

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

FLORIDA FARM BUREAU CASUALTY )  
INSURANCE COMPANY AND FLORIDA )  
FARM BUREAU GENERAL INSURANCE )  
COMPANY, )  
 )  
 )  
Petitioners, )  
 )  
vs. ) Case No. 07-3947  
 )  
OFFICE OF INSURANCE REGULATION, )  
 )  
Respondent. )  
\_\_\_\_\_ )

RECOMMENDED ORDER

Pursuant to notice, a final hearing was held in this case on January 14 through 17, 2008, in Tallahassee, Florida, before Susan B. Harrell, a designated Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

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STATEMENT OF THE ISSUE

The issue in this case is whether Petitioners' rate filing numbered FCP 07-08928 should be approved.

PRELIMINARY STATEMENT

By letter dated July 15, 2007, Respondent, Office of Insurance Regulation (Office or OIR), issued a Notice of Intent to Disapprove (NOI) a homeowners' insurance rate filing numbered FCP 07-08928, by Petitioners Florida Farm Bureau Casualty Insurance Company (FFB Casualty) and Florida Farm Bureau General Insurance Company (FFB General) (collectively referred to as FFB). The NOI listed 12 grounds for the Office's intended denial.

On July 20, 2007, FFB filed a Petition for Administrative Hearing Involving Disputed Issues of Fact (Petition) and requested an administrative hearing. FFB amended the Petition on August 13, 2007 (Amended Petition). On August 29, 2007, the Office referred the Amended Petition to the Division of Administrative Hearings (DOAH). The case was originally assigned to Chief Administrative Law Judge Robert S. Cohen, but was transferred to Administrative Law Judge Susan B. Harrell.

The final hearing was originally scheduled for November 5 through 9, 2007. On October 15, 2007, the Office filed a Motion for Continuance, which was granted, and the final hearing was rescheduled for January 14 through 18, 2008.

Prior to the final hearing, the parties stipulated that of the 12 grounds for disapproval which were listed in the NOI, items 7, 8, 11 and 12 were no longer at issue.

At the final hearing, FFB called the following witnesses: Rade T. Mulin, former vice president of Operations for FFB and currently the head of Technical Services at AON Re Australia; Michael Moran, FFB's reinsurance broker and account representative at AON Re, Inc.; Shannon E. Sanders, FFB's Senior Reinsurance & Risk Management Planner; Janet Katz, senior vice-president and chief operating officer of American Agricultural Insurance Company (American Ag); and Dr. Mark Crawshaw, who testified as an expert witness. Petitioners' Exhibits 1 through 64 were admitted in evidence.

At the final hearing, the Office called Robert Lee, an actuary and agency representative for the Office. Mr. Lee testified as an expert witness. Respondent's Exhibits 1 through 39 were admitted in evidence.

The seven-volume Transcript was filed on February 4, 2008. At the final hearing, the parties were given ten days after the transcript was filed to file their proposed recommended orders. On February 7, 2008, the Office filed a Motion for Extension of Time to File Proposed Recommended Orders. The motion was granted, and the deadline for filing proposed recommended orders was extended to February 25, 2008.

The parties timely filed their Proposed Recommended Orders, which have been considered in the preparation of this Recommended Order.

FINDINGS OF FACT

1. FFB Casualty and FFB General are both stock insurance companies which are domiciled in Florida. FFB General is a wholly-owned subsidiary of FFB Casualty, which in turn is a wholly-owned subsidiary of Southern Farm Bureau Casualty Insurance Company of Jackson, Mississippi (SFB Casualty). FFB is headquartered in Gainesville, Florida, and its insurance products are sold exclusively in Florida. FFB only insures members of the Florida Farm Bureau Federation, a non-profit organization.

2. On June 8, 2006, FFB made a rate filing for their homeowners' line of business seeking a significant rate increase with an effective date of December 1, 2006, in OIR file number 06-07515. Due to the size of the requested rate increase a public hearing was held on August 16, 2006, in Gainesville, Florida, in accordance with the requirement of Section 627.0629, Florida Statutes (2006), which provides that "[a]ny rate filing that is based in whole or in part on data from a computer model may not exceed 15 percent unless there is a public hearing." § 627.0629(7), Fla. Stat. (2006).

3. At the public hearing, Burt Gindy, FFB's vice president of Government Affairs and Compliance, commenced the presentation of FFB by stating: "Okay, then, simply put, this filing is all about catastrophe reinsurance cost." Later in the public hearing, Mr. Gindy stated: "The homeowners' rate filings before you, FCP 06-07515, seeks to recognize the increase in profit catastrophe reinsurance costs that have escalated due to increasing hurricane activity." Mr. Gindy talked about the typical amount of reinsurance sought by FFB, stating: "We typically insure to a 250 year event, this year we've only been able to insure capacity and cost wise to about 160 year capacity. We know AM Best looks at that and we want to keep our AM Best ratings."

4. Insurers, including FFB, generally measure and evaluate their potential losses from hurricanes and other extreme events in terms of probable maximum loss (PML), an estimate of the dollar amount of losses that an insurer will experience at a given probability. For example, a one-percent probability of experiencing a loss greater than a certain amount equals a 100 year or one-in-100 year PML. This does not mean that the insurer is expected to incur the 100 year PML only once every 100 years; it means that in any given year there is a one-percent chance of the insurer incurring a loss of that magnitude. When Mr. Gindy indicated that FFB had typically

insured to a 250 year event, he meant that FFB insured for a 0.25 percent chance of loss of a certain magnitude occurring in any given year.

5. On September 25, 2006, the Office approved a rate increase for FFB of +43.8 percent with an effective date of December 1, 2006. Because rate filings are prospective, the rate increase, with an effective date of December 1, 2006, appeared calculated to pay for FFB's 2007 reinsurance program.

6. Since the mid-1990's, FFB has purchased a portion of its reinsurance coverage from the Florida Hurricane Catastrophe Fund (CAT Fund), as required by law.<sup>1/</sup> The CAT Fund is a public entity which provides a statutorily specified layer of reinsurance at a substantially lower cost than the private market because of the CAT Fund's non-profit structure and tax exempt status. The effective date of CAT Fund coverage is June 1. FFB normally purchased the remainder of its reinsurance from private reinsurers for one-year terms, which are generally effective on January 1. Through 2006, FFB purchased a significant portion of its reinsurance from its parent company, SFB Casualty, and purchased other layers of coverage from American Ag. Starting in 2007, SFB Casualty no longer provided reinsurance for FFB, and FFB purchased coverage in the global market with the assistance of AON with whom FFB had worked for many years as SFB Casualty's broker.

7. FFB generally begins planning in the summer for its purchase of reinsurance to be effective for the next January 1 by gathering FFB's exposure data (i.e., how many houses FFB insured, where they are located and how much they cost, etc.), which data FFB runs through its own and Alliance Insurance Research (AIR) computer models to estimate FFB's anticipated hurricane losses and PML's. FFB then determines its desired reinsurance structure, including its retention (i.e., amount of losses that could be absorbed by FFB), and sends this information to reinsurance markets in the Fall. After receiving and vetting quotes seeking the most advantageous terms, FFB negotiates its reinsurance program, and most of its reinsurance agreements are bound by December for a January 1 effective date. FFB sometimes makes adjustments to its reinsurance program after January 1 to obtain additional coverage at more favorable prices, subject to market conditions, or to make adjustments due to changes in the CAT Fund. However, the general goal of the company is to always place the lion's share of the reinsurance program by the beginning of the year.

8. By January 1, 2007, FFB had placed the majority of its reinsurance program for 2007. The cost for FFB private reinsurance in January 2007 was \$65,984,426.

9. Recognizing a crisis in homeowners' insurance premiums, on January 9, 2007, the Florida Legislature issued a Joint

Proclamation to convene a special session pursuant to Article III, Section (3)(c), Florida Constitution, and Section 11.011, Florida Statutes (2006), to commence on January 16, 2007, for the "sole and exclusive purpose" to consider the following:

- a. Legislation to reduce current property insurance premiums in Florida;
- b. Legislation to reduce the future growth of property insurance premiums in Florida;
- c. Legislation to improve availability and stability of property insurance in Florida;
- d. Legislation relating to building codes in Florida.

10. The special session convened on January 16, 2007, and on January 22, 2007, the Legislature enacted Chapter 2007, Laws of Florida (Chapter 2007-1), which was signed into law by the Governor on January 25, 2007. One of the primary features of the legislation was a massive expansion of the CAT Fund.

11. Prior to the enactment of Chapter 2007-1, the CAT Fund had an industry-wide capacity of approximately \$16 billion for those carriers writing property insurance in the State of Florida. As a result of the enactment of Chapter 2007-1 and the expansion of the CAT Fund, industry-wide coverage went from approximately \$16 billion to approximately \$28 billion. It was the intent of the Legislature that the expansion of the CAT Fund



would result in a rate filing that reflected "savings or reduction in loss exposure to the insurer."

12. Chapter 2007-1 required the Office to issue an order specifying the date or dates on which the required rate filings were to be made and be effective "in order to provide rate relief to policyholders as soon as practicable." By March 15, 2007, the Office was required to calculate a presumed factor or factors to be used in the rate filings required by Chapter 2007-1 to reflect the impact to rates based on the changes to the CAT Fund.

13. The Office issued Informational Memorandum OIR-07-06M, which describes the procedure for the rate filings required by Chapter 2007-1 and provides in relevant part:

The purpose of this memorandum is to provide guidance regarding filing procedures for the "Presumed Factors" filing and the subsequent "True-Up" filing.

During the 2007 Special Session, the Florida Legislature passed House Bill 1A (HB 1A) requiring every residential property insurer to make a filing with the Office of Insurance Regulation (Office) to reflect the savings or reduction in loss exposure to the insurer.

On February 19, the Office issued an order advising residential insurers to make rate filings to include the new discount factors mandated by HB 1A. The new discount factors required in HB 1A have been calculated by the Office and all residential property insurers must make a rate filing incorporating the new savings on or before

March 15, 2007. Information related to the presumed factors can be found at <http://www.floir.com/HotTopics.htm>.

The procedure for submitting the "Presumed Factors" filing as prescribed in Section 3 of HB 1A and the True-Up" filing as prescribed in the Office's "Presumed Factors" order can be found in the applicable attachments and are summarized below.

A filing adopting the Office's "Presumed Factors" (Short Form).

This filing shall reflect the effects of the "Presumed Factors" on the rates currently in effect and shall be made on a "file and use" basis. The filing shall be limited to the effects of the "Presumed Factors" on rates currently in effect, and the elimination of the 25% rapid cash buildup portion of the insurer's Florida Hurricane Catastrophe Fund premium.<sup>[2/]</sup> The procedures for submitting this type of "Presumed Factors" filing can be found in Attachment A.

A filing that uses, but does not strictly adopt the "Presumed Factors" (Long Form).

A "Presumed Factors" filing that uses the factors to reflect a rate decrease to take into account the "Presumed Factors" shall be made on a "use and file" basis and shall provide all the information used in preparing the filing including copies of all reinsurance treaties. Such a filing is subject to credits and refunds if the rate reductions are determined inadequate. This type of filing shall also be limited to the effects of the "Presumed Factors" on the rates currently in effect and the elimination of the 25% rapid cash buildup portion of the insurer's Florida Hurricane Catastrophe Fund premium and must be accompanied by a sworn statement from the chief executive officer or chief financial

officer and actuary responsible for preparing the filing. The procedures for submitting this type of "Presumed Factors" filing can be found in Attachment B.

A "True-Up" Filing as required by the Office's "Presumed Factors" order.

After making the "Presumed Factors" filing, insurers shall make a "True-Up" filing pursuant to the "file and use" provisions of s. 627.062(2)(a)1, Florida Statutes, that is a complete rate filing to reflect the savings or reductions in loss exposure to the insurer due to all the provisions of HB 1A and the anticipated 2007 reinsurance program. The procedure for submitting the "True Up" filing is identical to the annual rate filing procedures in I-file, except the appropriate selections now read as "Rates Only Including 'True Up' Filings Pursuant to the 'Presumed Factors' Order" or "Rate & Rule Including 'True Up' Filings Pursuant to the 'Presumed Factors' Order."

14. On March 1, 2007, the Office issued its "Presumed Rating Factors" report, which estimated an overall statewide savings of 24.3 percent attributed to the changes to the CAT Fund made in Section 2 of Chapter 2007-1. The Presumed Factors included the savings from the new reinsurance made available to insurers under Chapter 2007-1 and the savings due to the elimination of the 25 percent rapid cash buildup provision of prior law.

15. On March 15, 2007, FFB made their Presumed Factors filing using the "short form" process described in Informational Memorandum OIR-07-06M. FFB requested and received approval of

an overall homeowners' insurance rate decrease of -24.5 percent. The effective date of the filings was to be June 1, 2007.

16. On May 9, 2007, FFB made their "True Up" filing, which is at issue in this case. The first filing sought a rate increase of +26.8 percent, which when combined with the Presumed Factor filing would have resulted in a rate decrease for their policyholders of -3.6 percent. The effective date selected by FFB for their "True-Up" filing was October 1, 2007.

17. On May 14, 2007, the Office acknowledged receipt of FFB's rate filing. In return, the Office asked 51 questions seeking catastrophe model support information in accordance with Section 627.0628, Florida Statutes (2006). The Office also requested that FFB update its statewide rate indications.

18. On May 21, 2007, FFB responded to the Office's May 14, 2007, request by providing a document prepared by Applied Insurance Research (AIR) concerning the AIR model, which FFB had used in its calculations supporting its rate filing.

19. On May 25, 2007, FFB updated the statewide indications and further amended their filing to divide the HO forms and the HXL Form 9.

20. On June 22, 2007, FFB revised the May 9, 2007, filing, claiming that the revision had resulted from the "delay of Florida Farm Bureau Filing 07-15 (OIR Filing FCP 07-03807), the renegotiation of [their] 2007 reinsurance program, a systems

restraint not previously accounted for, and to follow up after the March 15, 2004, effective rate filing." The effect of the amendment was that FFB was now seeking a +30.3 percent rate increase, which when combined with their Presumed Factor filing would have resulted in a rate decrease for their policyholders of -1.6 percent.

21. Following its review of the amended filing, the Office asked a number of questions on July 2, 2007. FFB provided additional information in response to the questions on July 8, 2007.

22. On July 10, 2007, a public hearing was held in Tallahassee, Florida, in accordance with Section 627.0629, Florida Statutes (2007),<sup>3/</sup> to discuss the rate increase requested by FFB.

23. By letter dated July 17, 2007, and forwarded to FFB on July 19, 2007, the Office issued its Notice of Intent to Disapprove the filing of FFB. The Office listed 12 deficiencies as its grounds for denying the rate filing. The parties have stipulated that items 7, 8, 11, and 12 of the NOI are no longer in issue. The remaining reasons for denial are listed below:

1. The rate filing and requested rate fail to reflect a reduction in policyholder premiums consistent with the expansion of the Florida Hurricane Catastrophe Fund coverage contrary to the intent and requirements of HB1A.

2. Company has not provided sufficient support that the reinsurance cost in the filing reflecting coverage levels, reinsurance premium amounts and expected recoveries does not result in excessive reinsurance cost related to services rendered not permitted per Section 627.062, F.S.

3. Company has not provided sufficient support that Florida Hurricane Catastrophe Fund cost filing is consistent with tax exempt status of the fund.

4. Company failed to completely respond to the Office questions for required disclosure of all assumptions and factors used by the Hurricane model as required by Section 627.0628, F.S.

5. Company has failed to support use of model for Catastrophe losses other than hurricane.

6. Company has failed to support that loss trend is not excessive.

\* \* \*

9. Company has failed to support the trend procedure used to adjust hurricane model losses is appropriate and consistent with premium trending in the indications.

10. Company has failed to support the allocation of reinsurance cost to territory in their territorial indications.

DEFICIENCY 1: FAILURE TO REFLECT A REDUCTION IN POLICYHOLDER  
PREMIUMS CONSISTENT WITH THE EXPANSION OF THE CAT FUND

24. FFB received a healthy rate increase in December 2006, ostensibly to alleviate the industry-wide increase in the reinsurance premiums. FFB had the majority of its reinsurance

coverage in place by January 2007, and the reinsurance placed FFB at a one-in-190 year PML. FFB had intended to purchase additional reinsurance during 2007 in order to get the PML level closer to the one-in-250 year PML, which had been its goal in previous years.

25. In January 2007, FFB had reinsurance with the CAT Fund, American Ag, and other private reinsurance providers brokered through AON. Chapter 2007-1 provided that the rate change had to consider the available coverage options provided by the expansion of the CAT Fund and provided that any additional cost for private reinsurance that duplicates the coverages offered by the CAT Fund could not be factored in determining the change in the rate. FFB estimates that \$25,127,526 of its January 1, 2007, reinsurance premium duplicated the less expensive coverage available from the newly expanded CAT Fund. The estimated premiums for the CAT Fund coverage available after the enactment of Chapter 2007-1 were \$7,555,058.

26. The reinsurance treaty between FFB and American Ag contained a provision which allowed FFB to essentially cancel coverage which was duplicative of coverage provided by the CAT Fund as a result of legislative changes. FFB did not have such a provision in its treaties with its other private reinsurers.

27. FFB's Third Master layer of reinsurance was placed with American Ag who, in turn, reinsured that coverage in the private reinsurance market. FFB was able to renegotiate the Third Master layer to remove the CAT Fund overlap because the contract required American Ag's reinsurers to amend the contract if the CAT Fund was amended.

28. The First High reinsurance layer was placed through FFB's broker, AON, with a number of other private reinsurers. Since the treaties with these private reinsurers did not contain a provision similar to the American Ag treaty, these private insurers were unwilling to reduce the coverage with FFB to eliminate duplication from the CAT Fund. FFB had contracted to pay \$15,750,000 for its First High coverage. The CAT Fund coverage would have eliminated all but \$1.75 million of that premium. FFB had already paid a portion of the \$15.75-million premium to its private insurers, and the reinsurers were resisting refunding the premium. FFB offered to purchase a third event coverage for the First High and to add a new top layer of \$50 million coverage in return for a reduction of First High premium of several million dollars. The effective date of the renegotiated First High and the new Third High reinsurance contracts were made retroactive to January 1, 2007. FFB purchased a \$30 million aggregate following the enactment of



Chapter 2007-1 and the renegotiation of their reinsurance program.

29. The increased reinsurance coverage resulting from the renegotiations with the private reinsurers brought FFB's PML more in line with its one-in-250 year goal. In order to determine the amount of reinsurance to purchase to bring it to its one-in-250 year goal, FFB used a near term sensitivity analyses on the AIR model "as a benchmark for its PML determinations and reinsurance program purchases." The near term sensitivity analysis was used in "response to requirements from rating agencies, such as A.M. Best." According to FFB, the use of the near sensitivity analyses "exceeds that of the normal '10K standard' event set and is used in preparation for A.M. Best's annual rating agency review, as required." FFB "believe[d] the version 8.2 representation of near term sensitivity to be overstated, but use[d] this analysis as required by A.M. Best." The use of the near term sensitivity model would result in an increase of the amount of reinsurance needed to reach the one-in-250 year PML.

30. The increase in reinsurance coverage is being borne by the policyholders. As stated by Mark Crawshaw, FFB's expert witness:

Generally, the more reinsurance FFB buys, the greater financial security FFB offers its policyholders. However, this greater

security comes at a cost of greater reinsurance premiums which are passed on to the policyholders. In other words, there is a trade-off between the level of financial security and the cost of that security to policyholders. The Best's Financial Strength Ratings provide an objective basis for quantifying and evaluating this trade-off.

31. FFB has failed to comply with the intent of the Legislature in Chapter 2007-1. It has failed to reflect in its rate filing the savings in the form of reduction in premiums to the policyholders that would be realized from the expansion of the CAT Fund and the reduction in CAT Fund premiums.

DEFICIENCY 2: FAILURE TO PROVIDE SUPPORT THAT REINSURANCE COSTS DOES NOT RESULT IN EXCESSIVE REINSURANCE COST

32. Item 2 addresses the Office's assertion that FFB has not provided sufficient support that the reinsurance cost in the rate filing reflecting coverage levels, premium amounts and expected recoveries does not result in excessive reinsurance cost related to services rendered. In reviewing the rate filing of FFB, the Office determined that FFB's reinsurance costs were significantly higher than the rest of the market. More significantly, the amount of catastrophe recoveries was both unsupported and understated. FFB's support for recoveries in the filing was reliance upon the AIR model, with the only information based on FFB's data for one month. Although believing that a recovery percentage of less than ten percent

was an inadequate return given the cost of the reinsurance, the actuary for the Office was unable to independently verify the recoveries.

33. FFB has failed to demonstrate that its reinsurance costs are not excessive related to the services rendered by the reinsurers.

DEFICIENCY 3: FAILURE TO PROVIDE SUPPORT THAT THE CAT FUND COST IN THE FILING IS CONSISTENT WITH THE TAX EXEMPT STATUS OF THE CAT FUND

34. Item 3 addresses the Office's assertion that FFB has not provided sufficient support to show that the CAT Fund cost is consistent with the tax exempt status of the CAT Fund. The CAT Fund makes no profit and as a tax exempt entity, has a very large investment income credit. The result is that the CAT Fund will basically pay more for losses to the insurance companies than they will collect in reinsurance premiums. In its rate filing, FFB did not consider the larger recoveries from the CAT Fund that would result from the CAT Fund's tax exempt status and did not provide sufficient support why the tax exempt status of the CAT Fund was not considered.

DEFICIENCY 4: FAILURE TO DISCLOSE ALL ASSUMPTIONS AND FACTORS RELATING TO THE USE OF THE AIR MODEL

35. Item 4 addresses the Office's assertion that FFB failed to provide access to all assumptions and factors in the AIR model which FFB used in its rate filing. Section 627.0628,

Florida Statutes, provides that an insurer may use a model in a rating filing to determine hurricane loss factors when the model has been determined by the Florida Commission on Hurricane Loss Projection Methodology (Commission) to be accurate and reliable to determine hurricane loss factors, and the Office and the Consumer Advocate appointed, pursuant to Section 627.0613, Florida Statutes, have "access to all the assumptions and factors that were used in developing the . . . model . . . and are not precluded from disclosing such information in a rate proceeding."

36. The AIR model 8.0 used by FFB has been determined acceptable by the Commission for projecting hurricane loss costs in rate filings. Thus, the issue remaining is whether the Office and the Consumer Advocate had access to the assumptions and factors used in developing the model.

37. On May 14, 2007, after the Office received FFB's initial rate filing, the Office sent FFB a standard questionnaire consisting of 51 questions concerning the AIR model which FFB utilized. The same questionnaire is sent to all insurers who use models in their rate filings. As of the final hearing, no insurer has ever answered all the questions to the satisfaction of the Office. In other words, no insurer has physically given the Office all the assumptions and factors that were used in developing the model. This information is

proprietary and is not given to the insurer by the company providing the model. The information is available only from the company providing the model.

38. FFB asked AIR to respond to the questions. FFB provided the response prepared by AIR to the Office on May 24, 2007. Some of the responses provided that AIR would make the information available to the Office for review and would work with the Office to provide the information in an acceptable format. Because much of the information is proprietary and confidential, AIR was not willing to relinquish possession of the information to the Office. AIR has an office in Tallahassee, and staff of the Office could review the materials at the Tallahassee Office.

39. By letter dated July 3, 2007, the Office advised FFB that the responses to the catastrophe model questionnaire were incomplete. On July 9, 2007, FFB provided the following response concerning the catastrophe model information requested:

Florida Farm Bureau has provided the Office with all the formulas and functions available to us by AIR Worldwide, Inc. The catastrophe models are proprietary by their very nature and require extreme care in disclosure. The AIR model used in this filing was reviewed and accepted by the Florida Commission on Hurricane Loss Projection Methodology (Commission). Additionally, the AIR models are widely used and accepted in the insurance, reinsurance, and capital markets. Reasonability measures are taken and maintained by AIR and Florida

Farm Bureau as explained in the IFILE Catastrophe Model Questionnaire.

AIR Worldwide, Inc. has worked with and will continue to work with and will continue to be available to the Office regarding their catastrophe models. In complete cooperation with the Office, AIR has extended the availability of their personnel and models to the Office for review, including all formulas and functions, at their Tallahassee office. It is not the intent of AIR or Florida Farm Bureau to conceal any relevant or necessary information from the Office; the proprietary nature of the information simply demands that all protections are in place to keep trade secret information inside the AIR office and out of the public domain.

Florida Farm Bureau has submitted its exposure data as requested by the Office to run in the public hurricane model. Although we do not have access to the inner workings of this model and cannot validate its results or methodologies, the Office seems comfortable with its results and has used its results as a reasonability check versus our results in past filings.

40. The Office takes the position that making the information available at the Tallahassee office of AIR is not sufficient and does not provide access to the assumptions and factors requested by the Office. Thus, the Office did not avail itself of the opportunity to go to the AIR office in Tallahassee and review the information.

41. The Office takes the position that FFB did not provide to the Consumer Advocate access to the assumptions and factors

used in developing the AIR model. There was no evidence presented that the Consumer Advocate requested such information.

42. In past filings, where no insurer has supplied the requested proprietary information concerning the catastrophe models used, the Office has used the Public Model to test the reasonability of the losses projected by the insurer using a vendor model such as AIR. In the instant case, the Office did submit the data provided by FFB to be inputted in the Public Model. The results of the Public Model showed approximately \$5 million more in potential losses than FFB indicated in its rate filing based on the AIR Model.

DEFICIENCY 5: FAILURE TO SUPPORT USE OF MODEL FOR CATASTROPHE  
LOSSES OTHER THAN HURRICANE

43. The Office objected to the modeled figures used by FFB as support for its non-hurricane losses. The expert for FFB provided an analysis for non-hurricane catastrophe losses using FFB's actual historical losses without relying on the results of the model. The actuary for the Office conceded that FFB's expert used a reasonable analysis and the more common method of supporting the non-hurricane catastrophe losses. FFB has provided support through its expert at final hearing for the non-hurricane catastrophe losses. Therefore, the fifth deficiency is not viable and cannot serve as a basis for disapproving the rate filing.

DEFICIENCY 6: FAILURE TO SUPPORT THAT LOSS TREND IS NOT  
EXCESSIVE

44. In its Proposed Recommended Order the Office conceded that the methodology used by FFB's expert at the final hearing with respect to the loss trend was appropriate. Therefore, FFB has provided support that its loss trend is not excessive.

DEFICIENCY 9: FAILURE TO SUPPORT THAT THE TREND PROCEDURE USED  
TO ADJUST HURRICANE MODEL LOSSES IS APPROPRIATE AND CONSISTENT  
WITH PREMIUM TRENDING IN INDICATIONS

45. In its Proposed Recommended Order, the Office conceded that the methodology used by FFB's expert at the final hearing with respect to premium trending was appropriate. Therefore, FFB has provided support for a zero-percent loss ratio trend by assuming that the hurricane loss trend and the reinsurance premium trend were equal.

DEFICIENCY 10: FAILURE TO SUPPORT THE ALLOCATION OF REINSURANCE  
COST TO TERRITORY IN TERRITORIAL INDICATIONS

46. The tenth deficiency deals with FFB's allocation of the cost of reinsurance on a county-by-county basis. FFB allocated their cost of reinsurance by using the largest 200 storms in their model, rather than the entire 10,000 storm set. The 200 largest storms would invariably be in the more coastal counties and could lead to the coastal counties subsidizing the inland counties, which would be unfair discrimination. The use of the 200 largest storms as opposed to the 10,000 storm set



does not support FFB's allocation of reinsurance cost to territory in their indications.

47. In its Amended Petition, FFB alleges that the Office relied on an unadopted rule as a basis to support the NOI. Specifically, FFB alleges that the Office is interpreting Chapter 2007-1

[T]o essentially freeze insurers' reinsurance coverage levels and costs at whatever was already filed and approved for such insurers at the time HB 1A became effective (essentially the reinsurance coverage levels and costs for 2006), unless the change in 2007 reinsurance coverage levels or costs would result in a rate decrease.

48. The Office does not interpret Chapter 2007-1 in the manner asserted by FFB. Chapter 2007-1 does not prohibit an insurer from having a greater amount of reinsurance in 2007 than it did in 2006, but Chapter 2007-1 does require that any savings that resulted from the expansion of the CAT Fund and reduced premiums of the CAT Fund be passed along to the policyholders.

#### CONCLUSIONS OF LAW

49. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding. §§ 120.569 and 120.57, Fla. Stat.

50. The NOI represent preliminary agency action. This proceeding is a de novo proceeding. Boca Raton Artificial Kidney Center, Inc. v. Florida Department of Health and

Rehabilitative Services, 475 So. 2d 260, 262 (Fla. 1st DCA 1985).

51. As Petitioners, FFB has the burden of persuasion to show by a preponderance of the evidence that the proposed rates are not excessive, inadequate, or unfairly discriminatory.

§ 627.062(2)(b) and (g), Fla. Stat., and Florida Department of Transportation v. J.W.C. Co., 396 So. 2d 778 (Fla. 1st DCA 1981).

52. In determining whether a rate filing is excessive, inadequate, or unfairly discriminatory, the Office must consider the factors contained in Section 627.062, Florida Statutes, which provides:

(1) The rates for all classes of insurance to which the provisions of this part are applicable shall not be excessive, inadequate, or unfairly discriminatory.

(2) As to all such classes of insurance:

(a) Insurers or rating organizations shall establish and use rates, rating schedules, or rating manuals to allow the insurer a reasonable rate of return on such classes of insurance written in this state. A copy of rates, rating schedules, rating manuals, premium credits or discount schedules, and surcharge schedules and changes thereto, shall be filed with the office under one of the following procedures as except as provided in subparagraph 3.:

1. If the filing is made at least 90 days before the proposed effective date and the filing is not implemented during the office's review of the filing and any

proceeding and judicial review, then such filing, shall be considered a "file and use" filing. In such case, the office shall signalize its review by issuance of a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. The notice of intent to approve and the notice of intent to disapprove constitute agency action for purposes of the Administrative Procedure Act. Requests for supporting information, requests for mathematical or mechanical corrections, or notification to the insurer by the office of its preliminary findings shall not toll the 90-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the office does not issue a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing.

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3. For all filings made or submitted after January 25, 2007, but before December 31, 2008, an insurer seeking a rate that is greater than the rate most recently approved by the office shall make a "file and use" filing. This subparagraph applies to property insurance only. For purposes of this subparagraph, motor vehicle collision and comprehensive coverages are not considered to be property coverages.

(b) Upon receiving a rate filing, the office shall review the rate filing to determine if a rate is excessive, inadequate, or unfairly discriminatory. In making that determination, the office shall, in accordance with generally accepted and reasonable actuarial techniques, consider the following factors:

1. Past and prospective loss experience within and without this state.

2. Past and prospective expenses.

3. The degree of competition among insurers for the risk insured.

4. Investment income reasonably expected by the insurer, consistent with the insurer's investment practices, from investable premiums anticipated in the filing, plus any other expected income from currently invested assets representing the amount expected on unearned premium reserves and loss reserves. The commission may adopt rules utilizing reasonable techniques of actuarial science and economics to specify the manner in which insurers shall calculate investment income attributable to such classes of insurance written in this state and the manner in which such investment income shall be used in the calculation of insurance rates. Such manner shall contemplate allowances for an underwriting profit factor and full consideration of investment income which produce a reasonable rate of return; however investment income from invested surplus shall not be considered.

5. The reasonableness of the judgment reflected in the filing.

6. Dividends, savings, or unabsorbed premium deposits allowed or returned to Florida policyholders, members, or subscribers.

7. The adequacy of loss reserves.

8. The cost of reinsurance.

9. The trend factors, including trends in actual losses per insured unit for insurer making the filing.

10. Conflagration and catastrophe hazards, if applicable.

11. A reasonable margin for underwriting profit and contingencies. For that portion of the rate covering risk of hurricanes and other catastrophic losses for which the insurer has not purchased reinsurance and has exposed capital and surplus to such risk, the office must approve a rating factor that provides the insurer a reasonable rate of return that is commensurate with such risk.

12. The cost of medical services, if applicable.

13. Other relevant factors which impact upon the frequency or severity of claims or upon expenses.

(c) In the case of fire insurance rates, consideration shall be given to the availability of water supplies and the experience of the fire insurance business during a period of not less than the most recent 5-year period for which such experience is available.

(d) If conflagration or catastrophe hazards are given consideration by and insurer in its rates or rating plan, including surcharges and discounts, the insurer shall establish a reserve for that portion of the premium allocated to such hazard and shall maintain the premium in a catastrophe reserve. Any removal of such premiums from the reserve for purposes other than paying claims associated with a catastrophe or purchasing reinsurance for catastrophes shall be subject to approval of the office. Any ceding commission received by an insurer purchasing reinsurance for catastrophes shall be placed in the catastrophe reserve.

(e) After consideration of the rate factors provided in paragraphs (b), (c), and (d), a rate may be found by the office to be excessive, inadequate, or unfairly

discriminatory based upon the following standards:

1. Rates shall be deemed excessive if they are likely to produce a profit from Florida business that is unreasonably high in relation to the risk involved in the class of business or if expenses are unreasonably high in relation to services rendered.

2. Rates shall be deemed excessive if, among other things, the rate structure established by a stock insurance company provides for replenishment of surpluses from premiums, when the replenishment is attributable to investment losses.

3. Rates shall be deemed inadequate if they are clearly insufficient, together with the investment income attributable to them, to sustain projected losses and expenses in the class of business to which they apply.

4. A rating plan, including discounts, credits, or surcharges, shall be deemed unfairly discriminatory if it fails to clearly and equitably reflect consideration of the policyholder's participation in a risk management program adopted pursuant to s. 627.0625.

5. A rate shall be deemed inadequate as to the premiums charged to a risk or group of risks if discounts or credits are allowed which exceed a reasonable reflection of expense savings and reasonably expected loss experience from the risk or group of risks.

6. A rate shall be deemed unfairly discriminatory as to a risk or group of risks if the application of premium discounts, credits, or surcharges among such risks does not bear a reasonable relationship to the expected loss and experience among the various risks.

(f) In reviewing a rate filing, the office may require the insurer to provide at the insurer's expense all information necessary to evaluate the condition of the company and the reasonableness of the filing according to the criteria enumerated in this section.

\* \* \*

(h) In the event the office finds that a rate or rate change is excessive, inadequate or unfairly discriminatory, the office shall issue an order of disapproval specifying that a new rate or rate schedule which responds to the findings of the office be filed by the insurer. The office shall further order, for any "use and file" filing made in accordance with subparagraph (a)2., that premiums charged each policy holder constituting the portion of the rate above that which was actuarially justified be returned to such policyholder in the form of a credit or refund. If the office finds that an insurer's rate or rate change is inadequate, the new rate or rate schedule filed with the office in response to such a finding shall be applicable only to new or renewal business of the insurer written on or after the effective date of the responsive filing.

(i) Except as otherwise specifically provided in this chapter, the office shall not prohibit any insurer, including residual market plan or joint underwriting association, from paying acquisition costs based on the full amount of premium, as defined in s. 627.403, applicable to any policy, or prohibit any such insurer from including the full amount of acquisition costs in a rate filing.

(j) With respect to residential property insurance rate filings, the rate filing must account for mitigation measures undertaken by policyholders to reduce hurricane losses.

53. The rate filing at issue stems from the requirements in Chapter 2007-1, which was passed in Special Session in the early part of January 2007, primarily to reduce property insurance premiums, as well as the future growth of property insurance premiums. The preamble to Chapter 2007-1 provides:

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

WHEREAS, this increase in the cost of property insurance for the state's residents demands immediate attention, and

WHEREAS, the affordability of property insurance creates financial burdens for Florida's residents and financial crises for some property owners, and

WHEREAS, in addition to affordability, the availability and stability of property insurance are critical issues to the residents of this state, and

WHEREAS, because there is no single, quick, or easy solution to the crisis, a comprehensive and creative approach is required, and

WHEREAS, property insurance is so interwoven with other forms of insurance, through business, regulation, advocacy, purchasing, and other interactions, that the viability of the insurance market is at risk, and

WHEREAS, expanding coverage offered by the Florida Hurricane Catastrophe Fund can help address this crisis, and

WHEREAS, taking steps to control or reduce the premiums charged by Citizens Property



Insurance Corporation can help address this crisis, and

WHEREAS, strengthening the Florida Building Code and providing for voluntary guidelines in addition to the requirements of the code can help to address this crisis, and

WHEREAS, sinkhole coverage is a critical part of this crisis in certain areas of the state and must be addressed as part of any comprehensive solution, and

WHEREAS, requiring property insurers to offer additional deductibles and exclusions that apply at the option of the property owner can help to address the crisis, and

WHEREAS, authorizing various groups of public and private entities to enter into forms of self-insurance or guaranty groups can help to address this crisis, and

WHEREAS, strengthening the process for establishing property insurance rates can help to address this crisis, and

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

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

WHEREAS, promoting through financial and regulatory incentives for property owners, the strengthening of property to withstand the effects of windstorm damage can help to address this crisis, NOW THEREFORE,

Be it enacted by the Legislature of the State of Florida; . . . .

54. The legislation itself represents a multi-pronged attack on rapidly escalating insurance premiums, which the Legislature believed was driven by rapidly escalating reinsurance costs. The centerpiece of the legislation was the expansion of the CAT Fund from \$16 billion to \$28 billion. Additionally, the legislation eliminated the 25 percent rapid cash build-up portion of the CAT Fund premium, thereby reducing the premium amounts.

55. To effectuate savings resulting from the expansion of the CAT Fund, Chapter 2007-1 contained filing requirements for insurers and corresponding duties for the Office. Section 3 of Chapter 2007-1 provides:

Section 3.(1) Every residential property insurer must make a rate filing with the Office of Insurance Regulation, pursuant to the "file and use" provisions of s. 627.062(2)(a)1., Florida Statutes, which reflects the savings or reduction in loss exposure to the insurer due to the provisions of section 2 of this act. An insurer may not obtain a rate increase due to the election of coverage options from the Florida Hurricane Catastrophe Fund pursuant to s. 215.555(4), (16), or (17), Florida Statutes.

(2) The office shall specify, by order, the date or dates on which the rate filings required by this section must be made and be effective in order to provide rate relief to policyholders as soon as practicable.

(3) By March 15, 2007, the Office of Insurance Regulation shall calculate a presumed factor or factors to be used in the

rate filings required by this section to reflect the impact to rates of the changes made by sections 2 of this act and this section.

(4) In determining the presumed factor, the Office of Insurance Regulation shall use generally accepted accounting actuarial techniques and standards in determining the expected impact on losses, expenses, and investment income of insurers.

(5) The office may contract with an appropriate vendor to advise the office in determining the presumed factor or factors.

(6) Each residential property insurer shall reflect a rate change that takes into account the presumed factor determined under subsection (3) for any policy written or renewed on or after June 1, 2007. Such factor must be taken into account for the coverage options offered pursuant to s. 215.555(4), (16), and (17), Florida Statutes, for an insurer eligible to elect such optional coverage, whether or not the insurer purchases that coverage. Any additional cost for private reinsurance or loss exposure that duplicates such coverage options may not be factored in the rate, whether or not such coverage options are purchased.

56. In addition, Chapter 2007-1, amended Section 627.062, Florida Statutes, to require a certification be filed with each rate filing. The amendment provided:

(9)(a) Effective March 1, 2007, the chief executive officer of chief financial officer of a property insurer and the chief actuary of a property insurer must certify under oath and subject to the penalty of perjury, on a form approved by the commission, the following information, which must accompany the rate filing:

1. The signing officer and actuary have reviewed the rate filing;

2. Based on the signing officer's and actuary's knowledge, the rate filing does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading.

3. Based on the signing officer's and actuary's knowledge, the information and other factors described in s. 627.062(2)(b), including but not limited to, investment income, fairly present in all material respects the basis of the rate filing for the periods presented in the filing; and

4. Based on the signing officer's and actuary's knowledge, the rate filing reflects, all premium savings that are reasonably expected to result from legislative enactments and are in accordance with generally accepted and reasonable actuarial techniques.

(b) A signing officer or actuary knowingly making a false certification under this subsection commits a violation of s. 626.9541(1)(e) and is subject to penalties under s. 626.9521.

(c) Failure to provide such certification by the officer and actuary shall result in the rate filing being disapproved without prejudice to be refilled.

(d) The commission may adopt rules and forms pursuant to ss. 120.536(1) and 120.54 to administer this subsection.  
(Emphasis supplied.)

57. It is clear that the Legislature intended that the changes to the CAT Fund should result in savings in reinsurance

costs to the insurers which, in turn, would be passed along to the policyholders.

58. In the deficiency listed as the first item in the NOI, the Office correctly contends that the rate filing failed to reflect a reduction in policyholder premiums consistent with the expansion of the CAT Fund and is contrary to the intent of Chapter 2007. There is nothing in Chapter 2007-1 which prohibits FFB from increasing their amount of reinsurance; however, whatever savings are realized from the expansion of the CAT Fund should be passed to the policyholders in the form of rate reductions not in the form of increased reinsurance so that FFB can maintain its ratings with A.M. Best.

59. In the deficiency listed as the second item in the NOI, the Office correctly contends that FFB failed to provide support that its reinsurance costs were not excessive.

60. In the deficiency listed as the third item in the NOI, the Office contends that FFB did not provide sufficient support to show that the cost of premiums for the CAT Fund is consistent with the CAT Fund's tax exempt status. FFB did not take into consideration the CAT Fund would pay out more in recoveries than it takes in premiums because of the large investment credit income resulting from not having to pay federal income tax. This deficiency is sustained.

61. In the deficiency listed as the fourth item in the NOI, the Office contends that FFB did not provide access to the assumptions and factors used in the development of the AIR models as required by Subsection 627.0628, Florida Statutes, which provides:

(1)(c) It is the intent of the Legislature to create the Florida Commission on Hurricane Loss Projection Methodology as a panel of experts to provide the most actuarially sophisticated guidelines and standards for projection of hurricane losses possible, given the current state of actuarial science. It is the further intent of the Legislature that such standards and guidelines must be used by the State Board of Administration in developing reimbursement premium rates for the Florida Hurricane Catastrophe Fund, and subject to paragraph (3)(c), may be used by insurers in rate filings under s. 627.062 unless the way in which such standards and guidelines were applied by the insurer was erroneous, as shown by a preponderance of the evidence.

\* \* \*

(3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

(a) The commission shall consider any actuarial methods, principles, standards, models, or output ranges that have the potential for improving the accuracy of or reliability of the hurricane loss projections used in residential property insurance rate filings. The commission shall, from time to time, adopt findings as to the accuracy or reliability of particular methods, principles, standards, models, or output ranges.

(b) In establishing reimbursement premiums for the Florida Hurricane Catastrophe Fund, the State Board of Administration must, to the extent feasible, employ actuarial methods, principles, standards, models, or output ranges found by the commission to be accurate or reliable.

(c) With respect to a rate filing under s. 627.062, an insurer may employ actuarial methods, principles, standards, models, or output ranges found by the commission to be accurate or reliable to determine the hurricane loss factors for use in a rate filing under s. 627.062. Such findings and factors are admissible and relevant in consideration of a rate filing by the office or in any arbitration or administrative or judicial review only if the office and the consumer advocate appointed pursuant to s. 627.0613 have access to all of the assumptions and factors that were used in developing the actuarial methods, principles, standards, models, or output ranges, and are not precluded from disclosing such information in a rate proceeding. In any rate hearing under s. 120.57 or in any arbitration proceeding under s. 627.062(6), the hearing officer, judge, or arbitration panel may determine whether the office and the consumer advocate were provided with access to all of the assumptions and factors that were used in developing the actuarial methods, principles, standards, models, or output ranges and to determine their admissibility.

62. The term "access" is not defined by statute or rule, and it is left to the Administrative Law Judge to determine whether access to the assumptions and factors was provided. FFB did provide access to the information requested by the Office. Access does not equate to physically giving possession

of the documents to the Office. AIR made the information available to the Office at AIR's Tallahassee office. Thus, the Office had access to the information, but failed to avail itself of the offer by FFB and AIR.

63. The Office contends that FFB did not meet the requirements of Section 627.0628, Florida Statutes, because it did not provide access to the Consumer Advocate. There was no evidence presented that the Consumer Advocate ever requested the information from FFB for this particular rate filing. Unless there was a request for the information, it cannot be said that access was denied.

64. In the deficiency listed as the fifth item, the Office contended that FFB failed to provide support for its non-hurricane catastrophe losses because it relied on a model that was not approved by the Commission. At the final hearing, FFB provided support through its expert witness for the non-catastrophe losses used in the rate filing and has eliminated Deficiency 5 as a ground for disapproval of its rate filing.

65. In the deficiencies listed as the sixth and ninth items, relating to loss trend and premium trend respectively, the Office has conceded in its Proposed Recommended Order that the methodology used by FFB's expert at the final hearing is acceptable. Therefore, FFB has eliminated Deficiency 6 and Deficiency 9 as grounds for disapproval of its rate filing.



66. In the deficiency listed as item ten, the Office correctly contends that FFB's use of the largest 200 storms to support their allocation of reinsurance cost to territory in their indications. This deficiency remains as a basis for disapproval of the rate filing.

67. Pursuant to Subsection 120.57(1)(e), Florida Statutes, FFB has challenged an interpretation of Chapter 2007-1, which it attributes to the Office as being an unpromulgated rule.

Subsection 120.57(1)(e), Florida Statutes, provides:

(e)1. Any agency action that determines the substantial interests of a party and that is based on an unadopted rule is subject to de novo review by an administrative law judge.

2. The agency action shall not be presumed valid or invalid. The agency must demonstrate that the unadopted rule:

a. Is within the powers, functions, and duties delegated by the Legislature or, if the agency is operating pursuant to the authority derived from the State Constitution, is within that authority;

b. Does not enlarge, modify, or contravene the specific provisions of law implemented;

c. Is not vague, establishes adequate standards for agency decisions, or does not vest unbridled discretion in the agency;

d. Is not arbitrary or capricious. A rule is arbitrary if it is not supported by logic or the necessary facts; a rule is capricious if it is adopted without thought or reason or is irrational;

e. Is not being applied to the substantially affected party without due notice; and

f. Does not impose excessive regulatory costs on the regulated person, county, or city.

3. The recommended and final orders in any proceeding shall be governed by the provisions of paragraphs (k) and (l), except that the administrative law judge's determinations regarding the unadopted rule shall not be rejected by the agency unless the agency first determines from a review of the complete record, and states with particularity in the order, that such determination is clearly erroneous or does not comport with the essential requirements of law. In any proceeding for review under s. 120.68, if the court finds that the agency's rejection of the determination regarding the unadopted rule does not comport with the provisions of this subparagraph, the agency action shall be set aside and the court shall award to the prevailing party the reasonable costs and a reasonable attorney's fee for the initial proceeding and the proceeding for review.

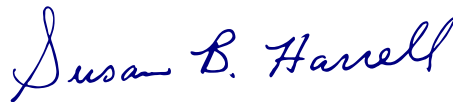
68. FFB has failed to establish that the Office has relied on an interpretation of Chapter 2007-1 that would prohibit an insurer from having more reinsurance in 2007 than it did in 2006. That is not the Office's interpretation. Because FFB has failed to demonstrate that the interpretation, which it contends that the Office relied upon to disapprove FFB's rate filing, is an interpretation relied upon by the Office, FFB's claim pursuant to Subsection 120.57(1)(e), Florida Statutes, must fail.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that a final order be entered disapproving FFB's rate filing.

DONE AND ENTERED this 1st day of April, 2008, in Tallahassee, Leon County, Florida.



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SUSAN B. HARRELL  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 1st day of April, 2008.

ENDNOTES

1/ Subsection 215.55(4), Florida Statutes (2007), provides that as a condition of doing business in the State of Florida, each insurer who writes covered policies for residential property is required to enter into reimbursement contracts with the State Board of Administration to provide the insurer with reimbursement for certain percentages of losses from each covered event in excess of the insurer's retention, plus five percent of the reimbursed losses to cover adjustment expenses. The reimbursement is made from the CAT Fund which is administered by the State Board of Administration. In exchange for the reimbursement coverage, the insurer is required to pay reimbursement premiums to the CAT Fund. § 215.555(5), Fla. Stat. (2007).

2/ Subsection 212.555(5)(b), Florida Statutes (2006), provided that the formula used to determine the premiums for the CAT Fund was to include "a factor of 25 percent of the fund's actuarially indicated premium in order to provide for more rapid cash buildup in the fund." The elimination of the 25 percent rapid cash buildup portion of the CAT Fund premium reflected a 25 percent reduction of the CAT Fund premiums to insurers.

3/ Unless otherwise indicated, all references to the Florida Statutes are to the 2007 codification.

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.