



## OFFICE OF INSURANCE REGULATION

**KEVIN M. McCARTY**  
COMMISSIONER

May 10, 2010

The Honorable Charlie Crist  
Governor, State of Florida  
PL 05, The Capitol  
Tallahassee, FL 32399-0001

Re: SB 2044

Dear Governor Crist:

I am writing to express my support for SB 2044 relating to Property Insurance by Senator Garrett Richter, which was recently passed by the Florida Legislature. This bill is an important piece of legislation that benefits the people of Florida by protecting consumers from unsupported rate increases and guarding against disruptions in the marketplace.

The Office of Insurance Regulation (Office) articulated its support for this proposal during the committee process throughout the 2010 Legislative Session. In addition, I issued a press statement after the bill was passed on April 30, 2010, that highlighted some of the beneficial aspects of this legislation. I have also supported efforts to curb "cost drivers," which threaten to negatively impact consumers and the insurance industry, and presented these ideas to both the Financial Services Commission (FSC) and the Senate Committee on Banking and Insurance.

Although I am proud of the work we have done to promote a more stable and vibrant property insurance marketplace in Florida, I am concerned there are those who seek to take advantage of loopholes in the current law. These loopholes have generated unintended consequences that impact a majority of policyholders in our state by driving up premiums and contributing to assessments. SB 2044 seeks to address these cost drivers in a manner that is fair to all consumers.

My support for SB 2044 is based on the benefits this legislation will have for consumers, the Office's regulatory oversight, and the viability of the insurance marketplace. This bill strikes an appropriate balance that will have lasting benefits for the people of Florida.

**FINANCIAL SERVICES  
COMMISSION**

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GOVERNOR

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CHIEF FINANCIAL OFFICER

**BILL McCOLLUM**  
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### **Benefits for Consumers**

Without Legislative action this year to continue the prohibition on “use and file” rate filings, every property insurance company conducting business in Florida would have been eligible to implement rate increases without prior approval of the Office beginning January 1, 2011. Understanding the economic crisis still facing the people of this state, SB 2044 extends the prohibition on these types of rate filings until 2012. This provision of SB 2044 will make sure that all potential rate increases are reviewed and approved (or rejected) by the Office prior to one penny being paid by consumers. Extending this prohibition will prevent excessive rate increases from being implemented during a time when Floridians continue to struggle to make ends meet.

I would also like to correct a misperception circulating in several press articles that claim this legislation allows for an automatic rate increase of 10 percent that will not be subject to review by the Office. Let me assure you, these statements are not accurate. SB 2044 allows for rate changes to be implemented only after a review by the Office. There is nothing in this bill that mandates any rate increases. While there is a provision that allows for insurers to recoup costs for reinsurance and inflation in an expedited fashion, any company seeking to take advantage of this provision must file these changes with the Office and is subject to a review of these rate changes. Any suggestion otherwise is false.

Consumers will also benefit from the new surplus requirements for property insurance companies seeking to do business in Florida. Current law provides that an insurer seeking to do business in this state have a minimum of \$5 million in capital at the time they are licensed. Due to Florida’s geography, which makes us uniquely vulnerable to catastrophic hurricanes, this initial capital requirement is insufficient to ensure companies are able to pay claims and continue to stay in business following a storm. SB 2044 raises the minimum capital requirement to \$15 million for new companies and requires that companies currently licensed raise their surplus to at least \$10 million by 2015 and \$15 million by 2020. These requirements strengthen the solvency of insurance companies, and require more capital to be retained within the company where it can be available for the payment of claims.

Expanding on your efforts to provide Floridians with transparent access to information about property insurance companies doing business in our state, SB 2044 provides funding for a comprehensive website, established by the Office, where homeowners can view unbiased and detailed information prior to purchasing coverage. [Shopandcomparerates.com](http://Shopandcomparerates.com) has been a successful tool which has been accessed more than half a million times since its inception in 2007. SB 2044 will build upon this foundation and allow consumers to view the rates they may be charged, and also examine the financial strength of individual companies and any regulatory or legal actions against these companies. Allowing families to have this information in one convenient location will generate competition in the marketplace and allow consumers to feel more confident when they choose an insurer.

### **Regulatory Benefits**

At a recent meeting of the FSC, I briefed you and the other members of the Cabinet on concerns the Office has relating to Managing General Agents and other entities affiliated with insurance companies. Although often appropriate, these relationships can threaten the financial strength of

insurers operating in Florida. SB 2044 addresses this concern by creating a “surplus action level” reporting requirement that forces companies who report a loss of 15% on any quarterly or annual statement to provide detailed information to the Office on any of the company’s material transactions. In addition, the bill also prevents any insurance company from entering into affiliated party transactions without a written agreement, and requires companies to notify the Office of these transactions prior to their implementation. This legislation will help the Office in our ongoing work to ensure companies remain solvent.

SB 2044 also provides another important tool that will assist with our efforts to keep private capital flowing into Florida. The legislation provides that the Office may order a company that is experiencing financial difficulty to cancel a portion of its business within 45 days, instead of issuing a non-renewal under the 100 or 180 days currently provided in law. The Office believes strongly that had this provision been in place in 2009, we could have prevented at least one company from being liquidated. Allowing for an expedited run-off of policies from a financially troubled insurer may allow potential buyers to acquire a company that would otherwise go into receivership thereby reducing assessments by the Florida Insurance Guaranty Association (FIGA).

### **Marketplace Benefits**

Over the course of the past several months, I have met with the executives of several Florida insurers in an effort to isolate the market conditions that are causing companies to lose money even in the absence of catastrophic storms. Based on these discussions and additional research, I identified several cost drivers that are negatively impacting our marketplace and reported these to the FSC and the Senate Committee on Banking and Insurance in the fall of 2009. I am pleased to report that SB 2044 addresses several of these cost drivers in a balanced manner that is fair to consumers and insurance companies.

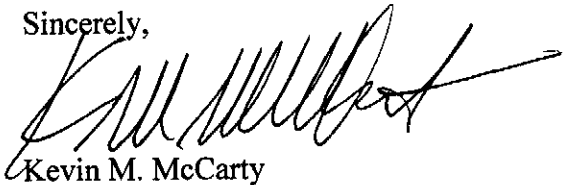
One of the biggest factors impacting insurance companies has been the rapid rise in claims initiated by public insurance adjusters. As you know, the FSC recently was forced to approve a \$715 million bond issuance by the Florida Hurricane Catastrophe Fund (FHCF) to pay for new and re-opened claims associated with the 2005 storm season. A data call conducted by the Office revealed that virtually every claim filed four to five years after Hurricane Wilma involved a public adjuster. SB 2044 addresses this issue by instituting a three year filing limitation for submitting hurricane and windstorm claims to an insurer. In addition, the legislation also sets limits on the amount of remuneration a public adjuster may receive for a re-opened claim. I certainly understand the important role public adjusters play in making sure consumers are treated fairly following a catastrophic event. However, placing limits on their commission and making sure claims are filed in a timely manner benefits all Floridians by keeping costs down and preventing unpredictable assessments as much as five years after a storm.

SB 2044 also makes statutory changes to “replacement cost” methodologies that have contributed to the fragility of our insurance marketplace. This legislation strikes an appropriate balance in law by encouraging homeowners to actually repair their damaged homes in the event of a claim that does not result in a total loss. If approved, a homeowner who has damage will immediately receive the actual cash value of their structural claim up front. After entering into an agreement with a contractor to repair the home, the policyholder will receive the remaining

balance as repairs are made. In the event of a total loss, the homeowner will receive 100% of their claim amount without any holdback. Further, the homeowner will continue to receive 100% of the claim amount for their personal property without any holdback, as is required in current law. This proposal achieves the public policy goal of ensuring damaged homes are hardened and protected from further harm, while simultaneously cracking down on those who seek to take advantage of loopholes in the current law.

As you know, I have always maintained that any proposed reforms to the regulatory framework must balance the needs of the people with the interests of the companies on which they depend. SB 2044 seeks to remedy some provisions of current law that have been manipulated by a few at the expense of many. In closing, I would like to thank Chairman Richter, whose leadership was responsible for the passage of this important bill. It is my pleasure to support SB 2044 and respectfully request your consideration of this legislation. As always, I am available to answer any questions.

Sincerely,



Kevin M. McCarty  
Commissioner

cc: The Honorable Jeff Atwater  
The Honorable Larry Cretul  
The Honorable Garrett Richter