HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB JEC 08-10 Insurance Capital Build-Up Incentive Program
SPONSOR(S): Jobs & Entrepreneurship Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Jobs & Entrepreneurship Council	16 Y, 1 N	Overton/Topp	Thorn
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

In 2006, the Insurance Capital Build-Up Incentive Program (ICBIP) was created to increase the availability of residential property insurance covering the risk of hurricanes and mitigating premium increases by providing a low-cost source of capital to write additional residential property insurance. The State Board of Administration (SBA) administers the ICBIP. The SBA makes available, upon application, loans (surplus notes) of up to $25 million, or 20 percent of the total funds available, to qualifying new or existing residential property insurers. ICBIP loans are memorialized in surplus note agreements, repayable over 20 years, with interest at the 10 year treasury rate on unpaid principal. Payments for the first three years are of interest only.

The bill:

- Extends the deadline until September 1, 2008 for an insurer to apply to the ICBIP and receive surplus note of up to $25 million in the amount equal to the new capital contributed by the insurer.
- Revises a minimum writing ratio of premium to surplus an insurer must maintain.
- Provides that an insurer must also commit to writing at least ten percent of its net or gross written premium for new policies, not including renewal premiums, for policies taken out of Citizens Property Insurance Corporation, during each of the first 3 years after receiving the surplus note.
- Allows the SBA to charge a late fee for repayments.
- Provides that amendments made by the act do not affect the terms of surplus notes approved prior to January 1, 2008, but authorizes the SBA and an insurer to renegotiate such terms consistent with such amendments.

Citizens Property Insurance Corporation is directed to transfer $100 million to the General Revenue Fund on or before August 1, 2008 for appropriation by the Legislature to the Insurance Capital Build-Up Incentive Program.

The bill is effective July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill will encourage the private insurance market to take policies out and keep polices out of the Citizens Property Insurance Corporation. The bill will expand the ICBIP.

B. EFFECT OF PROPOSED CHANGES:

In 2006, the Insurance Capital Build-Up Incentive Program (ICBIP)[1] was created to increase the availability of residential property insurance covering the risk of hurricanes and mitigating premium increases by providing a low-cost source of capital to write additional residential property insurance. The Legislature appropriated $250 million from the General Revenue Fund to fund the program.[2]

The State Board of Administration (SBA) administers the ICBIP. The SBA makes available, upon application, loans (surplus notes) of up to $25 million, or 20 percent of the total funds available, to qualifying new or existing residential property insurers. ICBIP loans are memorialized in surplus note agreements, repayable over 20 years, with interest at the 10 year treasury rate on unpaid principal. Payments for the first three years are of interest only.

Insurers participating in the ICBIP must contribute an amount of new capital to its surplus that is at least equal to the amount of the loan it receives, maintain a 2 to 1 ratio of net written premium to surplus, and have a minimum surplus of $50 million ($14 million for manufactured home insurers).

The ICBIP had a deadline for applications of July 1, 2006 for an insurer to apply to the ICBIP and receive a surplus note in the amount equal to the new capital contributed by the insurer. For applications received after the deadline but before June 1, 2007, the amount of the surplus note was limited to one-half of the new capital that the insurer contributes to its surplus, except that an insurer writing only manufactured housing policies was eligible to receive a surplus note of up to $7 million.

The SBA began receiving ICBIP applications in June 2006 and had dispersed all allotted funds to 13 qualifying residential property insurers by the end of June 2007. In 2007, three insurers that had received loans under the ICBIP participated in takeouts from Citizens Property Insurance Company, removing 165,497 policies, or more than 66 percent of all policies taken out of Citizens that year. As of March 11, 2008, ICBIP insurers had removed another 33,841 policies from Citizens, or over 34% percent of Citizens' takeouts year to date.

Additionally, at least two participating insurers have assumed policies from private carriers, thus keeping additional policies from being written by Citizens, and four are writing a significant number of new policies. Overall, based on new policies, renewal rights agreements, and takeout activity an estimated 480,000 policies have potentially been kept out of Citizens due to the ICBIP.

The bill revises the legislative finding to reflect the state of insurance market upon entering the 2008 hurricane season. Findings relative to the 2006 hurricane season are repealed. The following findings are added:

- Citizens Property Insurance Corporation has over 1.2 million policies in force and has the largest market share of any insurer writing residential property insurer in the state, and faces the threat of a catastrophic loss that must be funded by assessments against insurers and policyholders, unless otherwise funded by the state.

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[1] Section 215.5595, F.S.

[2] Section 43, Chapter 2006-12, Laws of Florida

- The ICBIP has a substantial positive effect on the depopulation efforts of the Citizens Property Insurance Corporation since companies participating in the ICBIP have removed over 199,000 policies from the Citizens Property Insurance Corporation.
- Companies participating in the ICBIP have issued a significant number of new polices thereby keeping an estimated 480,000 new polices out of the Citizens Property Insurance Corporation.
- Extending the Insurance Capital Build-up Incentive Program will provide an incentive for investors to commit additional capital to Florida's residential insurance market.

Citizens Property Insurance Corporation is directed to transfer $100 million to the General Revenue Fund on or before August 1, 2008 for appropriation by the Legislature to the Insurance Capital Build-Up Incentive Program.

The deadline is extended until September 1, 2008 for an insurer to apply to the ICBIP and receive surplus note of up to $25 million in the amount equal to the new capital contributed by the insurer. For applications received after the deadline but before June 1, 2009, the amount of the surplus note is limited to one-half of the new capital that the insurer contributes to its surplus, except that an insurer writing only manufactured housing policies is eligible to receive a surplus note of up to $7 million.

Presently, an insurer in the ICBIP must a minimum writing ratio of net written premium[3] to surplus of at least 2:1. The bill revises this requirement to provide that the insurer must commit to increase its writings of residential property insurance, including the peril of wind, and to meet meeting a minimum writing ratio of net written premium to surplus of at least 1:1 for the first year after receiving the state funds, 1.5:1 for the second year, and 2:1 for the remaining term of the surplus note. Alternatively, the insurer must meet a minimum writing ratio of gross written premium to surplus of at least 3:1 for the first year after receiving the state funds, 4.5:1 for the second year, and 6:1 for the remaining term of the surplus note.

Additionally, the insurer must also commit to writing at least ten percent of its net or gross written premium for new policies, not including renewal premiums, for policies taken out of Citizens Property Insurance Corporation, during each of the first 3 years after receiving the surplus note. The Office of Insurance Regulation shall determine that an insurer meets the requirement for taking policies out of Citizens, by written notice to the SBA, upon a finding that the insurer made offers of coverage to policyholders of Citizens which would have resulted in meeting this requirement had the policyholders accepted the offer.

If the required ratio or the required writings for policies taken out of Citizens is not maintained during the term of the surplus note, the SBA may increase the interest rate, accelerate the repayment of interest and principal, or shorten the term of the surplus note.

The bill authorizes the SBA to charge late fees up to 5 percent for late payments or other late remittances by participants in the ICBIP.

The amendments to Insurance Capital Build-Up Incentive Program made by the bill not affect the terms or conditions of the surplus notes that were approved prior to January 1, 2008. However, the SBA may renegotiate the terms of any surplus note issued by an insurer prior to January 2008, upon the agreement of the insurer and the SBA, consistent with the requirements of the ICBIP as amended in 2008.

C. SECTION DIRECTORY:

Section 1 amends s. 215.5595, F.S. relating to the Insurance Capital Build-Up Incentive Program.

[3] Net written premium is a financial measure which represents the premiums charged on policies issued during a fiscal period less any reinsurance.

Section 2 provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill directs the Citizens Property Insurance Corporation to transfer $100 million to the General Revenue Fund on or before August 1, 2008 for appropriation by the Legislature to the Insurance Capital Build-Up Incentive Program.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent additional insurers participate in the ICBIP, more Floridians will be able to obtain residential property insurance policies outside of the Citizens Property Insurance Corporation.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The mandates provision does not apply because this bill does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

Not applicable since this is a proposed council bill.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES