taking the exam.</p>	<p><i>This makes the examination requirements for correspondence courses the same as online courses.</i></p>

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
MEWA p. 7, §624.443	The bill amends §624.443, F.S., to allow the OIR to waive the requirement that each multiple-employer welfare arrangement (MEWA) maintain its principal place of business in this state if the MEWA has been operating in another state for at least 25 years, has been licensed in such state for at least 10 years, and has a minimum fund balance of \$25 million at the time of licensure.	
Risk Pooling for Hospitals pp. 7-8, §395.106	The bill amends §395.106, F.S., pertaining to risk pooling by certain hospitals and hospital systems. Under current law, any two or more hospitals may form a self-insurance alliance to pool and spread liabilities for property insurance coverage. If a hospital alliance purchases “excess” insurance, it is subject to the premium tax. The amendment would allow such alliances to be considered “insurers” only for the purpose of purchasing reinsurance coverage which would not be subject to the premium tax. The amendment clarifies that contracts of reinsurance issued to a hospital alliance shall receive the same tax treatment as reinsurance contracts issued to insurers.	
Citizens pp.8-12, §627.351(6)(w)	<p>The bill amends §627.351, F.S., pertaining to Citizens Property Insurance Corporation. This amendment gives a policyholder (and his attorney) who has filed suit against Citizens access to his or her own claim file to the same extent that discovery would be available from a private insurer in litigation as provided by the Florida Rules of Civil Procedure. This same right of access to claim files is provided to a third party in litigation pursuant to subpoena.</p> <p>Access to such files is subject to any confidentiality protections requested by Citizens. The amendment authorizes Citizens to release confidential underwriting and claims file contents as it deems necessary to underwrite or service insurance policies and claims, subject to confidentiality protections deemed necessary. It also allows Citizens to release confidential underwriting file records to other governmental agencies upon written request and demonstration of need, which records remain confidential.</p>	<p>See also CS/CS/SB 2860.</p> <p>See also CS/CS/SB 2860.</p>
pp. 45-46	The bill requires Citizens to electronically report claims data and histories to a consumer reporting agency upon the request of such agency.	<i>A consumer reporting agency, as defined by the federal Fair Credit Reporting Act (Act) and which is in compliance with the confidentiality requirements of the Act, maintains claims data and histories for use in connection with the underwriting</i>

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
<p>SIF for Public Housing Authorities pp.12-15, §624.46226</p>	<p>The bill amends §624.46226, F.S., pertaining to self-insurance funds for public housing authorities.</p> <p>The amendment provides criteria that authorities must follow in forming self-insurance funds, which includes having annual premiums in excess of \$5 million; using a qualified actuary to determine rates and who must annually certify to the OIR that the rates are actuarially sound and not inadequate; using such actuary to establish reserves for loss and loss adjustment expenses and who must annually certify to the OIR that the reserves are adequate; maintaining excess insurance coverage; submitting annual audited financial statements to the OIR; having a governing body comprised of commissioners of public housing authorities; using persons knowledgeable in specified areas; and certifying to the OIR that the fund meets the above provisions.</p> <p>The amendment clarifies that the public housing authority self-insurance funds are not covered by the insurance guaranty association, but are subject to the premium tax. Should a self-insurance fund not meet the above requirements, then the fund is subject to the requirements under general law for commercial self-insurance funds, or if the fund provides only workers' compensation coverage, the general law for group (employer) self-insurance funds.</p>	<p><i>of insurance involving a consumer. Insurers are able to review the claims history of insureds using the service provided by a consumer reporting agency.</i></p> <p><i>Current law allows public housing authorities to self-insure to pool and spread liabilities of its members for property and casualty insurance.</i></p>
<p>Public Adjusters pp.15-32, §624.501, §626.015, §626.221, §626.241, §626.641, §626.854, §626.8541, §626.865, §626.8651, §626.869, §626.8698, §626.870,</p>	<p>The bill makes changes pertaining to the regulation of public adjusters and proposes a new type and class of license for a "public adjuster apprentice" under the authority of the DFS. The bill provides for the following changes to Chapter 626, F.S, with regard to public adjusters:</p>	<p><i>This legislation was recommended by the Task Force on Citizens Property Insurance Claims Handling and Resolution which was created by the Legislature in 2007. The task force found that while the services of public adjusters can be beneficial to policyholders who have suffered a loss, the current laws do not adequately protect consumers from unscrupulous public adjusters. All</i></p>

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
<p>§626.8732, §626.8796, §626.8797</p>	<p>Fees: Prohibits charging a fee unless a written contract was executed prior to payment of the claim and the adjuster provided adjusting services on the claim.</p> <p>Prohibits charging more than:</p> <ul style="list-style-type: none"> ◆ 10 percent on claims arising from a declared State of Emergency. ◆ 20 percent on all other claims. <p>Prohibited Practices: Soliciting directly or indirectly between the hours of 8 p.m. and 8 a.m.</p> <p>Soliciting or entering into a contract until at least 72 hours after occurrence of the loss or 14 business days in the event of a hurricane, unless contacted by policyholder.</p> <p>Giving or offering to give a monetary loan or advance to a client or prospective client.</p> <p>Giving or offering to give anything with a value in excess of \$25 for advertising or as an inducement to enter into a contract with a public adjuster.</p> <p>Qualifications for Licensure: Resident applicants must have two years of experience (in the past four years) in adjusting claims as a licensed and appointed insurance agent, or as an all-lines or property and casualty independent adjuster or company employee adjuster; completed 12 semester hours or 18 quarter hours of college level credits in property/casualty insurance courses; or completed 12 months of employment as a public adjuster apprentice.</p> <p>All applicants must pass the public adjuster exam.</p> <p>Nonresident applicants must have been continuously licensed in their home state for the past three years.</p>	<p><i>of the provisions of this public adjuster legislation take effect on either October 1, 2008, or January 1, 2009. (See the bill for details.)</i></p>

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
	<p>Examination for Licensure: Requires the DFS to create a specific examination for public adjusters.</p> <p>Requires passage of the examination before reinstatement of a suspended license or issuance of a new license to a person whose previous license was terminated for any reason.</p> <p>Requires nonresident adjusters to pass Florida’s exam.</p> <p>Continuing Education Requirements: Must take courses that are specifically designed for public adjusters, not company adjusters.</p> <p>Courses must include information on duties and responsibilities under law and rules of the DFS as well as on standard policy forms.</p> <p>Nonresident adjusters can comply by meeting their own state’s continuing education requirements.</p> <p>Contracts: The contract must contain a statement that notifies consumers that it is a third-degree felony to knowingly, and with intent to injure, defraud, or deceive any insurer, file a statement of claim or proof of loss containing any false, incomplete, or misleading information.</p> <p>Consumers can terminate a contract with a public adjuster without penalty within three business days from the execution of the contract or within three business days from the date the claim is reported to the insurer, whichever is later.</p> <p>Proof of Loss Certification: Requires public adjusters to sign a statement under oath certifying that estimates in proof of loss are reasonable and that the proof of loss does not contain any false, incomplete, or misleading information.</p> <p>Preparation of a proof of loss that contains false, misleading, or incomplete information with intent to defraud is a felony pursuant to §817.234, F.S.</p>	

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
	<p>Public Adjuster Apprentice: The bill also creates a new type and class of license for a public adjuster apprentice. The bill creates the following requirements for public adjuster apprentices:</p> <ul style="list-style-type: none"> ◆ The applicant must have experience or education concerning the adjusting of damages or losses. ◆ The applicant must file a surety bond in the amount of \$50,000 with the DFS. ◆ A supervisor is responsible and accountable for the acts of the apprentice related to claims adjusting. ◆ The apprentice must complete a minimum 100 hours of employment per month for 12 months of employment as a public adjuster apprentice. 	<p><i>There does not appear to be a limit on the number of apprentices that one supervisor may be responsible for. This lack of control may become a problem.</i></p>
<p>Long-Term Care Policies pp. 33-35, §627.94073</p>	<p>The bill amends §627.94073, F.S., which pertains to long-term care insurance policies, to require that the notice of possible lapse in coverage due to nonpayment of premium be sent to the policyholder and the secondary designee at the address shown in the policy or the last known address provided to the insurer.</p> <p>The bill also changes the requirement for an insurer to allow a policyholder to reinstate a long-term care policy that has been cancelled for nonpayment of premium to include persons whose failure to pay the premium was due to continuous hospital confinement of longer than 60 days.</p> <p>Finally, the bill requires insurers to issue an annual notice to a long-term care policyholder stating that he or she has the right to designate a secondary addressee to receive notice of possible lapse in coverage or cancellation.</p>	<p><i>These amendments to §627.94073, F.S., are effective January 1, 2009, for long-term care policies issued or renewed on or after that date.</i></p> <p><i>Current law requires insurers to issue this notification every two years.</i></p>

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
<p>Claims by Holocaust Victims pp. 35-36, §626.9543</p>	<p>The bill extends the statute of limitations for claims filed by Holocaust victims or their beneficiaries, descendants, or heirs, to July 1, 2018, if the claim is submitted or action is commenced by that date for proceeds of an insurance policy issued or in effect between 1920 and 1945.</p>	
<p>PIP Benefits pp. 36-39, §627.736</p>	<p>The bill amends §627.736, F.S., pertaining to motor vehicle personal injury protection (PIP) insurance.</p>	<p><i>Under current law, insurers are allowed to limit reimbursement for PIP benefits to 80 percent of 200 percent of the Medicare Part B fee schedule for specified medical services.</i></p>
<p>Insurance Capital Incentive Build-Up Program pp. 39-41, §215.555(4)</p>	<p>The amendment clarifies that PIP reimbursement for medical services would be based on 200 percent of the allowable amount under the “participating physicians” schedule of Medicare Part B for 2007.</p> <p>The bill requires the FHCF to offer \$10 million of additional coverage to qualified insurers in 2008, as was required in 2006 and 2007.</p> <p>This coverage would reimburse the insurer for up to \$10 million in losses for each of two hurricanes. The coverage will again be priced at a 50 percent rate on line (e.g., \$5 million premium for \$10 million in coverage) with a free reinstatement for a second storm.</p> <p>The insurer’s retention for such coverage remains at 30 percent of the company’s surplus.</p> <p>The bill provides that the coverage expires on May 31, 2009.</p>	<p><i>Participating physicians accept Medicare’s allowed charges as payment in full for all their Medicare patients.</i></p> <p><i>This coverage would again be made available to limited apportionment companies (having \$25 million in surplus or less and writing at least 25 percent of its premiums in Florida), insurers approved to participate in the Insurance Capital Build-Up Incentive Program, and insurers that purchased the supplemental coverage in 2007. See also CS/CS/SB 2860.</i></p>
<p>Title Insurance p. 39</p>	<p>The bill provides that title insurers may petition the OIR for a rate deviation under §627.783, F.S., for personal property title insurance, a Uniform Commercial Code (UCC) insurance product.</p> <p>The bill requires that the OIR, in determining whether to approve a rate deviation for a personal property title insurance product, must be guided by “standards for national rates for the product being offered in other states.”</p>	<p><i>This coverage is for bad title of UCC products, but not loss or destruction of such products.</i></p>
	<p>Effective date: July 1, 2008, unless otherwise provided. Chapter No. 2008-220, LOF.</p>	

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
Annuity Regulation, CS/CS/SB 2082		
p. 3, §626.171	This 20-page bill is titled the “John and Patricia Seibel Act.” It amends various provisions of the insurance code aimed at better regulating the sale of annuities and other insurance-related products, especially to senior citizens.	<i>This is in direct response to documented cases of financial “abuse” of the elderly by a small number of unscrupulous individuals who used high-pressure tactics to sell questionable products to the elderly.</i>
p. 3, §626.171	Requires applicants for license as an agent, customer representative, adjuster, service representative, MGA, or reinsurance intermediary to also include in his/her application contact telephone numbers, including a business telephone number and e-mail address.	
p. 4, §626.2815(3)(k)	Adds a new paragraph to the continuing education laws, requiring any person who holds a license to solicit or sell life insurance in Florida to complete a minimum of three hours in CE, approved by the DFS, on the subject of suitability in annuity and life insurance transactions.	<i>A person may use these hours to satisfy the current requirement of CE in ethics.</i>
p. 4, §626.551	Current license holders have 60 days to notify the DFS of changes to their phone numbers and e-mail addresses.	
p. 5, §626.9521(3)(a)	<p>Makes the violation of the statutes against “twisting” and “churning” subject to increased fines and penalties:</p> <ul style="list-style-type: none"> ◆ A non-willful violation is a first-degree misdemeanor, subject to jail time and an administrative fine not greater than \$5,000 for each non-willful violation. ◆ An administrative fine not greater than \$30,000 shall be imposed for each willful violation. In order to for the violation to be criminal in nature, it must involve fraudulent conduct. 	<i>These administrative fines may not exceed an aggregate amount of \$50,000 for all non-willful violations arising out of the same action or an aggregate amount of \$250,000 for willful violations arising out of the same action. Note: while the bill speaks primarily to the sale of annuity products, these fines and penalties apply to any agent found in violation.</i>
p. 6, §626.9541	Redefines “churning” to include actions “directly or indirectly” using the proceeds of one policy to purchase another policy from the same insurer for the purpose of earning additional premiums, fees, commissions, or other compensation without an objectively reasonable basis for believing that the replacement will result in actual and demonstrable benefit to the policyholder.	<i>Prior law required that the proceeds be “utilized” to purchase the new policy and it was not clear if indirect use was covered.</i>

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
p. 8	Creates a new paragraph (ee) defining the term “fraudulent signatures on an application or policy-related document” to mean “willfully submitting to an insurer on behalf of a consumer an insurance application or policy-related document bearing a false or fraudulent signature.”	<i>If the person violates §626.541(1)(ee) by willfully submitting fraudulent signatures on an application or policy-related document, then the person commits a third-degree felony and is subject to criminal penalties. They are also subject to an administrative fine not greater than \$5,000 for each non-willful violation or not greater than \$30,000 for each willful violation.</i>
p. 8	<p>Creates a new paragraph (ff) making it unlawful for an agent in any sales presentation or application for insurance to use a designation or title in such a manner as to falsely imply that the licensee:</p> <ul style="list-style-type: none"> ◆ Possesses special financial knowledge or has obtained specialized financial training; or ◆ Is certified or qualified to provide specialized financial advice to senior citizens. <p>Provides that the licensee may not use terms such as “financial advisor” in such a way as to <i>falsely</i> imply that the licensee is licensed or qualified to discuss, sell, or recommend financial products other than insurance products.</p> <p>Provides that the licensee can’t in any sales presentation or solicitation for insurance <i>falsely</i> imply he or she is licensed or qualified to discuss or sell securities or other investment products in addition to insurance products.</p>	<i>A licensee who also holds a designation as certified financial planner, chartered life underwriter, chartered financial consultant, life underwriter training council fellow, or the appropriate license to sell securities from the Financial Industry Regulatory Authority may inform the customer of those licenses or designations and make recommendations in accordance with those licenses or designations, and in doing so does not violate this paragraph.</i>
p.9, §626.99	Amends the life insurance solicitation disclosure to provide for an unconditional refund period of 14 days, instead of the current 10 days.	
pp.9-20, §627.4554	The remainder of this lengthy bill sets forth the duties on insurers and agents as it relates to the sale of annuities. It sets forth the information that must be obtained from the client, the form in which that information must be kept, and penalties for not following those rules.	<i>The vast majority of our members primarily sell property and casualty products, and since the requirements here are too detailed and lengthy for this summary, we have not included a more detailed discussion. However, if you or one of your agents sells these products, you should carefully read the new language.</i>

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
<p>p. 20</p>	<p>Effective upon this act becoming law, the DFS may adopt rules to implement this act. The portion of the act relating to the sale of annuities to seniors found in section nine of the bill (starting on page nine) and the implementing rules applicable to it shall take effect 60 days after the date on which the final rule is adopted or January 1, 2009, whichever is later.</p> <p>Effective date: January 1, 2009, except as otherwise provided. Chapter No. 2008-237, LOF.</p>	

TORT REFORM

Restaurant Food, CS/SB 276

<p>p. 1, §768.136</p>	<p>Under current law, a good faith donor or gleaner of canned or <i>perishable food</i>, apparently fit for human consumption, who gives that food to a bona fide charitable or nonprofit organization for free distribution shall not be subject to criminal penalty or civil damages arising from the condition of the food, unless an injury is caused by gross negligence, recklessness, or intentional misconduct of the donor or gleaner.</p> <p>This bill adds to the list of exempt <i>perishable food</i>, food that has been prepared at a public food service establishment licensed under chapter 509. That chapter covers entities such as restaurants. More specifically, it means “any building, vehicle, place, or structure, or any room or division of the building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.</p> <p>Effective date: July 1, 2008. Chapter No. 2008-25, LOF.</p>	<p><i>This bill is called the “Jack Davis Florida Restaurant Lending a Helping Hand Act” in honor of a teenage boy who championed this cause after seeing restaurants having to throw away perfectly good food while the homeless in his town were going hungry.</i></p> <p><i>There are numerous statutory exclusions to this definition, such as schools, fairs, carnivals, and athletic contests.</i></p>
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SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
Automated External Defibrillator, CS/CS/SB 564		
p. 1, §401.2915	<p>This bill addresses the use of automated external defibrillators (AED). It provides that all persons who use an AED are <i>encouraged</i> to obtain appropriate training. Current law <i>requires</i> such training. Current law also encourages the owner of the AED to <i>register</i> with the local EMT director. This law encourages the owner to <i>notify</i> the EMT director.</p>	<p><i>These changes are made to lessen the regulatory burden on those who would have an AED on their premises and, thus, encourage more people to do so.</i></p>
p. 2, §768.1325	<p>Current law provides a limited level of immunity from civil liability for those who use an AED. However, to gain the immunity, the user must jump through a number of regulatory hoops.</p> <p>The bill reduces the regulatory steps to:</p> <ul style="list-style-type: none"> ◆ The user must properly maintain and test the device; and ◆ The user must provide appropriate training in the use of the device to an employee or agent of the acquirer when the employee or agent was the person who used the device on the victim. However, the training requirement does not apply if the device is equipped with audible, visual, or written instructions on its use, including any such visual or written instructions posted on or adjacent to the device. <p>The immunity is limited in that it does not apply if the harm was caused:</p> <ul style="list-style-type: none"> ◆ By willful or criminal misconduct; ◆ By a licensed or certified health care professional; ◆ In a hospital, clinic, or other entity whose primary purpose is providing health care directly to patients and the harm was caused by an employee or agent of the entity who used the device while acting within the scope of the employment or agency; ◆ The person is an acquirer of the device who leased it to a health care entity; or ◆ The person is the manufacturer of the device. <p>Effective date: July 1, 2008. Chapter No. 2008-101, LOF.</p>	

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
Spaceflight Immunity, CS/SB 2438		
<p>p.1, §331.501</p>	<p>In an effort to encourage spaceflight activities such as space tourism, this bill provides that a spaceflight entity is not liable for injury to or death of a spaceflight participant resulting from the inherent risks of spaceflight launch activities, so long as the following warning is given to and signed by the participant:</p> <ul style="list-style-type: none"> ◆ “WARNING: Under Florida law, there is no liability for an injury to or death of a participant in a spaceflight activity provided by a spaceflight entity if such injury or death results from the inherent risks of the spaceflight activity. Injuries caused by the inherent risks of spaceflight activities may include, among others, injury to land, equipment, persons, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this spaceflight activity.” <p>The immunity does not apply if the spaceflight entity:</p> <ul style="list-style-type: none"> ◆ Commits gross negligence or willful or wanton disregard for the safety of the participant; ◆ Has actual knowledge or reasonably should have known of the dangerous condition; or ◆ Intentionally injures the participant. <p>This newly created section will expire October 2, 2018.</p> <p>Effective date: October 1, 2008. Chapter No. 2008-180, LOF.</p>	<p><i>Spaceflight tourism is a new concept that provides spaceflight activities for those private citizens—as opposed to military or governmental personnel—who wish to go into space or enjoy suborbital rides. With the news of very rich private citizens paying millions of dollars to visit the space station and with the success of entrepreneur Bert Rutttian’s sub-orbital flights, commercial space activities are a new growth business, one that could be good for the Florida economy. This legislation, similar to that enacted last year in Virginia, is aimed at encouraging this fledgling industry.</i></p>

WORKERS' COMPENSATION INSURANCE

Workers' Compensation Self-Insurance Fund, CS/SB 2462

<p>p. 1, §624.4621</p>	<p>This bill changes the manner in which group self-insurance funds, formed under §624.4621 for the purpose of pooling workers' compensation liability, may declare dividends to their members.</p>
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SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
p. 2	<p>For self-insurers formed <i>before</i> June 1, 2008, the board of trustees may declare any moneys in excess of the amount necessary to fund all obligations of the self-insurer as refundable to the members or policyholders of the self-insurer. The board may distribute such dividends or premium refunds, at the board’s discretion, subject to the following limitations:</p> <ul style="list-style-type: none"> ◆ The amount of the distribution may not exceed the total sum of the dividends declared and unpaid to the policyholders and unassigned funds as recorded on the most recently completed audited financial statement of the self-insurer. ◆ The payment may not jeopardize the financial condition of the self-insurer or result in the self-insurer having a negative unassigned fund balance. ◆ Notice of the dividend shall be submitted to the OIR no later than 10 days <i>after</i> the date on which payment of a dividend or premium refund is made. 	<p><i>The bill leaves intact the current law’s prohibition against making the receipt of dividends contingent upon renewal of the workers’ compensation policy. Before its prohibition in the 1990s, that practice was what was know as the “golden handcuffs.”</i></p>
p. 2	<p>For any self-insurer established <i>after</i> June 1, 2008, such insurer must receive prior written approval from the office for any dividend or premium refunds during its first seven years of operation. The OIR shall issue a decision within 60 days of receiving the request.</p> <p>Regardless of when the fund was formed, the notice or request submitted to the OIR must contain:</p> <ul style="list-style-type: none"> ◆ Audited financial statements as of the most recently completed fund year, and ◆ Annual evaluations of loss reserves by a qualified independent actuary as of the most recently completed fund year. 	
p. 3	<p>If the fund does not make or declare a dividend or member distribution payable during a given fund year, they must submit the two above mentioned statements and evaluations annually, no later than seven months after the end of the fund year.</p>	
p. 3	<p>The notice or request submitted to the OIR must include a resolution of the fund’s board of trustees stating the specific amount that has been paid or is sought to be paid to the members or policyholders.</p>	
	<p>Effective date: June 17, 2008. Chapter No. 2008-181, LOF.</p>	

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
Workers' Compensation Medical Services, HB 5045		
p. 1, §440.13	<p>This bill transfers all of the responsibilities of providing workers' compensation medical services and supplies from the Agency for Health Care Administration (AHCA) to the Division of Workers' Compensation within the DFS.</p> <p>It is done by what is known as a "Type Two" transfer, which not only applies to agencies and departments, but also transfers specific programs, activities, functions, units, and subunits within an agency. It also transfers applicable funding.</p> <p>Effective date: July 1, 2008. Chapter No. 2008-133, LOF.</p>	<p><i>Under current law, the Division of Workers' Compensation is organized into the following program/function areas: employer compliance; monitoring and audit of insurance companies and self-insured entities; employee assistance of injured workers; and data quality and collection. Since November 2005, pursuant to an inter-agency agreement between the AHCA and the DFS, the Division of WC has also assumed the day-to-day responsibilities from AHCA relating to the medical services and supplies under workers' compensation.</i></p> <p><i>With this Type Two transfer, the Division will administer virtually all workers' compensation programs and services.</i></p>

MISCELLANEOUS

Financial Services, CS/CS/HB 343		
pp. 5-6, §624.605	<p>Creates a new insurance product that enables insurers to directly insure, rather than reinsure, banks and other entities against losses resulting from the writing of debt cancellation or debt suspension agreements.</p>	
pp. 5-6, §624.605	<p>Amends the definition of "casualty insurance" in §624.605, F.S., to include "insurance for debt cancellation products" and defines such insurance as insurance that a creditor may purchase against the risk of financial loss from the use of debt cancellation products with consumer loans or leases</p>	

Page numbers refer to pages in the enrolled bill. Section (§) numbers refer to Florida Statutes.
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SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
pp. 5-6, §624.605	<p>or retail installment contracts. Specifies that insurance for debt cancellation products is not liability insurance, but shall be considered credit insurance only for the purposes of §631.52(4), F.S.</p> <p>Defines “debt cancellation products” as lending transactions between a financial institution and a debtor wherein the financial institution, for a fee, agrees to cancel or suspend the debt upon the occurrence of certain events. The risk of default due to events such as death, disability, or unemployment shifts from the debtor to the financial institution.</p> <p>Effective date: October 1, 2008. Chapter No. 2008-75, LOF.</p>	<p><i>These debt products are not regulated by the OIR. Additionally, it appears that almost every state recognizes and approves this type of insurance product as a viable way of protecting the financial institution against the business risk of debt cancellation products.</i></p>
Insurable Interests/Insurance Contracts, CS/SB 648		
p.1, §627.404	<p>Clarifies current Florida law relating to insurable interests and the purchase of life insurance.</p>	<p><i>Florida case law has interpreted Florida law as prohibiting the issuance of a life insurance policy to someone who does not have an insurable interest in the insured, but the statutory and case law provides very little guidance on determining whether an insurable interest exists.</i></p>
p.1, §627.404	<p>The bill provides that a person may purchase insurance on his or her own life or body for payment to any beneficiary. However, an insurance contract may not be purchased on another person unless the benefits under the insurance are payable to the individual insured, the insured’s personal representatives, or a person that had an “insurable interest” in the life of the insured when the contract was entered into.</p>	
pp. 2-4, §627.404	<p>The bill sets forth nine specific and detailed circumstances under which an insurable interest with respect to life, health, or disability insurance may exist.</p>	<p><i>See the bill for details.</i></p>
pp. 4-5, §627.404	<p>The bill requires the written consent of the insured as a prerequisite to the issuance of a contract of insurance on the insured with exceptions. The signature of the proposed insured on the application for insurance constitutes written consent.</p>	

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
p. 4, §627.404	<p>The bill provides a right of recovery against persons who receive insurance policy benefits if they did not have an insurable interest in the insured when the insurance contract was entered into.</p> <p>Effective date: July 1, 2008. Chapter No. 2008-36, LOF.</p>	
Department of Highway Safety and Motor Vehicles, CS/CS/CS/SB 1992		
pp. 27-29, §320.27(3)	<p>This bill is the comprehensive legislative package of the Department of Highway Safety and Motor Vehicles (DHSMV) and largely contains statutory amendments that are unrelated to insurance.</p> <p>However, the bill amends §320.27(3), F.S., with regard to insurance requirements for applications submitted to the DHSMV for licensure as a motor vehicle dealer. The amendment allows any motor vehicle dealer license applicant that does not fall within the definition of a “franchised dealer” to submit with its application for licensure, proof of coverage under a garage liability policy or proof of coverage under a general liability policy coupled with a business automobile policy. Franchised dealers, however, must still submit proof of coverage under a garage liability policy only. The minimum coverage limits required by the statute for both types of policies remain the same (\$25,000 bodily injury and property damage, and \$10,000 personal injury protection).</p> <p>Effective date: October 1, 2008. Chapter No. 2008-176, LOF.</p>	<p><i>Current law requires that an applicant for licensure as a motor vehicle dealer must provide to DHSMV evidence that the applicant is insured under a garage liability policy with the statutorily required coverage limits. FAIA drafted this amendment language in response to the concerns of several FAIA members who indicated that garage liability policies are typically not available for certain types of businesses that are not primarily motor vehicle dealers (like tow truck operations or motor vehicle repair shops). Because these types of businesses may engage in limited motor vehicle sales, they are required by the DHSMV to obtain dealers’ licenses, yet ISO does not recognize them as motor vehicle dealers for purposes of obtaining garage liability policies.</i></p>
Money Service Business, CS/CS/CS/SB 2158		
p. 56, §560.141	<p>The bill regulates the money service business (MSB) in an effort to eliminate fraud and other illegal activities. A recent Statewide Grand Jury Report,</p>	<p><i>FAIA serves as a member of the DFS Workers’ Compensation Fraud Task Force, which has fo-</i></p>

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SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
	<p><i>Check Cashers: A Call For Enforcement</i>, set forth a laundry list of abuses and fraudulent activities. One such activity adversely impacts workers' compensation insurance by allowing unscrupulous contractors to avoid paying proper premiums by the use of under-the-table cash payments, facilitated by check cashing operations that are often in league with the crooked contractor.</p>	<p><i>cused on the illegal actions of some in the check cashing business.</i></p>
<p>p. 78, §560.303</p>	<p>The 127-page bill makes numerous changes in the regulation of all MSBs. Among the more important, from an insurance point of view, are those specifically relating to check cashing businesses. They include:</p>	
<p>p. 79, §560.309</p>	<ul style="list-style-type: none"> ◆ Requiring a customer to present an acceptable identification and provide a thumbprint for checks greater than \$1,000; ◆ Requiring check cashers to submit suspicious activity reports to the federal government, if applicable; and ◆ Requiring licensed check cashers to have a commercial account with a federally insured financial institution. 	<p><i>These changes won't stop the illegal activities of some check cashers as it relates to workers' compensation, but it is a step in the right direction. It also gives the DFS fraud investigators more of a paper trail to follow and enhances penalties for failure to follow the law.</i></p>
<p>p. 82, §560.310</p>	<p>The bill also establishes detailed record-keeping requirements that will create a paper trail for fraud investigators.</p> <p>Effective date: January 1, 2009. Chapter No. 2008-177, LOF.</p>	
<p>Surplus Lines, HB 5043</p>		
<p>p. 6, §626.933(5)</p>	<p>Currently, 24.3 percent of all taxes collected under the surplus lines tax are deposited in the Insurance Regulatory Trust Fund and the remaining 75.7 percent goes to General Revenue. Under the provisions of the bill, the percentages are changed, with 15.74 going to the Trust Fund and the remaining 84.26 going to General Revenue.</p>	<p><i>State revenues saw a reduction in 2008. In order to fund necessary programs, the Legislature looked for additional funds from a variety of sources, including "sweeping" numerous trust funds of excess balances and transferring them to the General Revenue fund.</i></p>
<p>p. 6, §626.938</p>	<p>Current law provides that 24.3 percent of all taxes and interest collected from carriers under §626.938, F.S., for "independently procured coverages" go to the Insurance Regulatory Trust Fund and the remaining 75.7 percent goes to General Revenue. Like the surplus lines tax above, this Trust Fund</p>	<p><i>Since both of these changes are to statutory provisions, they remain in effect at this changed level until the Legislature takes steps to change them back to their current level. In other words, if the</i></p>

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
	<p>is also “swept,” with 15.74 percent remaining in the Insurance Regulatory Trust and the remaining 84.26 percent being used as General Revenue.</p> <p>Effective date: July 1, 2008 Chapter No. 2008-132, LOF.</p>	<p><i>Legislature does nothing next year, the Insurance Regulatory Trust Fund remains swept.</i></p>
<p>Mitigation Enhancement, HB 7103</p>		
<p>p. 1, §215.5586</p>	<p>The bill makes several changes to the My Safe Florida Home (MSFH) program that provides hurricane mitigation inspections and grants for certain improvements to homes, designed to make them more resistant to hurricane wind.</p>	<p><i>Currently, MSFH conducts home mitigation inspections and makes mitigation grants available to encourage single-family, site-built, owner-occupied, residential property owners to retrofit their properties to make them less vulnerable to hurricane damage. If they meet the criteria for eligibility, the homeowner can receive a matching grant of up to \$5,000 to make the improvements. Low-income persons meeting the criteria may receive up to the \$5,000 without the requirement of matching funds. One of the criteria for obtaining the grant is to have undergone a hurricane mitigation inspection. Those conducting inspections will be better qualified under the provisions of the bill.</i></p>
<p>p. 3</p>	<p>To qualify for selection by the DFS as a wind certification entity to provide hurricane mitigation inspections, the entity must, at a minimum, meet the following requirements:</p> <ol style="list-style-type: none"> 1. Use hurricane mitigation inspectors who meet certain requirements, which include: <ul style="list-style-type: none"> ◆ Being certified as a building inspector; ◆ Being licensed as a general or residential contractor; ◆ Being licensed as a professional engineer and having passed the appropriate equivalency test of the Building Code Training Program as required by §553.841; ◆ Being licensed as a professional architect; or ◆ Having at least two years of experience in residential construction 	

SUBJECT, BILL PAGES AND/OR STATUTE #	FINAL PROVISION	COMMENTS
	<p>or residential building inspections and have received specialized training in hurricane mitigation procedures</p> <ol style="list-style-type: none"> 2. Use hurricane mitigation inspectors who have undergone drug testing and Level 2 background tests; and 3. Provide a quality assurance program including a re-inspection component. 	
p. 5	The DFS shall implement a quality assurance program that includes a statiscally valid number of re-inspections.	
p. 5	The DFS may require that improvements be made to all openings, including exterior doors and garage doors, as a condition of reimbursing a homeowner who has been approved for a loan.	<i>Current law makes that requirement apply as a condition of approving an application for a grant. The change seems to provide that you can make application for a grant without first protecting an opening, but you can't be reimbursed until it is done.</i>
p. 6	The DFS shall implement a no-interest loan program by October 1, 2008, contingent upon the selection of, and contract with, a qualified vendor.	<i>Current law makes this permissive on the part of the DFS.</i>
p. 7	Allows the DFS to contract with third parties for contractor services for low-income homeowners and to also contract for information technology.	
p. 8, §627.711	<p>Insurers shall accept as valid a uniform mitigation verification form certified by the DFS or signed by:</p> <ul style="list-style-type: none"> ◆ A hurricane mitigation inspector employed by an approved MSFH wind certification entity; ◆ A building code inspector certified under §468.607, F.S.; ◆ A general or residential contractor licensed under §489.111, F.S.; ◆ A professional engineer licensed under §471.015, F.S., who has passed the appropriate equivalency test of the Building Code training program as required by §553.841, F.S.; or ◆ A professional architect licensed under §481.213, F.S. <p>Effective date: July 1, 2008. Chapter No. 2008-248, LOF.</p>	<i>Currently, there is some controversy as to which method of verification an insurer must accept when it comes to giving premium discounts for wind mitigation improvements.</i>

This summary & analysis was prepared by the

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