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2010 FLORIDA PROPERTY INSURANCE LEGISLATIVE REPORT

Property Insurance Trends, Capacity and
Regulatory Developments

June 23, 2010

8:00 AM-12:00 PM

Orlando, Florida

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AGENDA

- **How Did Florida End Up Here?**
- **2010 Florida Legislative Briefing: Setting the Stage for Legislative and Regulatory Insurance Action**
- **Top 5 List: 2010 Property-Related Insurance Bills**
- **Looking Forward**



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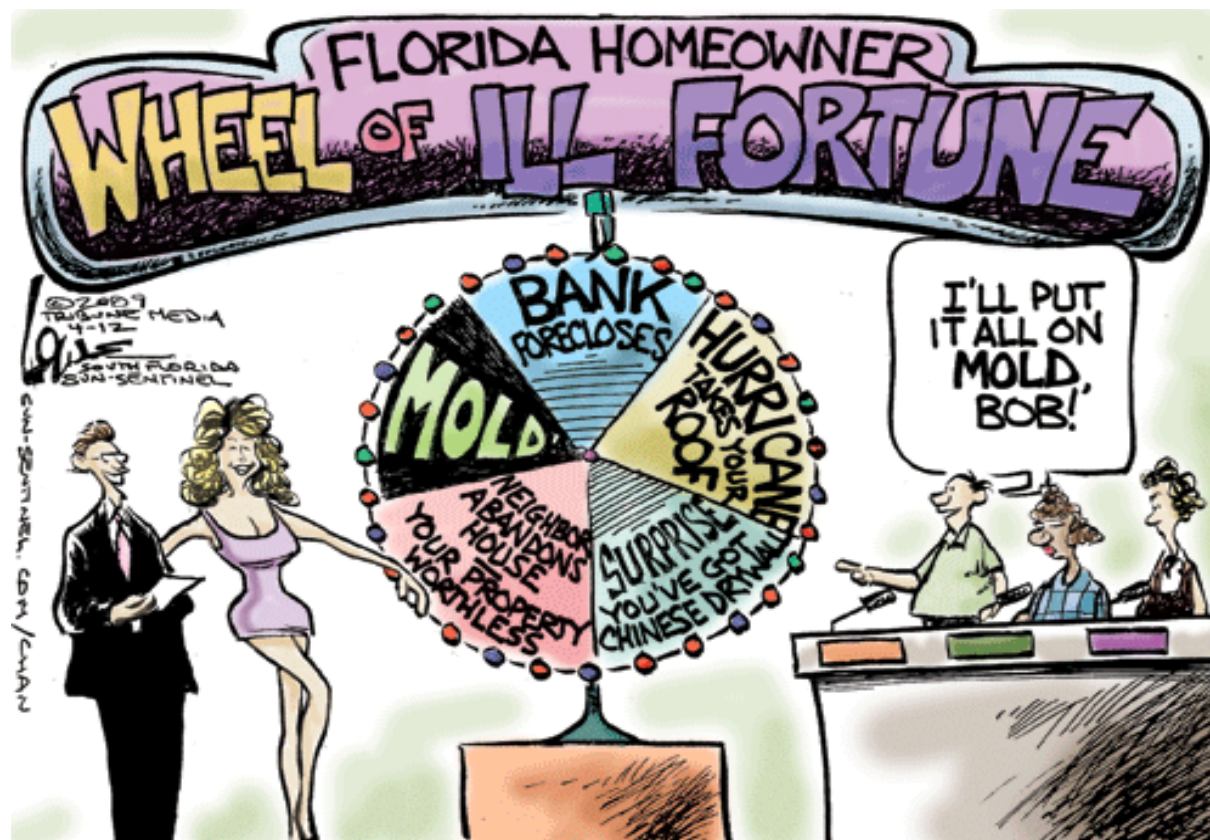
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HOW DID FLORIDA END UP HERE?

By Spinning the Wheel of Ill Fortune...

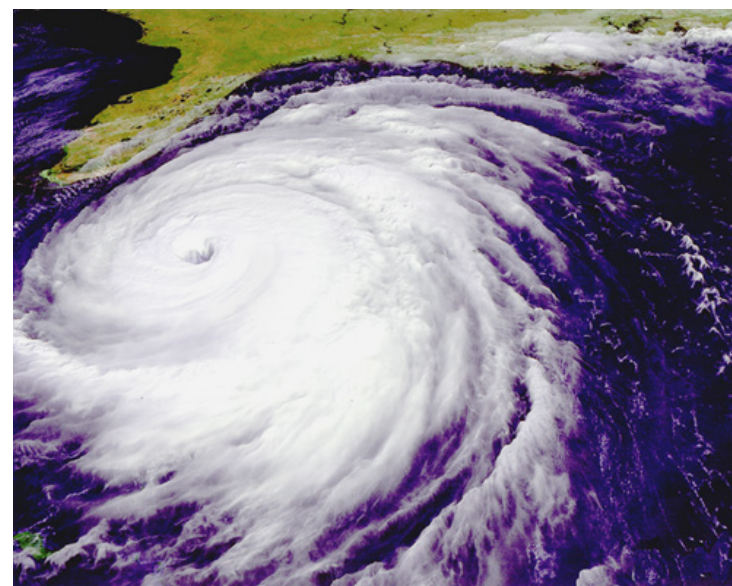




HOW DID FLORIDA END UP HERE?

Unprecedented Hurricane Seasons

- During the 2004 and 2005 hurricane seasons, a total of 8 hurricanes made landfall in Florida and caused an estimated \$36 billion in losses, based on approximately 2.8 million claims.





HOW DID FLORIDA END UP HERE?

The Aftermath of the 2004/2005 Seasons

- Some insurers began to withdraw from the property insurance market or reduce their exposure in Florida's riskiest areas, primarily heavily populated coastlines.
- Three of the Florida's largest insurers, State Farm, Allstate, and Nationwide, collectively nonrenewed tens of thousands of homeowners policies in these coastal areas.
- Insurers generally reacted to these unprecedented losses by submitting new rate filings and asking for rate increases.





HOW DID FLORIDA END UP HERE?

The Aftermath (con't)

- The legislature attempted to rectify the state's wounded insurance market not only by calling a Special Session in January 2007 and passing HB-1A, but also by enacting property legislation in the ensuing years that implemented tighter regulatory controls over insurers and artificially suppressed rates.





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SETTING THE STAGE FOR LEGISLATIVE AND REGULATORY INSURANCE ACTION



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Florida's 2010/2011 Budget Deficit

- Florida reportedly faces a \$3.2 billion deficit in 2010.
- On April 30, 2010, lawmakers passed HB 5001 into law by a House vote of 77 Yeas and 43 Nays, solidifying Florida's budget at \$70.4 billion. The Senate approved the measure by a vote of 33 Yeas and 4 Nays.
- On May 28, 2010, the Governor signed the bill into law with appropriations veto.
- The budget debate was a politically-charged issue that overshadowed other legislative proposals, including those on insurance.



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Florida's 2010 Insurance Regulatory Environment: Setting the Stage

- Prior to the start of the 2010 Legislative Session, the OIR conducted certain analyses to determine what cost drivers and other issues were contributing to the decline of some Florida property insurers.
- Commissioner McCarty presented a report to the Florida Cabinet on March 23, 2010, identifying the following Florida-specific cost drivers: (1) increasing reinsurance costs; (2) claims-related replacement costs; (3) fraud; (4) mitigation-related premium discounts; and (5) sinkhole-related claims.



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Setting the Stage (con't)

- The OIR's goal to enact legislation regulating Florida domestic insurer affiliate transactions to require more transparency and accountability;
- Industry focus on loss cost factors negatively impacting the residential property industry;
- Media reports assailing the financial solvency of Florida's domestic homeowners market and criticism of the OIR with respect to its purported lack of appropriate enforcement action against certain financially unstable insurers;



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Setting the Stage (con't)

- Overall dynamics in the Florida residential property insurance market involving a broad political sentiment to take no action that would result in substantial rate increases for the voting public;
- Negative accounting treatment that would implicate possible solvency concerns for certain residential property insurers based on a previously adopted change in the FHCF contract year; and,
- Governor Crist's public comments on vetoing any bill concerning residential insurance rate deregulation.



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Setting the Stage (con't)

- On May 3, 2010, Commissioner McCarty released his response to an April 23, 2010 letter from CFO Sink, in which she inquired whether the OIR should take additional actions, prior to the beginning of hurricane season, to ensure authorized property insurers are financially capable of meeting their obligations.
- One of the catalysts for CFO Sink's inquiry was the fact that as much as six other insurance companies may be facing the possibility of being unable to pay claims in the event of a major disaster this hurricane season.



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Setting the Stage (con't)

- The Commissioner responded that the OIR should address the cost-drivers hindering insurance company's bottom lines and strengthen solvency requirements by increasing minimum capital requirements to \$15 million. He further stated that allowing the OIR to waive s. 627.4133, F.S., to permit companies to give 45 days notice for non-renewing policies upon a finding by the OIR that the insurer is in financial distress, would aid the marketplace.
- The Commissioner stated that all of these provisions were contained in the insurance property legislation passed this Session, CS/CS/SB 2044, which the Governor vetoed on June 1, 2010.



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TOP 5 FLORIDA PROPERTY INSURANCE BILLS



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CS/SB 1460: Relating to the FHCF/Contract Year

- CS/SB 1460, sponsored by Senator Garrett Richter (R-Naples), states that the FHCF contract year begins June 1st of each year, but provides that insurers enter into a contract with the FHCF by March 1st.
- This bill passed the Senate by a vote of 38 Yeas and 0 Nays on March 3, 2010. On March 24, the bill passed the House by a vote of 115 Yeas and 0 Nays. The bill was signed into law by Governor Charlie Crist on April 15, 2010.
- The bill defines the term “contract year” and increases limitation on claims-paying capacity of the FHCF.



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CS/SB 1460: Relating to the FHCF/Contract Year

- Authorizes State Board of Administration (“SBA”) to calculate FHCF’s estimated claims-paying capacity for specific contract years.
- Revises contract year designations for reimbursement contracts, reimbursement premiums, TICL options, and TICL options addendum and revises method by which an insurer's retention is calculated and the contract years relating to minimum retention levels.
- Increases SBA’s financial obligations for all contracts covering a particular contract year and revises contract years to which a TICL options addendum must provide for reimbursement of TICL insurers for covered events.



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CS/CS/SB 2044: Relating to Property Insurance

- CS/CS/SB 2044 was sponsored by Garrett Richter (R-Naples), and cosponsored by Don Gaetz (R-Destin).
- On April 30, 2010, the Senate, after adopting an amendment, passed the bill by a vote of 32 Yeas and 6 Nays. Later that same day, the House concurred with the Senate's amendment and passed the bill by a vote of 83 Yeas to 34 Nays.
- On May 17, 2010, the bill was signed by the officers and presented to the Governor
- Citing its potential to expedite rate increases and "troubling" changes to the application of wind mitigation discounts, Governor Crist vetoed the bill on June 1, 2010.



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CS/CS/SB 2044: Relating to Property Insurance (con't)

- Some of the topics addressed by the bill included:
 - **FHCF Emergency Assessments: Medical Malpractice Exemptions;**
 - **Minimum Surplus Requirements;**
 - **Managing General Agents and Affiliates;**
 - **Annual Statements;**
 - **Insurer Report Card;**
 - **Website/Transparency;**
 - **Moratorium on “Use and File;”**
 - **Separate Filing/Inflation Trend Factor/Cost Recovery;**
 - **Rate Filings Pursuant to s. 627.062, F.S.;**



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CS/CS/SB 2044: Relating to Property Insurance (con't)

- **Citizens Levying Assessments;**
- **Rate Filing/Mitigation Discounts;**
- **Notices of Cancellation and Nonrenewal;**
- **Notices of Changes in Policy Terms;**
- **Replacement Cost Coverage;**
- **Claims and Investigations;**
- **Premium Discount Notices for Hurricane Loss Mitigation;**
- **Premium Written for Federal Multiple-Peril Crop Insurance; Examination and Licensing Requirements; and,**
- **Public Adjusters.**



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CS/CS/SB 2044: Relating to Property Insurance (con't)

- Following the passage of CS/CS/SB 2044, Commissioner McCarty reiterated his support for the bill in a letter dated May 10, 2010, to Governor Crist, saying that it “strikes an appropriate balance that will have lasting benefits for the people of Florida,” and asked the Governor for his consideration.
- The Commissioner also expressed concern about "those who seek to take advantage of loopholes in current law" and characterized those loopholes as the "cost drivers" that impact both consumers and the insurance industry.
- Nonetheless, the bill was vetoed by the Governor on June 1, 2010.



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CS/CS/SB 2176 Relating to Insurance

- CS/CS/SB 2176, sponsored by Senator Durell Peaden, Jr. (R-Crestview), passed the Senate by a vote of 35 Yeas, 0 Nays on April 26, 2010. The bill was passed in the House, as amended, on April 28, 2010, by a vote of 107 Yeas, 0 Nays. On April 30, 2010, the Senate considered the amended bill, amended it further, and passed it by a vote of 37 Yeas, 1 Nay. The House concurred with the amendment and passed the bill by a vote of 119 Yeas, 0 Nays, on April 30, 2010.
- On May 17, 2010, the bill was signed by the officers and presented to the Governor; the Governor signed the bill into law on June 1, 2010.



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CS/CS/SB 2176 Relating to Insurance (con't)

- **Commercial Lines Rate Modernization:** Excludes the following types of insurance from the filing and review requirements of ss. 627.062(2)(a) and (f), F.S.:
- Excess or umbrella; surety and fidelity; boiler and machinery; E&O; directors and officers, employment practices and management liability; intellectual property and patent infringement liability; advertising injury and internet liability, property risks rated under a highly protected risks rating plan; any other commercial lines that the OIR determines pursuant to specified criteria.



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CS/CS/SB 2176 Relating to Insurance (con't)

- These types of insurance coverages continue to be subject to s. 627.062(1), F.S., which requires that rates must not be excessive, inadequate, or unfairly discriminatory.
- The bill requires that an insurer must notify the OIR of any changes for the types of insurance subject to this provision, no later than 30 days after the effective date of the change in rates.
- Underwriting files, premiums, and loss and expense statistics must be maintained by the insurer and are subject to inspection by the OIR.



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CS/CS/SB 2176 Relating to Insurance (con't)

- Other topics addressed in the bill include:
 - **Notice of Withdrawal from Association, Fund or Pool;**
 - **Exemption of Certain Commercial Lines from Filing and Review Requirements;**
 - **Medicare Supplement Insurers;**
 - **Warranty Associations;**
 - **Annuities- “Safeguard Our Seniors Act;” and,**
 - **Claims by Law Enforcement and Correctional Officers.**



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CS/CS/CS/HB 159: Relating to Guaranty Associations

- CS/CS/CS/HB 159, sponsored by State Representative John Legg (R-Port Richey), cosponsored by State Representative Peter Nehr (R-Tampa), passed the House by a vote of 114 Yeas and 0 Nays on April 20, 2010. On April 22, the bill passed the Senate by a vote of 37 Yeas and 1 Nay.
- The Governor signed the bill into law on May 11, 2010.
- Amends s. 631.52, F.S., pertaining to the Florida Insurance Guaranty Association (“FIGA”), by expanding an exemption from the applicability of certain provisions of state law to apply to all kinds of direct insurance except workers’ compensation claims under employer liability coverage.



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CS/CS/CS/HB 159: Guaranty Associations (con't)

- Conforms definition of “account” and revises FIGA from three to two separate accounts.
- Provides a legislative finding and declaration that all assessments paid by an insurer or insurer group as a result of a levy by the OIR, including regular and emergency assessments, constitute advances of funds from the insurer to the association.
- States that an insurer may fully recoup such advances by applying a separate recoupment factor to the premium of policies of the same kind or line as were considered by the OIR in determining the assessment liability of the insurer or insurer group.



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CS/CS/CS/CS/HB 663: Relating to Building Safety

- CS/CS/CS/CS/HB 663 was sponsored by State Representative Gary Aubuchon (R- Cape Coral) and cosponsored by State Representatives Esteban Bovo (R-Hialeah), Paige Kreegel (R-Punta Gorda), Bill Proctor (R-St. Augustine), Hazel Rogers (D-Lauderhill), and Charles Van Zant (R-Palatka). The bill passed the House on April 26, 2010 by a vote of 111 Yeas to 3 Nays. On April 30, 2010, the Senate passed the bill by a vote of 39 Yeas to 0 Nays.
- On May 17, 2010, the bill was presented to the Governor for his signature; the Governor signed the bill into law on June 1, 2010.



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CS/CS/CS/CS/HB 663: Relating to Building Safety (con't)

- **Home Inspectors.** The bill amends ch. 468, Part XV, F.S., relating to the regulation and licensure of home inspectors, to create a home inspection services licensing program. The bill also sets forth certain licensing requirements as well as other provisions.
- **Mold Assessors and Remediators.** The bill amends ch. 468, Part XVI, F.S., s. 468.8311, F.S., relating to the regulation and licensure of mold inspectors and remediators, to create a mold-related services licensing program. The bill also sets forth certain licensing requirements as well as other provisions.



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CS/CS/CS/CS/HB 663: Relating to Building Safety (con't)

- **Windstorm Loss Mitigation.** The bill amends s. 553.844, F.S., to provide, notwithstanding other provisions of law, exposed mechanical equipment or appliances fastened on roofs or installed on the ground using rated stands, platforms, curbs, and/or slabs, are deemed to comply with wind resistance requirements of the 2007 Florida Building Code. This provision will expire on the effective date of the 2010 Florida Building Code.



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CS/CS/CS/CS/HB 663: Relating to Building Safety (con't)

- **Uniform Mitigation Verification Inspections.** The bill makes the following changes relating to the uniform mitigation verification process:
- Eliminates the provision allowing a hurricane mitigation inspector, certified by the My Safe Florida Home program, to sign a uniform mitigation verification form (“form”). The My Safe Florida Home program is no longer offered by the State.
- Allows an insurer to accept forms from persons possessing qualifications and experience acceptable to the insurer.



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CS/CS/CS/CS/HB 663: Relating to Building Safety (con't)

- Specifies that persons signing forms must personally inspect the structures referenced in the form and certify they have done so.
- Specifies that persons signing such forms may not commit misconduct in performing hurricane mitigation inspections which cause harm to an insured or the insurer or jeopardize the insured's health and safety.



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CS/CS/CS/CS/HB 663: Relating to Building Safety (con't)

- Specifies that misconduct occurs when an inspector signs a form that:
 - Falsely indicates he/she personally inspected the structure;
 - Falsely indicates the existence of a feature that entitles an insured to a discount that the inspector knows does not exist or has not personally inspected;
 - Contains erroneous information; or
 - Contains false information regarding the existence of mitigation features.



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CS/CS/CS/CS/HB 663: Relating to Building Safety (con't)

- The bill provides that the licensing board of authorized mitigation inspectors that violate the provisions of this section may discipline and administratively fine such inspectors.
- The bill further provides that a person who obtains evidence of fraud or evidence an inspector has made false statements in completing a form must file a report with the Division of Insurance Fraud (“DIF”) within DFS and that such person is immune from liability under s. 626.989(4), F.S.



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LOOKING FORWARD...

THE DIFFERENCE IN SHADES OF GRAY...



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LOOKING FORWARD...

○ Earl Grey Tea is Soothing.

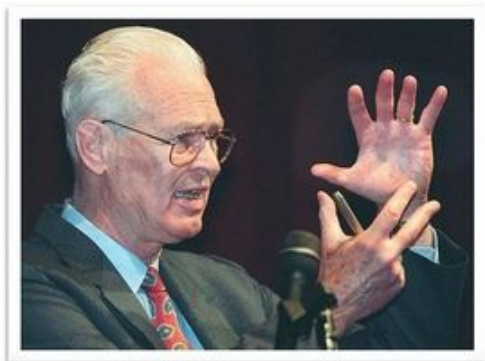
- Earl Grey tea, named after Charles Grey, the second earl in his line and the British Prime Minister to King William IV in the 1800s, is a lovely tea blend with a distinctive flavor and aroma derived from the addition of oil extracted from the rind of the bergamot orange, which is a fragrant citrus fruit.





LOOKING FORWARD...

- **Dr. William Gray Makes Us Angry!**
 - Dr. Gray is in his 27th year forecasting hurricanes at the Colorado State University. He and his team are forecasting a total of 18 named storms in the Atlantic Basin for 2010 -a well-above average probability of U.S. and Caribbean major-hurricane landfall storms!!



Dr. William Gray





LOOKING FORWARD...

○ Predictions for the Remainder of 2010

- The Governor's Veto Power

- Contentious Elections

 - U.S. Senate

 - Governor

 - Chief Financial Officer

 - Attorney General

 - Agricultural Commissioner

○ Questions to Be Answered:

- Will a new governor mean a more favorable environment for insurers?

- The 2010 Hurricane Season —will it be an active one?





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