

Citizens Property Insurance Corporation

Mission Review Task Force

January 30, 2009

The Honorable Charlie Crist
Governor
The Capitol
Tallahassee, FL 32399

The Honorable Jeff Atwater
President of the Senate
409 The Capitol
Tallahassee, FL 32399

The Honorable Ray Sansom
Speaker of the House
420 The Capitol
Tallahassee, FL 32399

The Honorable Larry Cretul
Speaker Pro Tempore of the House
422 The Capitol
Tallahassee, FL 32399

RE: Citizens Property Insurance Corporation Mission Review Task Force-Final Report

Dear Governor Crist, President Atwater, Speaker Sansom, and Speaker Pro Tempore Cretul:

Pursuant to Senate Bill 2860, the Citizens Property Insurance Corporation Mission Review Task Force was created and charged to analyze and compile available data and to develop a report setting forth the statutory and operational changes needed to return Citizens Property Insurance Corporation to its former role as an insurer of last resort. Attached hereto are the recommendations of Mission Review Task Force.

Please direct any questions you or your staff may have regarding the transmittal of these recommendations to Christine Turner at (850) 513.3746.

Respectfully,



G. Bruce Douglas
Chairman

Cc: The Honorable Garrett Richter, Chairman - Senate Banking & Insurance Committee

The Honorable Pat Patterson, Chairman - Insurance, Business, & Financial Affairs Policy Committee

Citizens Property Insurance Corporation

Mission Review Task Force

EXECUTIVE SUMMARY

The Citizens Property Insurance Corporation Mission Review Task Force (Task Force) was created by the Legislature during the 2008 Legislative Session. The mission of the Task Force is “to develop a report setting forth the statutory and operational changes needed to return Citizens Property Insurance Corporation to its former role as a state-created, noncompetitive residual market mechanism.” Importantly, the Task Force did not debate or reconsider the underlying public policy basis of its charge that Citizens be returned to a non-competitive residual market mechanism. Instead, the Task Force assumed that public policy objective and focused on the statutory and operational changes necessary to accomplish that goal.

CHARGE OF THE TASK FORCE

In addition, and “at a minimum” the Task Force was directed by statute to provide recommendations on the following ten specific topics relating to a range of issues regarding Citizens:

(a) The nature of Citizens Property Insurance Corporation's role in providing property insurance coverage only if such coverage is not available from private insurers.

(b) The ability of the admitted market to offer policies to those consumers formerly insured through Citizens Property Insurance Corporation. This consideration shall include, but not be limited to, the availability of private market reinsurance and coverage through the Florida Hurricane Catastrophe Fund and the capacity of the industry to offer policies to former Citizens Property Insurance Corporation policyholders within existing writing ratio limitations.

(c) The relationship of rates charged by Citizens Property Insurance Corporation to rates charged by private insurers, with due consideration for the corporation's role as a noncompetitive residual market mechanism.

(d) The relationships between the exposure of Citizens Property Insurance Corporation to catastrophic hurricane losses, the corporation's history of purchasing any reinsurance coverage, and the corporation's capital capacity to meet its potential claim obligations without incurring large deficits.

(e) The projected assessments on all policies required to offset the lack of capital to pay claims.

(f) The projections under paragraph (e) shall be specific to losses of \$3 billion, \$12 billion, and \$23 billion caused by a storm or a group of storms in any given year.

(g) The operational implications of the variation in the number of policies in force over time in Citizens Property Insurance Corporation and the merits of outsourcing some or all of its operational responsibilities.

(h) Changes in the mission and operations of Citizens Property Insurance Corporation to reduce or eliminate any adverse effect such mission and operations may be having on the promotion of sound and economic growth and development of the coastal areas of this state.

(i) Appropriate and consistent geographic boundaries of the high-risk account.

(j) The rankings, by county, of the average approved rates in Citizens Property Insurance Corporation and any savings associated with policyholder choice in selecting Citizens.

TASK FORCE MEMBERSHIP

The membership of the Task Force was statutorily specified and consists of 11 members appointed as follows:

Two members appointed by the Speaker of the House of Representatives;
Two members appointed by the President of the Senate;
Three members appointed by the Governor;
Two members appointed by the Chief Financial Officer;
One member representing Citizens; and
The Commissioner of Insurance Regulation or his designee.

To accomplish its statutory charge, the Task Force held a series of public meetings to receive public comment, to compile and analyze data and to consider evidence and to receive testimony provided by various experts and other interested parties. The Task Force met on October 10, 2008 in Tampa, on November 20, 2008 in Orlando, on December 10, 2008 in Jacksonville, on January 6, 2009 in Tampa, and on January 22, 2009 in Jacksonville. This Executive Summary identifies the specific statutory and operational recommendations made by the Task Force, which is followed by the comprehensive report and recommendations of the Task Force.

TASK FORCE RECOMMENDATIONS

The Task Force recommends that the Legislature enact the following statutory changes:

1. Create programs to encourage the strengthening of homes.
2. Amend current law so as to provide that upon expiration of the Citizens rate freeze, a “glide-path” to implement rate increases over time should be implemented, with specified increases per year, excluding coverage changes and surcharges, as follows:
 - Limit the overall average statewide increase by line to no more than 10% per year;

- Limit the rate increase by territory by line to no more than 15% per year; and
 - Limit the rate increase for any individual policyholder to no more than 20% per year.
3. Amend current law to enforce the 15% Eligibility Rule by requiring that agents and applicants for coverage certify, as a part of the application process on a separate form, that they are eligible for coverage under the law.
 4. Require that agents and policyholders affirm each year, as a condition of renewal, that they are still eligible for coverage with Citizens. This recommendation will require agents and policyholders to shop for coverage each year.
 5. Enact a statute to require that Citizens obtain a new application from all policyholders who have had a policy in-force with Citizens for more than three years.
 6. Enact a statute to limit automatic renewals for Citizens business to two, thereby requiring policyholders to reapply for coverage every three years.
 7. Enact a statute to provide for the adoption of fines or other penalties (such as losing eligibility) for applicants that violate Citizens eligibility standards or make false statements on Citizens applications.
 8. Eliminate the statutory language in Section 627.0655 F.S., that allows companies to offer multi-policy discounts on automobile business when the same agent places a homeowners' policy with Citizens. This change would not prohibit companies from offering multi-policy discounts that were actuarially justified.
 9. Repeal Section 631.65, F.S., which prohibits agents from discussing the existence of the Florida Insurance Guaranty Association.
 10. Enact a statute to provide that effective as of a specified date, no new structure erected seaward of the 30 year erosion projection line or in Coastal Barrier Resources System designated areas is eligible for coverage with Citizens.
 11. Readdress the boundaries of the High-Risk Account in an effort to make them more geographically consistent, with the goal of reducing Citizens' wind exposure.
 12. Repeal the language in Section 627.351(6), F.S., that requires Citizens to write commercial non-residential wind-only and commercial non-residential multi-peril coverage.

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

The Task Force recommends the following operational changes:

1. Improve the quality and quantity of policy level data made available to takeout companies to encourage additional depopulation.
2. Expand the Florida Market Assistance Plan to require that 100% of Citizens policy data, within applicable privacy laws, be made available as many as 120 days before a policy is set to renew.
3. Adopt fines or other penalties (such as losing appointment with Citizens) for agents that violate Citizens eligibility standards or make false statements on Citizens applications.

Citizens Property Insurance Corporation

Mission Review Task Force

INTRODUCTION

The Citizens Property Insurance Corporation Mission Review Task Force (Task Force) was created by the Legislature during the 2008 Legislative Session. The mission of the Task Force is “to develop a report setting forth the statutory and operational changes needed to return Citizens Property Insurance Corporation to its former role as a state-created, noncompetitive residual market mechanism.” In addition, and “at a minimum” the Task Force is directed to provide recommendations on ten specific topics relating to a range of issues regarding Citizens including the availability of property coverage in the private market, rates for coverage, potential Citizens assessments, Citizens’ exposure and its purchase of reinsurance, among others. The membership of the Task Force was statutorily specified and consists of 11 members appointed as follows:

Two members appointed by the Speaker of the House of Representatives;
Two members appointed by the President of the Senate;
Three members appointed by the Governor;
Two members appointed by the Chief Financial Officer;
One member representing Citizens; and
The Commissioner of Insurance Regulation or his designee.

To accomplish its statutory charge, the Task Force held a series of public meetings to receive public comment, to compile and analyze data and to consider evidence and testimony provided by various experts and other interested parties. The Task Force met on October 10, 2008 in Tampa, on November 20, 2008 in Orlando, on December 10, 2008 in Jacksonville, on January 6, 2009 in Tampa, and on January 22, 2009 in Jacksonville. We respectfully submit this report of the Task Force to the Governor, the President of the Senate, and the Speaker of the House of Representatives. .

BACKGROUND OF CITIZENS PROPERTY INSURANCE CORPORATION

Citizens was created by the Legislature in 2002 by the merger of two existing associations: the Florida Residential Property and Casualty Joint Underwriting Association (FRPCJUA) and the Florida Windstorm Underwriting Association (FWUA). The FRPCJUA provided full-coverage personal and commercial residential policies in all counties of Florida while the FWUA provided just personal and commercial residential wind-only coverage in designated territories. At the time of the merger, both the FRPCJUA and the FWUA had outstanding long-term debt obligations and each association was authorized by law to levy assessments on Florida insurers, which passed them on to their policyholders if claims payments exceeded assets. Partly in recognition of the legal and financial restrictions surrounding that debt, Citizens was created with three separate accounts:

1. HIGH-RISK ACCOUNT (HRA) – WIND-ONLY AND MULTIPERIL POLICIES

Consists of all business formerly written by the FWUA – personal lines wind-only policies, commercial residential wind-only policies and commercial non-residential wind-only policies issued in limited eligible coastal areas. In addition, in 2007, Citizens began offering personal and commercial residential multiperil policies in the HRA.

2. PERSONAL LINES ACCOUNT (PLA) – MULTIPERIL POLICIES

Consists of the personal lines of the FRPCJUA – homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners and similar policies.

3. COMMERCIAL LINES ACCOUNT (CLA) – MULTIPERIL POLICIES

Consists of the commercial lines of the JUA – condominium associations, apartment buildings and homeowners’ association policies.

Each of these accounts is a separate statutory account and therefore has separate calculations of surplus, plan year deficit and assessment base. By statute, assets may not be commingled or used to fund losses in another account. However, for certain purposes – primarily coverage from the Florida Hurricane Catastrophe Fund and the securing of financial liabilities – the PLA and CLA are treated as a combined entity.

Citizens operates as a tax-exempt, not-for-profit corporation which is defined by statute as a government entity that is an integral part of the State of Florida and not a private insurance company.

As originally created, applicants for coverage with Citizens were limited to those “applicants who are in good faith entitled, but are unable, to procure insurance through the voluntary market.” The eligibility rules for coverage with Citizens have been statutorily amended over time to respond not only to availability issues but also to affordability issues as well.

ELIGIBILITY REQUIREMENTS

Then Governor-Elect Charlie Crist and the Florida Legislature convened a Special Session in January of 2007 to develop a comprehensive reform plan to address a crisis in the availability and affordability of property insurance coverage in Florida. Governor Bush declared that “(t)he lack of available and affordable property insurance is the biggest threat to our economy – we cannot wait until the 2007 Legislative Session to find the solutions that our families and businesses need.”

The Special Session was held following a series of actions by property insurers in Florida to either withdraw from Florida, to nonrenew existing policyholders, to substantially increase rates or to cease writing new policies in Florida. To address these availability and affordability concerns, one of the reforms enacted by the Florida Legislature during the 2007 Special Session was to change the eligibility rules for Citizens. Under this new statutory language, an applicant could be eligible for coverage with Citizens even if they had an offer of coverage from a licensed insurer at its approved rates if that offer of coverage was more than 25% higher than the premium Citizens would charge for comparable coverage. For the first time, the statutory standards for eligibility for coverage with Citizens explicitly recognized an affordability component.

In the 2007 Regular Session, the Florida Legislature further codified the affordability component of Citizens' mission by amending the statute to specifically address affordability issues and to provide that "the absence of affordable property insurance threatens the public health, safety and welfare and likewise threatens the economic health of the state." In furtherance of this finding, Citizens was directed to provide "affordable property insurance" and to continue to provide it "as long as necessary" and to "strive to increase the availability of affordable property insurance in this state..." During the 2007 Regular Session, the eligibility standard for coverage with Citizens was amended to provide that an applicant could be eligible for coverage with Citizens even if the applicant had an offer of coverage from a licensed insurer at its approved rates if that offer of coverage was more than 15% more expensive (not 25%) higher than the premium Citizens would charge for comparable coverage.

These revised eligibility standards and the specific inclusion of an affordability element changed the character and mission of Citizens, altering it theoretically from an insurer which provided coverage only when no other offer was available, regardless of price or coverage, to an alternative insurer which could provide coverage if a private market offer was at least 15% more expensive for comparable coverage than Citizens.

The previous eligibility standard was termed a "theoretical" standard because many agents and insurers complained that risks were insured by Citizens even when coverage was available in the voluntary market either because the agent who wrote the policy with Citizens personally had no relationship or appointment with insurers actively offering to write new business or the applicant was given a private market quote they did not like and "went down the street" to another Citizens agent. There are no reliable numbers to quantify how many policyholders insured by Citizens had other offers from the voluntary market but chose to procure coverage from Citizens in violation of the eligibility rules. Likewise, there are no reliable numbers to quantify how many policyholders now insured by Citizens became eligible with the advent of the "15% rule." However, it is also possible that the new eligibility rules were non-impacting on new business levels since during this period of time many new companies (a total of 36 since 2006) including 13 capitalized with state matching funds available from the Insurance Capital Build-Up Incentive Program (ICBUIP) in 2007, were authorized and/or began writing new policies that might have otherwise come to Citizens. According to ICBUIP reports (SBA website) the 13 carriers receiving matching funds alone had the capacity to write an estimated additional 1,713,135 policies; over 600,000 more than Citizens total current policy count. Despite such dramatic capacity from voluntary admitted carriers, Citizens receives approximately 50,000 new applications each month.

DEPOPULATION

Citizens is required by law to "adopt one or more programs to reduce the number of new and renewal policies written by the corporation." To achieve this statutory goal, Citizens has developed depopulation programs which have been approved by the Office of Insurance Regulation (the Office) under which companies approved by the Office are authorized to remove a specified number of policies from Citizens over an 18 month period of time. The companies participating in these assumptions earn no bonus and are required by agreement with Citizens and the Office, to continue to renew the policies

assumed for a period of at least three years after the assumption at rates no greater than Citizens rates for one year. This program has fostered the creation of a number of smaller, domestic, monoline insurers in Florida. Many of which are not only actively participating in depopulation programs, but also actively writing new personal residential policies in this state; which also assists Citizens in reducing its policy count.

The statutory requirement that depopulation programs be developed to encourage the assumption of policies began in 1995 when the policy count of the FRPCJUA, one of Citizens' predecessors, reached almost one million policies. At that time, the FRPCJUA developed a series of depopulation programs over a six year period, which paid companies varying amounts of dollar bonuses to remove specified numbers and types of policies in designated geographic regions. In 2001, at the conclusion of these programs, the FRPCJUA policy count stood at 86,000.

The law in effect at the time that this depopulation activity occurred provided that an applicant or policyholder insured by the FRPCJUA was not eligible for coverage if any other offer of coverage existed. Therefore, if an applicant or policyholder received a takeout offer or any other offer of coverage, regardless of the cost or level of that coverage, they were not eligible for coverage with the FRPCJUA and must accept the takeout or other offer or seek coverage elsewhere.

The legislation which created Citizens in 2002 changed this eligibility standard. For the first time, Florida law provided that a Citizens policyholder need not accept an offer of coverage from a takeout insurer if the agent for the insured was "unable or unwilling to accept an appointment from the takeout insurer." Under this provision, denoted in law as "Consumer Choice," the assumption of a policy from Citizens by a takeout insurer required the consent of the producing agent, in default of which, the policy could not be removed. Then, in 2007 Florida law was further amended to also permit the insured to decline to consent to the assumption and to choose to remain insured by Citizens. As implemented, an insured must opt out within 30 days of receipt of a takeout offer or the policy will be eligible for assumption. For calendar year 2008, data provided to the Task Force reflects that 418,101 policies were selected by companies for assumption, and only 33,017 policyholders opted out of the assumption. In other words, despite consumers having the option to reject the takeout company offers, 385,084 policies were taken out. This number is in addition to those policies for which the agent was has refused to permit the assumption of the policy because he or she is "unable or unwilling" to be appointed by the takeout insurer.

FINDINGS OF THE TASK FORCE

The overall charge of this Task Force is to identify what statutory and operational changes are needed to return Citizens “to its former role as a state-created, noncompetitive residual market mechanism.” To accomplish this task, the report of the Task Force will be divided into two parts: one which deals with recommended statutory and operational changes and another which deals with additional recommended changes for Citizens as well as recommendations to encourage the growth and maintenance of a healthy property insurance market in Florida.

RECOMMENDED STATUTORY CHANGES

The Task Force makes the following recommendations for statutory changes in order to return Citizens to a noncompetitive residual market mechanism. The Task Force did not debate or challenge the public policy basis of its charge. Rather, the Task Force has identified and made recommendations relating to existing statutory provisions that are inconsistent with a noncompetitive residual market mechanism.

1. Create programs to encourage the strengthening of homes.

Strengthening homes is an important part of the long term solution to hurricane exposure in Florida. Programs encouraging mitigation should be developed and promoted by the Legislature whenever possible.

2. Permit Citizens to Achieve Actuarially Sound Rates using specified increments.

The rates charged by Citizens for coverage have been frozen by law since 2007. The rates Citizens is currently charging for most types of coverage are based on the rates in effect in 2005 for the Top 20 largest writers of residential property insurance in Florida. Current law requires that Citizens make a rate filing for each line of insurance that it writes by July 15, 2009, for implementation no earlier than January 1, 2010.

The Task Force recommends that the Legislature take no action to extend the Citizens rate freeze past 2010. The Task Force further recommends that the Legislature retain the current statutory requirement that Citizens file recommended actuarially sound rates on an annual basis for all lines of coverage beginning in 2010. Finally, to assist Citizens policyholders in the transition to actuarially sound rates and to provide certainty and predictability to those policyholders, the Task Force recommends that the Legislature amend the Citizens rate statute to specify that actuarially sound rates be implemented for some or all lines of Citizens business in specified increments, excluding coverage changes and surcharges.

Specifically, the Task Force recommends a “transition” or “glide-path” to achieving actuarially sound rates. The transition plan would have three separate limits:

- The overall statewide rate increase by line would be limited to no more than 10% per year;
- The rate increase by territory, by line, would be limited to no more than 15% per year; and

- The rate increase for any individual policyholder would be limited to no more than 20% per year.

3. Enforce the 15% eligibility rule.

Applicants for coverage should be required to affirmatively certify that they have diligently searched the private market, that they have no offers of coverage from private insurance companies or be required to list the offers of coverage that they have received. The Task Force recommends that applicants for coverage, for all lines of business subject to the 15% rule, be required to certify that they are eligible as a part of the application.

4. Require annual affirmation of eligibility.

Requiring that agents and policyholders affirm each year, as a condition of renewal that they are still eligible for coverage with Citizens will require agents and policyholders to shop for coverage each year.

5. Enact a statute to require that Citizens obtain a new application from all policyholders who have had a policy in force with Citizens for more than three years.

Adopting this recommendation will require policyholders to reaffirm eligibility while allowing Citizens to ensure it has the most accurate and current underwriting data on policies to encourage additional depopulation activity.

6. Enact a statute to limit automatic renewals for Citizens' business to two, thereby requiring policyholders to reapply for coverage every three years.

Adopting this recommendation will, like the recommendation above, require policyholders to reaffirm eligibility while allowing Citizens to ensure it has the most accurate and current underwriting data on policies to encourage additional depopulation activity.

7. Adopt fines or other penalties for applicants that violate Citizens' eligibility standards.

Adopting fines or other penalties for applicants that violate Citizens' eligibility standards will encourage applicants for coverage to more aggressively shop for other coverage prior to accepting a policy with Citizens.

8. Eliminate the statutory language in Section 627.0655, F.S., which allows companies to offer multi-policy discounts on automobile business when the same agent places a homeowners' policy in Citizens.

This change would not prohibit companies from offering multi-policy discounts that are actuarially justified.

9. Repeal the statutory prohibition of discussion regarding existence of the Florida Insurance Guaranty Association (FIGA).

The Task Force recommends the repeal of Section 631.65, F.S., which prohibits agents from discussing the existence of FIGA. Eliminating this prohibition will allow agents to empower consumers to make more informed decisions when choosing an insurance provider, which will likely result in fewer policies being written by Citizens.

10. Enact a statute to provide that effective as of a specified date, no new structure erected seaward of the 30 year erosion projection line or in Coastal Barrier Resources System designated areas is eligible for coverage with Citizens.

Imposing an eligibility change such as limiting where Citizens can offer coverage on newly constructed buildings will limit the amount of development in areas subject to high risk of wind damage where private insurers are unwilling to write policies or where coverage from the Federal Flood Insurance Program is not available.

11. Readdress the boundaries of the High-Risk Account.

The Legislature should readdress the boundaries of Citizens' High-Risk Account in an effort to make them more geographically consistent with the goal of reducing Citizens' wind exposure.

12. Eliminate the requirement that Citizens offer commercial non-residential policies.

Repeal the language in Section 627.351(6), F.S., which requires Citizens to write commercial non-residential wind-only and commercial non-residential multi-peril coverage. This change in statute will reduce Citizens' exposure, which will also reduce the likelihood and amount of assessments on Floridians.

13. Require that a study be undertaken to determine what actions could be taken to move more of Citizens commercial residential business to the private market.

Citizens currently insures more than 60% of Florida's commercial residential structures. This concentration of exposure is of significant concern so as to justify that a study be conducted in an effort to move more of Citizens commercial residential business to the private market.

14. Amend Citizens' agent appointment requirements.

Amend current law to require that agents demonstrate annually an appointment with at least one property insurer that is actively writing and not engaged in massive non-renewals.

RECOMMENDED OPERATIONAL CHANGES

1. Improve the quality and quantity of policy level data made available to takeout companies.

Citizens should review the data it provides to companies interested in removing risks from Citizens to assure that it is accurate and contains sufficient detail to facilitate the removal of risks from the corporation. This review should include an analysis of existing law to identify any statutory language that may preclude disclosure and recommend what legislative action needs to be taken to make the data available for purposes of depopulation.

2. Expand the Florida Market Assistance Plan (FMAP) to include all available data on in-force policies at least 120 days prior to the policy renewal date.

Citizens should expand FMAP to include data on its policies in-force in an effort to place coverage in the private market wherever possible. This additional data should be made available to property insurance companies actively writing in Florida and should be provided within applicable privacy laws.

3. Adopt fines or penalties for agents who violate eligibility standards.

Citizens should adopt fines or penalties (such as losing appointment with Citizens) for agents that violate Citizens eligibility standards or make false statements on Citizens' applications.

STATUTORILY REQUIRED RESPONSES AND RECOMMENDATIONS

In addition to recommending what statutory and operational changes need to be made, the statute identifies ten specific items that the Task Force must address. Each item appears in italics below, followed by the Task Force response or recommendation.

(a) The nature of Citizens Property Insurance Corporation's role in providing property insurance coverage only if such coverage is not available from private insurers.

The law which now governs Citizens' operation provides that applicants are eligible for coverage with Citizens even if coverage is available from a licensed insurer at its approved rate, if that offer of coverage is more than 15% higher than the premium charged by Citizens for comparable coverage. As such, Citizens sometimes functions, not only as an insurer of last resort, when no other coverage is available, but also as an alternative insurer, which provides more affordable coverage than what is available in the voluntary market.

Recommendation: To ensure that Citizens provides insurance coverage only if such coverage is not available from private insurers the Task Force recommends, as has been discussed above:

- Stricter enforcement of the 15% rule;
- Requiring that agents and policyholders affirm each year, as a condition of renewal, that they remain eligible; and
- Requiring that all policyholders reapply for coverage every three years.

(b) The ability of the admitted market to offer policies to those consumers formerly insured through Citizens Property Insurance Corporation. This consideration shall include, but not be limited to, the availability of private market reinsurance and coverage through the Florida Hurricane Catastrophe Fund and the capacity of the industry to offer policies to former Citizens Property Insurance Corporation policyholders within existing writing ratio limitations.

The Task Force heard testimony from Benfield, a reinsurance intermediary, in October 2008 that private market reinsurance coverage is available in Florida and that the cost of reinsurance has softened somewhat. Benfield also compared the amount of exposure in Florida to the exposure in the rest of the nation to demonstrate the high proportion of exposure that Florida has. However, the Task Force recognizes that the current dynamic capital market environment may seriously impact the availability of reinsurance and the cost of such reinsurance. See Exhibit One.

The Task Force also received testimony from Jack Nicholson, Executive Director of the Florida Hurricane Catastrophe Fund (FHCF), regarding the coverage provided by the

FHCF. The 2008 capacity of the FHCF has been severely limited by the current world-wide financial crisis. Estimates of the FHCF's reduced 2008 capacity are included in its report of the FHCF Advisory Council dated October 14, 2008 and attached as Exhibit Two.

Information on the ability of the admitted market to offer policies to former Citizens Property Insurance Corporation policyholders was provided by the Office of Insurance Regulation (OIR). The information presented by OIR indicates that there may be as much as \$1.2 billion of additional capacity in the Florida admitted market. This number is only theoretical as it assumes writing ratios that insurers may not be willing to adhere to at this time. The OIR reported that 20 new carriers entered the Florida market in 2006 and 2007, while five others have added a homeowners' line of business during the same timeframe. Additionally, eight surplus lines carriers entered the market during the same two years. In total more than \$3.6 billion of new capital has become available in Florida since 2006. See Exhibit Three. Citizens also provided historical data reflecting that the number of new applications for coverage received over the past 12 months has trended downward, with limited exceptions. See Exhibit Four. This trend seems to point to an increased capacity in the Florida market and an appetite by some insurers for the writing of new business. Citizens also provided information to the Task Force about its depopulation programs which reflect that private insurers have capacity to provide coverage to former Citizens insureds and are actively assuming policies from Citizens. Through August 31, 2008, more than 236,000 policies were removed from Citizens by private insurers (See Exhibit Four) and Citizens projects that more than 400,000 policies will be removed from Citizens by the end of 2008. The barrier to removal of Citizens policies is not primarily the capacity of the market, but underwriting criteria by private carriers that excludes older homes and mobile homes from assumption selections. In addition to this barrier to removal, wind-only policies are generally not available for removal unless there is a way to provide a full policy including the non-wind portion of the coverage.

However, the information provided to the Task Force by the Office related only to personal residential policies, and not to commercial residential policies. According to data provided to the Task Force (See Exhibit Four), Citizens currently covers more than 60% of the commercial residential market (condominium associations, apartment complexes and homeowners' associations) with a total exposure of approximately \$128 billion. Although 601 commercial residential policies with total exposure of just over \$2 billion were removed from Citizens in 2008, the Task Force received no other evidence as to the capacity of the voluntary market to issue policies to the approximately 8,810 commercial residential policies in force or the 15,000 commercial residential wind-only policies in force.

Recommendation: The Task Force finds that the capacity of insurers to provide personal residential coverage in Florida is increasing. However, the Task Force is concerned with Citizens' significant share of the commercial residential market in Florida and therefore recommends:

- A study be undertaken to determine what actions can be taken to move Citizens commercial residential risks to private carriers.

The Task Force further finds private sector reinsurance is now generally available, but recognizes that it may become increasingly unavailable in the future or increasingly expensive and acknowledges that Florida's domestic insurance industry is heavily dependent on reinsurance. Further, because of the interrelationship between Citizens and the FHCF, the Task Force strongly recommends that the Legislature address potential solutions to the FHCF's capacity and act early in Session with potential remedies.

(c) The relationship of rates charged by Citizens Property Insurance Corporation to rates charged by private insurers, with due consideration for the corporation's role as a noncompetitive residual market mechanism.

Citizens provided testimony and exhibits (See Exhibit Five) regarding its rates and the statutes which govern those rates. The data reflects that Citizens' rates, on average, are lower in most counties than those approved for private insurers, but higher in some counties. Current statutory language does not require that Citizens function as a noncompetitive residual market mechanism and that its rates be noncompetitive, but rather that its rates be "actuarially sound."

The rates currently being charged by Citizens were frozen by statute in 2007. Citizens was directed to continue to charge the rates which were in place prior to January 1, 2007. The rates in place in 2006 were based upon the then requirement that Citizens' rates be based on the highest rate charged for the Top 20 insurers in 2005.

The current rating language continues Citizens' rate freeze until January 1, 2010. Citizens is directed by statute to make an actuarially sound rate filing for all lines of business by July 15, 2009, for implementation no earlier than January 1, 2010. Since January 25, 2007, the statutory standard for rates for Citizens has been only the actuarially sound standard, rather than the "noncompetitive residual market mechanism" standard. However, because of the rate freeze, Citizens has not yet implemented actuarially sound rates. Its first opportunity to do so will be the rates to be effective no earlier than January 1, 2010.

Recommendation: As discussed above, the Task Force recommends the following:

- Citizens be required to file actuarially sound rates for all lines of business by July 15, 2009, for implementation no earlier than January 1, 2010, with no extension of the rate freeze;
- That a glide-path or stair-step for rate increases be adopted as referenced above; and
- That Citizens and the OIR work to implement the new rates as soon as practicable after January 1, 2010.

(d) The relationships between the exposure of Citizens Property Insurance Corporation to catastrophic hurricane losses, the corporation's history of purchasing any reinsurance coverage, and the corporation's capital capacity to meet its potential claim obligations without incurring large deficits.

Citizens provided the members of the Task Force with testimony and data concerning its exposure, its history of purchasing reinsurance, its coverage from the FHCF, its surplus,

its liquidity and financing plan, and its assessment potential. See Exhibit Six. Citizens provided information showing that in the PLA/CLA, losses from a single event would have to exceed approximately \$5.979 billion before the need for any assessments. In the HRA, a hurricane causing losses in excess of \$1.425 billion would result in a Citizens policyholder surcharge of at least \$88 million before triggering recoveries from FHCF and private reinsurance. The amount of the Citizens policyholder surcharge in excess of \$88 million would depend on the proportion of losses attributable to Commercial Non-Residential policies, which are not covered by the FHCF.

The breakdown of hurricane losses among accounts and policy types (i.e. Commercial Non-Residential policies within the CLA and HRA) are based on the weighted results of thousands of simulated events. If Florida were to experience seasonal hurricane losses of \$3 billion, \$12 billion or \$23 billion, the assessments could be materially different from the results presented, depending on the number and path of the hurricanes, and the types of policies that are affected. See Exhibit Six.

Recommendation: Citizens is required by law to “make its best efforts to procure catastrophe reinsurance at reasonable rates, to cover its projected 100-year probable maximum loss as determined by the board of governors.” The Task Force recommends that Citizens continue to annually evaluate the advisability and affordability of the purchase of private reinsurance and continue to build surplus in each of the three accounts (PLA, CLA and HRA) to reduce its reliance on assessments.

(e) The projected assessments on all policies required to offset the lack of capital to pay claims.

Recommendation: See Exhibit Six and analysis and recommendation under subsection (d) above.

(f) The projections under paragraph (e) shall be specific to losses of \$3 billion, \$12 billion, and \$23 billion caused by a storm or a group of storms in any given year.

The Task Force received information with projected assessments for a storm or storms causing \$3 billion, \$12 billion and \$23 billion in losses as well as other information. \$3 billion in storm losses is projected to create a \$400 million deficit in the HRA with no deficits in the PLA or CLA. \$12 billion in storm losses is projected to create between \$1.1 and \$2.6 billion deficit in the HRA with no deficits incurred in the PLA or CLA. \$23 billion in storm losses is projected to create a deficit totaling approximately \$8.9 billion among the HRA, PLA and CLA. Any deficits incurred by the corporation would be recouped through Citizens Policyholder Surcharges, Regular Assessments and Emergency Assessments as outlined in Exhibit Four. These results are based on assumptions regarding the number and severity of storms, as well as their possible path and the types of policies affected. If Florida were to experience seasonal hurricane losses of \$3 billion, \$12 billion or \$23 billion the assessments could be materially different from the results presented. See Exhibit Six.

Recommendation: See Exhibit Six and the analysis and recommendation under subsection (d) above.

(g) The operational implications of the variation in the number of policies in force over time in Citizens Property Insurance Corporation and the merits of outsourcing some or all of its operational responsibilities.

Citizens provided the Task Force with data which tracked the number of policies in-force that Citizens has had since 2002 and described its use of outsourcing to respond to the variations in the number of policies in-force. According to the data provided, Citizens outsources some of its policy administration, including the issuance of new business policies, to a contracted provider to manage fluctuations in new business and to efficiently allocate work queues between Citizens staff and the outsourced provider.

Citizens also provided data to the Task Force which described its use of outsourcing to supplement its claim operation. Citizens annually estimates its number of projected claims, including catastrophe claims, and utilizes a blend of internal and external adjusters to assure adequate claims adjusting resources are available. In 2008, Citizens utilized five contracted claims administrators to assist in the adjustment of non-catastrophe claims. Citizens also had contracts in place in 2008 with 43 independent adjusting firms with commitments to provide 6,000 independent adjusters to Citizens for catastrophe response.

Recommendation: The Task Force recommends that Citizens continue the prudent and effective use of outsourcing to respond to market fluctuations, to augment its catastrophe resources and to keep its staffing levels as efficient as possible. The Task Force further recommends that Citizens develop and implement a robust vendor training and oversight function to assure that its outsourced providers are properly trained and appropriately supervised to maintain high levels of customer service.

(h) Changes in the mission and operations of Citizens Property Insurance Corporation to reduce or eliminate any adverse effect such mission and operations may be having on the promotion of sound economic growth and development of the coastal areas of this state.

A representative from the Department of Environmental Protection (DEP) testified before the Task Force about the programs they have in place to regulate coastal development, especially as it relates to population density requirements. Although the focus of his testimony related to DEP programs, the representative stated that the existence of coverage from Citizens did impact coastal development.

The Task Force members expressed concern with the continued development of fragile coastal areas of Florida and the role that Citizens plays in encouraging such development by providing essentially guaranteed insurance coverage in these areas.

Recommendation: The Task Force recommends that the Legislature adopt eligibility guidelines for Citizens that as of a certain date and time prohibit the corporation from providing coverage for new construction along the coast seaward of the 30 year erosion projection line or in designated Coastal Barrier Resource System (CBRS) areas. This restriction would not replace or interfere with other coastal construction requirements and would not prohibit construction in these designated areas. However, new structures constructed as of a specified date and time within these designated areas would not be eligible for coverage with Citizens.

(i) Appropriate and consistent geographic boundaries of the high-risk account.

Recommendation: The Task Force recommends that the boundaries of the high-risk account be readdressed in order to make them more geographically consistent with an emphasis on reducing wind exposure in Citizens.

(j) The rankings, by county, of the average approved rates in Citizens Property Insurance Corporation and any savings associated with policyholder choice in selecting Citizens.

OIR provided the Task Force with a chart of the rankings by county of the average approved rates by Citizens as compared to the average approved rates for the Top 20 writers of personal residential coverage in Florida. The average ranking of Citizens rates compared to other private market carriers vary greatly depending upon the line of business, insured value and age of home of the structure. For example, Citizens rates are, on average, 40% higher among the 67 counties for a 2005 year built, \$300,000 risk written on a homeowners (HO3) policy. As compared to a 1990 year built, \$150,000 risk written on a dwelling fire policy, where Citizens rates are, on average, 14.0% lower among the 67 counties. See Exhibit Three. Information provided to the Task Force demonstrated however, that for older homes in certain areas, there may be situations where Citizens rates are encouraging business to come to Citizens even when private market choices are available. See Exhibit Seven. Therefore, in the upcoming rate filing, Citizens should look at the rates particularly for older homes in these areas to determine whether an adjustment needs to be made.

CONCLUSION

The members of the Task Force sincerely appreciate the opportunity to be of service to the State of Florida. We hope that these recommendations are useful to the public policy makers of this State and that they may serve as a framework for potential actions to improve the Florida property insurance market.

In preparing this report, and in supporting the activities of the Task Force over the past several months, we gratefully acknowledge the assistance of the staff of Citizens.

Respectfully Submitted,

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