

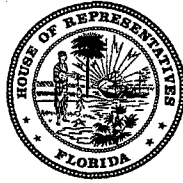


Insurance & Banking Subcommittee

**Wednesday, February 9, 2011
9:00 AM - 12:00 PM
404 HOB**

**Dean Cannon
Speaker**

**Bryan Nelson
Chair**



The Florida House of Representatives

Economic Affairs Committee

Insurance & Banking Subcommittee

Dean Cannon
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AGENDA

February 9, 2011
404 House Office Building
9:00 a.m. – 12:00 p.m.

- I. Introductory Remarks
- II. HB 99 Commercial Insurance Rates *by Rep. Drake*
- III. HB 4081 Repeal of Obsolete Insurance Provisions *by Rep. Horner*
- IV. HB 4083 Workers' Compensation *by Rep. Albritton*
- V. Workshop on insurance issues relating to sinkholes.
 - a. Monte Stevens, Director of Governmental Affairs
Florida Office of Insurance Regulation
 - b. Susanne Murphy, Executive Vice President
Citizens Property Insurance Corporation
 - c. Ashley P. Mayer, Director of Legislative Affairs
Department of Financial Services
 - d. Wade Barber, Chief Deputy
Pasco County Property Appraiser Office

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VI. Public testimony

VII. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 99 Commercial Insurance Rates
SPONSOR(S): Drake
TIED BILLS: IDEN./SIM. BILLS: SB 178

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Callaway <i>Wde</i>	Cooper <i>MC</i>
2) Government Operations Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

Commercial lines insurance (commercial insurance) is insurance designed for and bought by a business to cover losses sustained by the business. In Florida, the Office of Insurance Regulation (OIR) regulates insurance. The OIR reviews and approves or disapproves rates charged by insurance companies. However, insurance companies writing specified types of commercial insurance do not have to file rates with or obtain approval for the rates charged from the OIR. The bill allows five new types of commercial insurance to be exempt from the rate filing and approval process. Thus, insurance companies writing these types of commercial insurance will not have to file with or obtain approval of the rates for these types of commercial insurance by the OIR before the insurer can charge the rate. The new types of commercial insurance exempted are:

- Fiduciary Liability
- General Liability
- Nonresidential Property
- Nonresidential Multiperil
- Excess Property.

The bill also expands the current rate filing and approval exemption for commercial motor vehicle insurance. Under the bill, all commercial motor vehicle insurance is exempt from the rate filing and approval process, rather than only commercial motor vehicle insurance covering a fleet of 20 or more vehicles.

The bill deletes some of the information required on the notice an insurer must give the OIR when the rate changes for commercial insurance exempt from rate filing. The type of data required to be retained by the insurer or rating organization to support the rate charged for commercial insurance not subject to a rate filing is changed by the bill. The bill also deletes current law allowing the OIR to obtain data from an insurer to support a rate for commercial insurance exempt from the rate filing and approval process at the insurer's expense.

The bill has no fiscal impact on local government. The bill should not have a rate impact on the private sector as rates for the types of commercial insurance covered by the bill still cannot be excessive, inadequate, or unfairly discriminatory as determined by current law. The bill will allow insurers selling the types of coverages listed in the bill to make pricing changes for those coverages on a more expedited basis and avoid some of the expense incurred in a full rate filing and review process. The OIR notes deleting current law requiring an insurer to provide rate filing information to the OIR at the insurer's expense shifts the cost burden associated with obtaining this information to the OIR; however, the fiscal impact is indeterminate. Additionally, the bill should result in a reduced workload for the OIR because the OIR will no longer be required to review every rate filing for the types of commercial insurance being exempted from the filing requirement.

The bill is effective October 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Commercial lines insurance (commercial insurance) is insurance designed for and bought by a business to cover losses sustained by the business.¹ Some commercial insurance, such as workers' compensation, is required to be purchased by businesses²; however, most commercial insurance is purchased by businesses on a voluntary basis. The commercial insurance a business purchases also depends, in part, on the business type and industry.

In Florida, the Office of Insurance Regulation (OIR) regulates insurance. The OIR reviews and approves or disapproves rates charged by insurance companies and the insurance forms³ used by companies. However, insurance companies writing the following types of commercial insurance do not have to file rates with or obtain approval for the rates charged from the OIR⁴:

- Excess or Umbrella Insurance,
- Surety and Fidelity Insurance,
- Boiler and Machinery Insurance and Leakage and Fire Extinguishing Equipment Insurance,
- Fleet Commercial Motor Vehicle Insurance for a fleet of 20 or more self-propelled vehicles,
- Errors and Omissions Insurance ("E & O"),
- Directors' and Officers', Employment Practices, and Management Liability Insurance,
- Intellectual Property and Patent Infringement Insurance,
- Advertising Injury and Internet Liability Insurance,
- Property risks rated under a highly protected risks rating plan, and
- Other types of commercial lines insurance determined by the OIR.

Generally, rates filed with the OIR are disapproved if they are excessive, inadequate or unfairly discriminatory based on standards contained in the law.⁵ Even though insurance companies charge rates for the above listed commercial insurance without the rate being approved by the OIR, the rate charged must not be excessive, inadequate, or unfairly discriminatory, the same requirement for rates filed with and approved by the OIR. The insurance company writing the commercial insurance is responsible for ensuring the rate charged meets this requirement and the OIR can examine a company's documentation supporting a rate to ensure the rate meets the requirement. If the OIR reviews a rate, the OIR uses the rate factors and standards in law that apply to property and casualty and surety insurance rates filed with the OIR to determine whether the rate charged is excessive, inadequate, or unfairly discriminatory. If the OIR examines a company's documentation to ensure the rate charged meets the statutory requirements and standards, the company cannot charge the OIR for the documentation.

If an insurance company increases or decreases a rate for the types of commercial insurance listed above, the insurer must notify the OIR within 30 days of the effective date of the rate change and the notification must contain certain information.

Effect of Proposed Changes Relating to Commercial Insurance Rate Filings

The bill allows five new types of commercial insurance to be exempt from the rate filing and approval process in current law. Thus, insurance companies writing these types of commercial insurance will not have to file with or obtain approval of the rates for these types of commercial insurance by the OIR before the insurer can charge the rate. The new types of commercial insurance exempted are:

¹ <http://www2.iii.org/glossary/> (defining commercial lines) (last viewed January 20, 2011).

² Generally, non-construction businesses employing four or more employees have to buy workers' compensation insurance. Construction businesses must buy workers' compensation insurance if the business has one or more employees.

³ With limited exceptions, section 627.410, F.S., requires every insurance policy, application, endorsement, or rider to be filed with and approved by the OIR prior to use by the insurance company. This statute applies to all types of commercial insurance.

⁴ s. 627.062(3)(d), F.S.

⁵ s. 627.062(1), F.S.; s. 627.062(2)(e), F.S.

- **Fiduciary Liability:** Liability protection against the theft or misuse of funds for an entity involved in the management, investment and distributions of funds.⁶
- **General Liability:** Covers the legal liability for the death, injury, or disability of any human being, or for damage to property, irrespective of the legal liability of the insured.⁷
- **Nonresidential Property:** Covers a building, business personal property, and other surrounding property not used for residential purposes for loss or damage from a variety of perils, including but not limited to, fire, lightning, glass breakage, tornado, windstorm, hail, water damage, explosion, riot, civil commotion, rain or damage from aircraft or vehicles.⁸
- **Nonresidential Multiperil:** Packages two or more insurance coverages protecting an enterprise from various property and liability risk exposures.⁹
- **Excess Property:** Covers damage from property insurance perils above the policy limit of the primary property insurance policy.

The bill changes the existing exemption for errors and omission insurance to apply to errors and omissions professional liability insurance and the current exemption for management liability insurance to apply to "other management liability" insurance.

The bill also changes the rate filing and approval exemption for commercial motor vehicle insurance. Under current law, only commercial motor vehicle insurance covering a fleet of 20 or more vehicles is exempt from the rate filing and approval process. The bill exempts all commercial motor vehicle insurance from the rate filing and approval process, regardless of the number of vehicles the insurance covers, thus expanding the current exemption for commercial motor vehicle insurance.

The bill deletes some of the information required on the notice an insurer must give the OIR when the rate changes for commercial insurance exempt from rate filing. Insurers will no longer be required to provide the OIR the amount of insurance premium written during the prior year for the type or kind of insurance subject to the rate change, but will still be required to provide the name of the insurer, the type or kind of insurance subject to the rate change, and the average statewide rate change.

The type of data required to be retained by the insurer or rating organization to support the rate charged for commercial insurance not subject to a rate filing is changed by the bill. Insurers are required to retain "actuarial data" about the commercial risks, but are no longer required to retain "underwriting files, premiums, losses, and expense statistics." Additionally, the bill adds a two year retention period for the insurer or rating organization to retain the actuarial data supporting the rate charged. Current law does not specify a retention period.

Finally, the bill deletes current law allowing the OIR to obtain data from an insurer to support a rate for commercial insurance exempt from the rate filing and approval process at the insurer's expense. Thus, the OIR must pay for any information needed to determine if the rate the insurer is charging for commercial insurance is supported by the company's actuarial data.

B. SECTION DIRECTORY:

Section 1: Amends s. 627.062, F.S., relating to rate standards for commercial lines risks.

Section 2: Amends s. 627.0651, F.S., relating to making and use of rates for commercial motor vehicle insurance.

Section 3: Provides an effective date of October 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

⁶ OIR Property and Casualty Product Review Line of Business Mapping (on file with staff of the Insurance & Banking Subcommittee).

⁷ s. 624.605(1)(b), F.S.

⁸ OIR Property and Casualty Product Review Line of Business Mapping (on file with staff of the Insurance & Banking Subcommittee).

⁹ Id.

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

In the agency analysis of the bill, the OIR notes that deleting current law requiring an insurer to provide rate filing information to the OIR at the insurer's expense shifts the cost burden associated with obtaining this information to the OIR.¹⁰ Although the analysis does not specify how much the cost shift would cost the OIR, the amount would depend on how many times the OIR has to obtain rate information from commercial insurers and their cost to obtain the rate information. Those figures are indeterminate.

Additionally, the bill should result in a reduced workload for the OIR because the OIR will no longer be required to review every rate filing for the additional types of commercial insurance being exempted from the filing requirement.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill should not impact commercial insurance rates charged to the private sector because rates for the additional types of commercial insurance covered by the bill cannot be excessive, inadequate, or unfairly discriminatory based upon the standards in current law. This is the same requirement contained in current law for these types of commercial insurance.

The bill will allow insurers selling the types of commercial insurance listed in the bill to make pricing changes for those types on a more expedited basis and avoid some of the expense incurred in a rate filing and review process done through the OIR.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

¹⁰ Bill analysis from the OIR dated February 1, 2011, on file with staff of the Insurance & Banking Subcommittee.

None.

B. RULE-MAKING AUTHORITY:

None provided in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

In the agency analysis, the OIR recommended defining the term “other management liability” insurance by the specific type of liability coverage intended to be exempt.¹¹ However, an amendment is anticipated to delete the exemption for “other management liability” insurance contained in the bill and restore current law exempting “management liability” insurance from the rate filing process. This will conform the terminology used in statute to the terminology and definitions used by the OIR in their instructions for rate filings.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

¹¹ Bill analysis from the OIR dated February 1, 2011, on file with staff of the Insurance & Banking Subcommittee.

1 A bill to be entitled
 2 An act relating to commercial insurance rates; amending s.
 3 627.062, F.S.; exempting additional categories or kinds of
 4 insurance and types of commercial lines risks from being
 5 subject to certain otherwise applicable rate filing
 6 requirements; deleting a requirement that an insurer's
 7 rate change notice include total premium written for an
 8 exempt class of insurance; removing a requirement that
 9 specified types of records and information related to a
 10 rate change be retained by an insurer; requiring actuarial
 11 data regarding a rate change for an exempt class of
 12 insurance be retained by an insurer for a specified time;
 13 removing a requirement that a rating organization maintain
 14 certain statistics related to changes to loss cost for
 15 exempt classes of insurance; requiring certain actuarial
 16 data related to loss cost be retained by a rating
 17 organization for a specified time; deleting authority for
 18 the Office of Insurance Regulation to require all
 19 necessary information from an insurer in order to evaluate
 20 a rate change; amending s. 627.0651, F.S.; expanding an
 21 exemption from certain otherwise applicable rate filing
 22 requirements to include all commercial motor vehicle
 23 insurance; deleting a requirement that a commercial motor
 24 vehicle insurer's rate change notice include total premium
 25 written; removing a requirement that specified types of
 26 records and information related to a commercial motor
 27 vehicle insurance rate change be retained by an insurer;
 28 requiring actuarial data regarding a commercial motor

29 vehicle insurance rate change be retained by an insurer
 30 for a specified time; removing a requirement that a rating
 31 organization maintain certain statistics related to
 32 changes to loss cost for commercial motor vehicle
 33 insurance; requiring actuarial data related to loss cost
 34 for commercial motor vehicle insurance be retained by a
 35 rating organization for a specified time; deleting
 36 authority for the Office of Insurance Regulation to
 37 require all necessary information from an commercial motor
 38 vehicle insurer in order to evaluate a rate change;
 39 providing an effective date.

40

41 Be It Enacted by the Legislature of the State of Florida:

42

43 Section 1. Paragraph (d) of subsection (3) of section
 44 627.062, Florida Statutes, is amended to read:

45 627.062 Rate standards.—

46 (3)

47 (d)1. The following categories or kinds of insurance and
 48 types of commercial lines risks are not subject to paragraph
 49 (2) (a) or paragraph (2) (f):

50 a. Excess or umbrella.

51 b. Surety and fidelity.

52 c. Boiler and machinery and leakage and fire extinguishing
 53 equipment.

54 d. Errors and omissions professional liability.

55 e. Directors and officers, employment practices, fiduciary
 56 liability, and other management liability.

57 f. Intellectual property and patent infringement
 58 liability.

59 g. Advertising injury and Internet liability insurance.

60 h. Property risks rated under a highly protected risks
 61 rating plan.

62 i. General liability.

63 j. Nonresidential property.

64 k. Nonresidential multiperil.

65 l. Excess property.

66 m. Any other commercial lines categories or kinds of
 67 insurance or types of commercial lines risks that the office
 68 determines should not be subject to paragraph (2) (a) or
 69 paragraph (2) (f) because of the existence of a competitive
 70 market for such insurance, similarity of such insurance to other
 71 categories or kinds of insurance not subject to paragraph (2) (a)
 72 or paragraph (2) (f), or to improve the general operational
 73 efficiency of the office.

74 2. Insurers or rating organizations shall establish and
 75 use rates, rating schedules, or rating manuals to allow the
 76 insurer a reasonable rate of return on insurance and risks
 77 described in subparagraph 1. which are written in this state.

78 3. An insurer must notify the office of any changes to
 79 rates for insurance and risks described in subparagraph 1. no
 80 later than 30 days after the effective date of the change. The
 81 notice must include the name of the insurer, the type or kind of
 82 insurance subject to rate change, ~~total premium written during~~
 83 ~~the immediately preceding year by the insurer for the type or~~
 84 ~~kind of insurance subject to the rate change,~~ and the average

85 | statewide percentage change in rates. Actuarial data
 86 | ~~Underwriting files, premiums, losses, and expense statistics~~
 87 | with regard to rates for insurance and risks described in
 88 | subparagraph 1. written by an insurer shall be maintained by the
 89 | insurer for 2 years after the effective date of changes to those
 90 | rates and are subject to examination by the office. Upon
 91 | examination, the office shall, in accordance with generally
 92 | accepted and reasonable actuarial techniques, consider the rate
 93 | factors in paragraphs (2) (b), (c), and (d) and the standards in
 94 | paragraph (2) (e) to determine if the rate is excessive,
 95 | inadequate, or unfairly discriminatory.

96 | 4. A rating organization must notify the office of any
 97 | changes to loss cost for insurance and risks described in
 98 | subparagraph 1. no later than 30 days after the effective date
 99 | of the change. The notice must include the name of the rating
 100 | organization, the type or kind of insurance subject to a loss
 101 | cost change, loss costs during the immediately preceding year
 102 | for the type or kind of insurance subject to the loss cost
 103 | change, and the average statewide percentage change in loss
 104 | cost. Actuarial data ~~Loss and exposure statistics~~ with regard to
 105 | changes to loss cost for risks applicable to loss costs for a
 106 | ~~rating organization~~ not subject to paragraph (2) (a) or paragraph
 107 | (2) (f) shall be maintained by the rating organization for 2
 108 | years after the effective date of the change and are subject to
 109 | examination by the office. Upon examination, the office shall,
 110 | in accordance with generally accepted and reasonable actuarial
 111 | techniques, consider the rate factors in paragraphs (2) (b) - (d)
 112 | and the standards in paragraph (2) (e) to determine if the rate

113 is excessive, inadequate, or unfairly discriminatory.

114 ~~5. In reviewing a rate, the office may require the insurer~~
 115 ~~to provide at the insurer's expense all information necessary to~~
 116 ~~evaluate the condition of the company and the reasonableness of~~
 117 ~~the rate according to the applicable criteria described in this~~
 118 ~~section.~~

119 Section 2. Subsection (14) of section 627.0651, Florida
 120 Statutes, is amended to read:

121 627.0651 Making and use of rates for motor vehicle
 122 insurance.—

123 (14) (a) Commercial motor vehicle insurance ~~covering a~~
 124 ~~fleet of 20 or more self-propelled vehicles~~ is not subject to
 125 subsection (1), subsection (2), or subsection (9) or s.
 126 627.0645.

127 (b) The rates for insurance described in this subsection
 128 may not be excessive, inadequate, or unfairly discriminatory.

129 (c) Insurers shall establish and use rates, rating
 130 schedules, or rating manuals to allow the insurer a reasonable
 131 rate of return on commercial motor vehicle insurance written in
 132 this state ~~covering a fleet of 20 or more self-propelled~~
 133 ~~vehicles.~~

134 (d) An insurer must notify the office of any changes to
 135 rates for type of insurance described in this subsection no
 136 later than 30 days after the effective date of the change. The
 137 notice shall include the name of the insurer, the type or kind
 138 of insurance subject to rate change, ~~total premium written~~
 139 ~~during the immediately preceding year by the insurer for the~~
 140 ~~type or kind of insurance subject to the rate change, and the~~

141 average statewide percentage change in rates. Actuarial data
 142 with regard to rates for risks ~~Underwriting files, premiums,~~
 143 ~~losses, and expense statistics for the type of insurance~~
 144 described in this subsection shall be maintained by the insurer
 145 for 2 years after the effective date of changes to those rates
 146 and are subject to examination by the office. Upon examination,
 147 the office shall, in accordance with generally accepted and
 148 reasonable actuarial techniques, consider the factors in
 149 paragraphs (2) (a)-(1) and apply subsections (3)-(8) to determine
 150 if the rate is excessive, inadequate, or unfairly
 151 discriminatory.

152 (e) A rating organization must notify the office of any
 153 changes to loss cost for the type of insurance described in this
 154 subsection no later than 30 days after the effective date of the
 155 change. The notice shall include the name of the rating
 156 organization, the type or kind of insurance subject to a loss
 157 cost change, loss costs during the immediately preceding year
 158 for the type or kind of insurance subject to the loss cost
 159 change, and the average statewide percentage change in loss
 160 cost. Actuarial data ~~Loss and exposure statistics~~ with regard to
 161 changes to loss cost for risks ~~applicable to loss costs for a~~
 162 ~~rating organization~~ not subject to subsection (1), subsection
 163 (2), or subsection (9) shall be maintained by the rating
 164 organization for 2 years after the effective date of the change
 165 and are subject to examination by the office. Upon examination,
 166 the office shall, in accordance with generally accepted and
 167 reasonable actuarial techniques, consider the rate factors in
 168 paragraphs (2) (a)-(1) and apply subsections (3)-(8) to determine

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169 | if the rate is excessive, inadequate, or unfairly
170 | discriminatory.

171 | ~~(f) In reviewing the rate, the office may require the~~
172 | ~~insurer to provide at the insurer's expense all information~~
173 | ~~necessary to evaluate the condition of the company and the~~
174 | ~~reasonableness of the rate according to the applicable criteria~~
175 | ~~described herein.~~

176 | Section 3. This act shall take effect October 1, 2011.

INSURANCE & BANKING SUBCOMMITTEE

HB 99 by Rep. Drake Commercial Insurance Rates

AMENDMENT SUMMARY February 9, 2011

Amendment 1 by Rep. Drake (Lines 54-56): Technical amendment restoring current law as to the types of errors and omissions and management liability insurance exempt from a rate filing.

Amendment 2 by Rep. Drake (Line 90): Clarifies a commercial insurer must provide, at the insurer's expense, data needed by the OIR to examine an insurer's rate.

Amendment 3 by Rep. Drake (Line 109): Conforming amendment to Amendment 2, applying the change to rating organizations, rather than insurers.

Amendment 4 by Rep. Drake (Line 146): Conforming amendment to Amendment 2, making the change apply to commercial motor vehicle rates filed by insurers.

Amendment 5 by Rep. Drake (Line 165): Conforming amendment to Amendment 2, making the change apply to commercial motor vehicle rates filed by rating organizations.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 99 (2011)

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Insurance & Banking
2 Subcommittee
3 Representative(s) Drake offered the following:

4

5 **Amendment**

6 Remove lines 54-56 and insert:

7 d. Errors and omissions.

8 e. Directors and officers, employment practices, fiduciary
9 liability, and management liability.

Amendment No. 2

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Insurance & Banking
2 Subcommittee
3 Representative(s) Drake offered the following:

Amendment (with title amendment)

6 Remove line 90 and insert:
7 rates and are subject to examination by the office. The office
8 may require the insurer to incur the costs associated with an
9 examination. Upon

12 -----
13 **T I T L E A M E N D M E N T**

14 Remove line 13 and insert:
15 requiring the insurer to incur examination expenses; removing a
16 requirement that a rating organization maintain

Amendment No. 3

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Insurance & Banking
 2 Subcommittee
 3 Representative(s) Drake offered the following:

Amendment (with title amendment)

6 Remove line 109 and insert:
 7 examination by the office. The office may require the rating
 8 organization to incur the costs associated with an examination.
 9 Upon examination, the office shall,

12 -----
 13 **T I T L E A M E N D M E N T**

14 Remove line 17 and insert:
 15 organization for a specified time; requiring a rating
 16 organization to incur examination expenses; deleting authority
 17 for

Amendment No. 4

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Insurance & Banking
 2 Subcommittee
 3 Representative(s) Drake offered the following:

Amendment (with title amendment)

6 Remove line 146 and insert:
 7 and are subject to examination by the office. The office may
 8 require the insurer to incur the costs associated with an
 9 examination. Upon examination,

10
11
12 -----
T I T L E A M E N D M E N T

14 Remove line 30 and insert:
 15 for a specified time; requiring an insurer for commercial motor
 16 vehicle insurance to incur examination expenses; removing a
 17 requirement that a rating

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 99 (2011)

Amendment No. 5

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Council/Committee hearing bill: Insurance & Banking
2 Subcommittee
3 Representative(s) Drake offered the following:
4

5 **Amendment (with title amendment)**

6 Remove line 165 and insert:
7 and are subject to examination by the office. The office may
8 require the rating organization to incur the costs associated
9 with an examination. Upon examination,
10

11 -----
12
13 **T I T L E A M E N D M E N T**



14 Remove line 35 and insert:
15 rating organization for a specified time; requiring a rating
16 organization for commercial motor vehicle insurance to incur
17 examination expenses; deleting

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4081 Repeal of Obsolete Insurance Provisions

SPONSOR(S): Horner

TIED BILLS: IDEN./SIM. BILLS: SB 636, HB 4099

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Callaway 	Cooper 
2) Economic Affairs Committee			

SUMMARY ANALYSIS

This bill deletes outdated or obsolete language relating to the following insurance topics:

- the Florida Automobile Joint Underwriting Association pre-suit notice,
- a form filing for catastrophic ground cover collapse coverage,
- a report on the sinkhole database,
- a study on the feasibility of a facility for insuring sinkhole loss and other issues related to sinkhole loss,
- the effective date for the exclusion of windstorm and contents coverage in property insurance policies, and
- the refund of funds from the Insurance Capital Build-Up Incentive Program to Citizens Property Insurance Corporation.

The changes made by this bill are technical and not substantive.

The bill has no fiscal impact and is effective on July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The changes made by this bill are technical and not substantive. This bill deletes outdated or obsolete language relating to various insurance topics as follows:

Florida Automobile Joint Underwriting Association Pre-Suit Notice

Section 627.311(3), F.S., allows the Office of Insurance Regulation (OIR) to approve a joint underwriting plan for purposes of equitable apportionment or sharing among insurers of automobile liability insurance and other motor vehicle insurance. The Florida Automobile Joint Underwriting Association (FAJUA) is created under the plan. Requirements of the plan are contained in section 627.311(3), F.S. Current law (s. 627.311(3)(k)2., F.S.) specifies that before a legal action may be brought against the FAJUA for certain violations by the FAJUA, the Department of Financial Services (DFS) and the FAJUA must be given 90 days' written notice of the violation giving rise to the lawsuit.¹ Typically, a 60 day pre-suit notice, rather than a 90 day pre-suit notice, is required for actions taken against insurance companies for certain violations.² In the 2004 Session, however, the pre-suit notice requirement applying to the FAJUA was lengthened from 60 days to 90 days to give the FAJUA more time to investigate alleged violations.

By statute, the 90 day pre-suit notice period for the FAJUA expired on October 1, 2007 unless the 90 day notice period was reenacted by the Legislature. The statute was not reenacted by the Legislature before the October 1, 2007 deadline. Thus, this bill repeals the 90 day pre-suit notice period as it is obsolete due to the expiration of the October 1, 2007 reenactment deadline.

Form Filing for Catastrophic Ground Cover Collapse Coverage

Under current law, every property insurance company must cover "catastrophic ground cover collapse" in the property insurance policy. Property insurance coverage for catastrophic ground cover collapse was made mandatory and added to the law in the 2007A Special Session.³ Catastrophic ground cover collapse coverage pays the homeowner for property damage caused from the abrupt collapse of the ground cover with a visible ground cover depression resulting in structural damage to the home to the extent that the home is condemned and ordered to be vacated. Structural damage to a home due to settling or cracking of a foundation is not catastrophic ground cover collapse and is not paid for under catastrophic ground cover collapse coverage. Damage of this type, however, may be covered under "sinkhole coverage" which can be purchased for an additional premium. All property insurers must make sinkhole coverage available for homeowners to purchase.

When coverage for catastrophic ground cover collapse was added to the law in 2007 as a mandatory coverage, insurers were required to make a form filing with the OIR by June 1, 2007 to implement this coverage requirement. This bill repeals section 627.706(3), F.S., the statutory provision added in 2007 requiring insurers to make the catastrophic ground cover collapse form filing by June 1, 2007 because the filing deadline has passed.

¹ Section 624.155, F.S., specifies the insurer violations which require pre-suit notice to DFS and to the insurer. These violations include: unfair claim settlement practices, illegal dealings in premiums, refusal to insure, favored agent or insurer, illegal dealings for life or disability insurance, life or disability insurance discrimination based on policyholder having the sickle cell trait, return of auto insurance premium upon cancellation of the policy by the policyholder, not settling claims in good faith, claims payments made to policyholders without an accompanying statement relating to the coverage, and failure to settle a claim under one portion of an insurance policy in order to influence settlement under other portions of the policy.

² s. 624.155(3)(a), F.S.

³ Section 30, Ch. 2007-1, L.O.F.

Report on the Sinkhole Database

Section 627.7065, F.S., enacted in 2005,⁴ creates a sinkhole information database for the purpose of tracking sinkhole claims made against property insurance policies. The DFS is primarily responsible for the development of the database, with input from the Department of Environmental Protection (DEP) and the Florida Geological Survey. The DFS has authority to require insurers to report past and present sinkhole claims for inclusion in the database. The DEP must investigate reports of sinkhole activity and report its findings to the database.

Section 627.7065(5), F.S., requires the DEP, in consultation with the DFS, to submit a report of activities by December 31, 2005 to the Governor, the Chief Financial Officer, and the Legislative presiding officers about the sinkhole database implemented by the DFS. The report was submitted on March 10, 2006. The bill repeals section 627.7065(5), F.S., because the deadline for the report submission has passed.

Florida Sinkhole Insurance Facility Study

Section 627.7077, F.S., requires the Florida State University College of Business Department of Risk Management and Insurance (FSU) to conduct a feasibility and cost-benefit study of a potential Florida Sinkhole Insurance Facility and of other matters related to the affordability and availability of sinkhole insurance. A preliminary report was due to the presiding officers of the Legislature and the Financial Services Commission by February 1, 2005 with a final report due April 1, 2005. The final report was submitted in April 2005 by FSU. The bill repeals section 627.7077, F.S., because the deadline for the report on the sinkhole study has passed.

Effective Date for the Exclusion of Windstorm and Contents Coverage In Property Insurance Policies

Section 627.712, F.S., requires property insurers to provide windstorm coverage in residential property insurance policies but allows a policyholder to exclude windstorm coverage if specified requirements are met. The statute also allows a policyholder to exclude contents coverage if specified requirements are met. The statute was first enacted in the 2007A Special Session.⁵ Section 627.712(7), F.S., provides an effective date of June 1, 2007 for the statute but allows the OIR to extend the effective date until October 1, 2007 at the latest with approval of the Financial Services Commission. The bill repeals section 627.712(7), F.S., which provides the effective date of the statute as the deadlines of June 1, 2007 and October 1, 2007 contained in the statute have passed.

Refund of Funds from the Insurance Capital Build-Up Incentive Program

In 2006, the Legislature created the Insurance Capital Build-Up Incentive Program (Capital Build Up Program or program) within the State Board of Administration (SBA) to provide insurance companies a low-cost source of capital to write additional residential property insurance. The program's goal was to increase the availability of residential property insurance covering the risk of hurricanes and to ease residential property insurance premium increases.

To accomplish its goal, the program loaned state funds in the form of surplus notes to new or existing authorized residential property insurers under specified conditions. The insurers, in turn, agreed to write additional residential property insurance in Florida and to contribute new capital to their company. The maximum dollar amount of a surplus note was \$25 million. The surplus note was repayable to the state, with a 20 year term, at the 10-year Treasury Bond interest rate (with interest only payments the first three years). The Legislature appropriated \$250 million non-recurring funds from the General Revenue Fund to fund the program at its inception in 2006. Any unexpended balance reverted back to the General Revenue Fund on June 30, 2007.

⁴ Section 18, Ch. 2005-111, L.O.F.

⁵ Section 32, Ch. 2007-1, L.O.F.

As of June 28, 2007, the program issued \$247,500,000 in funds to thirteen qualifying insurers. Administrative expenses for the program totaled \$2,500,000. Thus, by June 2007 the entire 2006 legislative appropriation for the program was exhausted (\$247.5 million in loans, and \$2.5 million in administrative costs).⁶

CS/CS/SB 2860, enacted in 2008, required the Citizens Property Insurance Corporation (Citizens) to transfer \$250 million to the General Revenue Fund for transfer to the State Board of Administration (SBA) for additional funding for the Capital Build-Up Program.⁷ This funding was in addition to the \$250 million appropriated to the program from the General Revenue Fund at the program's inception in 2006. The unexpended balance from the 2008 transfer of money from Citizens to the SBA reverted to the General Revenue Fund on June 30, 2009. The 2008 legislation also required the SBA to refund to Citizens uncommitted funds, interest and principal payments for surplus notes that were funded by appropriations from Citizens. This refund was to be made by January 15, 2009.

The \$250 million transfer from Citizens for use in the Capital Build Up Program was vetoed by the Governor Crist.⁸ In his veto message Governor Crist stated: "[w]hile I believe the program is well intended and has had the net effect of removing nearly 200,000 policies from the Citizens Property Insurance Corporation and has kept an additional estimated 480,000 policies out of Citizens, the funding source is inappropriate. The original funding for the program came from the General Revenue Fund during the 05/06 fiscal year; however, the additional funding for the program provided in this legislation comes from policyholders' premiums paid to Citizens, which is used to pay claims in the event of a catastrophic hurricane. ... Taking \$250 million away from Citizens' ability to pay claims will substantially increase the likelihood of assessments for Floridians across the state."⁹

The bill repeals language in the Capital Build Up Program statute that requires the SBA to refund to Citizens uncommitted funds, interest, and principal payments for surplus notes that were funded by the \$250 million transfer from Citizens required by CS/CS/SB 2860. The transfer of funds from Citizens to the SBA was never done due to the Governor's veto of the transfer language in CS/CS/SB 2860. Thus, the bill repeals obsolete language from the statute.

B. SECTION DIRECTORY:

Section 1: Deletes s. 215.5595(11), F.S., relating to the Insurance Capital Build-Up Incentive Program.

Section 2: Amends s. 627.311, F.S., relating to the Florida Automobile Joint Underwriting Association.

Section 3: Deletes s. 627.706(3), F.S., relating to a property insurance filing for catastrophic ground cover collapse coverage.

Section 4: Deletes s. 627.7065(5), F.S., relating to a report of activities relating to the sinkhole database.

Section 5: Repeals s. 627.7077, F.S., relating to a Florida Sinkhole Insurance Facility Study.

Section 6: Deletes s. 627.712(7), F.S., relating to the effective date of the statute relating to the exclusion of windstorm and contents coverage in property insurance policies.

Section 7: Provides an effective date of July 1, 2011.

⁶ Information obtained from the Final Report of the Insurance Capital Build-Up Incentive Program available at <http://www.sbafla.com/fsb/LinkClick.aspx?fileticket=TYIOUbpBbDM%3d&tabid=975&mid=2692> (last viewed February 1, 2011).

⁷ Section 16, Ch. 2008-66, L.O.F.

⁸ On May 28, 2008, Governor Charlie Crist line-item vetoed section 16 of CS/CS/SB 2860 which required the \$250 million transfer from Citizens to the General Revenue Fund for use in the Capital Build Up Program. CS/HB 5057 also required the \$250 million transfer and this entire bill was vetoed on June 10, 2008. (Letter to Secretary Kurt S. Browning, Secretary of State, from Governor Charlie Crist dated June 10, 2008, on file with staff of the Insurance & Banking Subcommittee).

⁹ Letter to Secretary Kurt S. Browning, Secretary of State, from Governor Charlie Crist dated May 28, 2008, on file with staff of the Insurance & Banking Subcommittee.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities 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 provided in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
 An act relating to the repeal of obsolete insurance provisions; amending s. 215.5595, F.S.; deleting an obsolete requirement for the State Board of Administration to transfer to the Citizens Property Insurance Corporation certain funds of the Insurance Capital Build-Up Incentive Program; amending s. 627.311, F.S.; deleting an obsolete presuit notice requirement for the Florida Automobile Joint Underwriting Association; amending s. 627.706, F.S.; deleting an obsolete form filing deadline for sinkhole coverage; amending s. 627.7065, F.S.; deleting an obsolete reporting requirement for activities relating to the sinkhole database; repealing s. 627.7077, F.S., relating to a feasibility and cost-benefit study of a Florida Sinkhole Insurance Facility and other matters related to affordability and availability of sinkhole insurance; amending s. 627.712, F.S.; deleting an obsolete effective date for the exclusion of windstorm and contents coverage; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (11) of section 215.5595, Florida Statutes, is amended to read:

215.5595 Insurance Capital Build-Up Incentive Program.—
~~(11) On January 15, 2009, the State Board of Administration shall transfer to Citizens Property Insurance Corporation any funds that have not been committed or reserved~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

29 ~~for insurers approved to receive such funds under the program,~~
 30 ~~from the funds that were transferred from Citizens Property~~
 31 ~~Insurance Corporation in 2008-2009 for such purposes.~~

32 Section 2. Paragraph (k) of subsection (3) of section
 33 627.311, Florida Statutes, is amended to read:

34 627.311 Joint underwriters and joint reinsurers; public
 35 records and public meetings exemptions.—

36 (3) The office may, after consultation with insurers
 37 licensed to write automobile insurance in this state, approve a
 38 joint underwriting plan for purposes of equitable apportionment
 39 or sharing among insurers of automobile liability insurance and
 40 other motor vehicle insurance, as an alternate to the plan
 41 required in s. 627.351(1). All insurers authorized to write
 42 automobile insurance in this state shall subscribe to the plan
 43 and participate therein. The plan shall be subject to continuous
 44 review by the office which may at any time disapprove the entire
 45 plan or any part thereof if it determines that conditions have
 46 changed since prior approval and that in view of the purposes of
 47 the plan changes are warranted. Any disapproval by the office
 48 shall be subject to the provisions of chapter 120. The Florida
 49 Automobile Joint Underwriting Association is created under the
 50 plan. The plan and the association:

51 (k)~~1~~. Shall have no liability, and no cause of action of
 52 any nature shall arise against any member insurer or its agents
 53 or employees, agents or employees of the association, members of
 54 the board of governors of the association, the Chief Financial
 55 Officer, or the office or its representatives for any action
 56 taken by them in the performance of their duties or

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57 | responsibilities under this subsection. Such immunity does not
 58 | apply to actions for or arising out of breach of any contract or
 59 | agreement pertaining to insurance, or any willful tort.

60 | ~~2. Notwithstanding the requirements of s. 624.155(3)(a),~~
 61 | ~~as a condition precedent to bringing an action against the plan~~
 62 | ~~under s. 624.155, the department and the plan must have been~~
 63 | ~~given 90 days' written notice of the violation. If the~~
 64 | ~~department returns a notice for lack of specificity, the 90-day~~
 65 | ~~time period shall not begin until a proper notice is filed. This~~
 66 | ~~notice must comply with the information requirements of s.~~
 67 | ~~624.155(3)(b). Effective October 1, 2007, this subparagraph~~
 68 | ~~shall expire unless reenacted by the Legislature prior to that~~
 69 | ~~date.~~

70 | Section 3. Subsections (4) and (5) of section 627.706,
 71 | Florida Statutes, are renumbered as subsections (3) and (4),
 72 | respectively, and present subsection (3) of that section is
 73 | amended to read:

74 | 627.706 Sinkhole insurance; catastrophic ground cover
 75 | collapse; definitions.—

76 | ~~(3) On or before June 1, 2007, every insurer authorized to~~
 77 | ~~transact property insurance in this state shall make a proper~~
 78 | ~~filing with the office for the purpose of extending the~~
 79 | ~~appropriate forms of property insurance to include coverage for~~
 80 | ~~catastrophic ground cover collapse or for sinkhole losses.~~
 81 | ~~Coverage for catastrophic ground cover collapse may not go into~~
 82 | ~~effect until the effective date provided for in the filing~~
 83 | ~~approved by the office.~~

84 Section 4. Subsection (6) of section 627.7065, Florida
 85 Statutes, is renumbered as subsection (5), and present
 86 subsection (5) of that section is amended to read:

87 627.7065 Database of information relating to sinkholes;
 88 the Department of Financial Services and the Department of
 89 Environmental Protection.-

90 ~~(5) The Department of Environmental Protection, in~~
 91 ~~consultation with the Department of Financial Services, shall~~
 92 ~~present a report of activities relating to the sinkhole~~
 93 ~~database, including recommendations regarding the database and~~
 94 ~~similar matters, to the Governor, the Speaker of the House of~~
 95 ~~Representatives, the President of the Senate, and the Chief~~
 96 ~~Financial Officer by December 31, 2005. The report may consider~~
 97 ~~the need for the Legislature to create an entity to study the~~
 98 ~~increase in sinkhole activity in the state and other similar~~
 99 ~~issues relating to sinkhole damage, including recommendations~~
 100 ~~and costs for staffing the entity. The report may include other~~
 101 ~~information, as appropriate.~~

102 Section 5. Section 627.7077, Florida Statutes, is
 103 repealed.

104 Section 6. Subsection (7) of section 627.712, Florida
 105 Statutes, is amended to read:

106 627.712 Residential windstorm coverage required;
 107 availability of exclusions for windstorm or contents.-

108 ~~(7) This section is effective July 1, 2007, but the office~~
 109 ~~may delay application of this section until a date no later than~~
 110 ~~October 1, 2007, upon approval by the Financial Services~~
 111 ~~Commission.~~

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112

Section 7. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4083 Workers' Compensation

SPONSOR(S): Albritton

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Callaway <i>Callaway</i>	Cooper <i>Cooper</i>
2) Economic Affairs Committee			

SUMMARY ANALYSIS

Workers' Compensation Administrator

Section 627.092, F.S., creates the position of Workers' Compensation Administrator within the Office of Insurance Regulation (OIR) to monitor insurance company compliance in workers' compensation. The OIR does not currently have an employee designated as the Workers' Compensation Administrator and does not have primary responsibility for monitoring insurance company compliance with workers' compensation laws. Thus, this bill repeals s. 627.092, F.S.

Florida Workers' Compensation Joint Underwriting Association

The Florida Workers' Compensation Joint Underwriting Association (FWCJUA or Association) was created by statute in 1993 and began writing claims on January 1, 1994. The FWCJUA is an insurer of last resort, meaning it provides workers' compensation insurance for those employers who cannot obtain it in the voluntary market (from private insurers, self insurance funds, etc.). It operates as a self-funded residual market and is nonprofit.

From the FWCJUA's inception in 1993 through July 2003, there were three rating plans established within the Association for various classifications of risks: Subplan A, Subplan B, and Subplan C. All employers obtaining workers' compensation insurance from the FWCJUA were assigned to one of these three rating plans.

In 2003, the Legislature established a new subplan within the FWCJUA: Subplan D. This subplan provided workers' compensation coverage for generally small employers (15 or fewer employees) and charitable organizations. Unlike the other three subplans which had actuarially sound rates, rates for Subplan D were capped as a percentage over the voluntary market rates and thus were not required to be actuarially sound. Consequently, in 2004, Subplan D generated a substantial deficit. Because Subplan D (and Subplan C) issued assessable policies, employers in Subplan D were to be assessed in 2004 to defray the subplan's deficit.

In response to the deficit in Subplan D and the resulting assessment, the 2004 Legislature revamped the FWCJUA before the assessment for Subplan D was levied. The 2004 Legislature provided an appropriation to defray the FWCJUA's deficit and a funding mechanism to help defray future deficits in the FWCJUA. The legislation also created a three-tier rating system to replace the subplan rating system.

Section 627.312(2), F.S., was enacted in 2004 to guide the FWCJUA's transition from the subplan rating system to the tier rating system. This statute required FWCJUA policies with effective dates between May 28, 2004, the effective date of the 2004 law, and June 30, 2004 to be transferred from the subplan rating system to the tier rating system and rerated for premium purposes. Because the June 30, 2004 date has passed, s. 627.312(2), F.S., is obsolete. Thus, this bill repeals this law.

The bill has no fiscal impact and is effective on July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Workers' Compensation Administrator

Section 627.092, F.S., creates the position of Workers' Compensation Administrator within the Office of Insurance Regulation (OIR) to monitor insurance company compliance in workers' compensation. The OIR does not currently have an employee designated as the Workers' Compensation Administrator. Additionally, the Bureau of Monitoring and Audit within the Division of Workers' Compensation in the Department of Financial Services is responsible for overall monitoring and auditing of the performance of workers' compensation insurance companies. The OIR's responsibility in workers' compensation is primarily to review and approve workers' compensation rates.

This bill repeals s. 627.092, F.S., because the OIR does not have an employee designated as the Workers' Compensation Administrator and does not have primary responsibility for monitoring insurance company compliance with workers' compensation laws.

Florida Workers' Compensation Joint Underwriting Association

The Florida Workers' Compensation Joint Underwriting Association (FWCJUA or Association) was created by statute in 1993 and began writing claims on January 1, 1994. The FWCJUA is an insurer of last resort, meaning it provides workers' compensation insurance for those employers who cannot obtain it in the voluntary market (from private insurers, self insurance funds, etc.). It operates as a self-funded residual market and is nonprofit.

From the FWCJUA's inception in 1993 through July 2003, there were three rating plans established within the Association for various classifications of risks: Subplan A, Subplan B, and Subplan C. All employers obtaining workers' compensation insurance from the FWCJUA were assigned to one of these three rating plans. All three subplans had to maintain actuarially sound rates but the rate charged varied in each subplan in accordance with the risk characteristics of the employers obtaining workers' compensation insurance in the subplan. Employers in Subplan C received an assessable workers' compensation policy, meaning these employers could be assessed to pay any deficits incurred in Subplan C.¹ Policies in Subplans A and B were not assessable.

In 2003, the Legislature established a new subplan within the FWCJUA: Subplan D. This subplan provided workers' compensation coverage for generally small employers (15 or fewer employees) and charitable organizations. Unlike the other three subplans which had actuarially sound rates, rates for Subplan D were capped as a percentage over the voluntary market rates and thus were not required to be actuarially sound.² Consequently, in 2004, Subplan D generated a substantial deficit. Because Subplan D (and Subplan C) issued assessable policies, employers in Subplan D were to be assessed in 2004 to defray the subplan's deficit.

However, in response to the deficit in Subplan D and the resulting assessment, the 2004 Legislature revamped the FWCJUA before the assessment for Subplan D was levied.³ The changes made to the FWCJUA in 2004 were done to reduce and eliminate the deficit in Subplan D and to ensure future deficits in the FWCJUA would not occur. The 2004 Legislature provided an appropriation to defray the

¹ A deficit occurred if the premiums taken in by the WCJUA for policies written in the subplan were not sufficient to cover the claims or reserves of the subplan. If a deficit occurred, then the employers in each subplan were charged an additional amount to cover the difference between the premiums taken in and the amount the subplan had to pay out in claims or the reserves that were required to be set aside. The additional amount was pro rated among employers in the subplan based on the premium each employer paid. There was no statutory limit on the number of times employers could be assessed or on the amount of the assessment. Although the WCJUA had a deficit in Subplan C during the subplan's existence, the Association did not assess the employers in Subplan C to cover the deficit because the Association's investment income was sufficient to cover the deficit.

² Rates for policies in Subplan D were priced at the voluntary market rate with a surcharge not to exceed 25%, however the surcharge for those organizations exempt from federal income tax under 501(c)(3) was not to exceed 10%.

³ Ch. 2004-266, L.O.F.

FWCJUA's deficit and a funding mechanism to help defray future deficits in the FWCJUA. Accordingly, employers in Subplan D were never assessed for the subplan's deficit.

The 2004 legislation also created a three-tier rating system to replace the subplan rating system. Statutory criteria for each tier ensured employers obtaining workers' compensation insurance in the FWCJUA were placed in tiers that better defined the employer's risk. The tier rating system also provided the WCJUA with a premium better associated with the employer's risk.⁴

Section 627.312(2), F.S., was enacted in 2004 to guide the FWCJUA's transition from the subplan rating system to the tier rating system. This statute required FWCJUA policies with effective dates between May 28, 2004, the effective date of the 2004 law, and June 30, 2004 to be transferred from the subplan rating system to the tier rating system and rerated for premium purposes. Because the June 30, 2004 date has passed, s. 627.312(2), F.S., is obsolete. Thus, this bill repeals this law.

B. SECTION DIRECTORY:

Section 1: Repeals s. 627.092, F.S., relating to the position of Workers' Compensation Administrator.

Section 2: Repeals s. 627.312(2), F.S., relating to transitional provisions for the Florida Workers' Compensation Joint Underwriting Association.

Section 3: Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

⁴ Initially, the premiums for two of the three tiers were capped at a percentage above the voluntary market rate but by January 1, 2007, the premiums in all tiers were required to be actuarially sound.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities 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 provided in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to workers' compensation; repealing s.
 3 627.092, F.S., relating to the Workers' Compensation
 4 Administrator, to abolish the position; amending s.
 5 627.312, F.S.; deleting an obsolete transitional
 6 requirement for certain policies of the Florida Workers'
 7 Compensation Joint Underwriting Association; providing an
 8 effective date.

9

10 Be It Enacted by the Legislature of the State of Florida:

11

12 Section 1. Section 627.092, Florida Statutes, is repealed.

13 Section 2. Section 627.312, Florida Statutes, is amended

14 to read:

15 627.312 Transitional provision ~~provisions. Effective upon~~
 16 ~~this act becoming a law:~~

17 ~~(1)~~ Notwithstanding s. 627.311(5), no policy in subplan
 18 "D" of the Florida Workers' Compensation Joint Underwriting
 19 Association is subject to an assessment for the purpose of
 20 funding a deficit.

21 ~~(2) Any policy issued by the Florida Workers' Compensation~~
 22 ~~Joint Underwriting Association with an effective date between~~
 23 ~~the date on which this act becomes a law and June 30, 2004,~~
 24 ~~shall be rerated and placed in the appropriate tier provided in~~
 25 ~~s. 627.311(5), as amended, effective July 1, 2004, and shall be~~
 26 ~~subject to the premiums and charges provided for in that section~~
 27 ~~as amended.~~

28 Section 3. This act shall take effect July 1, 2011.

FLORIDA OFFICE OF
INSURANCE REGULATION

KEVIN M. McCARTY
Insurance Commissioner



House Insurance and Banking Subcommittee

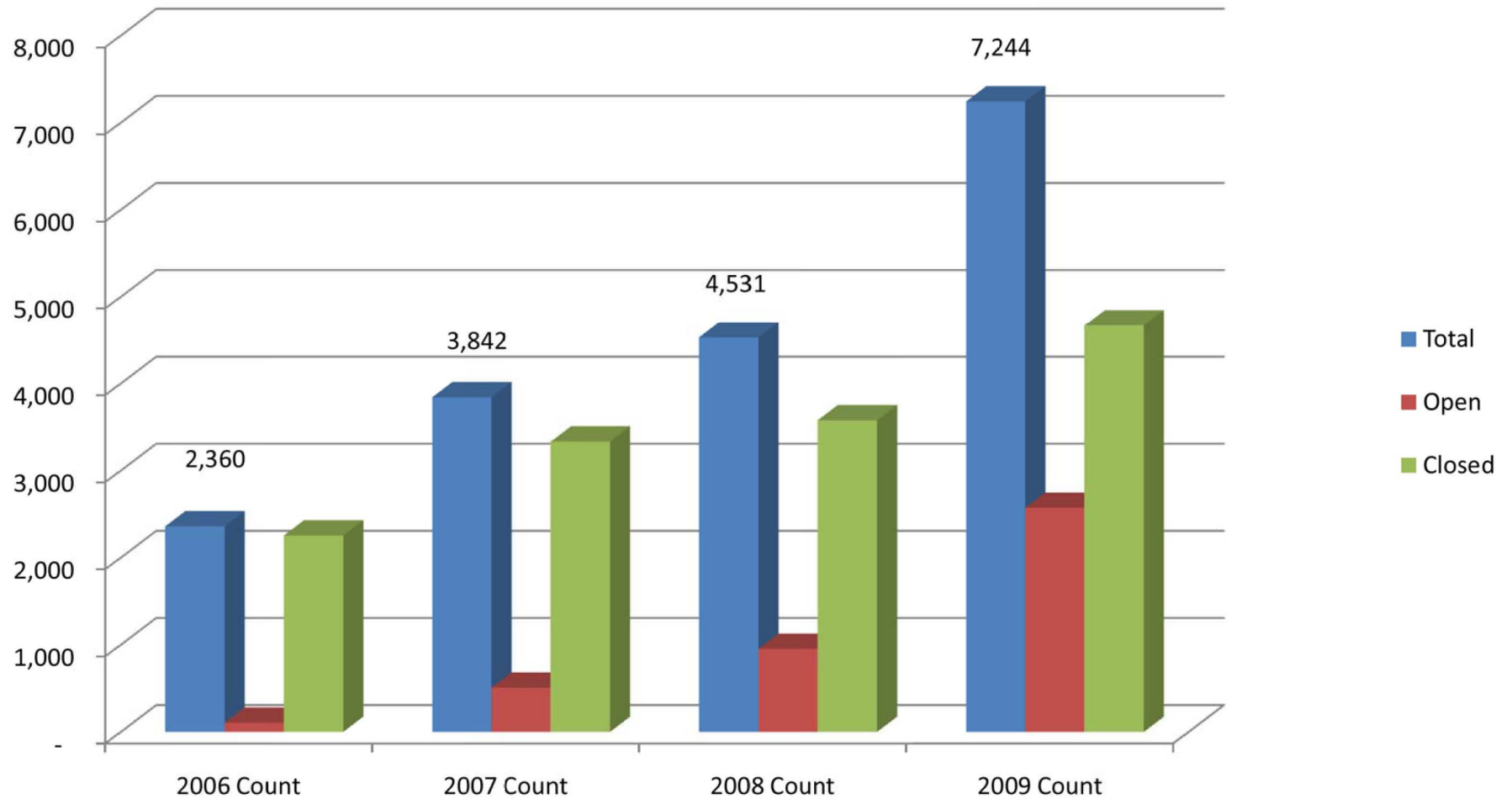
February 9, 2011

Broward Williams
INSURANCE COMMISSIONER AND TREASURER



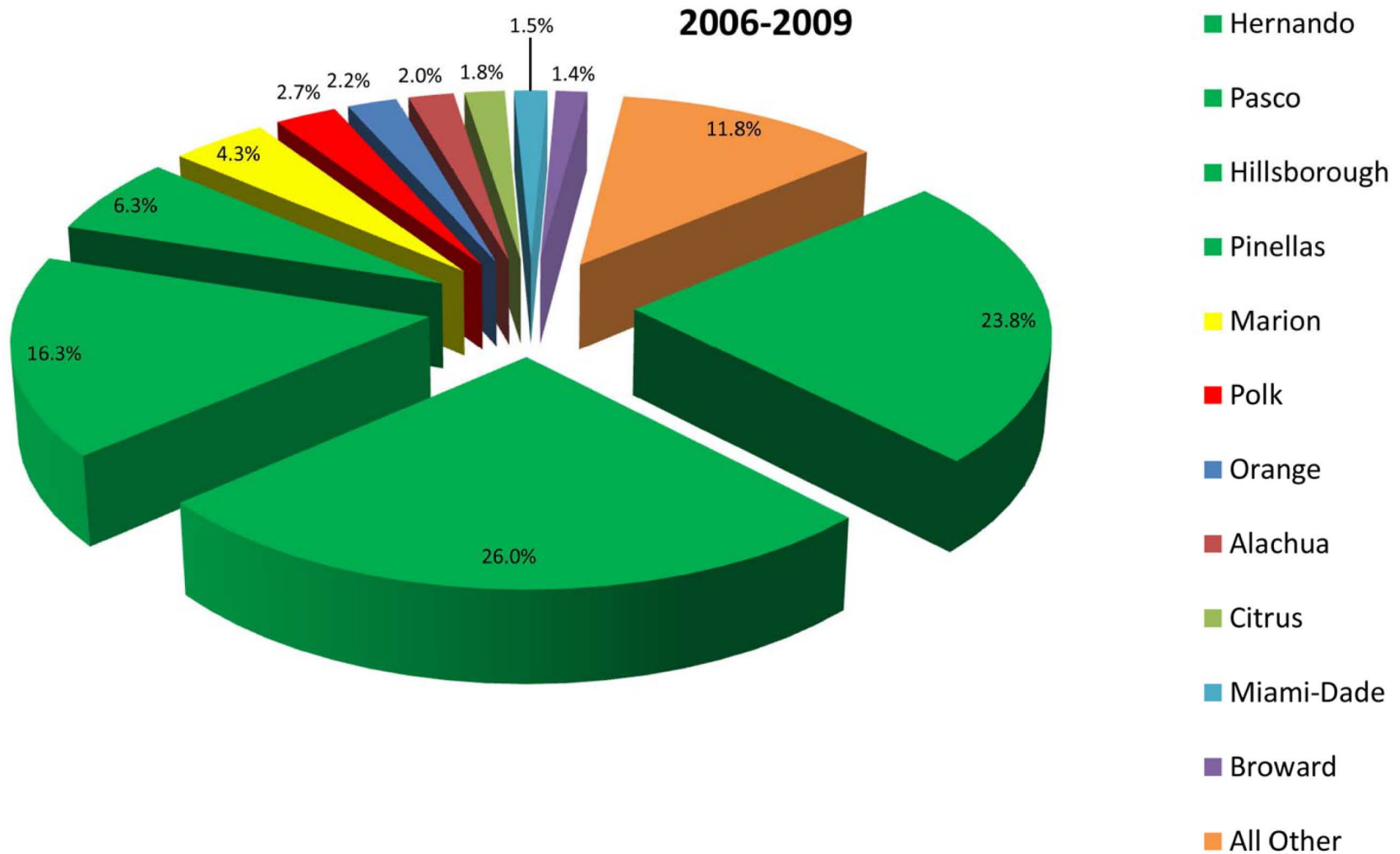
But while the market situation has been steadily improving in the field of automobile insurance, market problems have developed in some other lines of insurance. For example, sinkhole insurance was not available to Florida property owners. In fact, this coverage was not available in any state of our nation. But we believed that with the growing threat sinkholes were presenting, especially in the central part of our state, Florida property owners should have the benefit of this insurance protection. So I adopted a facility for sinkhole insurance; and in January of this year, the first sinkhole insurance policy was sold in Florida.

Annual Sink Hole Claims



Payment of Closed Claims

	2006	2007	2008	2009	2010 to date	Total
Number of Claims	2013	2990	3062	3934	1891	13893
Land + Structure Loss	\$166,725,208	\$267,176,344	\$243,103,187	\$246,569,220	\$54,237,005	\$978,237,823
Loss Adjustment Expense	\$26,967,402	\$42,502,750	\$36,966,699	\$40,833,539	\$16,150,188	\$163,543,438
Total Cost	\$192,203,640	\$305,618,276	\$265,283,177	\$270,939,536	\$68,193,709	\$1,102,788,057
Average Loss Adjustment Expense	\$13,397	\$14,215	\$12,073	\$10,380	\$8,541	\$11,772
Average Land + Structure Loss	\$82,824	\$89,357	\$79,394	\$62,676	\$28,682	\$70,412
Average Total Loss	\$95,481	\$102,213	\$86,637	\$68,871	\$36,062	\$79,377



2006 - 2009 Sinkhole Claim Breakdown							2010 Sinkhole Claim Breakdown			
County	2006	2007	2008	2009	Total	Percentage	County	2010	Percentage	Variance
Hernando	386	911	974	2,005	4,276	23.8%	Hernando	1,760	26.3%	↑ 2.5%
Pasco	825	1,160	1,147	1,540	4,672	26.0%	Pasco	1,260	18.8%	↓ -7.2%
Hillsborough	312	597	710	1,305	2,924	16.3%	Hillsborough	1,526	22.8%	↑ 6.5%
Pinellas	168	218	299	455	1,140	6.3%	Pinellas	326	4.9%	↓ -1.5%
Marion	133	163	174	297	767	4.3%	Marion	328	4.9%	↑ 0.6%
Polk	73	90	124	204	491	2.7%	Polk	217	3.2%	↑ 0.5%
Orange	64	77	109	146	396	2.2%	Orange	114	1.7%	↓ -0.5%
Alachua	70	103	93	96	362	2.0%	Citrus	124	1.9%	↓ -0.2%
Citrus	45	70	79	125	319	1.8%	Alachua	49	0.7%	↓ -1.0%
Miami-Dade	22	46	82	111	261	1.5%	Broward	149	2.2%	↑ 0.8%
Broward	10	47	83	112	252	1.4%	Miami-Dade	137	2.0%	↑ 0.6%
All Other	252	360	657	848	2,117	11.8%	All Other	704	10.5%	↓ -1.3%
Total	2,360	3,842	4,531	7,244	17,977			6,694		
Annual Increase		63%	18%	60%						

Aggregate Sinkhole Expenses for Closed Claims

	Adjuster Fees	Attorney Fees	Total
2006	\$ 696,269	\$ 3,023,080	\$ 3,719,349
2007	\$ 1,435,250	\$ 3,824,673	\$ 5,259,923
2008	\$ 2,762,632	\$ 3,266,287	\$ 6,028,919
2009	\$ 3,362,827	\$ 3,122,228	\$ 6,485,055

Total \$8,256,978 \$13,236,268 \$21,493,246

Average Payment of Closed Sinkhole Claims

Average Payment	2006	2007	2008	2009	2010
Land	\$86,299	\$101,423	\$102,868	\$109,014	\$119,965
Structure	\$85,789	\$90,294	\$97,735	\$94,324	\$101,510
Attorney Fees	\$46,011	\$31,751	\$29,673	\$27,298	\$32,237
Public Adjuster Fees	\$18,699	\$22,172	\$25,561	\$20,358	\$22,384
Other Damage	\$13,007	\$16,038	\$13,729	\$13,617	\$7,705
Engineering Expense	\$9,160	\$9,250	\$9,429	\$9,421	\$9,320
Other Loss Adjustment Expense	\$5,975	\$4,836	\$2,923	\$1,512	\$1,162
Mediation Fees	\$3,276	\$2,228	\$2,315	\$1,674	\$1,953
Inspection	\$1,461	\$1,455	\$1,188	\$874	\$791

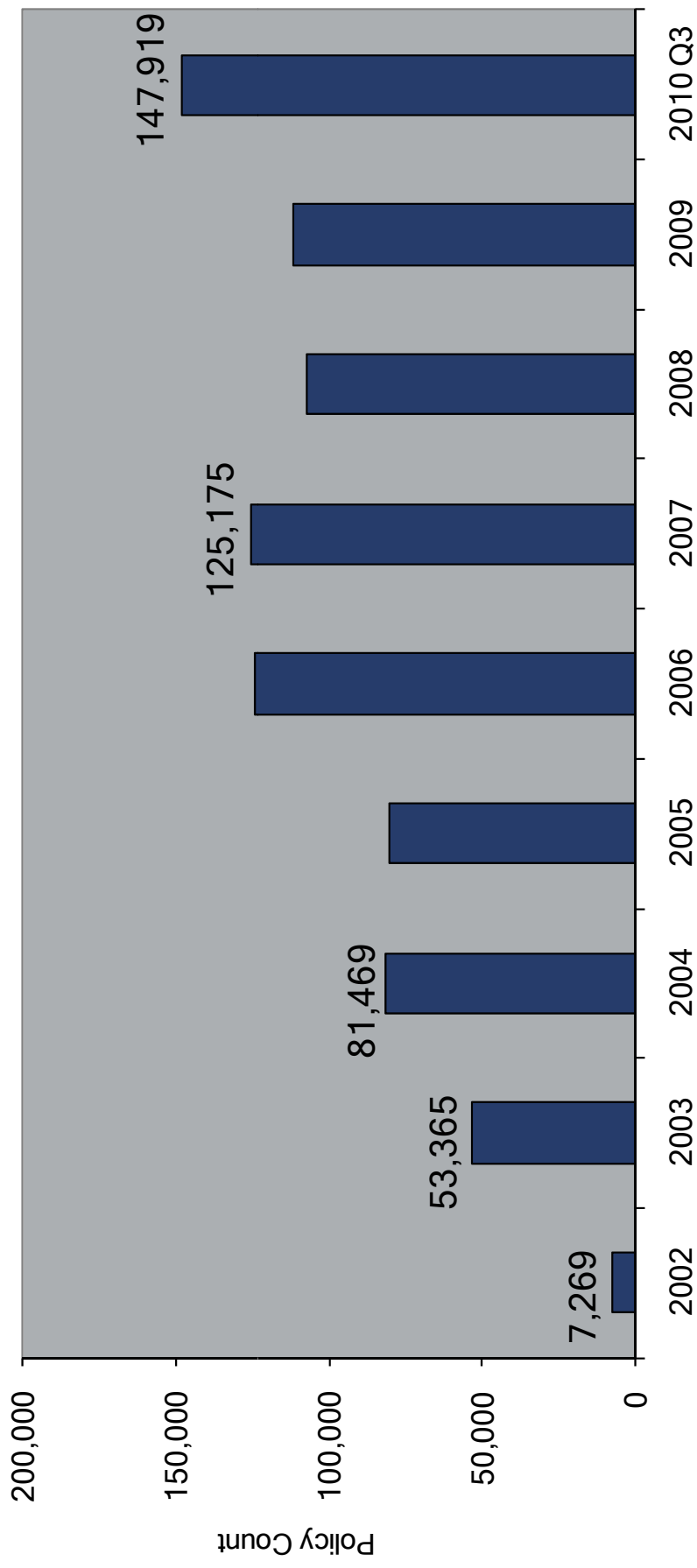
Citizens Property Insurance Corporation

Sinkhole Experience

House Insurance and Banking Subcommittee
February 2011

Personal Lines Account Regional Concentrated Policy Growth

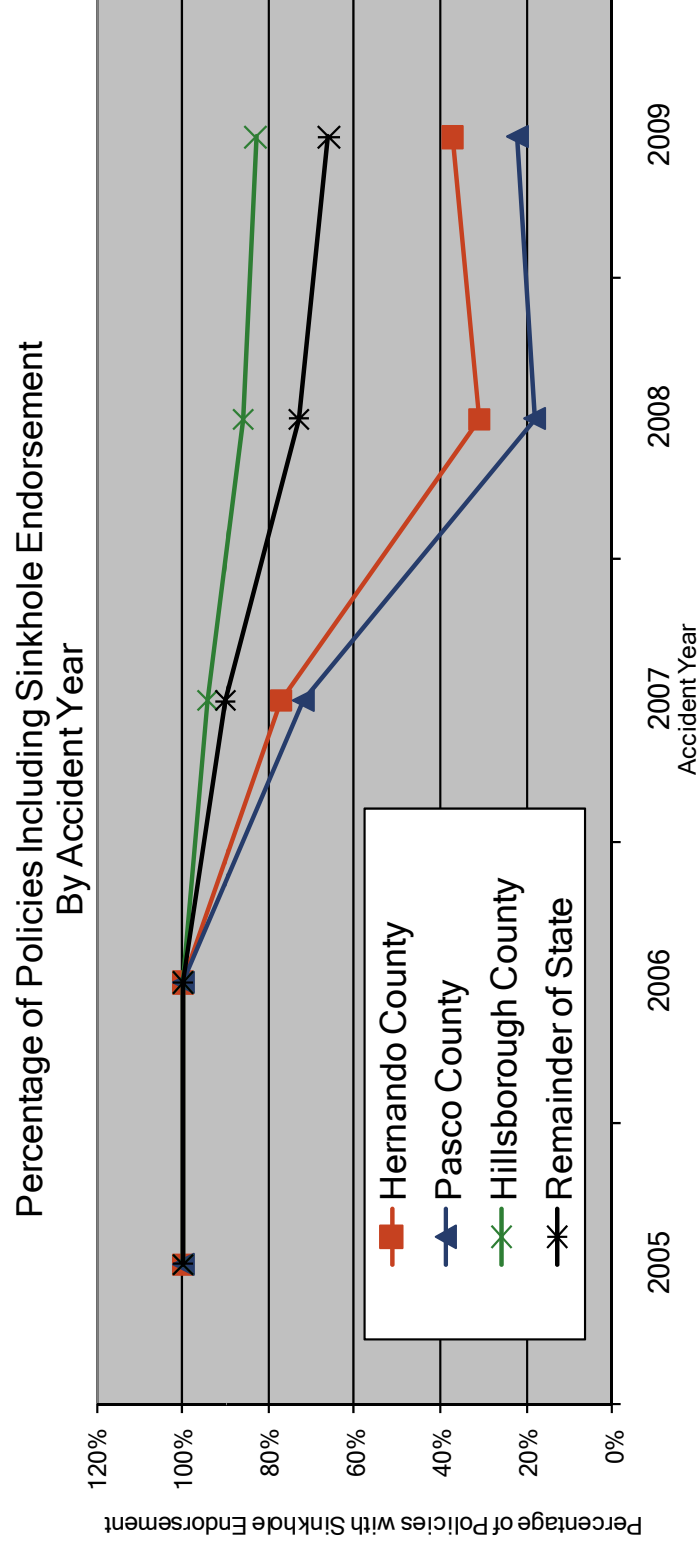
- The chart below highlights concentrated exposure and growth in the Tampa Bay Area (Hernando, Hillsborough, and Pasco counties) for personal lines multi-peril policies.



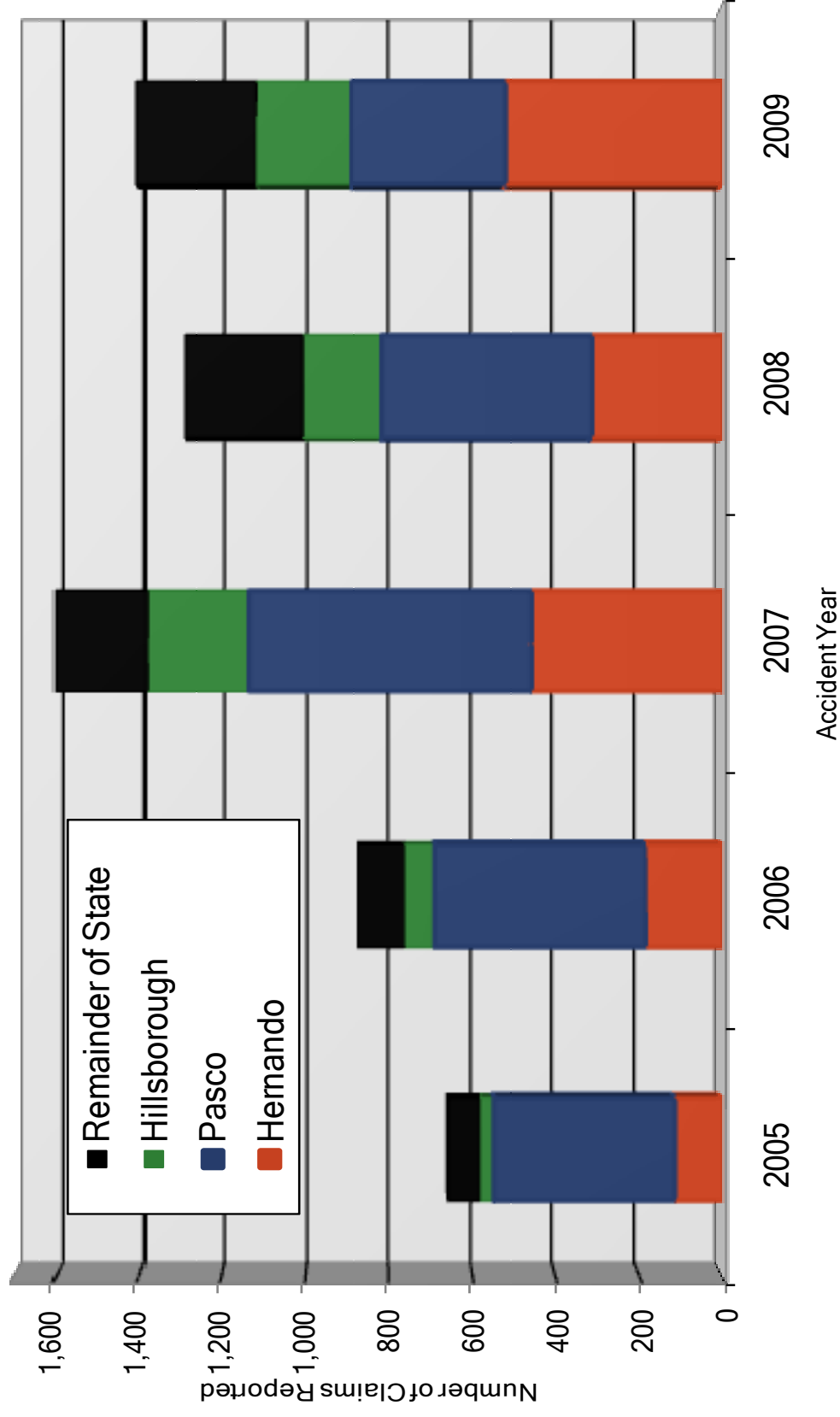
Note: Excludes takeout policies. Data as of September 30, 2010.

Policies Including Optional Sinkhole Endorsement

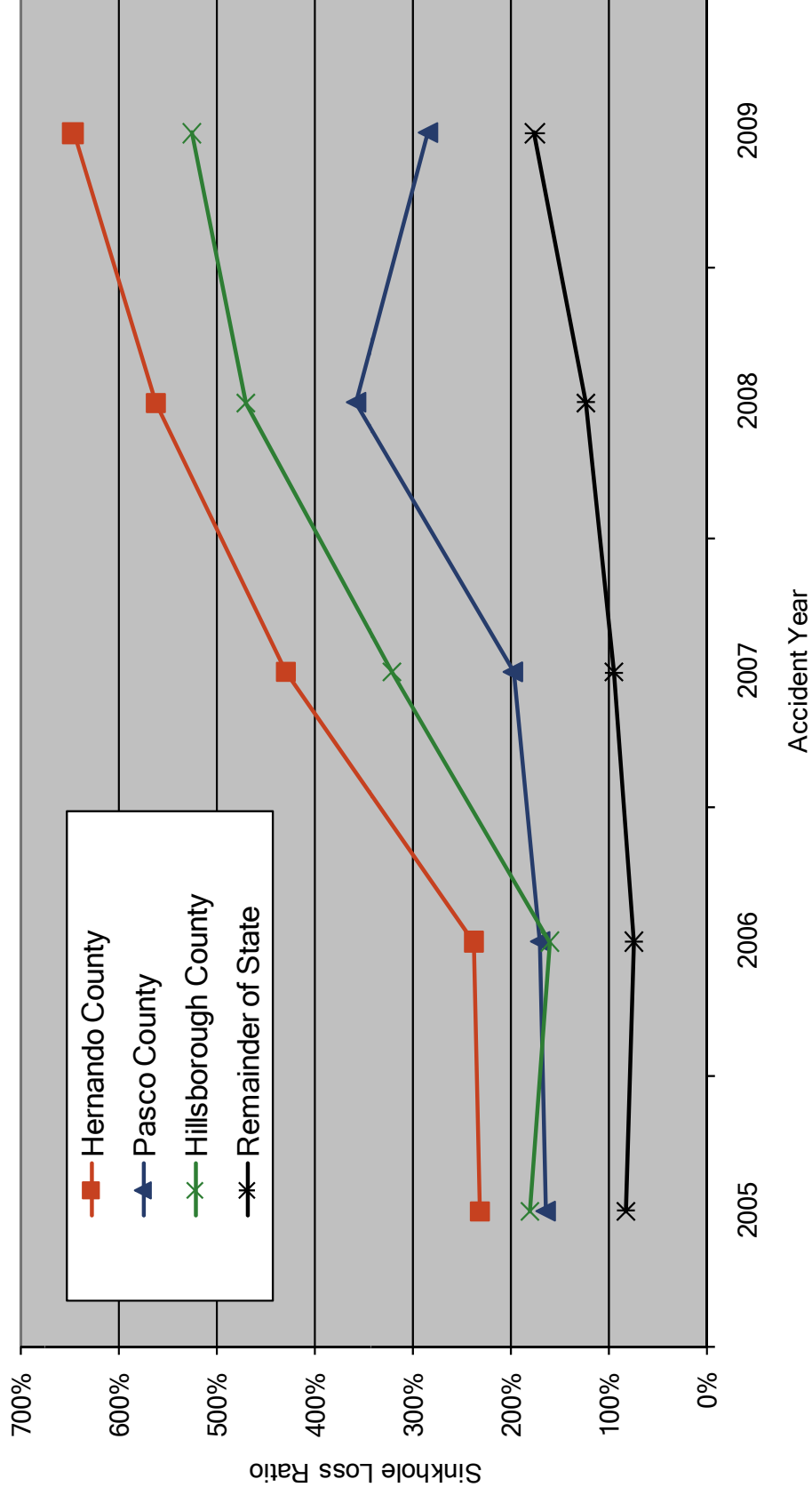
- The sinkhole endorsement became optional to insureds during 2007.
- All counties have experienced a continuing decrease in the percentage of policies where the insured chooses the sinkhole endorsement.



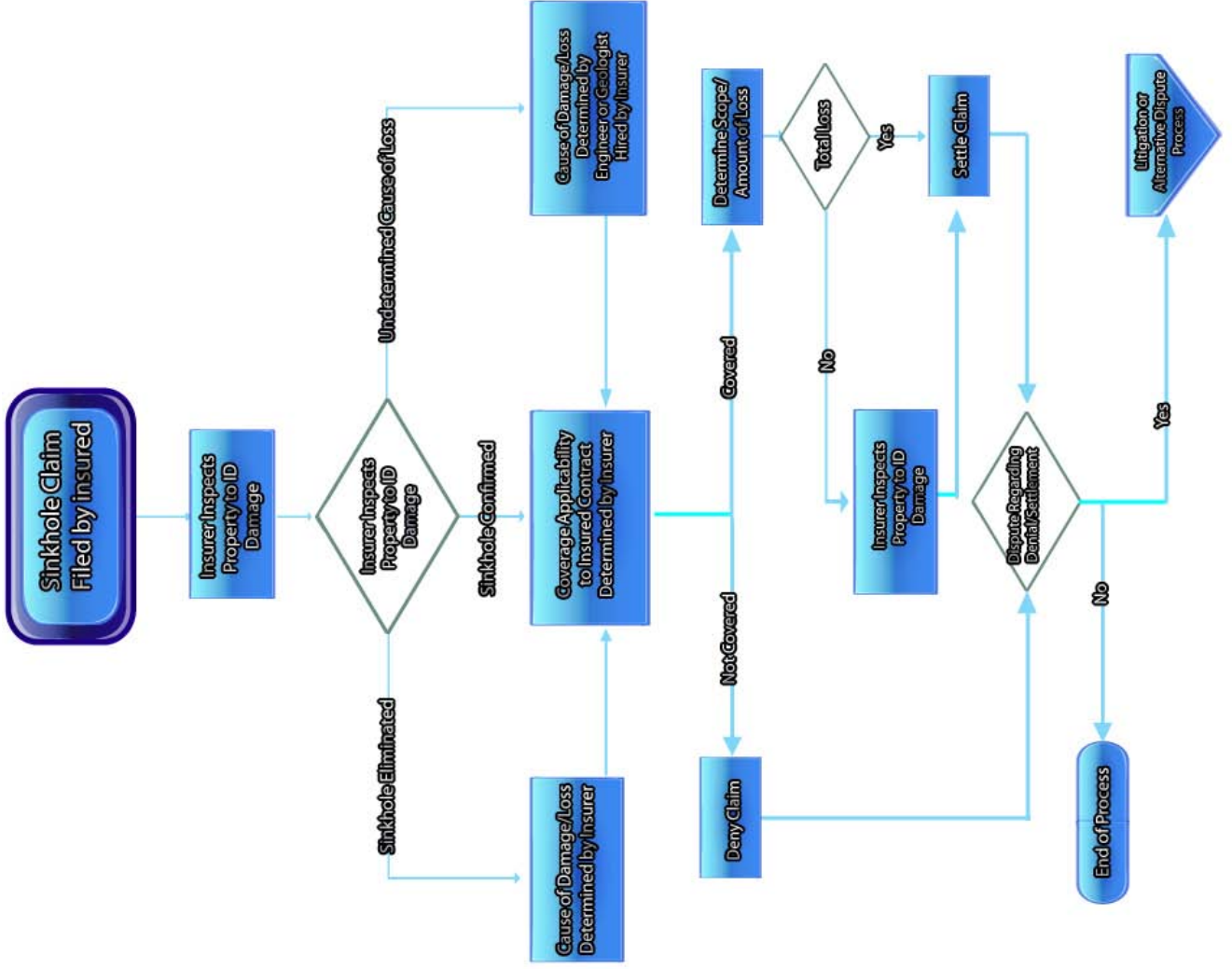
Sinkhole Claims Frequency

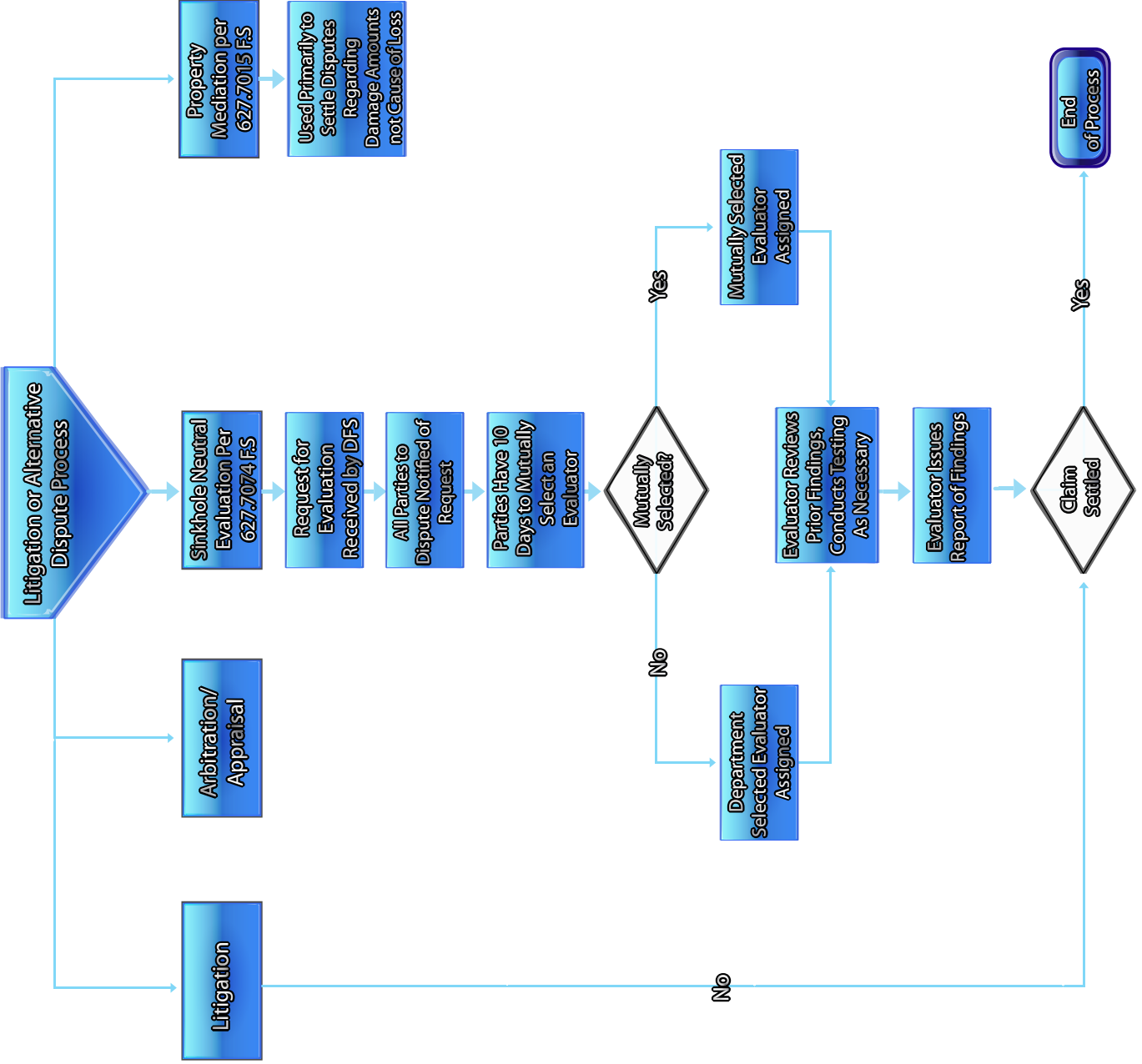


Sinkhole Loss Ratio



Ashley Mayer
Director of Legislative Affairs
Florida Department of Financial Services





Pasco County is bordered on the north by Hernando County and on the South by Hillsborough and Pinellas Counties. The western boundary is the Gulf of Mexico. The county is made up of 248000 parcels and has an estimated population of 471,700. The just value of real property is \$29,126,608,803 the taxable value is \$18,956,185,489. Residential properties make up approximately 75 percent of Pasco County's tax roll.

1. The reporting mechanism for sinkholes in Pasco County has gone through 4 major phases.
2. Prior to 2004, there was no county permitting or recording requirements.
3. Starting In 2005, the Legislature required the property appraiser to record sinkhole activity in the county's official records.
4. In 2006, the Legislature shifted the recording responsibility to the county clerk of court.
5. In 2007, Pasco County began requiring permits for sinkhole inspections and stabilization/repair; this process has been revised once. The municipalities have no such requirement.
6. The vast majority of reported sinkholes involve residential properties (5970 residential, 44 non-residential).
7. Out of about 950 residential appraisal neighborhoods 406 have at least one occurrence of a subsidence property, about 43 percent.
8. The current building code practice in Pasco County requires a permit for inspection (PSH) and a permit (SNK) outlining the completed remediation work.
9. In the month of January there were 250 PSH permits issued for sinkhole inspections in Pasco County.
10. About 60 percent of all inspections result in a positive result for sinkhole.
11. We know of several instances of a negative inspection result (no sinkhole) being followed by a positive inspection (sinkhole activity).
12. It is not uncommon for a single owner to have multiple inspections throughout the county.
13. The number of sinkholes that our records indicated as possibly stabilized as of November 2010 was 3,069. As of February 1, 2011 the number was 3,231.
14. The number of unrepaired sinkholes as of February 1 was 2591.
15. These statistics likely under-report the actual count due to the fact that prior to 2007 no permits were required for sinkhole inspections or repairs in Pasco County.
16. Those properties having a sinkhole designation as repaired indicate a value reduction of 5 percent.
17. Those properties falling with the area of influence (determined by the perimeter of the parcel with a sinkhole * 1.5) indicate a reduction in sale price of 0-5 percent.
18. Based on the scarce data we have the rental rates for sinkhole homes repaired or otherwise are not significantly different.
19. Total value loss attributed to unrepaired sinkholes (SBUNK unknown repair status) is \$ 55,454,351.
20. Total value loss attributed to stabilized sinkholes (SBSTB stabilized status) is \$14,413,990.
21. Total value loss attributed to unverified sinkholes (SBUNV unverified) is \$4,091,385.



Mike Wells

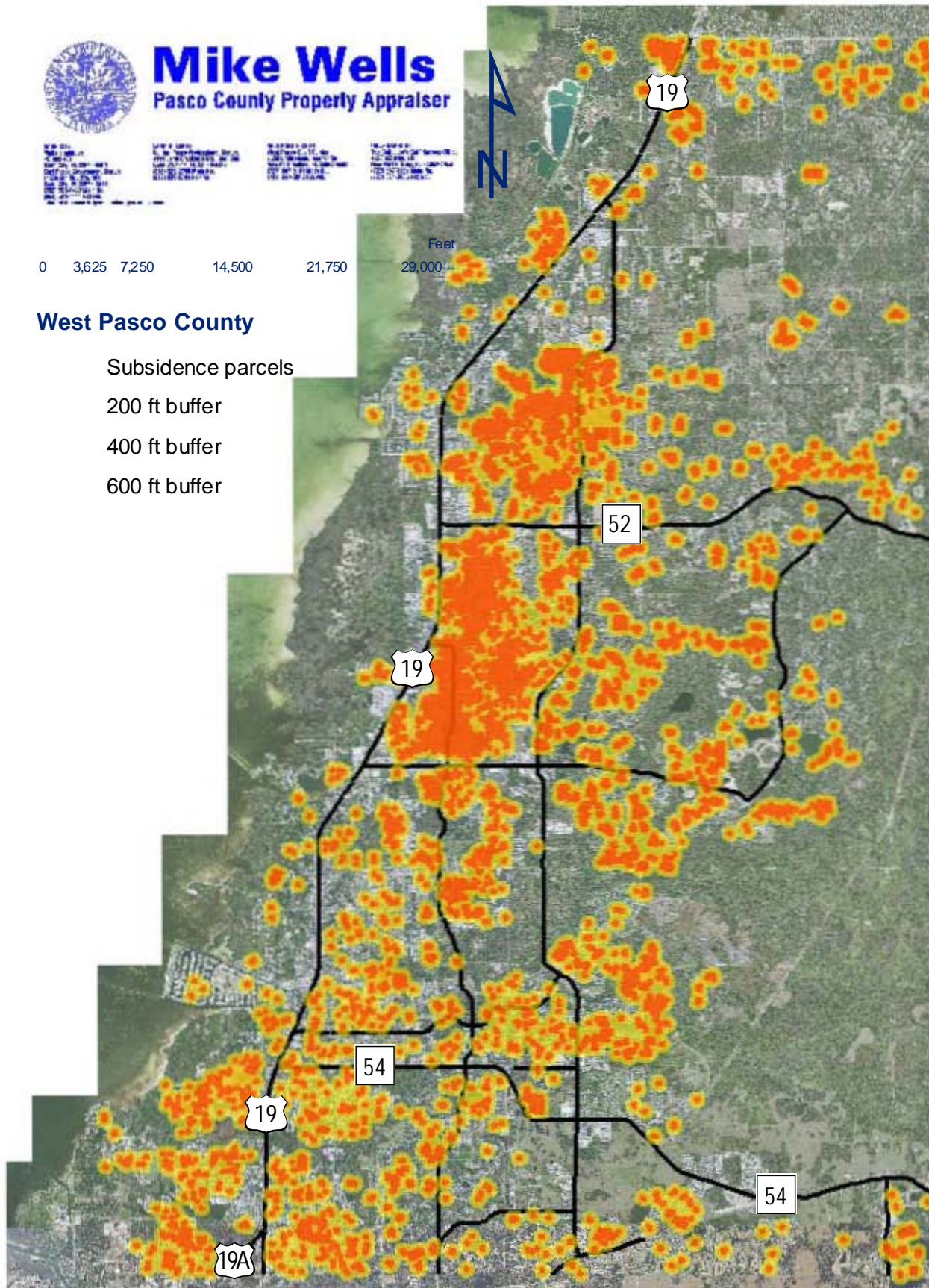
Pasco County Property Appraiser

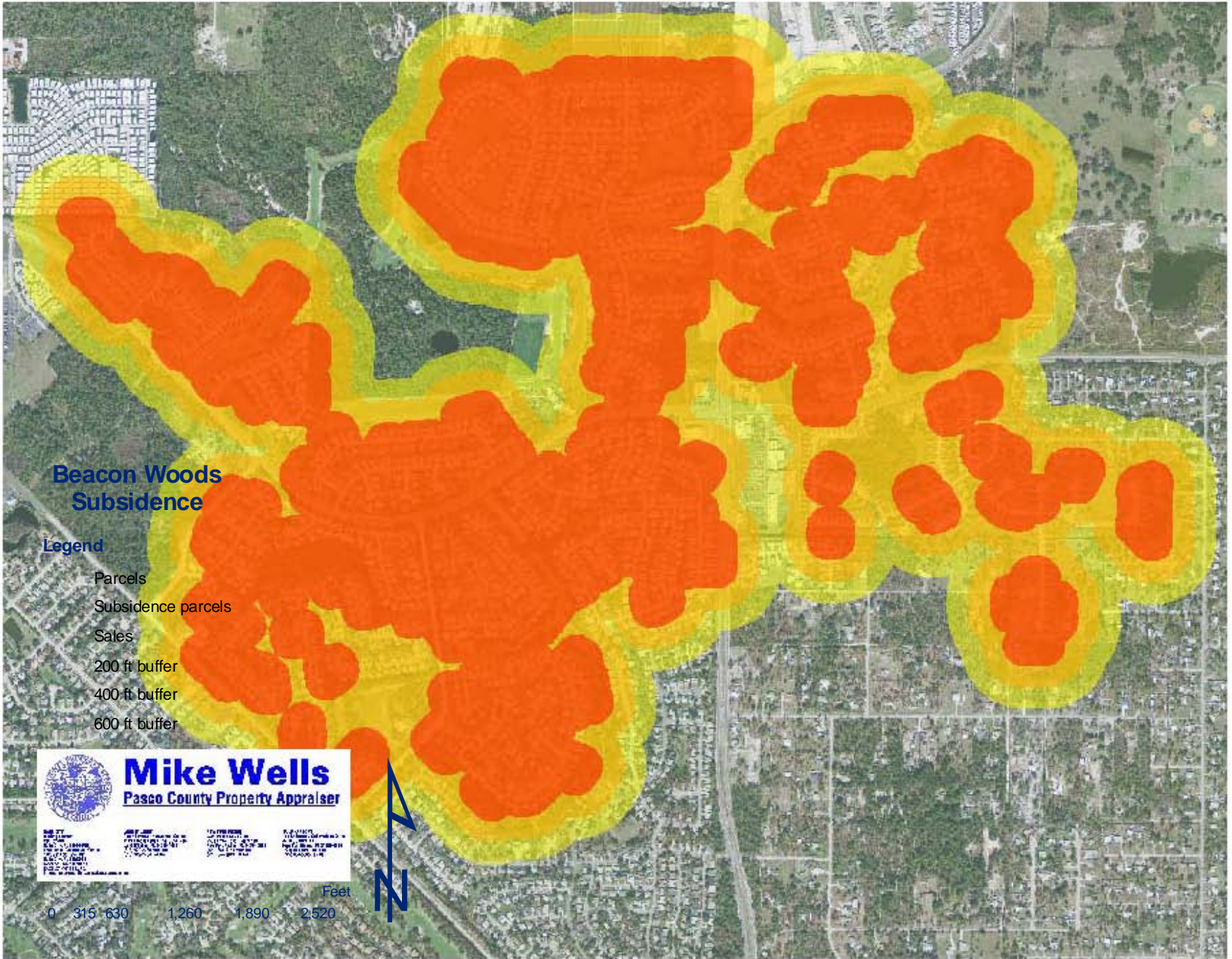
STATE OF FLORIDA
PASCO COUNTY
MAYOR: ...
COMMISSIONERS: ...
PROPERTY APPRAISER: ...
COUNTY CLERK: ...
SHERIFF: ...
JAIL: ...
CORRECTIONS: ...
HEALTH DEPARTMENT: ...
PLANNING AND ZONING: ...
WATER AND WASTE: ...
SOLID WASTE: ...
UNEMPLOYMENT: ...
HUMAN SERVICES: ...
COMMUNITY DEVELOPMENT: ...
CIVIL RIGHTS: ...
ELECTORAL ADMINISTRATION: ...
ELECTORAL COMPLIANCE: ...
ELECTORAL SYSTEMS: ...
ELECTORAL TRAINING: ...
ELECTORAL SUPPORT: ...
ELECTORAL MONITORING: ...
ELECTORAL REPORTING: ...
ELECTORAL COMPLAINTS: ...
ELECTORAL DISPUTES: ...
ELECTORAL APPEALS: ...
ELECTORAL REVISIONS: ...
ELECTORAL CANCELLATIONS: ...
ELECTORAL PROTESTS: ...
ELECTORAL CHALLENGES: ...
ELECTORAL PETITIONS: ...
ELECTORAL RECALLS: ...
ELECTORAL INITIATIVES: ...
ELECTORAL REFERENDUMS: ...
ELECTORAL CONSTITUTIONAL AMENDMENTS: ...
ELECTORAL VOTER REGISTRATION: ...
ELECTORAL VOTER EDUCATION: ...
ELECTORAL VOTER ID: ...
ELECTORAL VOTER MAIL: ...
ELECTORAL VOTER ASSISTANCE: ...
ELECTORAL VOTER SERVICES: ...
ELECTORAL VOTER INFORMATION: ...
ELECTORAL VOTER RECORDS: ...
ELECTORAL VOTER HISTORY: ...
ELECTORAL VOTER ANALYTICS: ...
ELECTORAL VOTER TRENDS: ...
ELECTORAL VOTER PREDICTIONS: ...
ELECTORAL VOTER ENGAGEMENT: ...
ELECTORAL VOTER PARTICIPATION: ...
ELECTORAL VOTER SATISFACTION: ...
ELECTORAL VOTER TRUST: ...
ELECTORAL VOTER CONFIDENCE: ...
ELECTORAL VOTER LOYALTY: ...
ELECTORAL VOTER COMMITMENT: ...
ELECTORAL VOTER DEDICATION: ...
ELECTORAL VOTER PASSION: ...
ELECTORAL VOTER ENTHUSIASM: ...
ELECTORAL VOTER EXCITEMENT: ...
ELECTORAL VOTER ANTICIPATION: ...
ELECTORAL VOTER OPTIMISM: ...
ELECTORAL VOTER POSITIVITY: ...
ELECTORAL VOTER ENERGY: ...
ELECTORAL VOTER VIGOR: ...
ELECTORAL VOTER VITALITY: ...
ELECTORAL VOTER VIBRANCY: ...
ELECTORAL VOTER VIVIDNESS: ...
ELECTORAL VOTER VIVIDITY: ...
ELECTORAL VOTER VIVIDNESS: ...
ELECTORAL VOTER VIVIDITY: ...



West Pasco County

- Subsidence parcels
- 200 ft buffer
- 400 ft buffer
- 600 ft buffer





Beacon Woods Subsidence

Legend

- Parcels
- Subsidence parcels
- Sales
- 200 ft buffer
- 400 ft buffer
- 600 ft buffer

**Mike Wells**
Pasco County Property Appraiser

DATE: 11/11/2011	TIME: 10:00 AM	FILE: 11111111	USER: MW
PROJECT: 11111111	DESCRIPTION: 11111111	STATUS: 11111111	11111111
11111111	11111111	11111111	11111111
11111111	11111111	11111111	11111111
11111111	11111111	11111111	11111111



0 315 630 1,260 1,890 2,520 Feet

