

**Minutes of January 30-31, 2006,
Meeting of Task Force on Long-Term Solutions
For Florida's Hurricane Insurance Market**

The Task Force on Long-Term Solutions for Florida's Hurricane Insurance Market convened its seventh meeting on Monday, January 30, 2006, at 9:00 a.m. in the University of Central Florida Student Union. The meeting continued at 9:00 a.m. on Tuesday, January 31, 2006, in the same building.

Chair **Kevin M. McCarty**, Commissioner, Office of Insurance Regulation, called the meeting to order and recognized a quorum.

In addition to Chair McCarty, attending were the following Task Force members: **Steve Burgess**, Insurance Consumer Advocate, State of Florida; **Richard Cain**, Vice President, State Farm Insurance Company; **Leslie Chapman-Henderson**, President/CEO, Federal Alliance for Safe Homes, and Vice-Chair of the Task Force; **Dave Cobb**, former insurance agent; **Randy Dumm**, Ph.D., Associate Professor of Risk Management and Insurance, Florida State University; **Dan Gilmore**, President, Florida Homebuilders' Association; **George Grawe**, Counsel, Allstate Floridian Insurance Company; **Tony Grippa**, Executive Vice President, Brown & Brown; **Robert P. Hartwig**, Ph.D., Senior Vice President and Chief Economist, Insurance Information Institute; and **Harold Humphrey**, Vice Chairman, InSource, Inc.

1. Approval of Minutes of January 18-19, 2006, Task Force Meeting. Task Force members unanimously approved written minutes of the Task Force's sixth meeting on January 18-19, 2006, as presented to them in advance.

2. Review of Follow-up Data from Citizens Property Insurance Corporation Susanne Murphy, Corporate Counsel for Citizens Property Insurance Corporation (Citizens), presented and discussed follow-up data as requested by Task Force members in previous meetings:

- HRA Commercial Builder's Risk Policies. Ms. Murphy distributed a copy of a chart which reported Citizens' builder's risk policies by county for commercial, commercial residential with 2 or more stories, commercial residential with 1 story, and special class items. Citizens reported writing a total of 5,774 commercial builder's risk policies of all types. Task Force members noted that, of this total amount, 4,979 were in the commercial residential 1 story category with 2,036 of those in Miami-Dade County, 576 in Walton County, 309 in Palm Beach County, 254 in Monroe County, 251 in Broward County and 243 in Sarasota County. Ms. Murphy stated that she would report back to the Task Force with specific information on what kinds of structures were included in the commercial residential 1 story category. Task Force members also asked her to provide information on Citizens' total exposure represented by this risk. Several Task Force members noted that the Task Force should evaluate whether, as a matter of public policy, the residual market should provide coverage of new projects such as those covered by commercial builder's risk policies and thought that a great many of them would stay in Citizens' HRA after construction was completed and sales had occurred. Other members noted that coverage needed to be available from somewhere in order to support

Florida's construction industry. Mr. Burgess observed that insuring new high risk structures while they are being built is fundamentally different than insuring structures that were already built and provided residents with the expectation that insurance coverage would continue to be available.

- Comparative premium data. Ms. Murphy reviewed charts that compared three different Citizens' premiums with those charged by three private companies in Miami-Dade, Escambia and Hillsborough Counties for the same kind of structure. The premium comparisons consisted of those charged as of October 2005, those based on actuarial calculations, and those based on the "Top 20" method. Task Force members noted that the sample of three private companies was small and may not be a reliable indication of Citizens' competitiveness with private companies in those counties. They also noted that the premiums charged by one of the three private companies in Miami-Dade County exceeded the "Top 20" floor that Citizens reported.

3. Reinsurance Issue and Building Code Enforcement Grading System Ray Spudeck, Senior Research Economist, Office of Insurance Regulation, reported to the Task Force on these two matters.

Dr. Spudeck noted that he had provided global reinsurance information to the Task Force at its August meeting. He observed that Florida is very dependent on the global reinsurance market with most of the property insurance market in the state, including Citizens, ceded back to the reinsurance market. He noted that foreign insurance companies doing business in the U.S. must have letters of credit or trust agreements backed by fully funded collateral, according to accounting standards. The Chair and other members of the Task Force thought that these restrictions were obsolete; that other countries, especially large European countries, were fully capable of regulating such companies so that they were financially capable; and that the accounting restrictions needed to be changed so that the global reinsurance market could be more competitive. The Chair observed that the National Association of Insurance Commissioners (NAIC) had been studying the issue and just released a white paper on the subject. He noted that removal of the accounting standards is a highly contested matter.

Dr. Spudeck reported that the Building Code Enforcement Grading System (BCEGS) system was created several years ago and that Florida, with the assistance of the Insurance Services Office (ISO), was the first to use it. The system provides grades on how well or poorly building codes are enforced and addresses building code credits as well as enforcement credits. He observed that insurers could give discounts to residents in areas where building codes were well enforced and/or penalties or surcharges in areas where building codes were not strictly enforced. Several Task Force members noted that policyholders needed to be informed about enforcement quality so that consumer demand for good enforcement could be increased. Mr. Burgess suggested that a study is needed to find ways to deal with mobile homes that were built before 1994 HUD standards. Mr. Grippa observed that mobile homes were a depreciating asset and should be insured accordingly. He also noted that they were made weaker by adding carports or other attachments. The Chair noted that the Secretary of the Department of Community Affairs, in reporting to the Task Force in December, had reported a wholesale failure of the tie-down program for mobile homes. Ms. Chapman-Henderson observed that FIU had research on the mobile home issue.

Mr. Gilmore observed that the State Building Code had been adopted and was being used throughout the state and that building inspectors were subject to strong penalties for failure to do their work well. He noted that education programs for builders were important so that construction workers, contractors and others understood the code and the need to follow it strictly.

5. Task Force Review and Discussion of Preliminary Draft Report. The Task Force discussed the first draft of the final report and directed staff to make changes to the content and recommendations. Chair McCarty asked that minutes of the Task Force's meetings be attached to the final report and that documents used by presenters be referenced and continue to be made available through the Task Force's website.

A summary of the topical discussions by the Task Force members follows:

Building Codes. Task Force members emphasized the need to have strong enforcement of Florida's Building Code by local officials and discussed ways, such as the Building Code Enforcement Grading System (BCEGS), to encourage good enforcement. Insurers could offer incentives for policyholders who live in areas where the code is enforced. Banks and governments could offer low-interest loans to assist homeowners to meet code requirements. They also emphasized the need to continually educate builders and inspectors about code requirements and good practices, acknowledging that the Florida Building Code was a minimum standard rather than the maximum. Mr. Gilmore opined that firefighters have expressed some concern about the use of impact resistant glass and observed that the Florida Building Commission had not taken a position to endorse impact resistant glass. Ms. Chapman-Henderson noted that firefighters now had equipment to deal quickly with impact resistant glass when needed. Mr. Gilmore and others noted that good ways are needed to help to identify when particular homes have been built to sound standards and have continued to maintain and improve their abilities to withstand hurricane damage. He thought that some system of certified and licensed private inspectors might assist and offered to prepare specific language for the Task Force to review.

Internal pressurization. Task Force members discussed an existing option in Florida's Building Code that permits structures to be built to withstand certain levels of internal pressurization caused by high winds or to protect openings in the structure, such as windows and doors. Ms. Chapman-Henderson noted that the Florida Building Commission had recommended unsuccessfully to the Legislature in 2005 that the option to do one or the other be removed so that the Florida Building Code, using scientific standards, could determine the best way to protect structures throughout the state. At the current time, only Miami-Dade and Broward counties require protection of windows and doors and do not provide for the internal pressurization option. Ms. Chapman-Henderson explained that nationally the internal pressurization option is being regarded as a weakness in building codes since it does not allow people to shelter in place or protect their contents. That kind of protection is provided by strong window and door coverings. Chair McCarty and other Task Force members thought that, ideally, structures and people should be protected both for internal pressurization and by having window and door coverings. Mr. Gilmore noted that, however desirable, having both was too costly for most homebuyers. He did not think that the internal pressurization option should be removed. Mr. Burgess suggested that the pros and cons of various options be presented to the Legislature so that it could make informed decisions. The Task Force agreed that, in the wind-borne debris regions of the state, code-approved opening protection should be required.

Windpool debris region exemption for panhandle. Task Force members discussed the statutory exemption of most of Florida's panhandle area from the standards used in the rest of the state to establish "windpool debris regions". Mr. Gilmore commented that local building officials in the panhandle supported the exemption and claimed that hurricane damage in the panhandle was caused more by storm surge than by wind. Ms. Chapman-Henderson noted that the Florida Building Commission had recommended unsuccessfully to the Legislature in 2005 that the exemption be removed so that scientific standards could be used to determine the most appropriate "windpool debris regions" everywhere in the state. She also noted that surveys of panhandle residents had demonstrated that most residents were unaware of the exemption and assumed that they were protected in the same way that other regions of the state were protected.

Florida Hurricane Catastrophe Fund, "Beta" formula, rapid cash build-up. Task Force members discussed possible ways that policies governing payments by the Florida Hurricane Catastrophe Fund (CAT Fund) to private insurers and Citizens might be modified to better accommodate multiple storms in one season. A "Beta" formula proposal, developed by Rade Musulin of the Florida Farm Bureau, would make changes so that "retention" consists of two components: an annual aggregate retention that must be satisfied only once during any one calendar year in order for an insurer to be eligible for reimbursement from the CAT Fund, and, in addition to the annual aggregate retention, a per-hurricane retention that must be satisfied with respect to any single hurricane in order for an insurer to be eligible for reimbursement as to that hurricane. The calculation of each "retention" component requires use of complicated formulas that Mr. Musulin has proposed. Task Force members also discussed the need for change in the CAT Fund's existing statutory limits on growth in its annual capacity imposed by the current limit on such growth to an amount that is not greater than the dollar growth of the cash balance of the CAT Fund over the prior calendar year. A proposal exists for the 2006 Legislature to remove the cash balance limit on the annual growth in capacity so that the CAT Fund is prepared for more and larger hurricanes and payouts. Task Force members also discussed the need for a rapid cash build-up of the CAT Fund, perhaps in the amount of 25%, which would occur through additional premium charges to insurance companies and, ultimately, policyholders. They generally agreed that other ways of enhancing the cash build-up of the CAT Fund should be explored. Task Force members also concurred on a recommendation to "lock up" CAT Fund assets through a constitutional amendment so that they would not be used for purposes other than those for which the CAT Fund was established.

Sales tax revenue for Citizens and CAT Fund. Task Force members discussed the availability of additional sales tax revenue caused by rebuilding activities after recent hurricanes. They reviewed possible uses of some or all of the revenue to support Citizens and/or the CAT Fund as ways of possibly reducing assessments or increased premiums. Several Task Force members observed that at least part of the increased sales tax revenues should be returned to the counties in which the increases were generated to assist with rebuilding.

Mobile homes. Task Force members acknowledged that accurate data about the numbers and ages of mobile homes in Florida is lacking. They discussed the increasing exposure of Citizens to mobile home damage claims and reviewed Citizens' coverage of mobile homes. Susanne Murphy, counsel for Citizens, noted that the way replacement costs were calculated for mobile homes had the same result as using ACV. One of the Task Force members noted that Mobile homes are depreciating assets.

Consumer Choice. Task Force members discussed whether "Consumer Choice" should be continued or repealed as part of the take-out process of Citizens' policies by private companies, but could not reach consensus on the issue. Some Task Force members expressed concern about the

potential E & O liability of insurance agents to homeowners if policies were taken out of Citizens by companies that later defaulted on their payments. Chair McCarty noted that his office screened companies for financial strength and that only one company had failed in recent years. Some Task Force members discussed possible indemnification of agents in such cases or adding a statutory provision that the agent would not be liable as long as the customer was placed with a licensed company. Ms. Murphy, General Counsel for Citizens, noted that it was difficult to determine whether Citizens' customers actually had opportunities to be taken out by private companies. Task Force members discussed implementing a keep out program to make all Citizens' policies available for review electronically so that possible take-out companies could review them and make take-out offers if they wished. Policies that did not receive offers could be written in Citizens. Several Task Force members were concerned about the change in the role of agents that such a system might cause. Mr. Burgess noted that it was appropriate for the Task Force to explain the pros and cons of the "Consumer Choice" law, as implemented, so that the Legislature could have an informed view of its choices.

After extensive discussion, Task Force members reached tentative consensus on most matters, asked staff to prepare a revised draft by February 13, and agreed to provide written comments by line item to staff by noon on February 20. The consolidated comments are going to be the basis for discussion at the next meeting.

5. Public Testimony. Chair McCarty asked for public testimony on both days of the meeting.

6. Meeting Schedule. The Task Force is scheduled to meet on Monday, February 27, at 9 a.m. in Room 110, Senate Office Building in Tallahassee, and, if necessary, to continue the meeting on Tuesday, February 28.

Chair McCarty adjourned the meeting at 3:00 p.m. on Tuesday, January 31, 2006.