



THE COMMERCE GROUP, INC.
Political and Governmental Consulting

2007 A
Special Session Summary

Banking and Insurance

HB 1A, Hurricane Preparedness and Insurance

- Increases the amount of hurricane losses covered by the Florida Hurricane Catastrophe Fund (Cat Fund), which is a tax-exempt state fund administered by the State Board of Administration (SBA).
- Reimburses insurers for a portion of their residential hurricane losses in exchange for a premium that is much lower than what private reinsurers charge.
- Provides that this results in lower premiums to policyholders and enables a greater number of policies to be written.
- Stabilizes the property insurance market, particularly after an active hurricane period, as Florida experienced in 2004 and 2005, that is followed by increased costs and lower availability of private reinsurance.
- States that currently the Cat Fund coverage is mandatory.
- Allows residential property insurers to purchase additional coverage above the current maximum limits of the Cat Fund, referred to as Temporary Increase in Coverage Limit options (“TICL”), for the 2007, 2008, and 2009 contract years.
- Allows an insurer to purchase additional reinsurance for its share of up to \$12 billion, in \$1 billion increments, above the current Cat Fund annual limit of \$16 billion estimated for 2007 (i.e., up to a total of \$28 billion).
- Provides that SBA may further increase the limits by an additional \$4 billion (i.e., up to \$32 billion).
- States that the TICL coverage will reimburse the insurer for 90 percent, 75 percent, or 45 percent of the insurer’s losses above its retention, at the same percentage selected by the insurer for its mandatory Cat Fund coverage.
- Requires that the insurers must pay a premium established by the SBA under the same method for determining “actuarially indicated” premiums for the mandatory Cat Fund coverage, which generally establishes a premium equal to the estimated average annual loss for the coverage purchased.
- Provides that based on current loss models, this is expected to be a premium equal to about 3 percent of the coverage amount (commonly referred to as a 3 percent “rate-online.”)

- States that these premiums are significantly lower than charged by private reinsurers and are the primary source of premium savings under this act.
- Allows residential property insurers to purchase additional coverage below each insurer's market share of the Cat Fund retention, referred to as Temporary Emergency Additional Coverage Options ("TEACO"), for the 2007, 2008, and 2009 contract years. For 2007, the Cat Fund retention is estimated to be \$6 billion.
- Provides that currently, each insurer is responsible for paying all hurricane losses up to its share of the retention for each hurricane, except that the retention drops to one-third of the full retention for a third hurricane or more in one year.
- States that the TEACO options allow an insurer to select its share of a retention level of \$3 billion, \$4 billion, or \$5 billion, to cover 90 percent, 75 percent, or 45 percent of its losses up to the normal retention for the mandatory Cat Fund coverage.
- Establishes the premiums that insurers must pay for the TEACO options.
- States that for the \$3 billion retention, the premium is an 85 percent rate-on-line.
- Provides that for the \$4 billion retention, the premium is an 80 percent rate-on-line.
- States that for the \$5 billion retention, the premium is a 75 percent rate-on-line.
- States that the TEACO coverage applies to two hurricanes for each contract year.
- Establishes TEACO premiums by the act are priced at near market levels.
- Specifies that these coverage options primarily benefit insurers which are unable to obtain reinsurance at these low levels, but are not expected to generate premium savings for most insurers.
- Provides that the relatively high premiums also serve to significantly reduce the risk to the state for the TEACO coverage.
- Allows eligible residential property insurers to purchase up to \$10 million in additional Cat Fund coverage at a level significantly below the normal Cat Fund retention and likely to be lower than the lowest retention (\$3 billion) under the TEACO options.
- States that the \$10 million coverage amount is above a retention equal to 30 percent of the insurer's surplus, as of December 21, 2006.

- States that the premium is set at 50 percent of the coverage amount (i.e., \$5 million for \$10 million coverage).
- Provides that the coverage applies to two hurricanes and is offered only for the 2007 contract year.
- Repeals the 25 percent rapid cash buildup factor required to be charged for Cat Fund premiums.
- Specifies that this was a requirement added in 2006 to increase Cat Fund premiums by 25 percent in order to build up cash reserves in the Cat Fund.
- Repeals that requirement, in order to lower Cat Fund premiums to insurers, resulting in an estimated 3 percent average reduction to residential policyholder premiums.
- Deletes the additional Cat Fund coverage provided to Citizens Property Insurance Corporation (“Citizens”) above their (market share) maximum limits, to the extent coverage is available after all other insurers have been reimbursed up to their maximum limits.
- Provides that this is repealed in order to reduce Citizens’ Cat Fund premium by about 10 percent, resulting in an estimated 1 percent premium savings for the average Citizens’ policy.
- Authorizes the SBA to purchase capital market instruments to cover Cat Fund obligations, similar to its current authority to purchase reinsurance.
- Provides that premium income from the optional Cat Fund coverage provisions of the act are not included in the cash balance of the Cat Fund for determining the annual growth in the maximum Cat Fund limits.
- States that all residential property insurers are required by the act to make a rate filing with the Office of Insurance Regulation (OIR) reflecting the savings or reduction in loss exposure to the insurer due to the expanded Cat Fund coverage.
- Requires that the OIR must calculate a presumed factor to be used in the required rate filings to reflect the impact to rates of the changes, using generally accepted actuarial techniques and standards.
- Allows that the OIR may contract with an appropriate vendor to advise the office in determining the presumed factor or factors.
- Requires that each insurer’s rate filing must take into account the presumed factor for any policy written or renewed on or after June 1, 2007, to reflect all expanded

Cat Fund coverage options available to the insurer, whether or not the insurer purchases the coverage.

- States that additional costs to the insurer for private reinsurance or loss exposure that duplicates the expanded Cat Fund options may not be factored in the rate.
- Specifies that an insurer may not obtain a rate increase due to the election of coverage options from the Cat Fund.
- Provides that the sum of \$250,000 in nonrecurring funds is appropriated from the Insurance Regulatory Trust Fund in the Department of Financial Services (DFS) to the OIR for the 2006-2007 fiscal year for the purpose of implementing these requirements.
- Revises the requirements, standards, and procedures for establishing rates for Citizens' policies are substantially revised, in an attempt to provide immediate rate relief to Citizens' policyholders while establishing a long term standard based on actuarial soundness, rather than noncompetitiveness or collecting sufficient premium to have reserves and reinsurance to cover a specified probable maximum loss.
- Deletes the requirement added in 2006 that Citizens charge rates sufficient to purchase reinsurance to cover specified levels of probable maximum loss for each of its three accounts.
- States that this has the effect of avoiding the 56.5 percent average premium increase for Citizens' High-Risk-Account (HRA) that was under consideration by Citizens.
- Deletes the requirement that Citizens' rates be non-competitive and no lower than the top 20 insurers.
- Requires that Citizens' rates be actuarially sound and subject to s. 627.062, F.S., which prohibits rates that are excessive, inadequate, or unfairly discriminatory, and specifies factors for OIR to consider in making this determination.
- Provides that the act retains the current requirement that after the public hurricane loss model has been found to be accurate and reliable by the Florida Commission on Hurricane Loss Projection Methodology, that model shall serve as the minimum benchmark for determining Citizens' windstorm rates.
- Rescinds the approved, actuarially sound rate increase that took effect January 1, 2007, and requires Citizens to provide refunds to persons who have paid this rate.
- Provides that this has the effect of avoiding an average 23.1 percent rate increase in the HRA for homeowners' policies.

- Freezes rates at the December 31, 2006 level for the remainder of 2007, except for any rate decreases implemented under the January 1, 2007 rate filing and any further rate decreases that may be approved during 2007 (such as a rate decrease for a policy change like the sinkhole exclusion pending before OIR).
- Requires a new rate filing, under the standard to be actuarially sound, effective January 1, 2008.
- States that the term generally means a rate that will cover expected losses.
- Specifies that when applied to windstorm losses, this means a rate sufficient to cover average annual expected losses, based on hurricane loss projection models.
- States that it is less clear whether any additional amount beyond average annual loss should be collected to cover an imputed “cost of capital” that would reduce the reliance on assessments.
- Requires the OIR to annually establish Citizens’ rates within 45 days after Citizens files recommended rates, and prohibits Citizens from legally challenging the OIR determination.
- Expands the types of insurance policies and premiums that are subject to assessments to fund deficits of Citizens, currently limited to property insurance premiums.
- Provides that as expanded, the assessment base would be substantially the same as that of the Cat Fund, which includes all lines of property and casualty insurance, including auto insurance, but not workers’ compensation or accident and health.
- Exempts medical malpractice premiums (but the same exemption from Cat Fund assessments is scheduled for repeal in 2007).
- Expands the assessment base four-fold, from about \$8.2 billion to \$35 billion, based on 2006 premiums.
- Reduces the percentage assessment that may be imposed in the future by about one-fourth, by spreading it to additional types of insurance, notably auto policies.
- Supports a much larger bond issue, if necessary, and is expected to improve the bond rating and lower the cost of borrowing.
- Delays, until 2008, the requirement added in 2006 (SB 1980) that Citizens impose up to a 10 percent of premium assessment on its nonhomestead policyholders if a deficit occurs in any account, and if that assessment is insufficient, that Citizens

impose an additional 10 percent renewal surcharge on all Citizens' policyholders, including nonhomestead policyholders.

- Expands eligibility for residential coverage in Citizens in two primary ways.
- Deletes the provision added in 2006 (SB 1980) that nonhomestead property, as defined, is ineligible for coverage from Citizens, effective March 1, 2007, unless the property owner submits certification from an agent that coverage has been rejected by at least three surplus lines insurers and one authorized insurer.
- Places Citizens in more direct competition with the voluntary market by substantially revising the current law that makes a property ineligible for coverage from Citizens if an offer of coverage is made by an authorized insurer at its approved rates.
- States that as revised, if a *new applicant* to Citizens is offered coverage from an insurer at its approved rate, the property is not eligible for a Citizens' policy, unless the insurer's premium is more than 25 percent greater than the premium for comparable coverage from Citizens.
- Specifies that a *policyholder* of Citizens remains eligible for coverage regardless of any offer of coverage from a private market insurer.
- Allows a policyholder to choose to stay in Citizens and to reject any "take-out" offers from the voluntary market.
- Allows that the voluntary market may continue to "keep out" policies from *Senate Committee on Banking and Insurance 6 2007-A Special Session* Citizens, provided the premium is no more than 25 percent greater than Citizens' premium.
- Specifies that together with the rating law changes described above, Citizens will be placed in a more competitive role with the private market, making it likely to increase its policy growth at an even greater pace, at least for the near future.
- Makes an additional change that restricts eligibility for coverage, by providing that as of January 1, 2009, to qualify for Citizens, properties within 2,500 feet landward of the Coastal Construction Control Line must be built to "Code-Plus" building standards developed by the Florida Building Commission.
- Requires purpose of confirming eligibility for coverage in Citizens.
- Requires Citizens to exempt applications from the 10-day waiting period requirement before coverage is effective, if the application is in conjunction with a real estate closing.

- Authorizes Citizens to provide commercial nonresidential (i.e., business) coverage, by including such coverage within the Commercial Lines Account (CLA), currently limited to commercial residential coverage.
- Authorizes multiperil coverage for commercial property in all areas of the state, except that non-wind coverage would be provided under the CLA for commercial property obtaining wind-only coverage in the HRA.
- States that the act is silent on the limits of coverage that would be offered.
- Specifies that the plan of operation may establish limits of coverage (for all policies and accounts), which would be determined by the Citizens board and subject to approval by the Financial Services Commission.
- Provides that the plan of operation may require commercial property to meet specified hurricane mitigation construction features as a condition of eligibility for coverage.
- Requires Citizens to adopt a plan, subject to approval by OIR, for the transition of commercial coverage from the Property and Casualty Joint Underwriting Association (PCJUA) to Citizens.
- Permits PCJUA to continue to provide commercial coverage pending the transition.
- States that currently, Citizens issues wind-only coverage in coastal areas eligible for coverage in the HRA.
- Provides that these are the only areas where insurers in the voluntary market are allowed to write non-ind policies (except as allowed by this act, if elected by a policyholder).
- Requires that effective March 1, 2007, Citizens must submit for approval by the Financial Services Commission and the Legislative Budget Commission a business plan for issuing multiperil policies in its HRA, including the impact on Citizen's financial resources, its tax-exempt status, its customer service and claims procedures, its agents, its policyholders, and its rates and premiums.
- States that the expressed goal is to reduce average premiums by 10 percent or more for a Citizens' wind-only policyholder who obtains a multiperil policy from Citizens.
- Provides that if the business plan is approved, but no earlier than March 31, 2007, Citizens may offer multiperil coverage and wind-only coverage, or both, for risks located in areas eligible for coverage in the HRA.

- Clarifies that the plan of operation may establish maximum limits of coverage.
- Specifies that policies taken out, assumed, or removed from Citizens are considered to be the sole obligation and direct insurance of the take-out company (so that Citizens does not retain liability for such policies).
- Requires Citizens to be subject to assessments levied by the Florida Insurance Guaranty Association.
- Allows the SBA to invest and manage the assets of Citizens.
- Clarifies that the appointing officers may recall members of the Citizens Board of Directors at will.
- Creates the Task Force on Citizens Property Insurance Claims Handling and Resolution.
- Specifies that the task force has seven members, and is to conduct research and hearings and make recommendations as to issues regarding Citizens, including improving customer service and claims handling, and make recommendations as it deems appropriate for legislative action during the 2006-2008 legislative biennium.
- States that the task force expires after the 2006-2008 legislative biennium.
- Includes three provisions that would allow policyholders to significantly reduce their windstorm coverage and to assume the risk of loss, in exchange for a lower premium.
- Requires insurers to make available to policyholders the option to exclude windstorm coverage, if the policyholder personally writes a statement that he/she does not want such coverage and provides documentation of approval by any mortgage or lien holder.
- Eliminates maximum allowable deductibles, but requires a written statement by the policyholder and approval by a mortgage or lien holder if the deductible is in excess of 10 percent for a home valued at less than \$500,000.
- Insurers are still required to offer annual hurricane deductibles of 2 percent, 5 percent, and 10 percent of policy limits, with certain exceptions.
- Allows, but does not require, the offer of a higher deductible.
- Requires insurers to make available to policyholders the option to exclude coverage for contents, if the policyholder personally writes a statement that he/she does not want such coverage.

- Requires 100 days written notice of nonrenewal of a residential property policy, rather than 90 days.
- However, notice is required by June 1, or at least 100 days notice, whichever is earlier, for a nonrenewal effective between June 1 and November 30 (hurricane season).
- Requires property insurers to pay or deny a claim within 90 days of the receipt of the claim, unless the failure to pay the claim is caused by factors beyond the control of the insurer that reasonably prevent payment.
- Prohibits property insurers from denying coverage based solely on the age of the structure and requires consideration of wind resistance of the structure.
- Requires insurers to allow personal lines residential and commercial policyholders to pay premiums on a quarterly or semiannual installment plan.
- Requires an insurer to provide the policyholder the option of selecting an appropriate reduction in the policy's hurricane deductible or selecting the appropriate discount credit or other rate differential.
- Prohibits, through January 1, 2009, the allowance for property and casualty insurers to implement a rate change prior to filing for approval with OIR (the current "use and file" option), unless the insurer files for a rate that is less than the insurer's most recent rate approved by the OIR.
- States that all filings that do not seek a lower rate must be made under the "file and use" procedures that require filing at least 90 days prior to the proposed effective date.
- Prohibits the allowance for property and casualty insurers to submit a rate filing disapproved by the OIR to an arbitration panel for final resolution for all filings made after the act's effective date until January 1, 2009.
- Specifies that rate appeals would go to the Division of Administrative Hearings.
- Deletes the "rate-flex" provision that allows residential property insurers to increase or decrease rates by up to 5 percent on a statewide average, or 10 percent for any territory, without being subject to a determination by the OIR that the rate is excessive or unfairly discriminatory, in areas where OIR determines a reasonable degree of competition exists.
- Requires the chief executive officer or chief financial officer and the chief actuary of a property insurer to sign a sworn certification, subject to perjury and administrative penalties, that the information in the rate filing does not contain

any untrue statements of a material fact or omit material facts and reflects premium savings that are reasonably expected to result from legislative enactments and are in accordance with accepted actuarial techniques.

- Prohibits excess profits by property insurers and requires refunds to consumers of any excess profits collected by an insurer over a ten-year period, if certain thresholds are met.
- Allows a property and casualty insurer to provide a discount on a policy based on the fact that the insured purchased another policy or type of insurance from the insurer.
- Requires insurers to specify on the premium renewal notice the amount of any assessment by the Florida Hurricane Catastrophe Fund, Citizens Property Insurance Corporation, and the Florida Insurance Guaranty Association and the full name of the assessing authority.
- Requires insurers to specify on the amount of premium change due to a change in rate or coverage.
- Requires insurers to specify combinations of discounts, credits, rate differentials, or reductions in deductibles, for windstorm mitigation.
- Increases the minimum surplus requirement from \$5 million to \$50 million for a domestic residential property insurer that is a wholly owned subsidiary of an insurer authorized to do business in another state.
- States that effective January 1, 2008, the act requires insurers writing private passenger automobile insurance in Florida and that write homeowners' policies in other states, to write homeowners' coverage in Florida, unless an affiliate writes homeowners insurance in Florida.
- Requires the Financial Services Commission adopt by rule a uniform home grading scale to grade a home's ability to withstand the wind load from a hurricane.
- Requires the Financial Services Commission to develop by rule a uniform mitigation verification inspection form that must be used by all insurers to factor discounts for wind insurance.
- Exempts low-income homeowners, as defined, from the requirement to have a dwelling with an "insured value" of \$500,000 or less (i.e., the home does not have to be insured).

- Allows grants on a “rebuild,” defined as a site-built, single-family dwelling that is under construction to replace a homestead significantly damaged or destroyed by a hurricane.
- Allows up to 20 percent of a grant to be used by low-income homeowners for repairs to existing structures leading to mitigation improvements.
- Authorizes the DFS to contract with a not-for-profit corporation to conduct all or parts of the Florida Comprehensive Hurricane Damage Mitigation Program.
- Requires wind inspectors to have a level 2 background check, which includes fingerprinting.
- Requires the DFS to develop and maintain as a public record, a statewide list of authorized wind certification and hurricane mitigation inspectors.
- Requires appointment of the Windstorm Mitigation Study Committee, to report by March 6, 2007.
- States that the committee must analyze solutions for mitigating the effects of windstorms on structures and make recommendations for mitigating windstorm damage, including proposals that provide for the full actuarial value to be reflected in premium credits for windstorm mitigation.
- States that the committee will have eight members, with the Governor, President of the Senate, Speaker of the House, and Chief Financial Officer each selecting two members.
- States that committee expires May 15, 2007.
- Requires that the Florida Building Code be revised in order to repeal the so-called “Panhandle exemption” and other changes to strengthen the windstorm resistance requirements of the code.
- Requires the Florida Building Commission to amend the Florida Building Code by July 1, 2007, to adopt the wind-borne-debris protection requirements of the International Building Code (2006) and the International Residential Code (2006) within the windborne-debris region (120 mph+) as defined by those codes.
- States that this does not apply to the High Velocity Hurricane Zone.
- Prohibits amendments or modifications that diminish provisions related to wind resistance or water intrusion.
- Requires local jurisdictions to immediately enforce these wind-borne debris protection requirements upon the effective date of the act (i.e. for building permits

issued on or after that date) pending adoption by the Florida Building Commission.

- Requires the Florida Building Commission to develop voluntary “Code-Plus” guidelines for increasing the hurricane resistance of buildings that may be modeled on the Miami-Dade building code.
- Allows two or more hospitals licensed and located in Florida to form an alliance for pooling liabilities relative to property exposure, under certain conditions, and allows an alliance of hospitals in special districts, county hospitals, or municipal hospitals to borrow and bond to finance property coverage and claims.
- Allows two or more local governments to enter into interlocal agreements to insure or self-insure for property insurance and allows governmental entities to bond to finance property coverage and claims.
- Allows one or more community associations operating at least 50 residential parcels or units created and operating as condominiums, cooperatives, homeowners associations, vacation and timeshare plans, or mobile home park lot tenant associations to apply to OIR to form a commercial self-insurance fund for property and casualty insurance, under the requirements that otherwise currently apply to such funds.
- Allows two or more not-for-profit corporations to create a self-insurance fund for property or casualty insurance, under certain conditions.
- States that contents coverage shall apply if there is a loss resulting from a catastrophic ground cover collapse.
- States that structural damage consisting merely from the settling or cracking of a foundation, structure, or building does not constitute a loss resulting from a catastrophic ground cover collapse.
- Provides that insurers must continue to make sinkhole coverage as currently defined in statute available for an appropriate additional premium.
- States that insurers offering policies that exclude coverage for sinkhole losses must provide written notice to the policyholder in 14-point type.
- Authorizes the OIR to waive or lower the deposit requirement for reinsurers licensed in other countries, based on criteria related to the financial strength of the insurer and the quality of the regulatory jurisdiction.
- Requires the Insurance Consumer Advocate to provide an annual report card on insurance companies, using a letter grade scale established by the Financial Services Commission.

- Modifies insurance provisions in the Condominium Act to limit insurance requirements to “residential” condominiums, as defined, and to specify what constitutes “adequate insurance.”
- Authorizes OIR to require property insurers to report additional data on hurricane claims.
- Provides that for fiscal year 2006-2007, an appropriation of \$100,066,518 from the Florida Small Cities Community Development Block Grant program fund to the Department of Community Affairs.
- States that the funding must be used to harden single-family and multi-family affordable housing, to mitigate against hurricane damage and increasing costs of property insurance.
- Clarifies the Legislature’s intent of a 2006 law that the Florida Insurance Guaranty Association has the authority to use an emergency assessment of up to 2 percent of premium either to directly pay the covered claims of insolvent insurers or to utilize such emergency assessment proceeds to retire the indebtedness of bonds.
- States the Legislature intends to create during the 2007 Legislative Session a grant program to facilitate the purchase of property insurance by low-income persons as defined in s. 420.602(8), F.S., to protect their homestead property.
- Revises the Insurance Capital Build-Up Incentive Program to allow an insurer writing only manufactured housing residential property insurance to qualify for a surplus note of up to \$7 million, if the insurer’s surplus, new capital, and the surplus note total at least \$14 million.
- States that such an insurer is given priority to receive a surplus note under the program and must meet the premium to surplus ratio provisions of s. 624.4095, F.S.
- States that these provisions were approved by the Governor (Chapter 2007-1, L.O.F.) and took effect January 25, 2007, except as otherwise expressly provided in this act.
- States that in the Florida Legislature, both houses must pass a memorial, and it is not subject to approval or veto by the Governor.
- The Legislature also uses a memorial to request Congress to propose an amendment to the United States Constitution or to enact legislation.
- Effective Date: January 25, 2007

HM 11A, Memorial to the United States Congress

- Urges the United States Congress to support a National Catastrophe Insurance Program, whereby the risk of catastrophes will be addressed through a public-private partnership.
- Creates a private market residential insurance program providing all-perils protection to consumers.
- Promotes mitigation; providing tax-advantaged disaster savings accounts for the purpose of paying for mitigation enhancements and catastrophic losses; providing personal income tax deductions for mitigation expenses.
- Creates tax-deferred insurance company catastrophe reserves that may only be used to pay for future catastrophic losses.
- Enhances the role of state and local government in establishing and maintaining effective building codes, mitigation education, and land use management; promoting state emergency management, preparedness, and response.
- Creates state or multistate regional catastrophic risk financing mechanisms such as the Florida Hurricane Catastrophe Fund.
- Creates a national catastrophe financing mechanism for mega-catastrophes.
- Maximizes the risk-bearing capacity of the private markets.
- Allows for aggregate risk pooling of natural disasters funded through sound risk-based premiums paid in correct proportion by all policyholders in the United States.
- Urges the United States Congress to participate in a federal and state issues summit to be held in Florida for the purpose of discussing and developing policy positions on issues of state importance likely to be considered by Congress.
- Provides federal tax exemptions for catastrophe premium equalization deductions charged and held by the state in a segregated account for the benefit of insurers for use in the event of a catastrophe, and for the Florida Property and Casualty Joint Underwriting Association (the latter will be unnecessary after the transfer of the JUA's policies to Citizens as required by HB 1-A).
- Provides a federal income tax deduction for residential property insurance premiums paid by consumers.
- Supports the National Hurricane Research Initiative.

- Effective Date: Not Specified, Signed by officers February 5, 2007.