



# Office of Insurance Regulation

*Kevin M. McCarty, Commissioner*

## 2005 Legislative Priorities

### **I. Property and Casualty Insurance**

In 2004, Florida's property and casualty marketplace was devastated by a quartet of hurricanes that brought more than \$21 billion in estimated insured gross property losses. With the understanding that the Joint Select Committee on Hurricane Insurance is developing a comprehensive set of conceptual recommendations for change, the OIR has presented to each Chairman, a specific legislative proposal aimed at improving the marketplace throughout 2005 and years to come.

The bill modifies the CAT Fund retention (deductible) to \$4 billion for an insurer's largest two events during a contract year and subsequent retentions (deductibles) are triggered at 1/3 of the full retention; provides specific authority for the Commissioner of the Office of Insurance Regulation (OIR) to issue emergency orders during a Governor's declared state of emergency; permits OIR to issue an Order designating eligible classes of insurance for export to surplus lines companies in order to streamline the process and permit OIR to be timely in its response to the marketplace; strengthens the property claims settlement practices law to assure that an insurance claim payment is made to cover repairs that are to be reasonably uniform in appearance to those materials in the existing structure; and requires the reporting of data (for the Public Hurricane Model) by residential property insurers and licensed rating and advisory organizations.

In addition, the proposed legislation creates a transparent homeowners policy to assist Florida consumers in understanding policy coverage and costs, and enhances a homeowner's ability to compare policy features offered across the marketplace; provides Citizens Property Insurance Corporation with immunity from bad faith actions related to the settlement of policy claims and assures that the insurer of last resort for many of Florida's homeowners has the requisite assets and ability to pay policyholder claims; codifies the Financial Services Commission Emergency Rule prohibiting insurers from cancellations and non-renewals to a policyholders personal or commercial residential property as a result of hurricane or wind damage until 60 days after the property has been repaired; and clarifies the use of policy contract forms that require mandatory binding arbitration for the purpose of claims resolution.

### **II. Health Insurance**

**HB 1503 – by Representative Frank Farkas**

**SB 2514 – by Senator Mike Fasano**

This proposed legislation builds upon the benefits produced by House Bill 1629 – "The 2004 Affordable Health Care for Floridians Act". The language clarifies that the



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OIR can disapprove a proposed provider of a health flex plan when the applicant provider fails to meet appropriate standards for trustworthiness and competency; and permits the OIR to limit a health insurance rate for a “closed block of business” – i.e., a set of policy contracts that are no longer issued, but are still in force for a set of policyholders whose medical conditions likely prevent them being eligible for a new health contract from any other company. Increases the interval for mandatory financial examinations for health maintenance organizations from three (3) to five (5) years; provides that CPA audits cannot be used in lieu of an OIR examination; and eliminates the cap on exam fees requiring insurers to pay for the true cost of their statutory examinations rather than the state of Florida.

Clarifies that Florida’s Health Savings Accounts qualify under the federal government’s tax treatment eligibility; increases availability of the Health Savings Account option for consumers by permitting one-life groups to purchase high deductible policies; clarifies that life and health, out of state group health insurance, and health maintenance organization insurance policies may not require the resolution of claims or disputes between the insured and the insurer or health maintenance organization through the use of mandatory binding arbitration; conforms Florida’s “mini-COBRA” time frame to meet the federal HIPAA standard; and expands the membership and responsibilities of the Health Reinsurance Pool Board to serve as an advisory committee to OIR to review and recommend strategies to improve the functioning of health insurance markets in Florida with a specific focus on market stability, access and pricing.

### **III. Unauthorized Entities**

**HB 1065 – by Representative Priscilla Taylor**

**SB 1662 – by Senator Mike Fasano**

This bill further strengthens Florida’s unauthorized entities laws and directly protects consumers from unlicensed entities. The legislation clarifies the definition of independent procurement of insurance coverage; permits the OIR to issue an immediate “cease and desist” order against an entity operating without a certificate of authority (license); and pursuant to a recent court decision, clarifies that the challenge to an OIR order must occur within 30 days and that a bond must be posted or certificate of authority must be initiated in order for an entity to challenge the OIR order.

These enhancements respond to concerns cited by consumers and authorized carriers, wherein thousands of Floridians have filed complaints on unpaid claims by an unauthorized entity. Current law does not provide the authority to issue immediate “cease and desist” orders to an unauthorized insurance entity.



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## **IV. Third Party Administrators (TPA's)**

**HB 1149 – by Representative Donna Clarke**

**SB 1432 – by Senator Carey Baker**

This legislation provides increased protections to consumers by making TPA's more fiscally responsible. The bill incorporates the National Association of Insurance Commissioners (NAIC) Model Act regulating TPA's by increasing accountability between insurers and TPA's; requires TPA licensees and applicants to submit audited financial statements - enhancing the ability to determine the company's financial solvency; and requires applicants to submit business plans to aid in the determination of a company's operational and managerial competency.

Without sacrifice to consumer protections, the legislation decreases regulation by providing certain exemptions from licensure for entities affiliated or otherwise licensed to perform services within the scope of the TPA license. Provides the Office of Insurance Regulation (OIR) with rule making authority to help carry out the provisions of the statutes.

## **V. Interstate Compact**

**HB 403 – by Representative Kim Berfield**

This legislation creates an Act to assist states in the formulation and establishment of an Interstate Compact to regulate designated insurance products. The Interstate Compact proposal will adopt standardized products for Life, Annuity, Disability, and Long Term Care insurance. This initiative is part of a nationwide effort to create more efficiency and uniformity in insurance product standards by providing insurers with a single point of filing and providing Florida's growing and mobile population with standard, transferable products.

Nine states have adopted the Interstate Compact and approximately twenty-five states have introduced or are in the process of introducing legislation.