



OFFICE OF INSURANCE REGULATION

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May 14, 2009

The Honorable Charlie Crist
Governor, State of Florida
PL 05, The Capitol
Tallahassee, FL 32399-0001

Re: House Bill 1171

Dear Governor Crist:

I am writing to express my concerns regarding HB 1171 relating to Residential Property Insurance, which was recently passed by the Florida Legislature. As you know, this bill seeks to deregulate rates for insurance companies with a surplus of at least \$200 million and a 2 to 1 writing ratio.

The Office of Insurance Regulation (Office) articulated its concerns about this proposal during the committee process in both the House and the Senate. In addition, I issued a statement to the press and other interested parties on April 27, 2009, which highlighted potential negative consequences of this proposal.

My concerns for HB 1171 are based on the impact the legislation will have on consumers, the insurance marketplace and State Farm Florida Insurance Company's (State Farm) pending petition to withdraw from the Florida property market.

Impact on Consumers

As a result of the unprecedented storm seasons of 2004 and 2005, Floridians were hit with dramatic increases in their homeowners insurance rates. Realizing that families across our state were struggling to afford these premium increases, you led the effort to pass HB 1A in January 2007, which yielded rate decreases on the average of 15.9% statewide. Since that time, rates have remained relatively stable for most of our residents.

KEVIN M. MCCARTY • COMMISSIONER
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HB 1171 will reverse the trend begun by HB 1A by exempting certain insurers from a determination that their rates are "excessive or unfairly discriminatory." These companies will be permitted to charge a rate that is substantially higher than the actuarially sound rate approved by the Office. The result will likely be significant and unpredictable rate increases that, during these difficult economic times, people can simply not afford.

Impact on the Insurance Marketplace

Florida has added 40 new property insurance writers with more than \$4 billion in capital since 2006. The Legislature invested \$250 million to attract new capital for companies committed to the Florida marketplace. Largely because of this new capital, more than 400,000 policies were taken out of the state-run Citizens Property Insurance Corporation in 2008, reducing its exposure by more than twenty percent.

HB 1171 will disrupt the effort to build an increasingly competitive insurance marketplace and treat certain insurers differently than emerging Florida domestic companies. This has the potential to harm consumers and investors who have worked in good faith to create a competitive marketplace that has benefited all Floridians.

Impact on State Farm's Withdrawal Plan

State Farm would have Floridians believe that because of its failure to obtain a rate increase it was forced to present a plan to exit the state. State Farm's rate filing was woefully unsupported. The Office's disapproval of the rate filing was subsequently upheld by an independent administrative law judge. It appears State Farm used this as an exit strategy rather than taking responsibility for abandoning its agents and policyholders.

Moreover, State Farm is overexposed in the homeowners market and will likely not offer coverage to many of its policyholders irrespective of its freedom to charge an excessive rate. In fact, State Farm and other companies may actually use excessive rates to effectively non-renew policyholders under the ruse of consumer choice.

It is important to remember that in 2002, the former Department of Insurance allowed State Farm to write condominium insurance at an unregulated rate. The results were not beneficial for Floridians. This company dramatically increased rates over several years and shortly thereafter non-renewed every policy in the state. There is no reason to believe that this proposal will result in anything different.

It is unfortunate that this bill is being presented to you as an effort to promote "consumer choice." I believe the bill sponsors attempted to pass legislation that would allow State Farm policyholders to continue to secure coverage from that company in the future. This legislation is more far-reaching than is necessary. Current laws already allow insurers to offer two options at higher than approved rates. Insurers may offer policies on a consent to rate basis or on a surplus and excess basis.

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I believe this legislation has negative consequences both for the people of this state and for the insurance industry as a whole. As always, I am available to answer any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin M. McCarty". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kevin M. McCarty
Commissioner