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September 30, 2011

VIA EMAIL

Mr. Mike Milnes, Deputy Director, Property and Casualty Product Review
Mr. Steve Fredrickson, Assistant General Counsel
Florida Office of Insurance Regulation
200 E. Gaines Street
Tallahassee, FL 32399-0350

Re: Proposed Revisions to **Form OIR-B1-1802**
Comments of **Secure Enterprises, LLC**

Dear Mike and Steve:

Thank you for this additional opportunity to provide the Office of Insurance Regulation (“Office”) with comments on the September 2011 draft Form OIR-B1-1802 (“September Form 1802”). This letter is limited to Section 7 on “Opening Protection.” Supporting comments follow our recommendations.

Recommendations (in the alternative): Recognizing difficulties faced by Office in getting closure on Section 7, we offer the following alternative recommendations for Section 7:

This remains our preferred recommendation:

1. Keep Section 7 as it is in the September Form 1802 (as we advocated at the recent hearing).

Or if the Office is concerned about confusion on the Form 1802, then make any of these changes:

2. Remove all references to doors (entry doors/garage doors) from Section 7 of the Form 1802.
3. Remove all references to non-glazed doors from Section 7 of the Form 1802.
4. Keep Section 7 as it is in the September 2011 draft and add an advisory, to the following effect:

“**Advisory:** If all [windows] [alternative: windows and glazed openings] are impact-rated under the Florida Building Code (“FBC”), a policyholder is entitled to a discount. In such case, no additional discount is provided if all [glazed and non-glazed entry doors and garage doors] [alternative: all non-glazed entry doors and garage doors] also are protected. However, installation of FBC impact-rated or wind load-rated entry doors and garage doors is encouraged to protect the consumer from additional hurricane damage and loss. For questions about rates and discounts, homeowners should contact their agents and insurance companies and not rely on information or advice provided by inspectors.”

Comments:

- Form 1699, under “Opening Protection,” reportedly provides the same credits for “Windows or All.” Throughout the “ARA 2002 Study,”¹ to which the Form 1699 is reportedly tied,² “Windows” are treated as a separate type of “opening” from doors. *See* “Additional Comments” A. below. On Form 1699, if “Windows” means only windows (and not all glazed openings), and if a policyholder has all windows protected, then the policyholder receives the credit and is entitled to no additional credit if “All” glazed and non-glazed openings (including entry and garage doors) are also protected. Thus, the credit is tied to an evaluation of whether all windows are protected, without regard to the level of protection present for any other openings.
- Alternatively, on Form 1699, if “Windows” means “all glazed openings,” and a policyholder has all glazed openings protected, then the policyholder receives the credit and is entitled to no additional credit if “All” non-glazed openings (including entry and garage doors) are also protected. In this alternative reading of Form 1699, the credit is tied to an evaluation of whether all glazed openings are protected, without regard to the level of protection present for non-glazed openings. *See* “Additional Comments” B. below.
- Some persons commenting on the September Form 1802 (at the hearing and in writing) have suggested that Answer D of Section 7 should be eliminated because Form 1699 provides no extra credit for windload-rated non-glazed entry and garage doors and, therefore, the September Form 1802 might be viewed as “misleading” or “confusing.” If that is so, then Section 7 is equally misleading and confusing in that it provides checkboxes for any doors (or for non-glazed doors) – as no extra credit is provided for such doors either. *See* above and “Additional Comments” A-C below.
- It is irrelevant – legally and practically – that the Form 1699 purports to provide a credit for “All” “Openings Protection,” given that the consumer receives the exact same credit merely by protecting “Windows” (or glazed openings) and receives no extra credit for protecting doors and other openings (or for protecting non-glazed openings). Thus, under these alternative readings of Form 1699, there is no reason for inspectors to evaluate anything other than window protection (or glazed opening protection) for the insurer to determine whether the homeowner qualifies for a credit. Listing anything other than windows (or other than glazed openings) serves only to misinform policyholders about which wind mitigation features may save them money on their insurance.

Additional Comments:

Additional Comments A-C below support Recommendations nos. 2-4 above:

- A. Form 1699’s identical credits for “Windows or All” are reportedly tied to the ARA 2002 Study. *See* footnotes 1 & 2. Throughout the ARA 2002 Study, however, “windows” are treated as a separate type of “opening protection” from doors, and the term “openings” is used to include windows and glazed and non-glazed doors. *See e.g.*, ARA 2002 Study at page C-10 (“C.2.7 Openings: Openings in the wall and roof include windows, doors, sliding glass doors, skylights, and garage doors” (emphasis added)), page x, and page 1-5 (picture showing “Windows”).

¹ “ARA 2002 Study” refers to “Development of Loss Relativities for Wind Resistive Features of Residential Structures” (March 28, 2002), by Applied Research Associates, Inc. (“ARA”).

² *See* Rule 69O-170.017, F.A.C.

Further, the ARA 2002 Study treats “glazing” as being more expansive than “windows”; “glazing” is not synonymous with “windows,” nor is “windows” synonymous with “glazing.” See ARA 2002 Study 3-1, n.2 (“Glazing refers to glass or transparent or translucent plastic sheet used in windows, doors, or skylights (ASCE 7-98, Section 6.2)”). See also ARA 2002 Study at page C-12:

"A glazed opening refers to glass or a transparent or translucent plastic sheet used in windows, doors, or skylights (ASCE 7-98). For the first case, entry doors and garage doors (which do not contain glazing) are not protected. . . . [T]his case also corresponds to the FBC that only requires opening protection over glazed openings (except in Miami-Dade and Broward Counties). . . . For the second case, all openings are protected, including all non-glazed doors." (Emphasis added.)

Accordingly, under this reading using terminology from 2002 ARA Study, references in Form 1699 to “Windows” mean “windows”; and references to “All” mean all “openings,” including windows and doors (glazed and non-glazed).

- B. There is an alternative reading of Form 1699 under which “windows” is read to meaning “glazed openings”: Although Form 1699 refers to “Windows,” tables in the ARA 2002 Study provide: (i) one set of credits for “all glazed openings” that are “protected” and (ii) an “additional reduction factor” when all “non-glazed openings” also are “protected.” See Tables 3-2, 3-3 and 3-5 and associated comments in ARA 2002 Study; see also ARA 2002 Study at page C-11 (“The analyses performed herein for opening protection are for two cases: 1. Only glazed openings protected. 2. All openings protected, including windows, doors, skylights, garage doors.”).³
- C. In the phrase “Windows or All,” the plain meaning of “or” is disjunctive. Thus, as a result of the above inconsistencies, Form 1699 can be read either: (i) to allow the credit only if all “Windows” are protected; or (ii) to allow the credit only if all “glazed openings” (and not just all “Windows”) are protected. Additional confusion may be caused due to Form 1699 providing one set of credits for “Windows or All,” while the ARA 2002 Study provides one set of credits for “all glazed openings” and an “additional reduction factor” for “all openings.” See “Additional Comments” B & footnote 3.

Additional Comments D-I below support Recommendation no. 1 above:

- D. Section 627.0629(1)(a), Florida Statutes, provides that doors meeting minimum requirements of the Florida Building Code (“FBC”) are entitled to some form of credit or discount.
- E. Under Section 1609.6 of the FBC, if non-glazed doors are properly wind-loaded, then they are FBC compliant in the “Wind-Borne Debris Region” (except for in the High Velocity Hurricane Zone “HVHZ”, i.e., Miami-Dade and Broward Counties).⁴
- F. The language of 7.D. in the September Form 1802 is taken from the recommendations of ARA, made in September 2010 and June 2011, which are posted on the Office’s website:

³ See also ARA 2002 Study at page 6.6, in regard to “Table 6.3 Primary Rating Factors for Existing Construction”: For “Opening Protection,” “None” means “Glazed openings not protected for impact resistance.” “Basic” means “All glazed openings protected to the 4.5 lb missile” “Hurricane” means “All glazed openings protected to . . . (Missile C)” For all three levels of credit: “See Appendix C.2.7; if all openings (not just glazed) are protected, an additional reduction factor is applied (Table 6-4).”

⁴ Unlike Form 1802, Form 1655⁴ discusses “windows” and “shutters” with no mention of “doors” (glazed or non-glazed) or other “opening protection.” Form 1655 also states: “Alternately . . . , if you meet the minimum fixture and construction requirements of the 2001 Florida Building Code you have the option to reduce your hurricane-wind deductible from ___ to ___.” (Emphasis added). In this regard, Form 1655 is more consistent with section 627.0629(1)(a), Florida Statutes, than are Forms 1802 and 1699.

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<http://www.floir.com/siteDocuments/ARAPresentationUMVIFWorkshop09222010.pdf>
<http://www.floir.com/siteDocuments/ARAProposedRecommendations6202011.pdf>

- G. Our client, Secure Enterprises, LLC, is but one of dozens (if not hundreds) of manufacturers of entry door and garage door products that meet FBC, Section 1609.6 standards. Contrary to the misimpression on the part of some, this matter is not simply about Secure Enterprises' products; it is about getting Form 1802 right, and providing alternative, affordable protection from hurricane and windstorm damage. See Additional Reasoning set forth in our letter to the Office of July 7, 2011.
- H. FBC wind-loaded may not be the strongest level of protection on the Section 7 table, but it clearly is not the weakest. As noted in the 2008 report provided to the Office by ARA: "Glazed openings are particularly vulnerable to failure from wind-borne debris impacts. Non-glazed openings (such as solid wood exterior doors) are less vulnerable to catastrophic failure from wind-borne debris impacts." 2008 Florida Residential Wind Loss Mitigation Study, at page 145 (Emphasis added). Thus, it is appropriate for FBC wind-loaded garage doors to be listed as Answer D, somewhere in the middle – as providing much better protection than a door that does not meet any wind or impact-rating standards.
- I. We concur with comments of others that the Office does not approve product effectiveness. And we know the Office appreciates its obligation to ensure that applicable forms meet the requirements of the Florida Insurance Code. We encourage others to appreciate that the Florida Building Commission determines which products are effective, and that it has determined and re-affirmed multiple times that it is not necessary for non-glazed doors to be impact resistant in the wind-borne debris region outside the HVHZ.

Additional Comment J below supports Recommendation no. 4 above:

- J. The job of inspectors is difficult. We believe that most inspectors would concur that their professional and contractual responsibility is to inspect – and that they should not discuss rates, discounts or the effect their inspection, utilizing Form 1802, may have on a homeowner's rates.

Qualifications: Nothing in this letter is intended to suggest that our client, Secure Enterprises, retracts from the positions it has previously taken on this matter. We continue to assert that wind-load rated garage doors are appropriately included on Form 1802 as a Florida Building Code-approved wind-loss mitigation feature (outside the HVHZ) entitled to some credit consistent with section 627.0629(1)(a), Florida Statutes.

Very truly yours,



Perry Ian Cone

cc: Mr. Jack Stumpff, President, Secure Enterprises, LLC
Amy Schrader, Esq., GrayRobinson, P.A.