

T H E C A B I N E T
S T A T E O F F L O R I D A

Representing:

STATE BOARD OF ADMINISTRATION

FINANCIAL SERVICES COMMISSION, OFFICE OF
INSURANCE REGULATION

The above agencies came to be heard before
THE FLORIDA CABINET, Honorable Governor Crist
presiding, in the Cabinet Meeting Room, LL-03,
The Capitol, Tallahassee, Florida, on Tuesday,
January 13, 2009, commencing at 9:10 a.m.

Reported by:
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Registered Professional Reporter
Notary Public

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Representing the Florida Cabinet:

CHARLIE CRIST
Governor

CHARLES H. BRONSON
Commissioner of Agriculture

BILL McCOLLUM
Attorney General

ALEX SINK
Chief Financial Officer

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ACCURATE STENOGRAPHY REPORTERS, INC.

1 P R O C E E D I N G S

2 * * *

3 (Agenda Items Commenced at 9:20 a.m.)

4 GOVERNOR CRIST: State Board of Administration,
5 Ash Williams. Morning, Ash.

6 MR. WILLIAMS: Good morning.

7 GOVERNOR CRIST: Happy new year.

8 MR. WILLIAMS: Happy new year to you. Item 1,
9 we request approval of the minutes from our December
10 9 meeting, 2008.

11 ATTORNEY GENERAL McCOLLUM: I move Item 1.

12 CFO SINK: Second.

13 GOVERNOR CRIST: Moved and seconded. Show the
14 minutes approved without objection.

15 MR. WILLIAMS: Item 2 requests approval of the
16 quarterly report of the Protecting Florida's
17 Investments Act.

18 GOVERNOR CRIST: Is there a motion on Item 2?

19 ATTORNEY GENERAL McCOLLUM: I move Item 2.

20 GOVERNOR CRIST: Is there a second?

21 CFO SINK: Yes. I second it.

22 GOVERNOR CRIST: Moved and seconded. Show it
23 approved without objection.

24 MR. WILLIAMS: Thank you. Item 3 is approval
25 of the Local Government Investment Pool management

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1 summary report and actions taken. No material
2 issues were identified with regard to the Local
3 Pool.

4 GOVERNOR CRIST: Is there a motion on Item 3?

5 CFO SINK: I move it. I have a comment,
6 though.

7 ATTORNEY GENERAL MCCOLLUM: Second.

8 GOVERNOR CRIST: Moved and seconded. CFO?
9 Show it approved without objection. CFO, sorry.

10 CFO SINK: Thank you. I just -- I wanted to
11 point out that I was looking at the report. And
12 regarding the Fund B, which is the assets, the
13 illiquid assets that -- well, it was almost exactly
14 a year ago that we were dealing with this issue.

15 MR. WILLIAMS: Yes.

16 CFO SINK: And it certainly pleased me to see
17 that -- and you may want to comment on this -- that
18 we started out with and identified \$2 billion out of
19 the, I think, maybe 11 or \$12 billion that was left
20 in the pool at the time that were questionable
21 assets.

22 And over the course of the year, that amount
23 has been reduced to just under -- well, \$658
24 million. And I think that's really worthy of some
25 comment because although we're still, I know,

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1 concerned -- and, Ash, I'd like for you to maybe
2 make a comment about the remaining monies. I'd also
3 like to know what kind of investor commentary and
4 concern in this tight budget time you're hearing,
5 because it certainly means that we have put liquid
6 money back into Fund A, which it's my understanding
7 that the entire freeze will be lifted. Is that
8 right?

9 MR. WILLIAMS: For Fund A.

10 CFO SINK: For Fund A.

11 MR. WILLIAMS: Fund A reached full liquidity on
12 23 December 2008, which was ahead of schedule. The
13 target was year-end '08. So we're ever so slightly
14 ahead of schedule.

15 CFO SINK: So we're in effect operating Fund A
16 as an ordinary operating money market --

17 MR. WILLIAMS: Fully liquid, yes, absolutely.

18 CFO SINK: -- fund. And also I noticed there
19 already are new deposits coming in.

20 MR. WILLIAMS: There was new money that came in
21 in the latter part of the year, yes. And to your
22 point, which is well taken, about the reduction of
23 the size of Pool B, over the course of calendar 2008
24 and through the 9th of January 2009, we actually
25 returned to investors roughly \$1.4 billion that was

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1 previously illiquid securities in Pool B, which
2 represents 68.7 percent of everything that was in
3 Pool B at inception.

4 There is more to go in that regard, as you
5 know, and we're working on a variety of channels to
6 try and remedy that. Patience, I think, is the
7 guideline for the time being. The markets continue
8 to be quite illiquid, but progress is being made.

9 To your question about what are we hearing and
10 what are the concerns of investors, we hosted a
11 telephone conference yesterday. Federated Investors
12 and the State Board of Administration hosted a call
13 for all Local Pool participants. We had 72 local
14 government investors on the call.

15 And we provided a briefing on the current
16 environment and what has been done and the
17 portfolio, how the performance has been. This is
18 primarily on the LGIP itself, not Pool B.

19 There were no particular issues focused on
20 there. The questions tended to revolve around Pool
21 B, and they were what you might expect; what time
22 frame, if any, might you offer us for complete
23 distribution of the illiquid assets, and the answer
24 is there is no hard date.

25 The other questions revolved around the period

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1 of November 2007 interest and when might we
2 distribute that. And the answer, of course, is
3 first priority is make everyone whole who had
4 securities placed in Pool B and, beyond that, go
5 ahead and distribute that interest.

6 So I would say on the whole, the tone of the
7 call was positive. I think the progress that has
8 been made with the Local Government Investment Pool
9 is extremely significant.

10 The legislation that was adopted and the
11 increased transparency that's been put in place, as
12 evidenced by the improved website, the improved
13 communications, the fact that we do these conference
14 calls periodically, the fact that we will be doing a
15 live meeting with the Government Finance Officers
16 Association early this summer, and make ourselves
17 available, the fact that we have as our next agenda
18 item the appointment of a Local Government Advisory
19 Council, I think all of these are steps that open up
20 the process, build the relationship with the local
21 governments and set a strong foundation for the
22 Local Government Investment Pool going forward.

23 CFO SINK: Thank you.

24 ATTORNEY GENERAL McCOLLUM: If I could,
25 Governor.

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1 GOVERNOR CRIST: General, sure.

2 ATTORNEY GENERAL McCOLLUM: Ash, are we getting
3 a steady stream of deposits into Pool A, back into
4 this system, or are we just having a certain number
5 of participants who hold their money there and the
6 ones that left have stayed away?

7 MR. WILLIAMS: The deposit flows for the Local
8 Government Investment Pool have never been smooth,
9 General. They tend to be cyclical. The inflows are
10 driven primarily by the calendar, in that local
11 government tax revenues come in primarily in
12 November and December. So inflows tend to spike
13 historically at the very tail end of the year.
14 Outflows likewise will be driven by fiscal activity
15 in local governments.

16 So we were pleased to see during November a big
17 chunk of inflows. So we had a nice little bump up
18 there, on the order of about \$500 million. During
19 December we did become fully liquid. That obviously
20 was an opportunity for anyone who was in the fund
21 who chose to exit to do so. Some took advantage of
22 that opportunity.

23 So I wouldn't say that we're clearly on a path
24 of net positive growth that's clearly sustainable,
25 but I think we're headed that way. And the -- I

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1 spoke, for example, sort of bleeding into the next
2 agenda item, but I spoke myself with every single
3 one of the nominees for the Local Government
4 Advisory Council.

5 And I think it's a safe characterization of
6 those conversations to say that the overall view of
7 those individuals was extremely positive, was very
8 appreciative of the steps that have been taken in
9 the Local Government Investment Pool, and that there
10 is specific value added in having the State sponsor
11 that pool and provide the overall umbrella of the
12 State Board of Administration over its activities.

13 ATTORNEY GENERAL McCOLLUM: So we're making
14 progress to restore confidence, is your best
15 judgment.

16 MR. WILLIAMS: Yes, sir.

17 ATTORNEY GENERAL McCOLLUM: Thank you.

18 GOVERNOR CRIST: Item 4.

19 MR. WILLIAMS: Item 4 requests approval of six
20 appointments to the Participant Local Government
21 Advisory Council.

22 GOVERNOR CRIST: Is there a motion on Item 4?

23 CFO SINK: Move it.

24 ATTORNEY GENERAL McCOLLUM: Second.

25 GOVERNOR CRIST: Moved and seconded. Show it

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1 approved without objection.

2 ATTORNEY GENERAL McCOLLUM: If I could,
3 Governor.

4 GOVERNOR CRIST: Yes.

5 ATTORNEY GENERAL McCOLLUM: Ash, before you
6 leave, we didn't ask you to comment, I didn't, on
7 Item 2. It sort of got passed over quickly. My
8 understanding from the report, the quarterly report
9 on the Protecting Florida's Investments Act, is that
10 at this point you have divested the funds of all of
11 the companies that would fit in the scrutinized
12 category, those that have had business interest in
13 Sudan and in Iran. Is that an accurate
14 representation?

15 MR. WILLIAMS: All of those that were
16 identified in the original screen to be divested
17 have been divested. In fact, they were divested as
18 of August 4, 2008. We have now done a second level
19 of screening. We use three different services to
20 screen for companies that would be subject to
21 divestiture under the act.

22 And, in fact, we have identified a handful of
23 new companies, including ABB in Switzerland,
24 Dietswell SA in France, and Egypt Kuwait Holding
25 Company, SAE based in Egypt. They are new companies

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1 that we're scrutinizing and believe may be
2 candidates for divestiture.

3 Of these companies, of these four companies,
4 the only that we have exposure to is ABB. It's a
5 very small exposure. And what we intend to do is,
6 presuming that we reach unanimity among our advisers
7 that ABB has tripped the wire, we will first contact
8 ABB, try and get them to change their practices in a
9 manner that they would be back in bounds. Failing
10 that, we'll go ahead and proceed with the
11 divestiture.

12 ATTORNEY GENERAL McCOLLUM: Well, I think it's
13 very important right now, and I just wanted to make
14 sure the record was clear on that because of what's
15 been happening with respect to some of the Iranian
16 activities, especially in recent days. Thank you
17 very much. Thank you, Governor.

18 GOVERNOR CRIST: You bet. Thank you, General.
19 Thank you, Ash.

20 MR. WILLIAMS: Thank you.

21

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1 GOVERNOR CRIST: Office of Insurance
2 Regulation, Commissioner McCarty. Good morning,
3 sir.

4 MR. McCARTY: Good morning, Governor.

5 GOVERNOR CRIST: You're wearing your Gator tie
6 as well.

7 MR. McCARTY: I also am wearing my subtle
8 orange and blue Gator tie in honor of our national
9 championship.

10 GOVERNOR CRIST: That's not subtle.

11 MR. McCARTY: That's not subtle?

12 GOVERNOR CRIST: Nor should it be subtle.

13 MR. McCARTY: You should have seen the original
14 one I had on this morning. This is subtle.

15 GOVERNOR CRIST: This is the muted version?

16 MR. McCARTY: Yes, sir. Before we get into the
17 agenda items, I've been requested by our Chief
18 Financial Officer to give an overview of the
19 solvency regulation in the state of Florida,
20 particularly in light of some news articles recently
21 about the growth of what we call our domestic
22 marketplace.

23 And if we go to our first slide, I just want to
24 do an overview of some of the areas we want to talk
25 about today. To really put the solvency in context,

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1 I think it's important for us to go back to an
2 earlier time when the domestic market wasn't as
3 large.

4 We also want to look at the solvency tools that
5 we use, that are used around the country by our
6 sister states in terms of regulation, looking at the
7 financial analysis but as well as our examination
8 process. We've also implemented specific,
9 Florida-specific examination procedures due to the
10 unique nature of our marketplace.

11 I think I would be remiss if I didn't talk
12 about also the financial meltdown that we witnessed
13 in September of 2008 and what impact that has had on
14 other than financial sectors and what potential
15 impact that may have on the Florida marketplace or
16 the U.S. marketplace in general.

17 And our next slide is a pie chart on the
18 residential marketplace in Florida. In 1992,
19 Florida domestic market, six percent was domestic
20 companies. The rest of the Florida marketplace was
21 what we call foreign companies, which are companies
22 that are not really foreign, but they're licensed in
23 other states.

24 The predominant market share was State Farm and
25 Allstate, which made up about 50 percent of the

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1 market back at that time. We have seen a complete
2 change in our marketplace since that time. And this
3 has been accelerated after the hurricane seasons of
4 2004 and '5, when the Legislature enacted Senate
5 Bill 1980, which provided for a capital build-up
6 program, which I'll talk about a little bit more in
7 the future. But that bill alone brought an
8 additional half a billion dollars of new capital to
9 the state of Florida.

10 And our next slide I think is important --

11 CFO SINK: Governor, can --

12 GOVERNOR CRIST: Yes, please.

13 CFO SINK: I don't want to belabor anything.

14 GOVERNOR CRIST: Go ahead.

15 CFO SINK: But I have one quick question on
16 this slide, Kevin. That other domestics, does that
17 include the pup companies? Kind of help me out
18 here. Is that the pups and the -- who are the
19 foreign companies? Who are the other domestics?
20 And how -- when we say Florida domestics, what does
21 that mean?

22 MR. McCARTY: That's a very good point.

23 Technically, State Farm of Florida is a domestic
24 company. And as you can see, it makes up 19 percent
25 of the market. It is not part, it is a wholly-owned

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1 subsidiary of the parent company, which has like \$19
2 billion. They do not have \$19 billion in capital
3 dedicated to Florida. It's more like 690 million.
4 So they created a separate company.

5 That is also true of Nationwide Insurance
6 Company and Allstate. Now, they are not in the --
7 they are what is called commercially domiciled.
8 They're licensed in another state but they
9 predominantly do their business in Florida.

10 So they have essentially -- the largest of the
11 larger foreign companies have set up Florida
12 domestic companies or Florida pup companies that are
13 licensed in other states. Now, that's a very valid
14 point because --

15 CFO SINK: So the pups, like the Nationwide pup
16 and the Allstate pup, are included in the other
17 domestic category?

18 MR. McCARTY: The Allstate group and the
19 Nationwide group are in the foreign, even though
20 they have segmented part of their capital for
21 Florida. They don't have their full capital and
22 surplus that they have for the rest of the nation
23 dedicated to Florida. They've set up a finite
24 amount to limit their exposure.

25 CFO SINK: Right. So, therefore, the other

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1 domestics are really truly what we call
2 Florida-headquartered domestic companies, operating
3 here --

4 MR. McCARTY: Right, that's correct.

5 CFO SINK: -- the focus of the inquiry.

6 MR. McCARTY: Yes, ma'am, that is correct.

7 CFO SINK: Okay. Thank you very much.

8 MR. McCARTY: Our next slide, I think, is
9 illustrative of a very important point in Florida.
10 This is a slide that I borrowed from the Florida
11 Hurricane Catastrophe Fund, which really shows not
12 only are we having a contraction in the marketplace
13 with regard to our national players, but we have a
14 huge increase in exposure, seen in the Florida
15 homeowners market, which includes homeowners, mobile
16 home, as well as dwelling fire and
17 commercial-residential, where over \$2 trillion in
18 exposure.

19 Our next slide will illustrate how Florida
20 companies perform --

21 CFO SINK: Wait a minute. Slow down one second
22 here. Is the -- this slide is stunning, in terms of
23 the increase in the exposure. Do you have any sense
24 of what percentage is the coast -- what percentage
25 of this run-up is coastal as opposed to inland

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1 exposure? I'm just personally concerned about the
2 continued building along the coast, which is where
3 the greatest amount of the risk is.

4 MR. McCARTY: We have some statistics,
5 derivative statistics we can show about where
6 population growth has been within so many miles. I
7 don't have that readily available where we can see
8 it.

9 I believe we can probably get from the Cat
10 Fund, based on their collection of information by
11 zip code, where the exposure growth has been. And
12 that is not a perfect equivalent of coastal, but it
13 does, I think, a rough equivalency of where that
14 exposure growth has been.

15 I think it's a fair assumption that part of the
16 allure of moving to Florida has been its beautiful
17 coastal areas and beaches, and there has been
18 significant growth in that regard.

19 GOVERNOR CRIST: If I might, Commissioner, I
20 had a question on this slide as well. I'm assuming
21 that the amount of exposure, based on the valuation,
22 is largely based on property valuation.

23 MR. McCARTY: No, sir. This is what we call
24 structural exposure. This has nothing to do with
25 the value. The cost of the land is excluded from

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1 this. This has to do with the structural value. So
2 a lot of -- most of this increase is increased
3 number of units built in Florida.

4 GOVERNOR CRIST: Okay, thank you, appreciate
5 it. Commissioner.

6 COMMISSIONER BRONSON: Well, I guess one thing
7 I would like to ask is, to go back to the question
8 of the CFO, even though the exposure on the coastal
9 areas within, I don't know how many miles you want
10 to call that, whether that's 20 miles or whatever it
11 is, except for the fact those homes sell for a
12 higher price and/or may be on average larger, I
13 don't even know that that's a fact, but the winds
14 that hit Kissimmee, Florida, which is almost dead
15 center of the state, are just as strong as the winds
16 that hit the coastal areas.

17 And so if you've got a 100,000-dollar or
18 200,000-dollar home in Kissimmee, the damage and the
19 payout is going to be the same as a 200,000-dollar
20 home within five or ten miles of Melbourne, let's
21 say.

22 Am I reading this wrong, or is there -- other
23 than the fact that people do like to live on the
24 water and they're packed in there like sardines in
25 some places and, therefore, your exposure is big

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1 because of the amount of people living on the
2 coastal areas, but truly damage to a 200,000-dollar
3 home with 140-mile-an-hour wind is going to be the
4 same no matter which place it's in, right?

5 MR. McCARTY: You raise two very important
6 points, Commissioner. I appreciate that. First of
7 all, I think it's important to note that while we
8 like to delineate coastal versus non-coastal, we
9 know from witnessing the devastation of Hurricane
10 Charley, that it left the state of Florida almost
11 with as much wind velocity as it hit, made landfall.

12 You have more frequent wind-borne debris and
13 more frequent damage in coastal areas from smaller
14 storms. But a large storm that crosses the state of
15 Florida, you'll have very significant damage in
16 Central Florida, as we've seen in Polk County, which
17 got crisscrossed with four storms.

18 Most of the time we think of this as within a
19 few thousand feet of the ocean, that it's largely a
20 coastal problem. But a major three, four or five
21 storm to make landfall in Florida will cause
22 significant structural damage in what is considered
23 inland areas as well as the coastal areas.

24 The tendency is, however, that we do have more
25 concentration of risk, as you've mentioned, on the

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1 coastal areas. Because of the high land value, a
2 lot of those structure are vertical. A lot of them
3 are high-valued multi-unit. But I think another
4 important point to make is we have much stronger and
5 stricter building codes in our high coastal areas,
6 in our high hazard areas than we do in inland.

7 And I think one of the things that I know
8 Congressman Posey was proposing is that we make
9 every effort we can to shutter as many homes in
10 Florida, whether it's coastal or not coastal,
11 because I think one of the other things we've
12 learned from Senate Bill 1980, in addition to the
13 capital build-up, is the importance of mitigation
14 and strengthening our building codes, enforcing our
15 building codes and doing what we can to take the
16 current housing stock and making it more
17 wind-resistant, both coastal and inland. And inland
18 in Florida, as you know, is kind of a misnomer
19 because really we're pretty much a coastal state in
20 general.

21 ATTORNEY GENERAL McCOLLUM: Kevin.

22 GOVERNOR CRIST: General.

23 ATTORNEY GENERAL McCOLLUM: You have a
24 projection in here for 2008 to continue that trend
25 in that slide. I notice the preceding slide was of

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1 2007. Is there any reason to believe that the
2 ratios of foreign, domestic, State Farm, et cetera,
3 have changed in 2008 significantly in that pie
4 chart?

5 MR. McCARTY: No, sir.

6 ATTORNEY GENERAL McCOLLUM: Okay, thank you.

7 MR. McCARTY: Our next slide is going to give
8 you a perspective of the profitability of Florida
9 insurance companies. I don't want to make too much
10 of this, but if you take for every dollar of premium
11 you take in, on a non-cat year, an average year,
12 about 24 cents of that dollar goes to pay claims.

13 If you look on a national basis, that's about
14 50 cents on the dollar goes to pay claims. So
15 Florida companies were profitable in 2007. We've
16 yet to know, with the March statements, what will be
17 the case in 2008.

18 The next slide is a slide of the new domestic
19 companies we licensed in 2006. That is a total of
20 ten new companies. The yellow ones that are shaded
21 yellow are indicating those companies that have
22 participated in the capital build-up program.

23 Again, the Legislature recognized the
24 importance of taking not only new businesses coming
25 in Florida but current domestic companies and

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1 encouraging them to match with investor dollars by
2 adding additional capital in the state of Florida.
3 So we got an additional \$218 million in 2006.

4 The next slide we'll look at, the new companies
5 that were licensed in 2007. One of the smaller cap
6 companies you notice there is American. Some of
7 those companies are just limited to programs and
8 limited to mobile homes. But most of them, as you
9 see, the combined total, again, is \$218 million in
10 additional capital.

11 And in our next slide we're looking at
12 companies we licensed in 2008, which we all know was
13 a very challenging year for investment capital in
14 any marketplace. We raised an additional \$110
15 million. So the total new capital between '06 and
16 '08 is 546 million.

17 And I'd like to make an observation that this
18 does not include surplus lines companies that have
19 come in, companies that added new lines of business.
20 We're talking a substantial amount, approximately
21 3 billion in new capital, if you bring in all those
22 businesses as well.

23 Now, a lot of the surplus lines companies are
24 not focusing on homeowners, and I really wanted to
25 make the focus of this presentation the homeowners.

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1 So that has been mostly the new companies that have
2 been coming in.

3 ATTORNEY GENERAL McCOLLUM: Kevin. If I might,
4 Governor. The larger companies, foreign companies
5 particularly, but also State Farm, will point out
6 that these companies that are the pup companies or
7 Florida companies all have a very small ratio of
8 capital in reserves and that they -- there's a
9 greater risk, they argue to us, at least they did to
10 me, in their not being able to fulfill their
11 obligations or they're going to go away because they
12 don't have the backbone that the bigger companies
13 do, and therefore we aren't as well served by so
14 many pup companies as we would be if we had more of
15 the big company presence here. What do you say to
16 that?

17 MR. McCARTY: Well, they would have more
18 credence to their argument if they didn't set up a
19 pup company and limit their liability. I mean, I
20 have domestic companies that actually have a
21 stronger relationship of their business. This
22 gentleman sitting behind me, John Auer, started a
23 company in 1998. He's got 250,000 policies and an
24 A-minus rating. I think he probably could go toe to
25 toe with the pup companies that have limited their

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1 capital commitment to Florida. So I think that's a
2 fallacy on two fronts.

3 ATTORNEY GENERAL McCOLLUM: Thank you.

4 MR. McCARTY: And the next slide, I want to
5 illustrate a point. People like to make the point
6 that Florida is doing wild and crazy things to
7 create a marketplace that is hostile to investment.
8 First of all, it's not hostile to investment.

9 We've got, as I've already demonstrated,
10 hundreds of millions of dollars of new investment.
11 We are committed to business development and
12 bringing business to Florida. But what the next
13 slide shows is that this is -- I just took this as
14 an example. I'm not picking on any particular
15 company.

16 But this is from a public filing from Allstate
17 Insurance Company on their third quarter. And some
18 of the highlighted sections indicates to you that
19 what's going on in Florida is going on from Maine to
20 Texas. They are non-renewing coastal business all
21 over the country.

22 And I think this illustrates that while Florida
23 has been the epicenter of some of this changing in
24 the marketplace, we're seeing a similar situation
25 occurring in Mississippi, Louisiana, Texas and New

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1 York.

2 We go to the next slide. It's actually just
3 taken from a December 2008 filing from State Farm
4 Insurance Company. Now, this wasn't their 45
5 percent rate increase or subsequently 62 percent
6 rate increase. This has to do a recoupment filing.

7 By I think it's interesting to note some of the
8 numbers that are on there. First of all, it says
9 the policies in force are going to be reduced from
10 844,000 in September 2008 to 675,000 in 2010. And
11 really this is an indication of a continuing trend
12 that has begun since Hurricane Andrew cut its swath
13 of destruction through South Florida, a commitment
14 by the large companies to substantially reduce their
15 exposure in high-risk areas, especially the state of
16 Florida.

17 And I want again, to the next slide, really it
18 looks at the fact that what is going on in our state
19 on a much greater level is happening in other
20 states. I want to just point out some of the other
21 residual markets in other states and some examples
22 of what's going on.

23 In Alabama you can see that there's been a 37
24 percent increase in their exposure in their beach
25 plan. Massachusetts doesn't have a beach plan or

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1 residual market. They have what is called a fair
2 plan. These were set up in the sixties and
3 seventies due to urban unrest. But now it has
4 become the market of choice in the Cape, and fully
5 40 percent of the market in catastrophe is the Cape.
6 So, again, demonstrating the retrenchment of large
7 national companies away from coastal areas from all
8 over the country.

9 Mississippi is a similar situation. They went
10 from 1,600 policies to 36,000 policies. North
11 Carolina, similar situation. Texas is seeing a
12 significant increase. We would expect, after the
13 hurricane season they had this year, continuing
14 growth in the residual market in the state of Texas.

15 Florida, of course, has a super-sized residual
16 market. We refer to it more as an alternative
17 market in our state. But I think it's important to
18 note that 400,000 policies have come out since its
19 high water mark. Despite the impediments of getting
20 policies taken out and certain companies warehousing
21 policies in Citizens, we have seen 400,000 policies
22 come out. And that's with 50,000 new applications a
23 month. So it really is a success story in terms of
24 building markets, building capital and building our
25 commitment to the private sector.

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1 Now I'd like to move to the next section to
2 talk about our solvency regime in the state of
3 Florida. And really, in order to do that, we really
4 need to look at this in three parts, the
5 international, the national and Florida.

6 The majority of the capital that comes to
7 support our domestic market is capital coming from
8 overseas, Lloyd's of London, the Bermuda
9 marketplace, as well as Europe. Eighty-five
10 percent, as a matter of fact, is from outside the
11 United States.

12 So it's very important for us to stay deeply
13 involved in international regulation of insurance as
14 we do. We participate in what is called supervisor
15 colleges. We send colleagues from my state and
16 other states to participate in the oversight of
17 other countries in the reinsurance marketplace.

18 As you are aware, Governor, we're in the
19 process of negotiating a memorandum of understanding
20 with the UK after a visit there last year, which is
21 going to give us stronger transparency in our
22 relationships with the UK and the financial services
23 authority there as well.

24 The CFO is aware we're negotiating with the
25 Bermuda Monetary Authority for similar kinds of

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1 transparency, so we are better capable of improving
2 our regulatory oversight of the money that is used
3 in that framework.

4 Even though so much of our market has become
5 domestic market, there's still a significant foreign
6 market, foreign being other state regulation. We
7 work very cooperatively through the National
8 Association of Insurance Commissioners in oversight
9 of those companies as well. We're very active in
10 the Financial Oversight Committee, which is
11 responsible for looking at any companies that have
12 had any signs of failure to meet their financial
13 obligations.

14 Our next slide will go into the specifics of
15 the OIR solvency tools that we use. Included in
16 your packet I provided a number of profiles, an IRIS
17 ratio and testing materials. This is just a
18 sampling of the hundreds of tests that are done both
19 at the National Association of Insurance
20 Commissioners as well as through our own system that
21 we developed in our state for us to look for
22 outliers that would be early indications of those
23 companies that require further scrutiny by our
24 solvency staff.

25 Every quarter the financial analysts receive

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1 the statements from the NAIC electronically and run
2 various reports. If certain outliers occur, we
3 contact the companies to understand what the trend
4 and condition is. And if necessary, we will take
5 supervisory action and actually go into the company.
6 We will examine the company. If necessary, we'll
7 refer the company to the Division of Rehabilitation
8 and Liquidation to protect the policyholders from
9 insolvency. The sheet I showed you represents that
10 there are thousands of data elements that are done
11 every quarter on every company.

12 The next slide talks about the second prong of
13 our regulatory framework. First of all, it's the
14 financial analysis. The second part, really the
15 strength of the state-based regulatory system, is
16 our financial examination. New companies are
17 examined every year for the first three years.
18 Every company is required by law to be examined
19 every five years.

20 But don't let this mislead you. If I have a
21 reason to believe that there's some reason to go in
22 on a limited basis or full scope, we'll do
23 examinations more frequently than every five years.

24 CFO SINK: Kevin, let me just clarify
25 something, because on the previous page you're

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1 talking about quarterly and annual review versus the
2 next page you're talking about examination. Are we
3 looking at just financial statements quarterly for
4 every company?

5 GOVERNOR CRIST: Yes.

6 CFO SINK: And then an exam would be --

7 MR. McCARTY: The exam would include going on
8 site to the company, going over all their books and
9 records, their IT, their disaster plan, their
10 reserving and their reinsurance and their cash flow,
11 their income. So it's similar to what you would see
12 in a bank examination. We would do that as needed
13 or every year or every five years, depending on the
14 situation.

15 CFO SINK: And what is your opinion of the --
16 is this once every five years, is this a legal
17 requirement or is this a policy of the OIR? And
18 what is your opinion? Is that sufficient enough in
19 this environment?

20 MR. McCARTY: Legally, we're required to go in
21 every five years.

22 CFO SINK: Right.

23 MR. McCARTY: Legally, we're required to do a
24 new company every year.

25 CFO SINK: Okay.

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1 MR. McCARTY: We do it more frequently because
2 the authority says "at least." The enabling
3 legislation allows us to do them as we need to, and
4 we do. If we look at the quarterly statements and
5 there are some outliers, we're seeing some concerns
6 about too much growth in premium, which is
7 oftentimes a sign of a company trying to grow its
8 way out of a problem, we'll send an examination team
9 in.

10 And the Legislature has been very generous.
11 They've given us a lot of electronic tools that
12 allow us to do ratios and run certain reports that
13 gives us some of the early warning signs of
14 problems. They also recently gave us the ability to
15 go outside the Office of Insurance Regulation
16 professional team and bring in additional resources
17 at the company expense, which is really a strength
18 in our solvency tools.

19 CFO SINK: Okay. Thank you.

20 MR. McCARTY: We go on to the next slide. The
21 financial reporting examination process in Florida
22 and around the country is extensive, and I think
23 it's important it's transparent. The Office uses a
24 number of professionals, as I referred to before,
25 reinsurance, financial, actuaries, CPAs, IT experts,

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1 certified financial examiners. But we also, as I
2 said, can augment that now by outsourcing and going
3 out and bringing in whatever professional people we
4 need.

5 I'd like to also point out that the home
6 mortgage market requires companies that do business
7 in Florida to maintain an A.M. Best rating or a
8 Demotech rating in order for them to meet their
9 mortgage criteria. So that's another factor. If
10 you don't meet the A.M. Best or the Demotech rating,
11 they will require you to get coverage in another
12 market or they will force-place you.

13 We do a lot of internal reviews and internal
14 audits ourselves. As a matter of fact, my contract
15 with my principals requires me to perform a certain
16 number of financial analyses in a certain time
17 frame, which is part of my annual contract.

18 But in addition to that, we have an external
19 review. Every five years the National Association
20 of Insurance Commissioners puts together a team to
21 evaluate our laws, to evaluate our financial
22 analysis unit and to evaluate our examination
23 process.

24 They look at the staff, the quality, the
25 timing. And they actually pull files to see that

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1 there's actual documentation in those files that
2 demonstrates that we have a strong regulatory regime
3 in our state.

4 I'm proud to announce that Florida was the
5 first state to be accredited several years ago. In
6 our last meeting in Texas we were accredited for the
7 fourth time, and we received very high scores. So
8 we have internal review and external review.

9 Our next slide really is, in addition to what
10 is required to be done, in addition to what we do in
11 terms of examinations and financial analysis, we do
12 a two-part reinsurance evaluation and a two-part
13 data call. The first part of the data call is done
14 in May, which we identify the company's disaster
15 plan. We want to make sure that there is a disaster
16 plan in place. We verify the contact information
17 for the company so that the CFO's consumer services
18 people have a live line to deal with.

19 We also want direct contact with their solvency
20 staff so that when we have indications as to a
21 frequency severity of a storm, what impact it's
22 going to have on the financial solvency of the
23 company.

24 We identify their broker. We start talking
25 about what their initial placement for the hurricane

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1 season is going to look like, as well as a status
2 and update. Some place them earlier. Some place
3 them later. Some companies do their reinsurance
4 placements in January. Some of them do it in June
5 to wrap around the Cat Fund.

6 The second part of the reinsurance data call is
7 to actually look at the treaty and the slips as they
8 come in, to see what the attachment point is, see if
9 they have a reinstatement. We do a stress test to
10 make sure that they can resist a one-in-100-year
11 event. We want to make sure that they have
12 purchased another reinstatement in case there's
13 another storm.

14 We look at provisions particularly of our
15 smaller companies to get advanced payments so that
16 they can get advanced payments from their reinsurers
17 so they have the ability to pay claims and don't
18 have to wait for the verification from the
19 reinsurer.

20 We also make sure that the reinsurers they are
21 using are authorized to do business in our state or
22 have the requisite collateral to meet the national
23 standards. The next slide is --

24 CFO SINK: Hold on. Would you just go back and
25 say again, is every insurance company required to

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1 have cover for a one-in-100 storm or does it --

2 MR. McCARTY: Yes.

3 CFO SINK: -- does it vary? Okay, yes.

4 MR. McCARTY: Yes.

5 CFO SINK: So you wouldn't go back and require
6 a company, and say, well, this company has to have
7 cover for a one-in-250 storm?

8 MR. McCARTY: We require at a minimum a company
9 to have one-in-100-year event coverage. And then we
10 require them to have at least one reinstatement.
11 And many companies have three or four
12 reinstatements.

13 CFO SINK: Okay. Which means that if a second
14 storm comes up.

15 MR. McCARTY: That's right. They have the same
16 provisions that were provided in the original
17 contract.

18 CFO SINK: Okay.

19 MR. McCARTY: On every company, we do a -- we
20 chart it out, like we have done in this slide here.
21 And I just want to use this one as an example
22 because we oftentimes hear about companies with
23 capital requirements, that, you know, the minimum
24 capital in Florida is \$5 million. Well, I can tell
25 you that most business plans would not be supported

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1 by \$5 million. Most of them would require at least
2 \$10 million for capital and surplus.

3 But this chart represents the reinsurance
4 structure for a small Florida domestic. And a
5 one-in-100-year event for this particular company is
6 8.1 million, and they have 12.7 in surplus. The
7 insurance program would be unacceptable to us. We
8 would require them to do one of two things, do an
9 infusion of capital or go out and purchase more
10 reinsurance, because if you're a big company and you
11 have a \$50 million surplus, you can probably have an
12 attachment level at this point. But it would not be
13 acceptable with regard to this. And this is done
14 for each and every domestic company writing
15 homeowners business in Florida.

16 Lastly, I'd like to turn to the investment risk
17 and credit market conditions. I've been talking to
18 you -- we can go to the next one. I've been talking
19 to you fairly extensively about the regulatory
20 regime that is Florida, which is an integral part of
21 our relationship with our other states. But simply
22 getting a license in Florida should never be
23 confused with a guarantee for success or a guarantee
24 of profitability. These are private companies.
25 Economic conditions will sometimes lead to

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1 insolvencies. That is the reality that we live in.

2 Our solvency regulation, however, is very
3 conservative, and it is designed to identify
4 problems early and to give us the ability to
5 proactively address those problems. Current market
6 conditions have impacted insurance to varying
7 degrees and this is likely to continue. We
8 certainly are going to see that when the March
9 annual reports come in.

10 It is important to remember that the insurance
11 industry represents fully at least one-third of the
12 institutional investment market. So they are going
13 to be affected by what's going on in the equities
14 market. That's a reality.

15 Let me take you through, though, what we have
16 done since the September events and go through those
17 events and how we've done our stress testing with
18 our companies in cooperation with the national
19 association, as well as the SVO, the office in New
20 York.

21 Each individual investment owned by an
22 insurance company is reported on the financial
23 statements. And what we did, we went with the
24 Securities Valuation Office and we took and looked
25 at the subprime mortgages, the failure of Freddie

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1 and Fannie, the CBOs, the collateralized debt
2 obligations, credit default swaps, Bear Stearns,
3 Lehman Brothers, and we took all of those things and
4 zeroed them out, so gave them a zero value, and
5 looked at what would happen to our insurance market.

6 As you probably know, under Florida Law,
7 625.305, we have a very, very conservative
8 diversification statute. We have very strong
9 limitations as to what you can invest in. Now, over
10 the years, state regulators have been much maligned
11 because companies couldn't invest in some of these
12 high-risk things that we've seen happen with respect
13 to other companies, particularly some of the
14 companies that are no longer in business that have
15 been household names for many generations.

16 To date, due to a conservative investment
17 structure and policy and oversight, we have not seen
18 any failures of the insurance industry. I'd like to
19 point out that AIG failure was not a failure of the
20 insurance industry. It was a failure of the holding
21 company.

22 The holding company, under Gramm/Leach/Bliley,
23 which was the legislation enacted in 1999 which
24 provided for this new functional regulator
25 oversight, gave AIG holding company the opportunity

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1 to choose who their regulator was. They chose the
2 Office of Thrift Supervision. And the Office of
3 Thrift Supervision, in my mind, probably didn't have
4 the wherewithal to provide the oversight of the
5 kinds of things, the transactions that were going on
6 with the AIG holding company.

7 But it's not a failure of the state-based
8 regulatory system. The subsidiary companies are
9 still required to abide by the strict regulatory
10 regime of state regulation.

11 To date, Florida domiciled companies have not
12 had any significant holdings in any of the failed
13 companies I mentioned in the previous slide. There
14 is likely to be some impact. We will continue to be
15 proactive. Our chief economist right now is looking
16 at some stress testing with our companies.

17 There were failures in the 1930s of life
18 companies due to various -- a lot of things have
19 changed since that time. We will continue to do
20 stress testing in our state and with our colleagues
21 around the nation.

22 And, Governor and members of the Commission,
23 that concludes my report.

24 ATTORNEY GENERAL McCOLLUM: Question, Governor?

25 GOVERNOR CRIST: Yes, General.

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1 ATTORNEY GENERAL McCOLLUM: In terms of
2 investments that these smaller companies do make and
3 are allowed to make, they're allowed to invest in
4 common stock and mutual funds and things like that.
5 They obviously have money that they have to hold.
6 What kind of assets -- you listed what they aren't
7 allowed to do here. What kind of assets are they
8 allowed to invest in?

9 MR. McCARTY: Well, under 625.305 it says that
10 companies shall not exceed 15 percent of the
11 insurer's admitted assets. They're limited to no
12 more than three percent of any one particular
13 company. So they are very strict in terms of what
14 those assets are.

15 In addition, if they're not traded, the
16 products, the Security Valuations Office in New
17 York, which is part of the NAIC, which we are a
18 member, does evaluations of those securities as
19 well.

20 ATTORNEY GENERAL McCOLLUM: But they might have
21 invested in some bank stocks, for example, or other
22 financial common stocks or preferred stock of those
23 companies that wouldn't have been, of course, the
24 suspect paper, but the valuation of the market is
25 down. We know this from -- Ash Williams was just

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1 here a few minutes ago, and all of us know it from
2 the public sector. Our State Board of
3 Administration funds, I mean, the major pension
4 funds are way down.

5 So you would expect the investments of these
6 insurers to report being pretty far down, too, maybe
7 losses of 50 percent or something like that, right?

8 MR. McCARTY: We don't expect the losses to be
9 that, but we are currently running stress tests with
10 those different scenarios on the impact on their
11 investment portfolio of what's going on in the
12 equities market. And at this juncture we're not
13 concerned. I'm telling you, however, we're going to
14 have a much better sense of that in March when the
15 annual statements come in.

16 ATTORNEY GENERAL McCOLLUM: The annual
17 statements are in March that they send to you, so
18 you'll be able to see what they did through the
19 calendar year --

20 MR. McCARTY: Yes.

21 ATTORNEY GENERAL McCOLLUM: -- 2008, which we
22 don't know right now.

23 MR. McCARTY: We have some indications, based
24 upon some of the stress testing that has been done,
25 some of the earliest warning signs that we have seen

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1 with certain portfolios, we have devalued -- we have
2 taken the different indexes out there and how much
3 they've gone down and have devalued their investment
4 portfolio by that amount to see if it triggers any
5 company action level or potential impairment. And
6 at this point we haven't seen that.

7 ATTORNEY GENERAL McCOLLUM: Thank you.

8 GOVERNOR CRIST: Yes, Commissioner.

9 COMMISSIONER BRONSON: Kevin, how -- you know,
10 going back to my original question of a house in
11 Kissimmee is going to cost just as much to insure
12 and repair as a house on the coast at the same value
13 under the same wind. It seems to me that a lot of
14 what I'm hearing and seeing from people out there is
15 the water damage from tidal surge seems to be the
16 bigger problem on the coastal areas, except when you
17 think about what happened in Lake Okeechobee in the
18 twenties when the tidal surge off of Lake Okeechobee
19 caused huge damage. And that can happen in other
20 lakes of the state. Okeechobee just happens to have
21 a dike around it right now. Whether it's in good
22 shape or not is debatable.

23 Is there any real difference and do we have
24 enough federal and otherwise coverage of water
25 damage, tidal surge type insurance above and beyond

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1 the wind damage insurance that's available?

2 MR. McCARTY: Storm surge is generally covered
3 under a flood policy. Flood is excluded from your
4 standard homeowner's policy. Flood insurance is
5 available through the federal flood insurance
6 program, which is a federal program. Fully 42
7 percent of the premium of the federal flood program
8 is Florida residents, which is astounding if you
9 think about it. We are --

10 COMMISSIONER BRONSON: The rest of it is New
11 Orleans?

12 MR. McCARTY: Unfortunately, no. Surprisingly,
13 New Orleans was more insured, but the interesting
14 rules under the Federal Flood Program is because of
15 the system of dikes and even though it's below sea
16 level, it was not considered a high-risk area, and
17 therefore flood insurance was not required. I think
18 they need to revisit the wisdom of not requiring
19 insurance if you're below sea level, but that is
20 outside the purview of the State of Florida.

21 The federal flood program obviously is
22 strained. It's over a \$22 billion deficit. There
23 are -- it has been reauthorized to continue to do
24 business. We certainly do encourage flood
25 insurance. It is amazingly cheap, inexpensive to

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1 purchase. You can only purchase up to, I think,
2 \$350,000, which in most cases covers most
3 Floridians. It doesn't cover contents. There are
4 some drawbacks to it. It is relatively inexpensive.
5 But, then again, it's not risk based.

6 And there are a lot of critics of the federal
7 flood program. And we certainly would welcome an
8 opportunity in the upcoming Congress, as we're
9 looking at dealing with federal disasters and how we
10 can best deal with federal disasters, in taking a
11 look at the federal flood program. But the coverage
12 is available. And I'm very pleased that Floridians
13 purchase, and the uptick rate in Florida is very
14 high, is very high.

15 CFO SINK: Governor?

16 GOVERNOR CRIST: Yes.

17 CFO SINK: I have a couple of things, one along
18 those lines. You mentioned Florida accounts for 42
19 percent of the premium of the National Flood
20 Program. Share with us what percentage we call upon
21 the flood program or have historically. It's very
22 low, isn't it?

23 MR. McCARTY: Yeah, it is. I think it's --

24 CFO SINK: Wasn't it like two percent last
25 year?

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1 MR. McCARTY: Thirteen percent.

2 CFO SINK: Thirteen percent.

3 MR. McCARTY: If you take out our two worst
4 years, it's like three or four percent. So we
5 have been -- and it's always amazing to me when
6 people in Washington, when I go to Washington to
7 talk about a national catastrophe plan, no state has
8 done more than Florida to provide building codes, to
9 enforce building codes. We even require our
10 communities to be rated and have evaluated how well
11 they do enforce the building code. Stronger
12 building codes. We have mitigation programs. We
13 have funded \$250 million to provide incentives. And
14 then they talk about Florida being bailed out.

15 Yet you look at the state of California, with
16 4.7 trillion homes that are in the mortgage market
17 that aren't even insured for earthquake. Now, I
18 feel pretty confident, if we had an earthquake in
19 San Francisco, that the federal government is going
20 to rebuild those homes, and we're going to pay our
21 pro rata share of that loss.

22 So we really do have to fundamentally take a
23 new fresh look at our entire secondary mortgage
24 market, the flood program, and our national disaster
25 plan, because our national disaster plan is totally

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1 reactive and not proactive. It doesn't contemplate
2 better building. It just wants to ship money to
3 people after the event.

4 So Florida, who is acting responsibly, not only
5 has to pay high premiums and pay the flood premiums,
6 but we're going to be paying for people who have not
7 prepared for disaster at all. And certainly I hope
8 that we can play a leadership role in this in the
9 future to change those dynamics in Washington.

10 CFO SINK: All right. Governor, I just have
11 one more question.

12 GOVERNOR CRIST: Certainly.

13 CFO SINK: It surrounds the take-out companies.
14 I think that this capital build-up, capital note
15 program that we have clearly, in my opinion, has
16 been highly successful. We put up \$250 million and
17 brought in more capital into the state. And, of
18 course, one of the requirements is that the
19 companies write a certain number of policies. So
20 many of them, in order -- their business plan has
21 been to go and take out policies from Citizens.

22 But I guess one of my concerns has been is that
23 it's widely acknowledged that the Citizens policies
24 are not written at actuarially sound rates. So in
25 the back of my mind, if these companies are taking

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1 policies out of Citizens, then are they in fact
2 taking on -- and they're required not to increase
3 the rates, then are we looking at companies that are
4 at risk because they built up their business with
5 policies that are not actually actuarially sound?

6 MR. McCARTY: Well, it's difficult to say. An
7 awful lot of policies -- we can put them in
8 different tranches. There are policies in Citizens
9 that are high-risk policies and probably
10 under-rated. There are probably policies that are
11 put into Citizens by captive agents just because
12 they don't have any market in State Farm, and you go
13 to your State Farm agent because you read the State
14 Farm ad on TV, and you probably have a very well
15 built home and you probably could do better, at a
16 cheaper rate.

17 So it's hard to put them all in one category.
18 Certainly there are some. But the companies have
19 underwriting standards. Citizens really doesn't.
20 They have underwriting, but I mean they have to take
21 all comers. Companies can have them. So they'll
22 get a group of 20,000 policies. They may only take
23 8,000 of those policies that meet their underwriting
24 standards.

25 In addition to that, Madam CFO, we ensure that

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1 they are not only following their underwriting
2 guidelines but that they have the sufficient
3 reinsurance to take on that risk. And, again,
4 because they individually underwrite those policies,
5 they have a better selection in terms of risk
6 profile than they would in Citizens.

7 CFO SINK: Governor, let me just thank Kevin
8 for coming and doing this presentation because when
9 I'm out and about, people are constantly making
10 these comments about the soundness of the Florida
11 domestics. And my response is always that we have
12 an insurance commissioner whose responsibility it is
13 to ensure that the companies operating here are
14 financially sound and have the ability to pay claims
15 when events occur.

16 And when we have the next hurricanes, which we
17 will, I don't think the four of us want to be
18 sitting here looking at a number of failures of
19 companies because we've permitted companies to
20 operate here in a financially unsound way. And none
21 of us have the expertise or the staff or the time to
22 be reviewing all these financial statements. That's
23 why we have an Office of Insurance Regulator and
24 insurance commissioner.

25 And I feel certainly much more confident after

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1 your presentation. I just want to thank you for
2 sharing with your board members exactly how you go
3 about evaluating the financial health of the
4 companies operating in Florida who have a commitment
5 to pay claims of their policyholders.

6 MR. McCARTY: I appreciate that opportunity.
7 Thank you.

8 GOVERNOR CRIST: I'd like to echo those
9 comments, CFO. I think that clearly our insurance
10 commissioner has done an extraordinary job, and
11 we're very, very grateful for your monitoring of the
12 industry in the Sunshine State. And sometimes as we
13 are, as the CFO, out and about, and we hear
14 different things about different companies, we may
15 be hearing from the competitors who don't like the
16 competition so much, too.

17 So I think we factor that in and realize that
18 your duties and your responsibilities are awfully
19 important to the people of Florida, and we know that
20 you take it very seriously and we're tremendously
21 grateful for it.

22 MR. McCARTY: Thank you very much for those
23 kind words. I appreciate it.

24 CFO SINK: Governor, before we adjourn, can
25 I --

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1 GOVERNOR CRIST: We have a couple of items, but
2 you can do it now or later, whenever you want.

3 CFO SINK: No. I have kind of just an
4 off-agenda comment that I'd like to make after we
5 finish our other business.

6 GOVERNOR CRIST: Sure. Minutes, Commissioner?

7 MR. McCARTY: Yes. Agenda Item Number 1, thank
8 you, Governor --

9 GOVERNOR CRIST: Certainly.

10 MR. McCARTY: -- is the minutes of the
11 Financial Services Commission of October 28th and
12 November 20th of 2008.

13 COMMISSIONER BRONSON: Motion to accept the
14 minutes.

15 CFO SINK: Second.

16 GOVERNOR CRIST: Moved and seconded. Show the
17 minutes approved without objection. Item 2.

18 MR. McCARTY: Item 2 is request for approval
19 for adoption of amendment to Proposed Rule
20 690-204.010, .020, .030, .040, .050, Viatical
21 Settlement Providers. Florida law gives the
22 Financial Services Commission the authority to adopt
23 rules to administer the Viatical Settlement Act.
24 These proposed rules define terms not defined in
25 statute and adopt two reporting forms.

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1 The first reporting form is the annual report.
2 As I mentioned before, an annual report is a very
3 valuable tool for us to be able to evaluate company
4 behavior and performance. Section 626.9913 requires
5 a viatical settlement company to annually provide
6 the Office with a statement containing information
7 required by the FSC, and the authority in the
8 statute is whatever the FSC wants to require.

9 That information is set out in the annual
10 report form. This form is modeled after the
11 National Association of Insurance Commissioners'
12 model form.

13 The second form is a Notice of Intent to use a
14 Related Provider Trust. Florida Law requires any
15 viatical settlement provider that elects to use a
16 related provider trust to notify the Office of
17 Insurance of that election. This form provides for
18 that notification.

19 The rule also prohibits a viatical settlement
20 provider from paying fees to a viatical settlement
21 broker if that broker and provider are affiliated.
22 This prevents a provider from collecting double fees
23 in viatical settlement transactions and ensures that
24 viatical settlement brokers maintain their fiduciary
25 responsibility. The statute mentions two times the

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1 fiduciary responsibility of the broker to the
2 viator. It prevents that conflict of interest, and
3 that might entice them to not shop that policy,
4 which we've seen in the past.

5 GOVERNOR CRIST: Is there a motion? Go ahead.
6 I'm sorry.

7 MR. McCARTY: Finally, the rule requires the
8 adoption of an anti-fraud plan, which has been a
9 pervasive problem in this industry. There are
10 speakers on this, by the way. This is not without
11 controversy.

12 GOVERNOR CRIST: Would anyone like to speak?

13 MR. SANTRY: Yes, please.

14 GOVERNOR CRIST: Good morning. If you could
15 just state your name and where you're from when you
16 speak, please.

17 MR. SANTRY: Good morning, Governor Crist,
18 members of the Cabinet. My name is Frank Santry. I
19 represent Coventry First, which is a viatical
20 service provider licensed in Florida and many other
21 states. I'd like to take just a few brief moments
22 this morning. I know this is a difficult forum to
23 take up this kind of issue, but I'd like to just
24 take a few minutes and outline a narrow group of
25 concerns and objections that Coventry has to this.

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1 I'm also authorized -- Kelly Horton, who represents
2 Coventry, and Jonathan Tillman, for the Life
3 Insurance Settlement Association, are also here and
4 they've authorized me to make these comments on
5 their behalf as well.

6 After actually over a decade of participation
7 in rule-making development in this area, this is the
8 first set of rules to come through on a statute that
9 was passed 12 years ago. And we've really been
10 working that long on this process. And we've had
11 three consistent areas of concern as the regulated
12 industry here, one of which has been largely
13 resolved but two of which remain, in part, not with
14 respect to the language of the proposed rules
15 themselves but rather the annual reporting form,
16 which is incorporated by reference and adopted by
17 the rules.

18 And those two limited areas have been concern
19 about exposure of industry trade secrets to public
20 records scrutiny and the difficulties that arise as
21 a result of that. And the second is an attempt by
22 Florida regulators to mine industry data regarding
23 transactions governed by states other than Florida;
24 that is to say to require reports with respect to
25 viatical settlement providers with regard to

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1 transactions occurring and governed by the laws of
2 states other than Florida.

3 And that second one is particularly troubling
4 by reason of some of the disclosure requirements
5 included in this proposed annual report requirement.
6 More specifically, those annual report requirements
7 which include extraterritorial data are not included
8 in the model act for viatical settlement providers,
9 and they are not included in the NAIC model report
10 for viatical settlement providers. This is a
11 specific requirement that Florida is attempting to
12 enact that is not supported by those models.

13 The Office of Insurance Regulation has
14 contended that it has the necessary legislative
15 authority to implement these rules by reason of
16 626.9913(2) of the Florida Statutes. But I feel
17 compelled to point out that last year, in its 2008
18 legislative issue forum, the Office of Insurance
19 Regulation noted, in a consideration of a proposal
20 to amend that very section of statute, that it was
21 necessary to, quote, add for authority to collect
22 information on non-Florida transactions in annual
23 reports. And it cites the very section of the
24 statute that the Office of Insurance Regulation is
25 saying gives them that authority.

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1 In 2008 they were contending they didn't have
2 that authority. And without any legislative change,
3 they're now saying they do have the legislative
4 authority. Respectfully, we believe they do not.

5 And it's not sufficient under the Florida
6 Administrative Procedures Act for a company to
7 simply have authority to make regulations. They
8 have to be implementing a specific provision of the
9 statute or the regulation is considered to exceed
10 delegated legislative authority.

11 Those are the bases of our concerns. We have
12 proposed and I think all of you through your staffs
13 have been given a red-line copy of the changes that
14 we would request in that report. And we would
15 appreciate your consideration in making those
16 changes in advance of the adoption of this form.

17 GOVERNOR CRIST: Thank you, sir. General?

18 ATTORNEY GENERAL McCOLLUM: What is the
19 extraterritorial data that you're concerned about?
20 What is it they're asking you to provide from other
21 states?

22 MR. SANTRY: They're asking specifically for
23 transactional information state by state that
24 includes the total numbers of policies purchased,
25 the total gross amounts paid for policies purchased,

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1 total commissions and compensation paid for policies
2 purchased and the total face value of policies
3 purchased in every state in the union.

4 ATTORNEY GENERAL McCOLLUM: They want to see
5 how yours -- ours compares to other states in the
6 gross sense, but they're not asking you the details
7 of individual policies.

8 MR. SANTRY: They're not asking for -- in this
9 set of rules they are not asking for details of
10 individual policies. They're asking for aggregate
11 state-by-state data. This is significant, though,
12 General McCollum, because it's rather sensitive
13 information with respect to these companies in terms
14 of how their businesses are developing and
15 expanding.

16 And, frankly, the members of the industry make
17 public record requests for these reports for the
18 specific purpose of mining data about where these
19 companies are moving and how they're doing.

20 ATTORNEY GENERAL McCOLLUM: How often is this
21 data being requested of you under the new --

22 MR. SANTRY: Annually.

23 ATTORNEY GENERAL McCOLLUM: Annually?

24 MR. SANTRY: Yes, sir.

25 ATTORNEY GENERAL McCOLLUM: And you'd have to

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1 report that like in March, as we were just talking
2 about --

3 MR. SANTRY: Yes, sir, it's the same schedule.

4 ATTORNEY GENERAL McCOLLUM: For the previous
5 calendar year?

6 MR. SANTRY: Yes, sir.

7 ATTORNEY GENERAL McCOLLUM: Thank you.

8 MR. SANTRY: You're welcome. Any other
9 questions?

10 GOVERNOR CRIST: CFO?

11 CFO SINK: Well, I have a question for the OIR.
12 I want to know what the purpose of including
13 Schedule C is.

14 MR. SANTRY: Thank you.

15 GOVERNOR CRIST: Thank you, sir. Anybody else
16 wish to speak?

17 CFO SINK: Kevin, did you hear my question?

18 MR. McCARTY: Ma'am?

19 GOVERNOR CRIST: The rationale.

20 CFO SINK: Yeah, what's important about this
21 schedule? The controversy is all around the
22 Schedule C; is that correct?

23 MR. McCARTY: I go back to my presentation, how
24 important it is for us to be able to evaluate. If
25 you look at the last five years, the number of

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1 prosecutions that have occurred in this state for
2 defrauding seniors in particular out of money
3 because of viatical settlement companies, where
4 people -- we most recently heard about the
5 indictments with Mutual Benefits.

6 These are very complicated transactions where
7 money and trusts are in different states and
8 different places. We need all the tools available
9 to us to be able to protect consumers. I'd be happy
10 to provide you with a report of that information.
11 Getting aggregate information and understanding how
12 that fits into it is one of the pieces of the puzzle
13 that we need.

14 And I can't emphasize enough to you how
15 important it is for us to have all the tools we need
16 to protect the people in Florida because we have
17 been bilked out of billions of dollars.

18 ATTORNEY GENERAL McCOLLUM: Question, Kevin.

19 GOVERNOR CRIST: General.

20 ATTORNEY GENERAL McCOLLUM: I guess it would
21 take a statutory change, but that data that they
22 would be supplying you would be subject to a public
23 records act and, therefore, available to the general
24 public; is that correct?

25 MR. McCARTY: That is correct. Trade secret

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1 information, however --

2 GOVERNOR CRIST: The very public they're trying
3 to sell to.

4 ATTORNEY GENERAL McCOLLUM: Well, it is, true.
5 But I just want to make sure that we are talking
6 about -- the concern they expressed about trade
7 information and volume information and all that
8 they're worried about their competitors seeing, I
9 guess that's really the group they're worried about
10 seeing this information.

11 MR. McCARTY: We will not release any
12 information. Florida has a trade secret protection
13 law. If they want to assert that that information
14 is a trade secret, we may disagree, but the courts
15 could determine whether or not it is a trade secret.

16 ATTORNEY GENERAL McCOLLUM: Well, is any of the
17 information that was outlined by the previous
18 speaker as the data that they're concerned about,
19 would any of that be considered by you to be a trade
20 secret?

21 MR. McCARTY: No. But we would certainly avail
22 them the opportunity to go to circuit court, assert
23 that, and have that protection.

24 ATTORNEY GENERAL McCOLLUM: I understand that.
25 I just was thinking in terms of the concern

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1 expressed was over the concern that competitors
2 would gain that knowledge they wouldn't otherwise be
3 able to have. I guess that is a business concern of
4 theirs that may be outweighed and we may outweigh it
5 by our public concern. But I wanted to be sure I
6 understood it.

7 MR. McCARTY: Which is the information that's
8 on the annual statements of every other entity that
9 we regulate, the business of their -- their growth
10 in business in other states, the number of policies
11 in other states. That's in an insurance company's
12 annual statement as well.

13 ATTORNEY GENERAL McCOLLUM: I'd move Item 2.

14 GOVERNOR CRIST: The item is moved. Is there a
15 second?

16 MR. SANTRY: Governor, may I speak briefly in
17 response?

18 GOVERNOR CRIST: What's that?

19 MR. SANTRY: May I speak very briefly in
20 response?

21 GOVERNOR CRIST: Sure you can.

22 MR. SANTRY: Thank you.

23 GOVERNOR CRIST: You're welcome.

24 MR. SANTRY: Just to point out a couple of
25 things in response to Mr. McCollum's comment. Yes,

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1 we believe these are trade secrets. Yes, we
2 routinely document them as trade secrets. And I
3 will tell you that this has provided the highest
4 volume of trade secret litigation, public records
5 litigation with the Office of Insurance Regulation
6 in this industry, more than all other factors
7 combined over the course of the last year.

8 I can tell you that my client has spent
9 hundreds of thousands of dollars in court actions in
10 Florida. We have secured four temporary injunctions
11 to prevent this material from being released. It is
12 a consistent and recurring problem, and it's costing
13 these companies hundreds of thousands of dollars
14 because the Office of Insurance Regulation will not
15 acknowledge that these are trade secrets, even
16 though they, in my view, clearly come under the
17 Uniform Trade Secrets Act.

18 And we've been required consistently to go to
19 court to get this protection and adjudicate this
20 matter over and over again.

21 ATTORNEY GENERAL McCOLLUM: May I ask you if
22 any of those cases have been appealed or is this
23 just circuit court judges?

24 MR. SANTRY: The final hearing in the
25 consolidated case on this matter was heard in

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1 October of last year, and we're awaiting final trial
2 court determination on the issue.

3 ATTORNEY GENERAL McCOLLUM: Thank you.

4 MR. SANTRY: You're welcome.

5 COMMISSIONER BRONSON: Governor, if I might.

6 GOVERNOR CRIST: Yeah, sure.

7 COMMISSIONER BRONSON: I guess my question
8 would be more in line of -- and, Kevin, I think
9 you're going to have to also be a part of this.
10 Assuming that, let's say, that the courts rule in
11 favor of the fact that some of this information may
12 be trade secret information that could affect the
13 companies involved, is there also a way for us,
14 without having to make it totally available to every
15 single person in the state that wants to, under the
16 freedom -- open records act, to gain that
17 information, for whatever purpose, to still be able
18 to -- for us to receive it so that we know that
19 we're protecting the consumers of this state without
20 having to make it totally available to anybody who
21 wants to use it, both as a competitive situation
22 from company to company or for some other reason?
23 Is there a way for us to get that done so that we
24 know the consumers are still protected even though
25 we can't release it openly?

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1 MR. McCARTY: Certainly, I understand the
2 question. There's a strong tension in our state.
3 We certainly want to protect trade secrets because
4 it's very important for the business operation of
5 companies. We also have a very strong public
6 records law in our state. And those too often come
7 into tension.

8 We are in the process of trying to make that
9 determination. We have not released the
10 information. We have given the opportunity to go to
11 court. They are temporary injunctions, to
12 adjudicate whether or not -- this is an important
13 public policy determination, whether or not this
14 information is in fact a public record or a
15 protected trade secret.

16 If the courts determine it's protected trade
17 secret, we would continue to collect that
18 information, as we do for information on insurance
19 companies and the thousands of other entities we
20 collect trade secret information every day, and that
21 would remain protected.

22 GOVERNOR CRIST: CFO.

23 CFO SINK: So we have a motion on the table.

24 ATTORNEY GENERAL McCOLLUM: I moved it.

25 GOVERNOR CRIST: We have a motion. I think we

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1 need a second. Is there a second?

2 COMMISSIONER BRONSON: Well, Governor --

3 CFO SINK: I would amend the motion. Go ahead.

4 COMMISSIONER BRONSON: You know, since this has
5 been brought up -- and I certainly believe the
6 consumers of this state deserve full protection
7 under the laws of the state and what we can do to
8 protect them against those who would take advantage,
9 especially of the elderly.

10 But I'm also concerned, we have a court issue
11 that's out there, and I don't know what that's going
12 to do because we haven't heard that yet. However,
13 I'd like to reserve the fact that should they win in
14 this case -- and we don't know that that's a fact --
15 that even if we pass it as it stands today, that we
16 immediately rescind, should it pass, so that we do
17 protect, for business reasons.

18 And the reason why I'm saying that is our issue
19 right now today is to bring in companies and
20 business and create jobs in this state so we can get
21 our economy back on track, which is going to be
22 severely hurt, probably more than we even can
23 imagine before regular session even takes place in a
24 couple of months for the Legislature.

25 And I certainly want to make sure we get the

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1 kind of coverages from insurance companies and so
2 forth that we need as well. And I don't want to
3 drive a wedge in that, when we could be hurting
4 ourselves.

5 So if it's truly information that a company
6 feels gives their competition advantage by them --
7 of course, if everybody is releasing it, then
8 everybody knows what everybody else's business is.

9 So, I mean, I would second that today based on
10 protecting the consumers, but with the idea that we
11 may have to revert back to finding a way to get this
12 done to protect the consumers without having to
13 release everybody's information, for protection of
14 their business purposes.

15 ATTORNEY GENERAL McCOLLUM: Could I ask a
16 clarification, Governor?

17 GOVERNOR CRIST: Yeah, in a second. I'd like
18 to weigh in. Pardon me. But I think that what
19 we're talking about here, the controversy of
20 Schedule C or not and whether or not businesses who
21 want to do business in the state of Florida would be
22 required to give information about how they're doing
23 in other states seems to be what it's sort of
24 boiling down to.

25 And I want to promote business as much as

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1 anybody. We try to do it every single day, and I
2 think that's a very important point, Commissioner.
3 But I also want to make sure that the businesses
4 that we allow to do business in Florida are doing it
5 on an equitable basis and in the best interest of
6 the people that we work for and that they're not
7 taken advantage of.

8 The commissioner indicated that in the past,
9 billions have been taken from people because of bad
10 policies or policies not being recognized or people
11 just being taken advantage of, particularly senior
12 citizens.

13 And so I don't really understand why there is
14 some business disadvantage to providing the
15 insurance commissioner's office an opportunity to
16 review past performance of any business that wants
17 to come into the state of Florida, what they're
18 doing in other states, and if they're doing a good
19 job, why they're reluctant to give it up anyhow. It
20 doesn't make sense to me. And as you well point
21 out, Commissioner, if all companies are required to
22 do it, what's the disadvantage anyhow?

23 So it would seem to me that the regulation that
24 the commissioner is asking us to adopt today,
25 whether it's from a bill from last year or 12 years

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1 ago doesn't really concern me, I think what he's
2 trying to do is simply be vigilant and protect the
3 people of the state and look out for the consumers
4 of Florida and make sure that, you know, if these
5 businesses that want to do business here are good
6 businesses, they'll be granted that opportunity. If
7 the court says that it's a trade secret, of course
8 we'll recognize that. You know, that's why we have
9 three branches.

10 And so I would encourage a positive vote on
11 this. It's been moved and seconded. I just wanted
12 to weigh in.

13 ATTORNEY GENERAL McCOLLUM: I'd just like a
14 clarification.

15 GOVERNOR CRIST: Of course, General.

16 ATTORNEY GENERAL McCOLLUM: Kevin, if I
17 understood correctly, because I listened to what
18 Commissioner Bronson's concern was just then, if
19 this is ultimately ruled to be a trade secret by our
20 courts, the material, data we're talking about, you
21 indicated a minute ago, if I heard you right, that
22 we would continue to collect it. It just wouldn't
23 be made available to the public. Is that not true?

24 MR. McCARTY: That's correct.

25 ATTORNEY GENERAL McCOLLUM: So there wouldn't

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1 be a need, I don't believe, for us to rescind
2 anything at that point because it wouldn't be public
3 information. So I think we're safe on either count,
4 and I would continue my motion. I think you
5 seconded it, right?

6 COMMISSIONER BRONSON: Second.

7 GOVERNOR CRIST: He did. Any further
8 discussion? All in favor say aye.

9 ATTORNEY GENERAL McCOLLUM: Aye.

10 GOVERNOR CRIST: Aye.

11 COMMISSIONER BRONSON: Aye.

12 CFO SINK: Aye.

13 GOVERNOR CRIST: Opposed like sign. Motion
14 carries.

15 MR. McCARTY: Agenda Item Number 3 is request
16 for approval for adopt Proposed Rule 690-197.006,
17 Insurance Administrator Annual Report Form.
18 Pursuant to Florida law, each insurance
19 administrator must annually file with the Office of
20 Insurance Regulation a true statement of their
21 financial condition. This rule adopts the form used
22 by administrators in filing these reports.

23 GOVERNOR CRIST: Is there a motion on Item 3?

24 CFO SINK: Move it.

25 COMMISSIONER BRONSON: Second.

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1 GOVERNOR CRIST: Moved and seconded. General,
2 did you have a point?

3 ATTORNEY GENERAL McCOLLUM: No.

4 GOVERNOR CRIST: Moved and seconded. Show it
5 approved without objection.

6 MR. McCARTY: Agenda Item Number 4 is request
7 for approval to adopt Proposed Rule 690-137, Annual
8 and Quarterly Reporting Requirements. Florida law
9 624 requires each insurer to file with the Office an
10 annual and quarterly financial statement. This
11 simply adopts the newest form from the NAIC.

12 COMMISSIONER BRONSON: Motion on Item 4.

13 ATTORNEY GENERAL McCOLLUM: Second.

14 GOVERNOR CRIST: Moved and seconded. Show it
15 approved without objection.

16 MR. McCARTY: Agenda Item Number 5 is request
17 for approval for the adoption of Proposed Rule
18 690-138.001, the NAIC Financial Condition Examiners
19 Handbook. Again, this is the latest iteration
20 adopted by the National Association of Insurance
21 Commissioners.

22 COMMISSIONER BRONSON: Motion on Item 5.

23 ATTORNEY GENERAL McCOLLUM: Second.

24 GOVERNOR CRIST: Moved and seconded. Show it
25 approved without objection.

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1 MR. McCARTY: And Agenda Item Number 6 is
2 request for approval for publication of Proposed
3 Rule 690-175.008, Unfair Discrimination in Private
4 Passenger Automobile Insurance Rates. Florida law
5 provides that an insurer may not impose an
6 additional premium on a motor vehicle policy because
7 the insured was in a collision for which the person
8 was not at fault. This rule clarifies that this
9 statute would apply to existing customers as well as
10 new customers.

11 ATTORNEY GENERAL McCOLLUM: I move Item 6.

12 COMMISSIONER BRONSON: Second.

13 MR. McCARTY: We do have people speaking in
14 opposition.

15 GOVERNOR CRIST: Okay. Anyone wish to speak on
16 Item 6?

17 MR. McCARTY: I do want to point out this is a
18 proposed rule. We'll be able to hear the opposition
19 in a hearing process before we bring it before you,
20 but there is someone here to speak in opposition.

21 GOVERNOR CRIST: Sure. Good morning.

22 MR. MARVIN: Good morning. My name is Guy
23 Marvin. I'm president of the Florida Insurance
24 Council. As the commissioner properly points out,
25 we will have an opportunity to take testimony in a

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1 subsequent hearing, but we respectfully disagree
2 with the interpretation which the Office of
3 Insurance Regulation is applying to this section of
4 the statute. We believe that it does not apply to
5 initial issues.

6 And the reason we believe that is that if a
7 person has several accidents on their record, when
8 they file their application, it's very simple for
9 the company just simply not to issue the policy. So
10 we believe that this statute was intended to apply
11 to in-force business, so that if you have an
12 accident for which you are not at fault, you cannot
13 have an additional premium applied to your in-force
14 policy and you cannot be denied renewal, unless
15 there is substantial evidence in the insurance
16 company's file that you were at fault in that
17 accident. Thank you.

18 COMMISSIONER BRONSON: Can I ask a question?

19 GOVERNOR CRIST: Sure, Commissioner.

20 COMMISSIONER BRONSON: Well, I can see and I've
21 been told many times before about the potential for
22 people who have been in accidents to -- reoccurring
23 accidents, which is kind of like saying if you're
24 going to pull Lottery numbers, your chances, no
25 matter which numbers you pick, ought to be pretty

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1 much the same for everybody, no matter what, and
2 especially if you weren't at fault. Somebody runs
3 through a red light and hits your car, it doesn't
4 seem very fair that if you've been paying your
5 premium all these years and never made a claim, that
6 your premium should go up because somebody ran
7 through a red light and hit your car.

8 That's kind of like holding both people at
9 fault even though one is not at fault and clearly
10 the other one was. And it just seems to be patently
11 unfair that you would consider that against a person
12 who was not the reason for the accident to start
13 with.

14 Everybody -- I mean, we see people on the
15 Clemency Board who happened to be drinking and
16 somebody else ran a red light and hit them. It
17 wasn't their fault they got hit, but because they
18 were drinking, they went to prison, especially if a
19 life is lost in that accident, whether it was their
20 fault or not.

21 So there are extenuating circumstances to all
22 this under the law. But it just doesn't seem very
23 fair to me that you could -- your premium would go
24 up because of somebody else's action and you were
25 not at fault in any way, shape or form, other than

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1 the fact you happened to be in that exact place at
2 that time for the accident.

3 MR. MARVIN: Commissioner, you make a very good
4 point. But when people have a number of accidents,
5 it does raise the question of whether or not they
6 are driving defensively, whether they drive well,
7 whether they're careless.

8 There are also obviously situations in those
9 accident reports where the officer can't really make
10 a determination. So we believe that that is
11 something that is -- that should be looked at and
12 evaluated in trying to assess risk.

13 Now, once you take the -- once you accept the
14 risk and the policy is in force, the law is very
15 clear, in our opinion, that you may not surcharge
16 that policy or refuse to renew that policy unless
17 you have in your file substantial evidence that the
18 driver was at fault and you exercise that judgment
19 in good faith. That's what the statute says.

20 We simply just don't -- we don't believe that
21 applies or was intended to apply at the time of
22 issue, because obviously if you have a concern at
23 the time of issue, you simply don't accept the
24 application. And as I said, we will have a chance
25 to --

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1 ATTORNEY GENERAL McCOLLUM: Well, let me ask
2 one other question then. If you don't have to
3 accept the application, what difference does this
4 make?

5 MR. MARVIN: Well, that probably goes to the
6 question of what was the statute intended to mean.

7 ATTORNEY GENERAL McCOLLUM: But let's say, for
8 example, I'm insurance company X and I issue
9 automobile policies in Florida and somebody applies
10 that has five previous accidents, none of which they
11 were at fault for. You look at that and you say,
12 well, I don't have to accept this. If this rule is
13 adopted ultimately, you've got to have some other
14 excuse not to grant them --

15 MR. MARVIN: No, General, you don't have to
16 have some other excuse. You simply don't issue the
17 policy --

18 ATTORNEY GENERAL McCOLLUM: Right.

19 MR. MARVIN: -- if you feel uncomfortable about
20 it. And that, you see, I think, goes to the
21 question of what was the statute intended to say.
22 It doesn't make sense to --

23 ATTORNEY GENERAL McCOLLUM: I understand that.
24 But what difference is this rule going to make as a
25 practical matter then? Maybe I'm missing something

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1 here, probably am.

2 MR. MARVIN: General, I think the difference it
3 will make is that --

4 CFO SINK: Higher premium.

5 MR. MARVIN: -- at some point you will have
6 access to coverage, albeit, as the CFO has just
7 said, it may be at a slightly --

8 ATTORNEY GENERAL McCOLLUM: It would be a
9 higher premium.

10 MR. MARVIN: Yes.

11 ATTORNEY GENERAL McCOLLUM: That's the
12 difference that the policy --

13 MR. MARVIN: Yes, sir.

14 ATTORNEY GENERAL McCOLLUM: -- the rule is
15 going to make, is a higher premium, it will allow
16 you to charge a higher premium, or prohibiting you
17 from charging it.

18 MR. MARVIN: The marketplace, the automobile
19 marketplace is probably the most healthy market we
20 have right now. We have virtually no automobile
21 coverage in our residual market. We simply are
22 suggesting to you that we think that this should not
23 apply at the time of issue.

24 ATTORNEY GENERAL McCOLLUM: Okay, I got it.
25 And I'd just make one comment that I can see here.

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1 Since you have the right to -- which is why I was
2 working all through that. If you have the right to
3 not accept the application, then there's no harm
4 done to any insurer. It may make the availability
5 of policies to some people more difficult. They may
6 find that 30 insurers won't accept them but that at
7 least when they do get accepted, they won't have to
8 pay the higher premium. So I'm not so sure it
9 really matters. That's my comment, and I --

10 MR. MARVIN: Thank you, General. And I think
11 you see it accurately, as a matter of fact.

12 ATTORNEY GENERAL McCOLLUM: Well, I'm still
13 supportive of this proposal.

14 MR. MARVIN: Thank you.

15 GOVERNOR CRIST: It has been moved and
16 seconded. Are there any objections? Show it
17 approved without objection.

18 MR. McCARTY: Thank you, Governor.

19 GOVERNOR CRIST: Commissioner, thank you very
20 much.

21 MR. McCARTY: Appreciate very much giving the
22 extended time today.

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1 CFO SINK: Governor, can I --

2 GOVERNOR CRIST: CFO, yes. Forgive me. I'm
3 sorry.

4 CFO SINK: I just wanted to bring up something
5 that came to my attention earlier this week.
6 Obviously, the Legislature is up there making a lot
7 of difficult decisions. And one of the decisions
8 they made was to suspend the Florida Forever Program
9 for the rest of the year. And, of course, all of us
10 as Floridians are disappointed, but those are the
11 tough decisions that are being made.

12 However -- and I can certainly understand not
13 making further commitments. But there were -- the
14 last two projects that came before the Cabinet that
15 we approved, which is theoretically the last stop in
16 the process, were -- have been removed by the
17 Legislature, although the bonding actually had been
18 done and there's -- there is \$50 million sitting in
19 the bonding account ready, ready to go. We've
20 already issued those bonds.

21 But these two projects, the Rakestraw project
22 and then the other one in Central Florida, that add
23 up to about \$10 million have been excluded. And I
24 just think that's not good business practice, to
25 enter into an agreement and have the sellers think

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1 that that was the last stop, and the transaction was
2 ready to be consummated, and have this taken off the
3 table.

4 So I know DEP is not here today, but I would
5 like to ask you to ask DEP to come back to our next
6 meeting and review what the options are. Perhaps we
7 can -- do we have the ability to decide that the
8 first two projects in the next fiscal year will be
9 these two projects that we had already committed to,
10 or there may be some other options or opportunities.

11 But it's just distressing that we enter into an
12 agreement with sellers and then have to take it back
13 off the table, when we do in fact have the money
14 already there sitting ready to go.

15 ATTORNEY GENERAL McCOLLUM: Governor, may I --

16 GOVERNOR CRIST: Certainly.

17 ATTORNEY GENERAL McCOLLUM: -- concur in that?

18 I think that CFO Sink has made a very valid point.
19 We have made obligated decisions here. Obviously,
20 the Legislature can change the funding ground rules
21 anytime they want to do it. If we don't have the
22 money, we don't have the money.

23 On the other hand, it is -- these projects were
24 important. We wouldn't have made those decisions if
25 it wasn't. And I would certainly like to think we

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1 could reassure those who are involved that we are
2 going to fulfill that commitment at the earliest
3 date possible.

4 GOVERNOR CRIST: I think that's a great
5 suggestion. I will certainly talk with Secretary
6 Sole about that and see what we can do. Given that,
7 we are adjourned. Thank you.

8 (Whereupon, the meeting was concluded at 10:45
9 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

Reporter,

counsel

I, Jo Langston, Registered Professional

do hereby certify that the foregoing pages 4 through 80,
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the proceeding; that said proceeding was taken by me
stenographically and transcribed by me as it now appears;
that I am not a relative or employee or attorney or
of the parties, or a relative or employee of such attorney
or counsel, nor am I interested in this proceeding or its
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IN WITNESS WHEREOF, I have hereunto set my hand
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JO LANGSTON
Registered Professional Reporter

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