

**THE
FLORIDA DEPARTMENT
OF INSURANCE**

**HURRICANE ANDREW'S
IMPACT ON INSURANCE IN
THE STATE OF FLORIDA**

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**TOM GALLAGHER
TREASURER
INSURANCE COMMISSIONER
FIRE MARSHAL**

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PART I BACKGROUND

THE STORM

Hurricane Andrew hit Florida in the early morning hours of Monday, August 24, 1992. Winds clocked at 145 mph, gusts up to 175 mph punctuated by the loss of the National Hurricane Center's own monitoring instruments were grave predictors of property loss which would exceed what had been the greatest insured loss event in United States history, South Carolina's Hurricane Hugo in 1989.

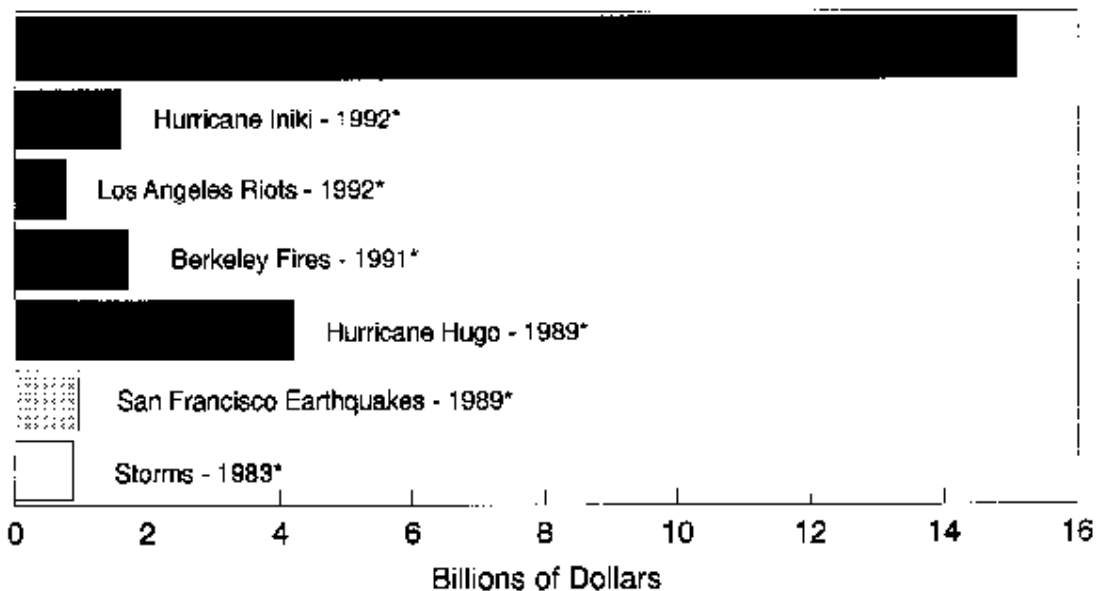
DAMAGE

Andrew took 39 lives and damaged 1,100 square miles as it moved across the Florida peninsula. Personal insurance policies covering residential and personal property loss were affected by the destruction of 28,066 homes; damage to 107,380 homes; and 180,000 persons made homeless.

Commercial insurance policies covering commercial property damage, inventory loss and loss of use were affected by the destruction or damage to 82,000 businesses. All types of insurance were affected by the loss of power to 1.4 million residents and the loss of telephone service to some 80,000 locations. Businesses were interrupted, electronic records were lost, and food spoiled.

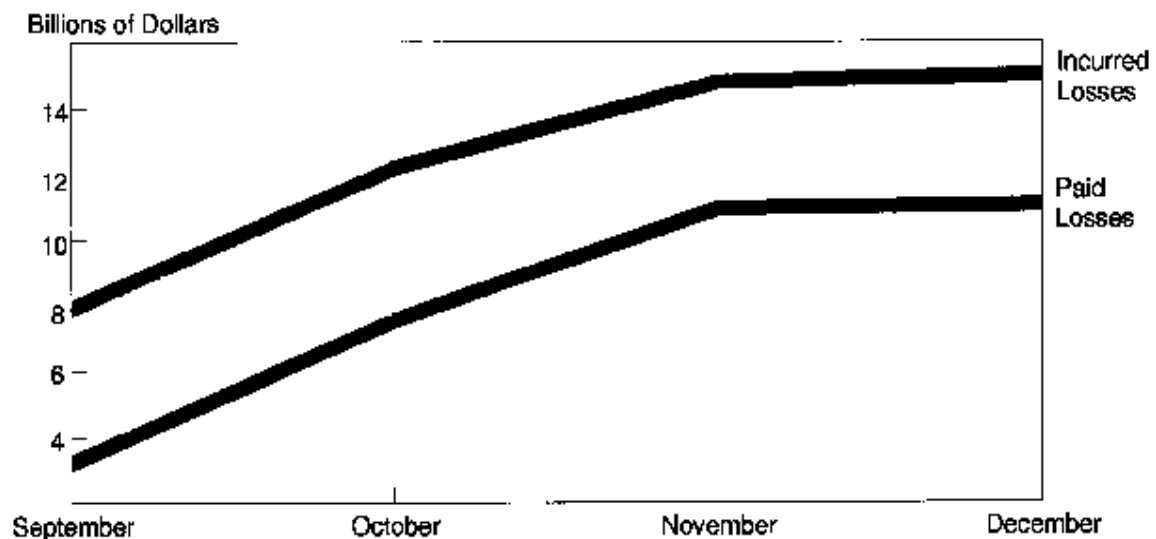
Based on reports filed with the Department through December 31, 1992, by insurers with Florida Andrew claims, the total of Florida incurred losses is \$15.018 billion and the amount already paid out on these claims is \$11.058 billion. Appendix A contains a summary of the insured Florida Andrew loss experience.

The magnitude of damage inflicted by Andrew greatly overshadows the amount of insured losses from other major disasters:

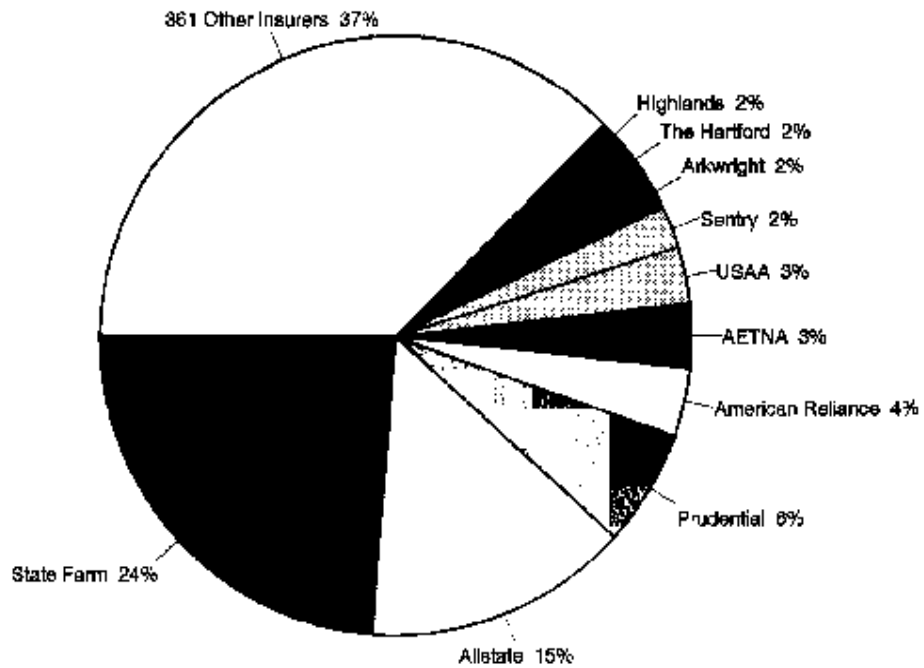


* Copyright Property Claim Services 1992

Initial reports by the industry significantly underestimated the total insured losses from Andrew. For at least two months, the estimate of insured losses hovered at approximately \$7.5 billion. It was not until the last two months of 1992 that the estimated total insured losses began increasing to today's \$15 billion estimate. The cumulative pattern of loss development is illustrated below:



By December 31, 1992, a total of 371 companies had reported Florida losses from Andrew. Florida losses reported by major companies, were:



The Hurricane's impact on the 1992 insurance industry in Florida comes in addition to over \$685 million in losses from Orlando-area hailstorms and Pinellas County tornados costing over \$100 million.

THE REPORT

Against this backdrop, the following sections of this report discuss aspects of the insurance industry and departmental response, problems encountered, solutions sought, and the Department's recommendations for the future.

PART II INSURANCE MARKET RESPONSE

INSURERS

The Hurricane caused direct damage to insurers' offices and the homes of many of their employees. For example, American Bankers Insurance Company suffered severe loss to its building and facilities. There was also wide-spread damage and loss of policyholder records affecting hundreds of insurance agents and adjusters in the storm area.

This direct damage to offices, coupled with infrastructure damage to transportation routes, power and telephone service, lack of available housing, food service and other business necessities hampered the ability of insurers, agents and adjusters to respond in the days immediately following the storm.

Although some insurers had made housing arrangements in advance for incoming adjusters and other claims handling personnel, most companies encountered great difficulty in securing housing, food, transportation, adequate supplies of gasoline and business support services to handle the emerging volume of policyholder requests for assistance. In all cases, insurance personnel were competing for scarce resources as the area flooded with emergency medical, fire, and public assistance personnel engaged in relief efforts.

CLAIMS SERVICES

In the first few days following Andrew, the greatest difficulty encountered by insurers and consumers was the ability to communicate. Policyholders had difficulty making initial loss reports and arranging for the necessary on-site visits by adjusters to view damaged properties. Even finding the damaged properties proved difficult. Thousands of policyholders were dislocated. Street and directional signs were missing and areas were stripped of all known landmarks. Insurers resorted to using satellite and aerial photographs of the damaged area to locate specific properties.

All manner of communication tools were employed during this period: Media outlets broadcast and printed insurer telephone numbers, the Department circulated emergency brochures and public service announcements, and individual policyholders painted their insurer's names on homes and businesses throughout the area.

The State Farm Companies (State Farm), Florida's largest residential insurer, had a particular problem in the first few weeks. Attempts by thousands of policyholders to reach the insurer quickly outstripped the capacity of the insurer's emergency and auxiliary

telephone lines. It took days to re-route calls through switchboards outside the disaster area. Because of the large number of policyholders affected, the Department recorded the initial claim reports for the insurer and faxed the reports at periods throughout each day until State Farm was able to re-establish direct services for its policyholders.

As insurers' adjusters began the difficult task of making on-site visits, several barriers arose. Residents were being encouraged to remove debris for curbside pick-up and the true picture of the damaged property was lost and documentation of debris removal expense was made more difficult. Instances of looting disturbed some properties and created a public safety problem. A dawn to dusk curfew in the disaster area, coupled with congested traffic routes into and out of the area, shortened the available hours for site visits. Adjusters who only spoke English were unable to clearly communicate with thousands of policyholders who were non-English speaking or had limited facility with English. It was not uncommon in the weeks after Andrew to have adjusters and non-English speaking policyholders call the Department requesting translation assistance.

At the height of the Andrew claims activity in September and October, insurer reports indicate 17,400, or 24%, of all nationwide adjusters employed by affected insurers were in Florida working hurricane claims.

To facilitate customer service, many insurers equipped mobile claim units that moved directly into residential neighborhoods. Other insurers established temporary local claim centers in hotels, shopping centers, and office buildings near the disaster area. Further, a number of companies voluntarily broadened coverage and used consumer-favorable interpretations of insurance contracts in order to expedite claims handling and facilitate settlement agreements.

In November, the industry's cooperation in the Florida Legislature's Special Session expedited the enactment of new laws. These laws assured continued payment of claims for policyholders of insolvent insurers by authorizing the Florida Insurance Guaranty Association (FIGA) to issue tax free bonds, helped provide continued insurance coverage to homeowners by creating the Residential Property and Casualty Joint Underwriting Association (RPCJUA) and ratified the Department's activation of the Florida Property and Casualty Joint Underwriting Association (FPCJUA).

POLICYHOLDERS

Without telephones, housing, transportation or the simple amenities taken for granted in more normal times, there were thousands of policyholders who looked to the Department for assistance to file claims or for referrals to direct relief services. Locations of Red Cross and Federal Emergency Management Agency (FEMA) Centers and telephone numbers for local on-site assistance were common requests. The Department took thousands of these telephone calls, suggesting that local assistance lines were

overwhelmed. Callers were frequently disoriented and distressed, and thousands had lost insurance policy documents they felt were necessary to file loss reports. Andrew's high winds had scattered the contents of homes and policyholders had difficulty making comprehensive inventories of lost or damaged property.

In addition to its normal responsibilities, the Department functioned during this period as an information clearinghouse. As insurers added new telephone lines and opened new offices, the Department was contacted to update its consumer information. The Department's toll-free Hurricane Andrew Information Line (HAIL) telephones were used to deliver messages to company policyholders. Larger insurers with multiple office sites wanted policyholders steered to the closest locations. Many insurers asked for auto claims to be reported to one number, homeowner policies to another. Some insurers asked policyholders to paint street addresses and insurer's names on damaged property.

Advised to make temporary repairs to prevent further damage, policyholders were severely hampered by scarce building supplies. Subsequent rain and wind resulted in additional damage to insured properties. Policyholders made extraordinary efforts to comply with requirements to report claims and be available for adjuster visits. In the midst of the chaos of dislocation, consumers diligently made attempts to reach insurers and adhere to all requirements for filing claims. Almost overnight, the victims of Hurricane Andrew became one of the best informed, best educated, and most responsive policyholder groups in the country.

THE INSURANCE MARKET

In response to the magnitude of insured losses inflicted by Hurricane Andrew, a number of insurers are restricting the amount of premiums written in Florida or, in some cases, are in the process of completely withdrawing from the Florida market.

Insurers have indicated a number of reasons for reducing the number of insurance policies they will issue in Florida including:

- The inability to obtain adequate reinsurance for new or existing risks in Florida;
- Risk modeling indicates existing levels of exposure in certain geographic areas of Florida could lead to severe financial problems in the event of another catastrophic hurricane; and
- Losses from Andrew have significantly reduced insurers' net worth and, by statute, writings must be restricted until the net worth is restored.

Most insurers are seeking to reduce their writings primarily in the southern and central coastal areas of Florida since the risk models indicate the risk of loss to insurers from

future hurricanes is greatest in these areas. However, some insurers are withdrawing entirely from Florida and this makes the problem a state-wide issue.

Currently, over 20 insurers have formally notified the Department of their intent to withdraw or limit writings.

PART III DEPARTMENT OF INSURANCE RESPONSE

SERVICES IN MIAMI

The Department's service offices in Miami, Ft. Lauderdale, and Ft. Myers sustained no direct storm damage and no serious injuries to Department personnel were reported. Several employees did suffer damage to their homes and personal property. As power was restored and transportation routes opened, the service offices in Ft. Lauderdale and Ft. Myers were able to open almost immediately. By the end of the first week, the Miami office was fully operational.

Less than a week after Andrew, the Department conducted an on-site tour and helicopter fly-over by the chief executive officers of the fifteen largest insurers in Florida. This tour was instrumental in alerting the insurers to the magnitude of the destruction and human suffering resulting from Andrew.

Senior Department staff were dispatched to work liaison duties in FEMA's Miami headquarters. Additional Department personnel staffed FEMA Disaster Assistance Centers (DACs) located throughout the disaster area.

To facilitate direct communications with the insurance industry, the Department established a weekly meeting in Miami to bring together the Department's senior management and representatives of all insurers reporting hurricane losses. This forum allowed the discussion of claims issues, the exchange of information, the coordination of the implementation of emergency rules and bulletins and the assessment of emerging regulatory issues. These meetings also helped foster a commitment by the insurance industry and the Department to avoid regulatory infighting. The insurance industry did not file legal challenge to the Department's authority to promulgate and implement emergency Rules and Bulletins and, for the most part, the insurance industry has made reasonable and timely efforts to comply with required activities.

The Department established a Miami Insurance Center (MIC) to administer on-site services related to the hurricane. The purpose of the MIC is to coordinate community information and outreach activities, serve consumers who visit or call the MIC with Andrew claims problems and administer an informal mediation program to resolve claim disputes between policyholders and insurers.

Press releases and public service announcements were used to advise consumers on how to file insurance claims, how to handle solicitations by public adjusters, and to explain how insurers were expected to perform.

The Department attended countless meetings in the disaster area with community groups, business organizations, local government officials and representatives of other state agencies. In many instances the Department arranged for insurer adjusters and claims handling personnel to attend. Thousands of area-specific information brochures and posters were distributed in community centers, grocery stores, relief agency offices, DACs, and tent cities.

From the very first day, the Department has maintained a significant presence in the disaster area to provide on-site response to the needs of hurricane victims.

SERVICES IN TALLAHASSEE

Within hours after confirmed reports of widespread damage, the Department began to marshal its resources. Like many state agencies, the Department's employees collected and delivered food, clothing, and other items on behalf of hurricane victims. Staff being dispatched to Miami collected toys, candy, and other supplies for the children of parents spending unavoidable hours filling out forms and answering questions to qualify for various types of assistance.

A team of senior managers and technical staff was gathered to coordinate hurricane response efforts. Initially guided by the Hurricane Hugo experience of Commissioner John Richards of South Carolina, the Department began to prepare for an all-out, months-long effort which would require significant reallocations of staff, equipment, and resources from every unit within the Department.

Toll-free telephone numbers for policyholders to use in reporting claims as well as the name and location of the individuals responsible for Andrew claims handling were obtained from all property insurers licensed in Florida. Follow-up calls solicited insurers' Chief Executive Officer's direct fax number to be used to facilitate direct communications in the months ahead. The insurers were asked to appoint a senior officer to function as liaison with the Department.

Direct Consumer Services

Beginning on the morning of August 24, the Department's telephones were reconfigured and 24 toll-free lines were established. These 24 lines could be answered at 48 primary stations with an additional 48 back-up stations.

Dubbed internally as the HAIL system, all managers and staff manning the HAIL telephones were linked through electronic mail to keep consumer information updated, often on an hourly basis. This E-mail link often provided staff with an early warning of problems in the marketplace.

To expedite the handling of consumer complaints related to hurricane claims, the Department embarked on a program to transmit complaints to every affected insurer within 8 business hours of receipt by the Department. Groups of 10 complaints or less were faxed to insurer offices, over 10 were bundled and sent overnight mail. All complaints were immediately keypunched into a special hurricane complaint database. Weekly reports showing the type of complaint, date reported, number of complaints open to date, and complaints resolved to date were furnished to the insurers attending the weekly meetings in Miami.

Solvency Monitoring

Insurers which, in the opinion of Department staff, could develop solvency problems were contacted within the first two weeks following Andrew to assess the impact of the Hurricane loss on their net worth. When results were reviewed, the Department identified at least five insurers at risk of near-term failure. Financial examiners were immediately assigned to these insurers to conduct on-site monitoring activities. As more information accumulated, other insurers were likewise placed in this special status.

Based on daily complaint reviews, the Department also dispatched market conduct examiners to insurers where policyholders reported problems in contacting the insurer, delays in assigning adjusters, or delays in dispensing additional living expense payments. In some cases, these market conduct examinations found that incipient solvency problems were at the root of the consumer service complaints.

September, October and early November brought six Andrew caused insurer insolvencies. Constant coordination between the Department, the court appointed receivership estate and the Florida Insurance Guaranty Association (FIGA) was necessary to handle the telephone calls and claims assistance requests from the 88,000 policyholders affected.

As the Department worked with FIGA, the demands on both organizations required extraordinary effort. A shortage of available adjusters for FIGA claims, the predictable disarray of business operations associated with an insurer failure, and the added difficulties of operating in a disaster area, put a severe strain on the Department throughout this period.

Emergency Adjuster Licensing

The Department immediately issued an emergency rule providing for the licensure of out of state insurance adjusters. Over 8,300 Emergency Catastrophic Adjuster licenses have been issued to date. Applications were processed in Tallahassee and license ID forms delivered to the Department's Miami Service Office. The expedited licensing process assured there would be no delay in issuing credentials to the thousands of adjusters

needed in the disaster area.

Agent Investigations

The Department has conducted over 200 Andrew related agent and adjuster investigations. An expedited closure program for uncontested cases has saved expense and time associated with the traditional method of pursuing an uncontested case through the legal process.

Impact on Operations of the Department

Frequent meetings of senior management and technical staff enhanced the Department's ability to receive, evaluate, and act on new information and to shift the allocation of personnel and equipment as the need arose. From the first week and continuing to date, Department personnel have been moving in and out of the Miami area on a week-long assignment basis. Senior management from all bureaus in the Department continue to serve weekly assignments in Miami to manage the MIC and to coordinate the efforts of personnel dispatched each week to staff the MIC and DACs. At the peak of relief efforts, the Department sent 30 Tallahassee-based staff to Miami each week. Staff from other Department field offices was also dispatched to the disaster area during this period.

A senior management team was assigned to unravel the nightmarish logistic problems associated with the disaster area. For example, long hours were spent negotiating special rates for motel and air fare which helped offset the severe financial impact on the Department. The Department, like insurers, had to compete for available housing and it was not uncommon for staff to be placed two or three to a room.

In the Department's administrative support offices, travel and expense reimbursement procedures were streamlined to expedite handling of expense reimbursements and to minimize personal hardship for staff deployed to the disaster area.

Insurance actuaries, analysts, investigators, secretaries, administrators, financial and market conduct examiners, attorneys, budget and personnel specialists, persons from virtually every job classification in the Department, have served one or more weeks in Miami. In the first month, all the Department's field examination staff were recalled and placed on week-on, week-off rotation between Miami and HAIL telephone duties. Additional staff volunteered from the Department's service offices and from the divisions and bureaus of the State Treasurer, Fire Marshal, LP Gas, Risk Management and Insurance Fraud.

For the period September through mid-November, staff dispatched to Miami worked 12 and 14 hour days, seven days a week. DACs were open 12 hours a day, and there were

one to two hours travel time required to move into and out of the area. Each night workers were reassembled to debrief and receive updated information about marketplace developments.

In Tallahassee, the HAIL system operated 11 hours a day, seven days a week for the first two months. In October, Sunday staffing was eliminated and Saturday and evening hours were gradually decreased. By late November, reduction in the number of incoming calls justified the stabilization of 10 core lines which are still open nine hours per day for the five day business week.

In every phase of response activity, the Department's information technology personnel met an extraordinary demand for computer programming necessary to create new databases or to modify existing programs for hurricane-related purposes. With no new money available, computer equipment had to be reallocated and in many cases specially packed and transported to Miami. There were constant demands to install new wiring, reprogram telephone equipment, and modify hardware to support the Department's response activity. The Department was able to offset some measure of financial impact with the donation of much-needed computer programming services and temporary equipment loans from information industry vendors.

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

The Department faced an enormous challenge in responding to consumer requests for assistance following Andrew. The ability to meet that demand for services was significantly enhanced by assistance from the National Association of Insurance Commissioners (the NAIC).

In the first week following the storm, Insurance Commissioner John Richards of South Carolina flew to Florida to brief Department staff on South Carolina's 1989 experience with Hurricane Hugo. Commissioner Richards' insights allowed the Department to anticipate problems, design policies, and implement procedures from a proactive stance during the months to come.

Other NAIC members were quick to assist Florida. Over 45 trained personnel from 14 states and the territory of Puerto Rico served week long assignments staffing the Department's HAIL telephone lines. Several individuals served two or more weeks, providing a depth of experience needed and appreciated by the Department. Also, it should be noted that their services were provided at no cost to the Department or the State. The NAIC absorbed all travel, housing, and per diem expense costs.

SUMMARY

For the period, August through December, the drain on available personnel and equipment meant the Department's routine operations were significantly modified. Regulatory duties were prioritized, so only emergency status matters were handled during the first 45 to 60 days after the storm. Bulletins issued to all insurers requested suspension of routine filings for rate or form approval. For 30 days routine insurer financial and market conduct examinations were suspended. New insurer applications for certificates of authority, except those for authority to write property insurance, were returned with a request for re-submission after January, 1993.

In some weeks, an estimated 75% to 80% of the Department's total manpower resources were all or in part engaged in hurricane-related duties. Every senior manager in the Department's insurance divisions was carrying one or more hurricane project assignments in addition to their ongoing regulatory duties. All managers and policy development personnel attempted to keep the delicate balance needed between the assurance of statutory compliance and the enormous amount of time and resources required to serve Andrew victims. Simply put, there was not a single Department division, bureau, or administrative unit left untouched by the service demands arising from the Hurricane.

Currently, Department operations are returning to a state of near-normal. However, week long Miami tours are still assigned to 12 employees each week, including a senior manager, to administer the MIC. An additional 16 employees from all offices of the Department still rotate each week to staff HAIL lines, keypunch complaint tracking data, and assist teams of specialists working to resolve consumer complaints.

In open acknowledgement, the cumulative impact of hurricane response efforts have resulted in a backlog of service delivery and regulatory functions deemed to non-time critical during this period. The Department is currently reviewing all pending matters with a view to expedite resolution whenever possible.

PART IV MARKET STATUS AND RECOMMENDATIONS

After personally viewing the disaster area, Treasurer Gallagher realized that in order for insurers to be made aware of the need for extraordinary measures, their senior officers had to see the magnitude of the destruction and emotional loss. Within six days of Andrew making landfall, fifteen senior officers from the insurers with the most Andrew exposures, toured the devastated area at the request of Treasurer Gallagher. The Department believes this visit by these senior officers had a profound impact on the industry's performance in response to this disaster.

Almost every large insurer and the majority of medium to small size insurers, extraordinary commitments were made to meet the unprecedented demands for service which followed this catastrophe. There were problems however, and areas for improvement in dealing with future catastrophes. The Department offers the following comments to urge the insurance industry toward improvements that should result in enhanced consumer service and confidence.

CLAIMS HANDLING

Most insurers were clearly overwhelmed by the magnitude and number of losses caused by Hurricane Andrew. Only a minority of insurers, usually the largest, appeared to have well-defined and tested catastrophe claims handling procedures along with the operational resources necessary to adequately meet claims service demands.

Hurricane Andrew damage was not confined to Florida as the storm caused major damage in Louisiana. Scarcely two weeks later, Hurricane Iniki also caused major damage in Hawaii. The two storms compounded the problems faced by insurers responding to the greatest demand ever placed on the industry.

Adjuster Shortages

One of the most obvious problems was the shortage of qualified loss adjusters. The Department immediately streamlined its procedures for licensing emergency adjusters and over 8,000 licenses were issued to adjusters from throughout the country. This enabled insurers to use emergency adjusters in Florida without delay. However, some insurers were slow to take advantage of the new procedures.

The adjuster shortage impacted most on those policyholders who experienced delays in receiving the temporary living expense funds necessary to obtain food, shelter, clothing,

housing and other necessities.

The Department recognizes that maintaining a full time, qualified adjuster staff sufficient in size to deal with catastrophes the size of Andrew is not economically feasible. However, insurers should better utilize the available force of adjusters by sharing them in catastrophes. For example, in the days immediately following Andrew, multiple adjusters representing different insurers were all trying to access the same geographical area to adjust claims. Significant time was lost in traveling to and from the area and by the adjuster trying to locate specific properties covered by the adjuster's insurer. A more efficient use of adjuster services would have been to assign one adjuster to handle all claims in a specific neighborhood. Agreements to effectuate this arrangement could be negotiated in advance by insurers to take effect in time of a declared emergency. The Department is willing to facilitate these agreements and ensure they do not violate anti-trust standards.

The Department also recommends the Legislature give it specific authority to establish a pool of qualified potential emergency adjusters. Adjusters considered qualified by the Department would be identified in advance of an emergency by this pool. Potential delays in licensing all available adjusters to operate in Florida in the event of a disaster would be eliminated.

Claims Adjusting Practices of Insurers

Generally, the proportional share of reports of unsatisfactory claims handling by insurers tended to increase as an insurer's size and its Florida market share decreased. The Department believes this inability to obtain and sustain policyholder satisfaction with claims services stemmed from one or more of the following factors:

- A conscious business decision to delay the adjustment of claims. A few insurers apparently decided the extent of dissatisfaction by Florida policyholders was of insufficient value to justify the additional cost of hiring the extra adjusters and services necessary to expediently adjust claims.
- The failure of some insurers to develop formal catastrophe response plans and to dedicate appropriate resources when Andrew did occur.
- The inability of a few insurers to overcome shortages of claims personnel. Smaller insurers do not have a large number of adjusters and staff available to respond to a catastrophe.
- The lack of sufficient excess liquid assets to pay the high volume of unexpected claims and claims service expenses promptly.

- The reliance by some insurers upon Managing General Agents (MGAs) to service claims. Insurers often utilize the services of an MGA to service their policyholders rather than establish an office within a region. Some MGAs were clearly unprepared for the claims servicing demands caused by Andrew. The insurers relying upon the MGAs failed to adequately anticipate and prepare for this circumstance.

The Department addressed these problems by placing emphasis on the importance of timely claims handling. A bulletin to insurers was followed by the issuance of an emergency rule. The bulletin and rule established insurer deadlines for adjusting claims. Further, a senior officer from every Insurer with a hurricane claim was required to sign an affidavit attesting to the insurer's compliance with the deadlines. The affidavit results were compared against complaints received by the Department and any apparent discrepancies were investigated.

On a daily basis, the Department closely monitored complaints received against insurers and the average length of time taken by insurers to resolve those complaints. The Department made personal contact with an insurer's Chief Executive Officer if there was rising complaint totals or lengthening times to complaint resolution. In several cases, the senior management of the Department made unannounced visits to the offices of such insurers for on site inspections. If the insurer's performance continued to be unsatisfactory, the Department performed a market conduct examination to determine the exact cause of the problem and the appropriate regulatory penalty was imposed. If out-of-state insurers were performing inadequately, the Treasurer personally contacted his counterpart in the appropriate state of domicile to obtain assistance.

The Department made it clear it was the responsibility of the insurer to adequately service claims and that the failure of an insurer's MGA to do so was considered the failure of the insurer. In some cases, insurers were told by the Department to use their direct resources to supplement those of their MGA.

Most insurers utilized the majority of their nationwide adjuster force in South Florida during the months following Andrew. This was usually accomplished by rotating groups of adjusters between the disaster area and the adjuster's normal office. One group of adjusters would return home, being replaced in South Florida by a new group. This rotation was necessary to allow recovery from the long hours and stress in the disaster area, as well as allow the adjusters to spend time with their families. While necessary, this rotation often resulted in a lack of continuity on the adjustment of the claims that were pending when the rotation occurred. Policyholders who felt they were near settlement had to begin the process over with a new adjuster. As this problem became evident, most insurers adjusted their rotation procedures to minimize this problem. However, the Department believes the industry should anticipate this problem in the future and develop contingency plans to avoid its recurrence.

The Department is currently developing rules and standards for all insurers to meet in the event of future catastrophes. These rules will address issues such as insurers having access to alternative sources of claims handling personnel, adequate telephone lines, emergency sources of liquidity and adequate procedures to brief replacement adjusters on the status of open claims files.

The Department recommends the Florida Legislature enact a law granting the Department the ability to directly hire adjusters to act on the behalf of insurers that fail to adequately service their claims in the event of a catastrophe.

The Department recommends that the Florida legislature adopt legislation allowing the Department to set minimum standards for MGAs to meet regarding their handling of claims resulting from catastrophes.

Out of State Public Adjusters

A public adjuster is an adjuster hired by a policyholder to represent the policyholder in negotiating with the adjuster employed by the insurer. Public adjusters are usually compensated by receiving a percentage of the claim amount which is then deducted from the policyholder's settlement amount. Except for a few instances, there were no significant problems caused by the 130 Florida resident public adjusters holding licenses as of August, 1992.

However, as news of the catastrophic damage spread nationwide, a flood of non-resident persons acting as public adjusters began to arrive in South Florida. Some of these ersatz adjusters actually moved door to door in devastated neighborhoods soliciting still-dazed residents to sign contracts. One report even had these people working relief lines at a DAC.

To address the problems created by the lack of standards in public adjuster contracts and the acts of individuals claiming to be public adjusters, the Department promulgated an emergency rule to curb the worst abuses associated with these arrangements. Key provisions of the rule were aimed at specific problems:

- A public adjuster's compensation was limited to 10% of the total settlement, thus invalidating attempts by some to contract for rates ranging up to 30%;
- Department approval was required of any public adjuster contract involving the total loss of a policyholder's home. For a total loss, the insurer is required to pay policy limits thus rendering public adjuster services ordinarily unnecessary; and
- Public adjuster contracts were required to have a 14 day revocation clause allowing policyholders to cancel without penalty during that period.

A permanent version of this emergency rule is being promulgated by the Department.

The Department issued public service announcements to make policyholders aware of their rights relative to public adjusters. In addition, Department investigators conducted numerous undercover operations against individuals claiming to be public adjusters and arrests were made.

While the Department believes it has the authority to adopt the provisions of the emergency and permanent rules relative to public adjusters, the legislature should grant the Department the specific authority to avoid the potential expense of an unnecessary challenge.

Claims Mediation

For a policyholder who cannot agree to an insurer's final settlement offer, traditional mechanisms for dispute resolution involve adversarial and expensive proceedings, often taking months or years to reach final closure. Following a disaster like Andrew, the volume of disputed settlements could result in increased expenses, numerous legal proceedings, and logjams in the caseload of state and local courts.

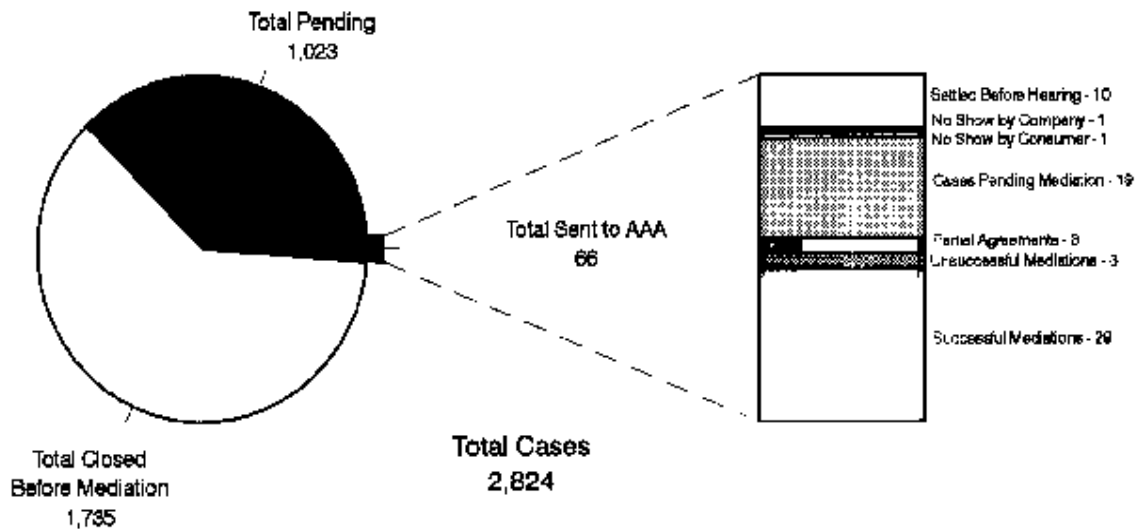
As an alternative, the Department designed an informal mediation program currently being administered from the MIC. The insurer pays for the cost of the conference, and while long term results are not known today, nearly all of the early mediation conferences have led to satisfactory final settlements.

When the Department receives an eligible complaint from a policyholder, such as a disagreement over the amount of the insurer's settlement offer, the insurer and the policyholder are given 14 days to reach a resolution. If, after 14 days, the claim is not settled, the Department sends the policyholder information about the mediation program along with instructions on how to request a mediation conference. If the policyholder requests a conference, the request is forwarded to the American Arbitration Association (AAA).

Under contract to the Department, the AAA administers the mediation process from this point forward. AAA staff set conference times, recruit and assign trained and credentialed mediators to conduct the conferences, and then reports the results to the Department. Lawyers from both the Attorney General's Office and the Department are present before and after the conferences to provide advice to policyholders as to their rights and options in a claims dispute.

As of February 5, 1993, 2,824 complaints had been deemed eligible for mediation by the Department. As the following chart indicates, 1,735 were resolved prior to a mediation conference being held while 66 complaints were referred to mediation. The remaining

1,023 open complaints are those where the consumer has received the mediation information, but has not yet requested a conference. For these complaints, the Department is waiting a reasonable period of time and will then notify the consumer of the Department's understanding that the complaint has been resolved. The consumer can always re-open a complaint at any time.



Policyholders and insurers benefit from the centrally administered, uniform mediation program. Department oversight helps assure fair and impartial results for policyholders. Availability of the program is widely advertised by the Department which also provides consumers information about the program's operation. Economies of scale are achieved by operating a single mediation program made available to all companies and policyholders.

A full evaluation of the mediation program will be undertaken by the Department. If the program results in quicker and less expensive resolutions than more traditional methods, the Department will seek to permanently expand the program to non-Andrew claims.

Confusion as to Coverage

After filing a claim, many policyholders realized they did not understand the insurance coverage they had purchased. For example, in areas where building codes had significantly changed since a house was built, compliance with the updated codes had added considerably to the cost of repair or replacement of the home. Unless a homeowner had taken out a policy with "law and ordinance" coverage, the insurer was not required to pay the additional cost to achieve compliance with the newer building codes.

This problem was especially severe in cases where local ordinances mandated replacement in compliance with current building codes rather than repair of a damaged home because the damages were greater than 50% of the home's value. The stated intent of the ordinances was to assure that replacements, constructed to new elevation and construction materials standards, would provide greater safety in the event of future catastrophes. However, in some cases, the result was to force replacement of homes which could be repaired. Insurance policyholders without law and ordinance coverage were uniquely and adversely affected by the impact of these condemnation ordinances.

In addition to the law and ordinance problem, many policyholders did not understand the method to be used in calculating the amount of their loss to be reimbursed. Some policies paid damages only for the depreciated cash value of the damaged property. Other policies paid for the actual cost of the repairs up to a stated amount while other policies paid for the actual cost of repairs without limit. In many cases, policyholders had no idea which coverage they had purchased. It is apparent there is wide-spread lack of consumer understanding as to the coverage being provided by their insurance policy.

The Department recommends the Legislature empower the Department to mandate the standardization of homeowner's insurance policies and their endorsements so that coverage can be easily understood and consumers can readily make comparisons between insurers.

The Department recommends the Legislature require insurers to offer law and ordinance coverage, to meet disclosure requirements regarding this coverage, and if a policyholder declines the coverage, to obtain a signed declination from the policyholder.

The Department recommends the Legislature require all residential insurance policies to automatically contain, at a minimum, replacement cost coverage unless the policyholder affirmatively, by signature, cancels such coverage.

If a policyholder declines law and ordinance coverage or cancels replacement cost coverage, the Department recommends insurers periodically provide such policyholders with special disclosure materials concerning these coverage.

HIGH CLAIMS COSTS

The amount of destruction caused by Andrew and the high cost of repair surpassed everyone's estimates. The Department believes the two greatest contributing factors to this was inadequate enforcement of building codes and the high cost of construction materials.

There have been anecdotal reports of attempts by policyholders to exaggerate or fabricate losses. At this time, neither the insurance industry nor the Department can

estimate that portion of insured losses which will later prove to have been paid in error or as a result of calculated fraud. The Department is vigorously investigating and when appropriate, prosecuting these abusers.

Building Codes and Enforcement

The Department believes a substantial portion of the losses incurred from Andrew were the direct result of homes not being built to comply with building codes. While the primary responsibility for enforcement of building codes rests with local governments, the Department believes insurers should inspect, to the extent possible, properties prior to insuring them for compliance with building codes. Homes not in compliance should be assessed a surcharge. In addition, the Department intends to develop, in conjunction with the insurance industry, a rating system for judging an area's overall compliance with building codes. A premium credit or surcharge based on this rating would be assigned similar to fire insurance and the relative adequacy of the area's fire protection.

The Department recommends the Legislature give the Department the ability to require insurers to conduct increased underwriting measures, including physical inspection of structures prior to rating and insuring the property.

High Construction Prices

High prices for construction services and materials have significantly increased the amount of insured losses. In the months following Andrew, there was no clear definition of appropriate pricing in the high demand, scarce supply environment of South Florida. Instances of price gouging presented a significant problem for policyholders, insurance adjusters and insurers.

Working with construction industry representatives, the Department developed an emergency rule to publish appropriate market prices for a wide selection of construction services and materials for mid-income tract style single family homes. As a practical matter, the rule was non-binding. The Department could not force compliance by tradesmen or material suppliers. However, the rule did help curb wide fluctuations in pricing by setting a standard for conscionable price amounts.

The Department recommends that the construction industry establish and maintain tables of standard construction prices for areas prone to catastrophic damage. This would facilitate the quick issuance of price guidelines for stabilization of the construction market in the event of a future catastrophe.

THE INSURANCE MARKET

Insolvent Insurers and Replacement Coverage

As previously discussed, Andrew directly caused six insurer insolvencies, affecting an estimated 88,000 policyholders. To assure that FIGA would have sufficient funding to pay the claims in these insolvent insurers, the Florida Legislature, in special session, authorized the borrowing of up to \$500 million. While the Department does not expect the entire \$500 million to be needed, that amount would only represent 3.3% of the total insured Andrew losses.

Normally, when a policyholder's property is damaged, the insurer maintains coverage while the property is under repair. Immediately following Andrew, the Department issued an emergency rule that mandated this take place. However, in the case of an insolvency, Florida law as it existed at the time of Andrew, required every policy issued by an insolvent insurer to be canceled within 30 days. Normally, this 30 day period provided sufficient time for the policyholder to find replacement coverage. However, in the Andrew related insolvencies the thousands of policyholders with damaged property were unable to find replacement coverage because most insurers are unwilling to accept damaged property under a new policy.

Florida law provides for the activation of the Florida Property and Casualty Joint Underwriting Association (FPCJUA) if coverage becomes unavailable, but that law is widely considered to apply only to commercial insurance. With the cooperation of the insurance industry, the Department interpreted the FPCJUA provisions to apply to private residential coverage for properties damaged by Hurricane Andrew and issued a rule activating the FPCJUA. The industry did not challenge this rule and aided the Department in making the FPCJUA operational. The policies issued by the FPCJUA assured there would be coverage for damaged residences which could not otherwise be insured. Subsequent action by the Florida legislature ratified the Department's action and also provided future flexibility in the time period for the cancellation of policies of an insolvent insurer.

Insurer Withdrawals From the Market

The damage from Andrew far exceed the projections of insurers for their maximum probable loss from a storm of this magnitude. As a result, insurers and reinsurers are re-evaluating their potential losses from future storms. This process is resulting in many insurers and reinsurers concluding they are covering too many properties in many areas of the country, including Florida. To correct this, insurers and reinsurers are beginning to reduce their exposures by non-renewing policies and reducing the amount of reinsurance assumed in these areas. Some insurers feel the potential risk of loss in

Florida is so great they are withdrawing from the state entirely.

According to information available to the Department, the coastal areas of Florida are where most insurers feel they are over-exposed. Very few insurers have indicated they are under or appropriately exposed in these areas and are willing to take on additional risks in coastal counties.

The Department believes most insurers engaging in this reduction of risk are doing so in the belief it is in the best interests of their solvency. However, while solvency concerns are valid and should be addressed, the reduction has resulted in thousands of Florida residents unable to find coverage.

The Residential Property and Casualty Joint Underwriting Association (RPCJUA) was created in the December 1992, Special Legislative Session to address the problem of providing coverage for residential property. The policies issued by the RPCJUA will cover single family homes, townhomes, mobile homes, individual condominium units, renter's insurance for apartment contents, and coverage on rented homes. To assure the RPCJUA remains the insurer of last resort, premium rates for RPCJUA policies will, by statute, be a minimum 25% higher than rates in the voluntary market. The higher price of a RPCJUA policy should encourage consumers to continue seeking regular market coverage as soon as it becomes available.

The RPCJUA has numerous shortfalls. Even with the high cost of its policies, the RPCJUA does not address the solvency concerns of the insurers in the event of another loss the size of or greater than Andrew. If the RPCJUA operates at a loss, the insurers writing residential coverage in Florida are assessed for the amount of that loss. This assessment is based on a pro-rata share of the total residential premium an insurer writes in Florida. The result of this is that the insurer who has attempted to reduce its exposure by reducing its number of policies is effectively being exposed to the same amount of risk through the RPCJUA.

The A.M. Best Company has published a report stating that as many as 500,000 homeowners and businesses will seek, but not be able to obtain insurance in the voluntary market. Even if this number is overstated, a more comprehensive solution is clearly needed to encourage the voluntary Florida marketplace to insure these risks and to provide market stability in the event of a future catastrophe.

Some view the Florida Windstorm Underwriting Association (the FWUA) as fulfilling this need. The FWUA functions similarly to the RPCJUA except it writes only the windstorm portion of a policy, operates only in certain designated high-risk areas, and has limited underwriting standards for the acceptance of risks. The FWUA, like the RPCJUA, assesses insurers operating in Florida should it operate at a loss. However, the FWUA, rather than a pro-rata calculation, has a complicated formula for the allocation of the loss to the insurers. The formula is designed to provide economic incentives for insurers to

write windstorm coverage rather than referring it to the FWUA. While the formula does appear to achieve its stated purpose, it also has the potential to provide disincentives for some insurers to operate in Florida. This could adversely impact certain insurers compared to other similarly situated insurers. However, because the risk of loss is still ultimately borne by the insurers operating in Florida, the FWUA cannot be viewed as an adequate mechanism for a disaster the magnitude of Andrew.

The Department believes the solution to the problems of protecting industry solvency and stabilizing the market in the event of another catastrophe is divided into three major categories:

- Establishment of a Federal catastrophe protection fund.
- Establishment of a state and regional catastrophe protection fund.
- Enhancement of the private market mechanisms for catastrophic protection.

Establishment of a Federal catastrophe protection fund. Insurance regulators and the insurance industry have long recognized that the potential for a catastrophic event that would cause significant insurer failures and perhaps result in the inability of the industry to meet its obligations has been increasing. This increase is due to a number of factors including high density population centers in high risk areas, a higher standard of living, and higher insured values for the average policyholder. The amount of potential loss is simply becoming too large for any one state or region of the country to provide a solution.

The San Francisco earthquake focused the attention on this problem and resulted in work towards the establishment of a Federal earthquake disaster fund. However, the focus of the fund on earthquakes was too limited and in part because of this limited purpose, the work to establish the fund has been slow. Andrew has now acted as a catalyst and Federal legislation to establish the fund and expand its coverage to include windstorm is expected to be introduced soon.

As currently conceived, the fund would provide a high level stop loss reinsurance cover for insurers in the event of a catastrophe. This coverage would not begin until the loss was on an order of magnitude of \$15 to \$20 billion. The coverage would be funded by policy charges and in the event of a disaster before fully funded, the fund would borrow money from the United States Treasury to pay claims. The objective of the fund would be to prevent any one catastrophe from resulting in significant insurer failures. The Department has been working with the NAIC and others in encouraging the Federal government to establish this fund.

The Department recommends that the Florida Legislature pass a resolution urging the Federal government to adopt the expanded fund as quickly as possible.

Establishment of a state and regional catastrophe protection fund. The Federal fund discussed above would prevent widespread insurer failures in a massive catastrophe. However, it would not, and in the Department's view, should not offer protection for a catastrophe on the scale of Andrew. Another catastrophic funding layer is appropriate for prevention of insurer failures and market disruption. This layer should be established on a state and regional level. It would function in a manner similar to the Federal fund and provide reinsurance protection between that provided by the private market and the Federal fund.

For this fund to be effective, the Department feels the following elements must be present:

- The fund should be free from Federal or state taxes. The taxes would only serve to increase the burden on the consumer. The fund would be a non-profit venture with no income accruing to the insurers being afforded protection.
- The fund must be unencumberable for any purpose other than the payment of claims in the event of a qualifying catastrophe. For insurers and policyholders to accept the fund and for it to be available when needed, appropriate safeguards must be established to prevent even the appearance that the fund's monies could be used for any other purpose.
- The fund must have a stable, reliable, statutorily mandated funding source (preferably a catastrophe charge on insurance policies). The protection of the fund must be definite and dependable. Without a permanent funding source, insurers and policyholders cannot be guaranteed the protection will be adequate when needed.
- The fund should have the ability to borrow against its future funding source. Should a catastrophe occur before sufficient monies are accumulated in the fund to cover the losses from the catastrophe, the fund must have the ability to borrow to cover the losses.
- The fund should be established with the flexibility of being expandable to cover an entire region, not just one state. A multi-state fund spreads the risk of catastrophic loss over a larger number of policyholders. Not only does this lessen the burden on individual policyholders, it helps assure that adequate monies will be collected quickly enough to fund losses from catastrophes the size of Andrew. Other states support this concept since many share the same risk of loss Florida does.

The Department believes this type of fund would provide the stability needed in the marketplace to prevent the disruptions future catastrophes could cause. The Department has begun discussions at the NAIC to encourage other states to adopt this concept.

The Department recommends the Florida Legislature grant the Department the authority to establish the type of fund described and feels the Legislature should urge other similarly situated states to establish similar funds so a regional fund can be created. In addition, the Department feels the Legislature should adopt a resolution asking the Federal government to clearly designate that funds of this type be free from Federal taxes.

Enhancement of the private market mechanisms for catastrophe protection. There are several enhancements needed to encourage better functioning of the private insurance market and to provide the maximum amount of private catastrophic funding possible. These enhancements can be summarized as follows:

- **Adequate Catastrophe Reserving.** The establishment of catastrophic loss reserves and the investment income accruing from them are not deductible for Federal Income Tax purposes. This penalizes insurers when they establish such reserves and prevents states from mandating these reserves since policyholders must pay an unreasonable amount for such protection. This problem needs to be addressed at the appropriate Federal level.
- **Reinsurance Treaties.** In concert with adequate catastrophic reserves, insurers financially prepare for catastrophic loss by entering into reinsurance treaties. Currently, the worldwide market for reinsurance is almost non-existent. Reinsurance to cover catastrophic losses appears to be available for aggregate losses of only \$200 million or less and the cost of such reinsurance sometimes exceeds 25% of the coverage. The terms of reinsurance contracts are being severely tightened with resulting less coverage. Part of this has been caused by reinsurers reacting to the unanticipated magnitude of the losses from Andrew. Another contributing factor has been the string of reinsurance losses: San Francisco, London, Los Angeles, Miami, Hawaii and New York. The Department has met with the major worldwide reinsurers and feels the reinsurance market will improve as rates and losses stabilize. However, until this happens, the potential exists for unethical reinsurers to enter the market and defraud insurers because of the extreme pressure on insurers to find reinsurance. The Department feels increased regulatory oversight of the reinsurance activities of insurers is necessary to prevent this.
- **FWUA Changes.** Related to reinsurance availability is the FWUA. As discussed previously, the FWUA currently provides direct windstorm protection to policyholders in high risk areas. The Department believes the role and function of the FWUA should be modified. Specifically, the FWUA should cease being a direct writer and become an excess reinsurer in those areas where availability is a problem because of catastrophic windstorm exposure. It would serve as a buffer to smooth the swings in the voluntary reinsurance market and guarantee insurers a stable intermediate level of reinsurance for catastrophic Florida windstorm risks.

The FWUA would still have an assessment mechanism but it should be a pro-rata with incentives for insurers to write in high risk areas provided by the level of reinsurance protection granted. As a reinsurer, the FWUA could then work in concert with the RPCJUA rather than instead of the RPCJUA.

- Geographic concentration of risk. Too much exposure in too limited a geographic region is the primary cause of the insurer insolvencies resulting from Andrew. The Department believes many insurers were neither aware of their geographic risk concentration nor adequately prepared financially in the event of catastrophic damage. Currently, the Insurance Code does not provide the Department with the specific authority to deal with this issue. The Department feels it should have the specific authority to require reporting by insurers of exposure by geographic region and to require insurers to limit such exposure if it is determined to be excessive.
- Redlining. Conversely related to the issue of over exposure in a limited geographic area is the refusal of an insurer to write any risks in a geographic area. This failure to insure based solely on an applicant's geographic location is known as redlining. In the wake of Andrew, there is an emerging need to assure equal access to coverage regardless of location. The Department feels there is an obligation by insurers to assume a cross section of all insurable risks, not just those located in safe areas. This is the very concept of insurance. The Department is currently working to clarify this interpretation of existing Florida Statutes by rule.

The Department recommends the Florida Legislature:

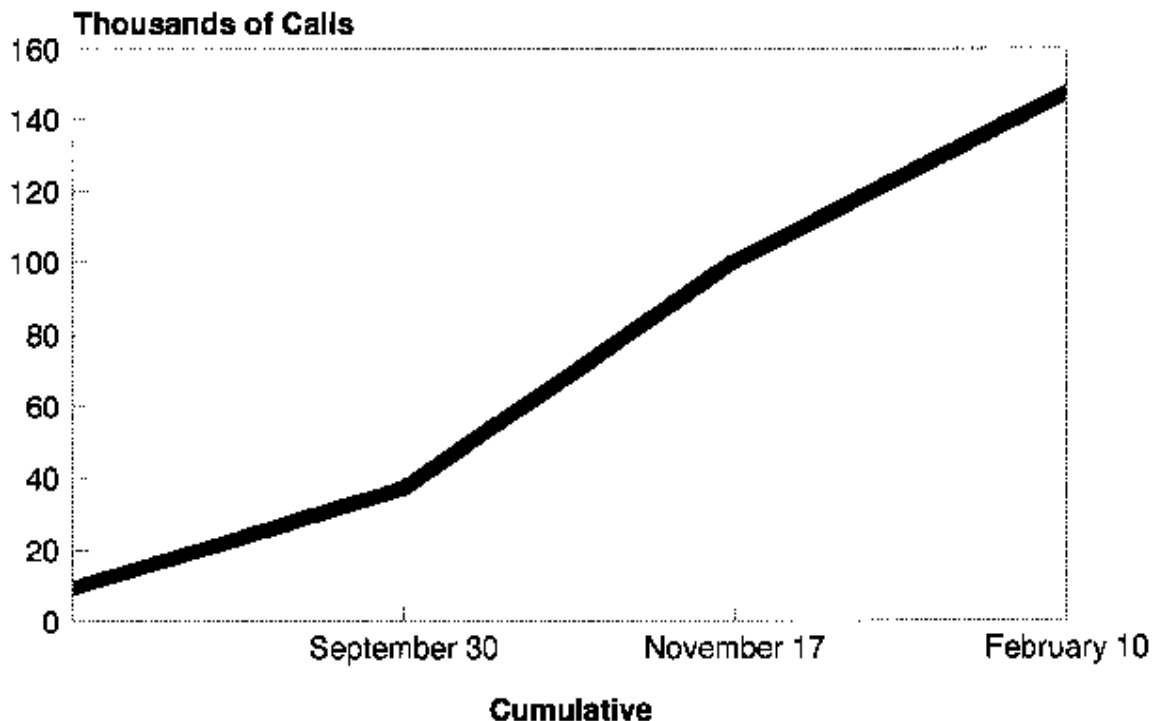
- Adopt a resolution urging the Federal government to amend the Internal Revenue Code to allow deductions for the establishment of catastrophic reserves by insurers.
- Adopt legislation that allows the Department to mandate the establishment and maintenance of catastrophic reserves when the Internal Revenue Code is amended to allow their deductibility.
- Adopt legislation allowing the Department to better oversee the reinsurance activities of insurers including the setting of standards for due diligence by insurers when entering into a contractual obligation with reinsurers.
- Adopt legislation to allow the Department to modify the operations of the FWUA to provide excess reinsurance rather than direct coverage.
- Adopt legislation allowing the Department to require reporting by insurers of geographic risk concentrations and empower the Department to limit such concentrations.

DEPARTMENT OPERATIONS

The Department acted as an information source for consumers and a catalyst for the settlement of disputes between policyholders and insurers. The Department's philosophy throughout the disaster was to keep the pressure on insurers to provide the fastest, fairest treatment of policyholders possible.

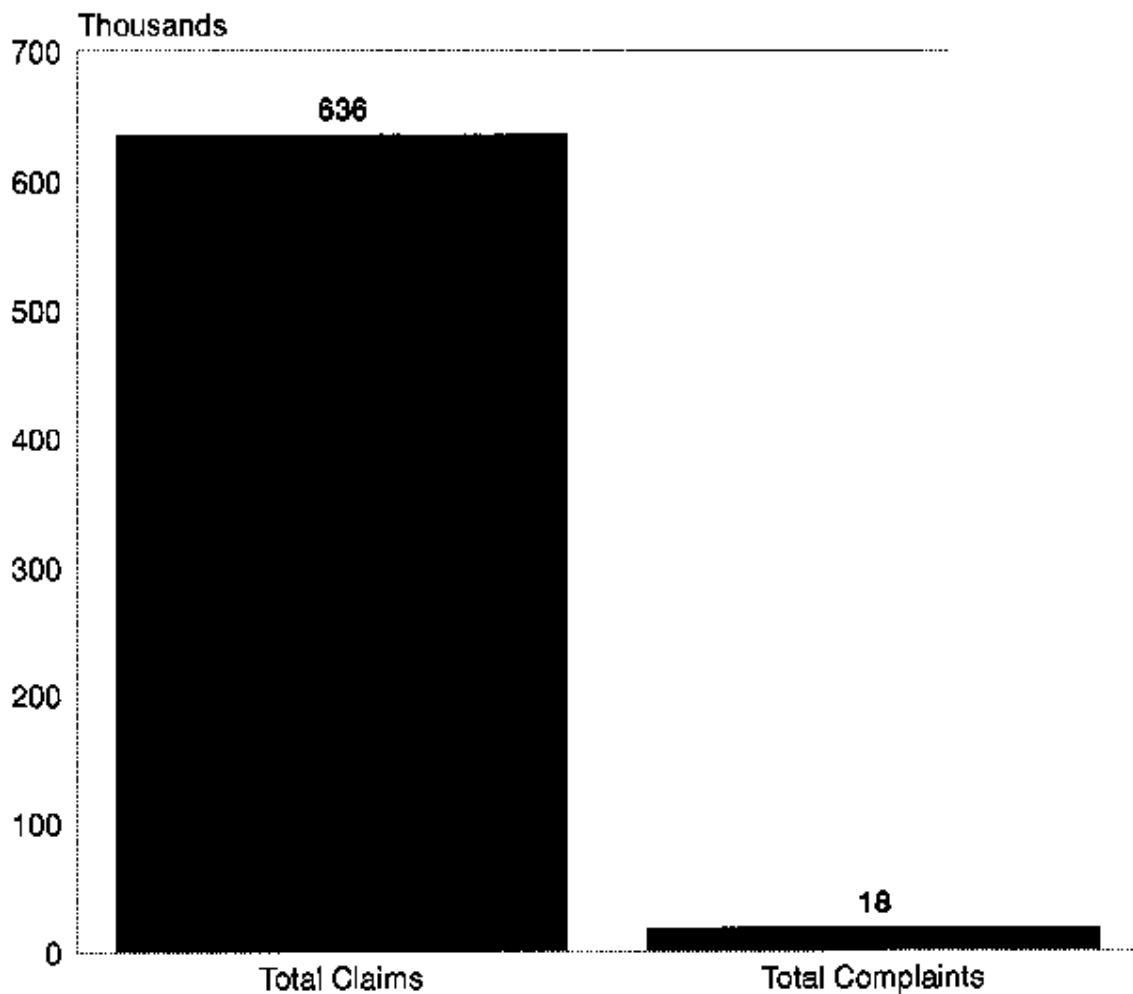
The HAIL telephone system was the most important tool in the Department's response to meeting the demands for assistance from Andrew victims and monitoring the performance of the insurance industry. It was not unusual for over 5,000 calls per day to be received between 8:00 a.m. and 5:00 p.m. In contrast, the Department's regular toll-free helpline averages only 930 calls per day.

The trend in the number of calls is shown in the following chart:



Does not include approximately 7,500 calls received on the Department's regular Helpline

For the high number of Andrew claims reported by the insurance industry, the Department believes the vast majority of policyholders received satisfactory service. The following chart compares total claims reported and the number of insurer complaints received by the Department:



* NOTE: These numbers do not include 3,689 complaints originally filed against companies which were later declared insolvent.

By December 31, 1992, of the 635,874 claims being handled by the insurance industry, the Department received only 17,604 or 2.7% of that total in the form of hurricane-related complaints. The Department believe these figures are appropriate indications of the overall insurance industry performance.

Several problems with the State's budget and personnel process were encountered during the period August through December. The Department believes Florida's budget and personnel procedures need added flexibility to enable the Department to efficiently operate in the face of the severe service demands encountered during a major catastrophe.

Department Interaction With Insurers

The comparatively small number of complaints and their timely resolution can best be explained by tracing the cumulative effect of cooperative action by the Department and the insurance industry in the months following Hurricane Andrew.

The early visit to the disaster area at the insistence of Treasurer Gallagher by the senior officers of the major insurers, assured that claims handling and complaints received high priority. This momentum was sustained by the weekly meetings in Miami at which time each insurer was provided an updated complaint accumulation report.

Concurrently, the Department maintained a commitment to the rapid transmittal of incoming policyholder complaints. Daily fax and overnight mail of complaint forms, data entry, and assignment of company by company consumer specialist teams represented significant allocations of the Department's personnel and equipment. The required submission of the signed affidavit as to the status of claims assured there would be continued attention by insurers to timely claims handling.

The Department quickly recognized that many essential financial services such as banking facilities and mail within the damaged area were non-existent. This made the transmittal of payments difficult and an emergency rule was issued prohibiting insurers from cancelling insurance of policyholders within the disaster area for non-payment of premium.

During the period immediately following Andrew, it was vital to maintain the public's faith in the insurance industry. Rumors of giant rate increases flooded the marketplace and threatened to cause further despair to an already financially damaged populace. To stop these rumors, the Department issued an emergency rule that essentially froze insurance rates. This prevented one worry for Andrew victims and stopped unethical insurers from taking unfair advantage of the hurricane.

In November, the implementation of the mediation program focused a new phase of attention to unresolved complaints. Within 14 days of notice, an insurer is required to determine the potential for resolution of any complaint deemed eligible for mediation. The mediation notice period has dramatically increased final resolution for complaints involving claims denial, delay of payment, or unsatisfactory settlement offers.

The Department feels this deliberate and coordinated effort to proactively address problems and situations contributed significantly to the relatively low number of complaints which indicates a relatively high level of consumer satisfaction. However, in order to accomplish this, the Department had to utilize a number of emergency and extraordinary tools and suspend many of its normal functions. To date, none of the significant measures taken by the Department have been challenged. While the Department is confident such a challenge could be overcome, it would result in the needless expenditure

of scarce resources.

The Department recommends the Legislature enact new law to provide the Department with extraordinary emergency powers to include, but not be limited to, provisions to define the scope of authority, conditions under which such authority may be used, and the duration of time such powers would exist. The Department specifically recommends the new law include the following specific grants of authority:

- To suspend the tolling of "deemer" time periods (the period in which if the Department does not affirmatively respond to a proposed action or request, it is deemed approved).
- To modify the tolling, extension, contraction, suspension, or other time-specific provisions of the Code.
- To limit or prohibit policy cancellations or non-renewals for a period following a catastrophe.
- To require prior approval of any insurance policy rate change, before such change is used by the insurer.
- To authorize the filing of disaster-specific insurer information reports under an accelerated mandatory response periods when such reports request data indicative of financial condition (solvency) and claims handling status.
- To require insurer participation in Department administered claims complaint tracking, coordination, and response programs.
- To require named company officials to participate in special meetings with the agency and to modify required public notice for such meetings as appropriate.

Budget and Appropriation Difficulties

The primary source of appropriations for the operation of the Department comes from the Insurance Commissioner's Regulatory Trust Fund. Before Andrew, all excess funds in this trust fund had been eliminated by transfers to and expenditures for general revenue purposes not related to the functions of the Department. As a result of these transfers, there were no contingency funds available to the Department. Andrew resulted in significant revenue losses and increased expenses to the Department.

The Department suffered significant revenue loss from the financial and market conduct examination fees usually paid by insurers in the normal course of the Department's regulatory operations. The financial and market conduct examination staff were recalled

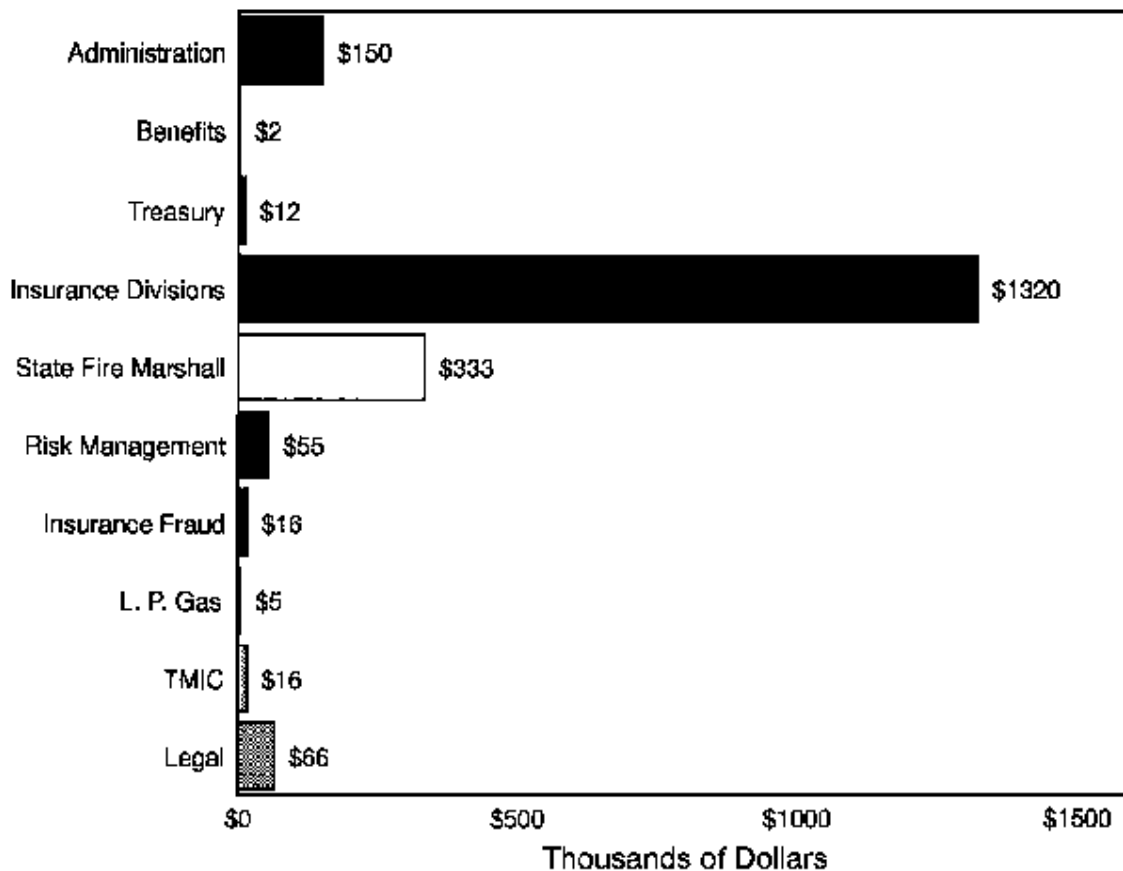
from the field and re-assigned to hurricane related duties for a 30 to 45 day period in September and October, 1992. During this time, the Department absorbed the staff salary expense without the normally resultant revenues from the examination billings. As soon as possible, all financial and market conduct staff were returned to their normal examination functions because the Department could not afford the loss of revenue. However, the Department's ability to provide the best possible response to the hurricane was hampered by the necessity to do this.

The Department made every effort to contain expenses in responding to the demand for services from insurers and policyholders affected by the hurricane. For example, the Department negotiated block room rates to house staff dispatched to Miami and rooms were assigned on a dual occupancy basis. Special discount rates on airfare were negotiated and used until the airline cancelled the agreement. Paper, envelope, handling and postage costs of mailing rules and bulletins to insurers were reduced by using a lower cost computer-operated fax program.

In the Department's total workforce as of August 24, 1992, only 48% of all personnel were in so-called "excluded" job classifications. For the 52% in "included" status, the Department could not compensate overtime hours by granting compensatory leave time. The included designation permits only monetary compensation which must be paid in the next available pay period. As previously noted, the Department did not have any contingency funds available to pay this overtime. Department and employee union representatives negotiated a permissible alternative for the disaster-response period. Employees can now elect to accumulate overtime hours as cash value leave credit which cannot be lost for non-use or for other reasons. The leave time remains available for the duration of employment with the Department and if unused at the time of separation, the hours will be paid as monetary compensation.

This solution was necessary for the Department to adequately staff Hurricane Andrew assistance efforts. However, as the large overtime balances are paid and as the actual working hours decline due to employees availing themselves of their earned leave, the Department's ability to perform its on-going regulatory functions will be severely crippled.

The only revenue source available to the Department has been application for reimbursement from the Federal Emergency Management Agency (FEMA) under its program to reimburse states for disaster relief activity. To date, FEMA has denied this request and the Department is now pursuing an appeal to that decision. If FEMA does not reimburse all or a major portion of this expense the Department will have a deficit which cannot be recovered. As detailed in the following chart, as of January 15, 1993, the various divisions in the Department had incurred almost \$4 million in hurricane-related expenses.



The Department recommends that the Legislature mandate a special assessment upon insurers to fund the Department's expenses in responding to Andrew and establish a special catastrophe response reserve in the Commissioner's Regulatory Trust Fund to be used to fund the Department's response in the event of a future catastrophe.

Personnel Issues

No Department staff person has challenged their assignment to hurricane duties. However, there is no state personnel policy in place which can accommodate the need to radically alter the activities associated with a specific job description. Throughout the last five months, staff working hurricane response duties were performing tasks and accepting a frequency of travel never previously associated with the job descriptions of actuaries, analysts, secretaries, investigators, administrators, and information management personnel.

Unfortunately, with no clear authority to re-assign job duties, the Department could not design an equitable apportionment of overtime hour assignments throughout its workforce. Employees with children or elderly dependent parents could not be provided differential pay to purchase care in order to free the employee for dispatch to Miami or long days/weekends in Tallahassee and employees in included classifications who did not accept the "cash value leave" credit were effectively eliminated from any participation in response activities requiring overtime work. Thus, a great portion of the Department's hurricane efforts were staffed by single and older workers without small children at home. The lack of contingency funds forced the Department to contain expense wherever possible, employees dispatched to Miami were assigned two and sometimes three to a room. Long hours, primitive working conditions, returning to a single room often shared with virtual strangers, all measurably increased employee fatigue and stress.

The Department recommends the Department of Management Services consider adoption of personnel rules and policies for a major or catastrophic state of emergency. These rules need to give an agency authority to temporarily assign any and all classes of employees to disaster response activities which lie outside the narrow confines of official job descriptions.

The Department also recommends that some latitude for disaster differential pay and benefits to encourage all employees to accept temporary re-location to a disaster area be provided.

PART V SUMMARY OF RECOMMENDATIONS

INSURER PRACTICES AND CLAIMS HANDLING

The Department recommends:

- Insurance adjuster licensing laws be amended to create a pool whereby adjusters are pre-qualified for Florida claims adjusting authority in the event of an emergency; and further, to provide express authority for the Department to promulgate standards to allow single adjusters to provide adjusting services to multiple insurers in assigned geographic areas.
- Insurance adjuster licensing laws be amended to grant the Department specific authority to promulgate rules for the emergency licensure of public adjusters and minimum standards for public adjuster practices.
- Managing General Agent licensing laws be amended to require the promulgation of minimum standards for MGA handling of claims which result from a major or catastrophic loss event.
- Chapter 624 be amended to provide the Department with authority to directly contract with licensed insurance adjusters to be assigned to insurers failing to adequately service claims resulting from a major or catastrophic loss event.

INSURANCE CONTRACTS, APPLICATION FOR INSURANCE

The Department recommends:

- Insurance contract laws be amended to empower the Department to require standardization of homeowner contracts, endorsements, and exclusion provisions; and further, to require disclosure materials to facilitate coverage comparison among available policy options.
- Insurance contract laws be amended to require an application for all residential property coverage include the following:
 - A required offer for "law and ordinance" coverage, accompanied by a disclosure statement indicating the applicant's knowledge of risk associated with this coverage, and a signed declination in the event the applicant declines this coverage.

- A required disclosure statement indicating the applicant's knowledge of risk associated with an affirmative cancellation of replacement cost coverage provisions.
- Insurance contract laws be amended to require insurers to periodically provide policyholders who have elected to decline "law and ordinance" coverage or who have cancelled replacement cost coverage provisions with notice and disclosure of risks associated with these coverage.
- Insurance contract laws be amended to authorize the Department, to promulgate, by rule, underwriting requirements for residential property coverage which must include, but not be limited to, a requirement for physical inspection of structures prior to issuance of a policy.

EMERGENCY REGULATORY AUTHORITY

The Department recommends the Legislature enact new law to provide the Department with extraordinary emergency powers to include, but not be limited to, provisions to define the scope of authority, conditions under which such authority may be used, and the duration of time such powers would exist. The Department specifically recommends the new law include the following specific grants of authority:

- To suspend the tolling of "deemer" time periods (the period in which if the Department does not affirmatively respond to a proposed action or request, it is deemed approved).
- To modify the tolling, extension, contraction, suspension, or other time-specific provisions of the Code.
- To limit or prohibit policy cancellations or non-renewals for a period following a catastrophe.
- To require prior approval of any insurance policy rate change, before such change is used by the insurer.
- To authorize the filing of disaster-specific insurer information reports under an accelerated mandatory response periods when such reports request data indicative of financial condition (solvency) and claims handling status.
- To require insurer participation in Department administered claims complaint tracking, coordination, and response programs.
- To require named company officials to participate in special meetings with the

agency and to modify required public notice for such meetings as appropriate.

INSURER SOLVENCY AND RESERVES

The Department recommends:

- Insurers be required to report geographic risk concentrations; and further, that the Department be authorized to promulgate rules to assure there is appropriate and balanced risk exposure among geographical areas in the State.
- The Department be authorized to promulgate standards governing reinsurance contracts, including standards for due diligence by any insurer entering a contractual obligation with a reinsurer.
- Florida Statute 627.351 be amended to authorize the FWUA to provide excess reinsurance rather than direct coverage.
- Insurers be required to establish and maintain appropriate catastrophic reserves; and further, pending Federal Internal Revenue Code amendment to remove tax liabilities, that the Department be authorized, by Rule, to establish minimum standards for the maintenance of catastrophic reserves for risks assumed in this State.
- The Legislature authorize the creation of a Florida catastrophe protection fund to provide a form of stop loss coverage for insurers writing property and casualty insurance in this State; and further, that the Legislature, by resolution, urge other states in the region to adopt enabling legislation to extend fund coverage throughout the region.
- The Florida Legislature adopt a resolution urging the United States Congress to enact proposed legislation to create a federal catastrophe protection fund which would provide a form of stop-loss reinsurance cover for a catastrophic event resulting in industry losses in excess of \$15-\$20 billion or 10%-15% of property and casualty industry reserves.
- The Florida Legislature adopt a resolution urging the United States Congress amend the United States Internal Revenue Code to remove corporate tax liability for funds maintained in a federal, state or regional catastrophic protection fund; and further, to remove corporate tax liability for catastrophic reserves maintained by an individual insurer.

AUTHORIZATIONS AND OTHER

The Department recommends:

- The Department of Professional Regulation promulgate rules to establish and maintain tables of standard construction prices for areas prone to catastrophic damage; and further, that such prices would become effective in the event of a future catastrophe.
- The Department of Management Services adopt personnel rules and policies, which for the duration of a major or catastrophic emergency, provides an agency with the authority to assign any and all classes of employees to disaster response activities.
- General revenue and/or an agency's trust funds be authorized to provide disaster differential pay and benefits for employees who accept temporary re-location to a disaster area.
- The Legislature mandate a special assessment on insurers, to be deposited in the Insurance Commissioner's Regulatory Trust fund, to reimburse the Department for the expenses of responding to Andrew; and further, to establish a special catastrophe response reserve to be used to fund the Department's expenses in the event of a future catastrophe.

APPENDIX A

SUMMARY OF ANDREW LOSSES IN FLORIDA

SUMMARY OF ANDREW LOSSES

As of December 31, 1992

	Homeowners	Mobile Homeowners	Farmowners	Commercial Multi-Peril
Losses Incurred - Direct	\$9,762,558,571	\$179,472,134	\$13,905,327	\$3,309,863,017
Losses Paid - Direct	\$8,099,823,590	\$160,643,802	\$12,462,879	\$1,651,489,235
Losses Incurred - Assumed	\$812,022,142	\$67,042,560	\$3,570,733	\$317,695,728
Losses Paid - Assumed	\$683,484,465	\$53,430,083	\$3,281,840	\$184,291,834
Losses Incurred - Ceded	\$2,772,791,040	\$96,788,940	\$9,602,942	\$1,846,554,265
Losses Paid - Ceded	\$2,466,633,132	\$82,349,933	\$9,057,500	\$868,110,461
Number of Direct Claims	280,000	11,779	1,245	50,517
Average Days Outstanding for Direct Claims	49	30	27	64

	Fire and Allied Lines	Auto Physical Damage	Other Lines	Totals
Losses Incurred - Direct	\$932,952,600	\$320,786,124	\$491,530,638	\$15,018,265,637
Losses Paid - Direct	\$534,270,350	\$308,595,270	\$288,495,162	\$11,057,684,061
Losses Incurred - Assumed	\$585,204,260	\$50,198,557	\$620,408,853	\$2,426,471,255
Losses Paid - Assumed	\$273,936,788	\$48,223,645	\$343,734,625	\$1,578,573,893
Losses Incurred - Ceded	\$980,942,158	\$91,352,025	\$703,258,278	\$6,470,686,624
Losses Paid - Ceded	\$477,487,208	\$82,466,588	\$358,353,591	\$4,413,313,469
Number of Direct Claims	24,467	161,400	17,177	680,239
Average Days Outstanding for Direct Claims	57	41	54	46

Note 1: This information is based on reports from insurers provided to the Department.

Note 2: The total column will not always be the sum of the separate columns due to the refusal of some insurers to report their losses by line of business.

Note 3: This report contains only insurers who write direct business in Florida. Reinsurers who do not write direct business are not included and thus the ceded and assumed amounts above will not agree.