

FINANCIAL SERVICES COMMISSION

OFFICE OF INSURANCE REGULATION

RULE NO.:

RULE TITLE:

69OER07-1

Residential Property Insurance Rate Filings

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC

HEALTH, SAFETY OR WELFARE: The Financial Services Commission and the Office of Insurance Regulation (“Office”) hereby state that the following circumstances constitute an immediate danger to the public health, safety, or welfare:

The residential property insurance market in Florida is in crisis. Property insurance rates are at the highest levels in Florida history. The multiple hurricanes and tropical storms of the past several years (which resulted collectively in more than an estimated \$36 billion in insured losses) coupled with the actions and reactions of certain private insurers have created and fueled this crisis. Additionally, many insurers have in the recent past engaged in a widespread pattern of policy cancellations and non-renewals. These factors have limited significantly the availability and affordability of residential property insurance and have dramatically increased the cost of such insurance.

The turmoil in the residential property insurance market has affected not only homeowners, but also the real estate and construction market. Homeowners in Florida, especially those located in the proximity of the coast, are finding it extremely difficult to find an adequate level of residential property insurance coverage at affordable rates. Thousands of Florida citizens voiced to the Governor, members of the Cabinet, and the

Legislature the hardships faced as a result of the current insurance crisis. Some property owners have been unable to sell real property because prospective buyers cannot obtain the required insurance at affordable prices, while others have found that the inability to find affordable residential property insurance has resulted in their mortgage companies threatening to “force place” wind/hail coverage or foreclose on their mortgages. The impact of skyrocketing residential property insurance rates has also seriously affected thousands of Florida’s most vulnerable residents who are on fixed incomes and cannot afford to purchase residential property insurance to protect their homesteads and personal property. Considering all of the foregoing, resolution of the current crisis is essential to the adequate protection of the public health, safety and welfare.

In response to this crisis, the Legislature passed, and the Governor has signed, House Bill CS/HB 1A. In enacting this new law, and in recognition of the current crisis in the property insurance marketplace, the Legislature found as follows:

A. WHEREAS, Homeowners in the State of Florida are struggling under increased insurance costs and increased housing prices as a result of damage caused by hurricanes and tropical storms, and

B. WHEREAS, This increase in the cost of property insurance for the state’s residents demands immediate attention, and

C. WHEREAS, The affordability of property insurance creates financial burdens for Florida’s residents and financial crises for some property owners, and

D. WHEREAS, In addition to affordability, the availability and stability of property insurance rates are critical issues to the residents of this state, and

E. WHEREAS, Because there is no single, quick, or easy solution to the current crisis, a comprehensive and creative approach is required, and

F. WHEREAS, Property insurance is so interwoven with other forms of insurance, through business, regulation, advocacy, purchasing, and other interactions, that the viability of the insurance market in Florida is at risk, and

G. WHEREAS, Expanding coverage offered by the Florida Hurricane Catastrophe Fund can help to address this crisis, and

H. WHEREAS, Taking steps to control or reduce the premiums charged by Citizens property Insurance Corporation can help to address this crisis, and

I. WHEREAS, Strengthening the processes for establishing property insurance rates can help to address this crisis, and

J. WHEREAS, The role of consumer advocacy is a critical part of addressing this crisis and consumer advocacy for property insurance is a critical, if not the predominant, part of consumer advocacy regarding insurance, and

K. WHEREAS, Promoting, through financial and regulatory methods, the ability of property insurers and reinsurers to do business in Florida can help to address this crisis, and

L. WHEREAS, Promoting, through financial and regulatory incentives for property owners, the strengthening of property to withstand the effects of windstorm damage can help to address this crisis.

These specific findings establish the Legislature not only recognized the current crisis, but also took specific action to resolve that crisis. CS/HB 1A thus represents the

path forward out of the existing crisis and towards a stable, affordable property insurance marketplace.

The new law implements major reforms and provides for significant revisions to current law intended to provide for the reduction and stabilization of rates in Florida's residential property insurance market as well as to address specifically the above described property insurance affordability and availability crisis.

Section 3 of CS/HB 1A requires every residential property insurer to make a rate filing pursuant to the "file and use" provisions of s.627.062(2)(a)1, Florida Statutes, which reflects the savings or reductions in loss exposure due to Section 2 of the Act. Prior to such filing, the Office must calculate a presumed rate reduction factor. Furthermore, section 3 of the Act recognizes the critical importance of implementing rate decreases as soon as practicable. House Bill CS/HB 1A provides for an aggressive schedule of analysis, implementation, and development of a presumed factor for application of the savings that the provision of Section 2 of the act will provide to the consumer.

These substantial reforms and revisions will alter the competitive dynamic in the property insurance market and provide meaningful rate relief to Florida's policyholders. The new law has the purpose and effect of addressing the property insurance crisis in a significant way and will impact directly the availability of affordable property insurance. However, these reforms and revisions will require time before implementation. Therefore, in the interim, to allow any rate filings that do not incorporate the criteria and standards set forth in the new law frustrates the Legislative purpose and intent and threatens the public health, safety and welfare by further deepening the property

insurance crisis. Moreover, to permit insurers, at this fragile stage, to continue the pattern of widespread cancellations and non-renewals, which result in the circumvention of the new law, will further destabilize the market and further limit the availability of affordable residential property insurance thus deepening the current crisis.

As the 2007 Hurricane season approaches, it is essential that property insurance become and remain both more available and more affordable. The immediate protection of the public welfare thus requires emergency action as set forth herein. Such action will stabilize the market, prevent further deepening of the existing crisis, and eliminate the possibility for rate increases while not unduly impairing the ability of insurers to continue to conduct business.

REASONS FOR CONCLUDING THAT THE PROCEDURE USED IS FAIR UNDER THE CIRCUMSTANCES: The Financial Services Commission believes adopting an emergency rule is the fairest method to protect the public because of the inability of the residents in Florida to obtain affordable residential property insurance, and because implementation without exception of the pending reforms to Florida's insurance code are essential to resolution of the existing crisis. This procedure is fair as insurers are keenly aware of the nature of the insurance crisis and participated in the development of the legislation which this emergency rule is intended to support. The limited emergency measures provide the least intrusive means to protect a compelling public interest and, because resolution of the existing crisis benefits not only insureds but insurers as well, the limited emergency action undertaken herein will not unfairly affect the ability of insurers to conduct business in Florida.

In consideration of the emergency conditions currently existing, and given the Office's responsibility to protect the public interest and implement the Insurance Code, an emergency rule is necessary.

SUMMARY OF THE RULE: Emergency Rule 69OER7-1 provides for a temporary limitation on residential property insurance rate filings by requiring any filings made from this date forward to incorporate the reforms adopted by CS/HB 1A, thus stabilizing the market until the provisions of CS/HB 1A can be implemented fully by the Office. The emergency rule also prevents circumvention by limiting an insurers ability to cancel or non-renew a policy prior to implementation of the new law.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Stephen Fredrickson, Assistant General Counsel, Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, FL 32399-4210, (850) 413-4144 or E-mail at Steve.Fredrickson@fldfs.com

THE FULL TEXT OF THE EMERGENCY RULE IS:

69OER07-1 Residential Property Insurance Rate Filings.

Rates for residential property insurance coverage shall remain at the rates in effect as of the date CS/HB 1A became law until a rate filing is made and approved that reflects the provisions of CS/HB 1A and the presumed factor or factors calculated by the Office of Insurance Regulation (Office). Insurers may make filings for rate reductions, and for changes that do not result in increases in policyholder premiums. Insurers may make form filings, but may not reduce coverage except as required by statute. Until an insurer makes a rate filing reflecting the effects of CS/HB 1A and the presumed factor calculated by the Office, an insurer may not non-renew a personal residential insurance

policy covering property in Florida, nor may an insurer cancel a personal residential insurance policy except for material misrepresentation, fraud or non-payment of premium by the insured. Nothing in this emergency rule is intended to be nor shall be construed as an approval of any rate filing which is pending before the Office of Insurance Regulation or which is currently subject to an administrative or arbitration proceeding.

Specific Authority: 120.54(4), 624.307, 624.308, 626.9611. Law Implemented: CS/HB 1A, 627.062, 627.4133, 626.9561, 626.9641. History – New 1-30-07

THIS RULE TAKES EFFECT UPON FILING WITH THE DEPARTMENT OF STATE
UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.