



OVERVIEW: 2010 FLORIDA INSURANCE LEGISLATIVE ACTION

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AGENDA

- 2010 Florida Political Briefing.
- 2010 Florida Legislative Briefing: Setting the Stage for Legislative and Regulatory Insurance Action.
- Top 5 List: 2010 Property-Related Insurance Bills.
- Predictions For the Remainder of 2010.
- Looking Ahead to the 2011 Legislative Session.



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2010 FLORIDA POLITICAL BRIEFING



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2010 FLORIDA POLITICAL BRIEFING

Florida U.S. Senate Race



- On May 12, 2009, Governor Charlie Crist announced his candidacy for the U.S. Senate for the Republican seat. On April 29, 2010, Governor Crist announced that he would run as a nonaffiliated/independent candidate for the U.S. Senate.



- On May 5, 2009, former Florida House Speaker Marco Rubio (R-111), announced his candidacy for the U.S. Senate. Former Vice President Dick Cheney endorsed Rubio on April 22, 2010.



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2010 FLORIDA POLITICAL BRIEFING

Florida U.S. Senate Race



- Kendrick Meek (D), who has been a Member of the U.S. House of Representatives from Florida's 17th Congressional District since 2003, announced his candidacy for the U.S. Senate on January 13, 2009.



- On April 30, 2010, billionaire Jeff Greene formally entered the race seeking the Democratic nomination for the U.S. Senate race. Greene is a real estate investor with a colorful profile.



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Florida's Race for Governor



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2010 FLORIDA POLITICAL BRIEFING

Florida's Race for Governor: Bill McCollum

- **Attorney General Bill McCollum** (R-Winter Park): Elected Attorney General in 2006, and in January 2007, began his official term.
- Previously, he served on active duty and as an officer in the Judge Advocate General's Corps in the U.S. Navy. He also served in the U.S. Congress from 1981-2001, and returned to private practice of law, until he was elected Attorney General.
- In May, 2009, he announced his candidacy for Governor.



Attorney General
Bill McCollum



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Florida's Race for Governor (con't)

- **Chief Financial Officer Alex Sink** (D-Tampa): Elected Chief Financial Officer ("CFO") in 2006.
- Former President of Florida's Largest Bank, Bank of America.
- In May 2009, she announced her candidacy for Governor of Florida. CFO Sink has spoken out against artificial rate suppression in the past. If elected, we will likely see her advocating a change for Insurance Commissioner.



CFO Alex Sink



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Florida's Race for Governor: Paula Dockery

- **Senator Paula Dockery** (R-Lakeland): Senator Dockery, who moved to Florida as a child, represents Florida's 15th District.
- She was elected to the Senate in 2002, and served as the Majority Whip from 2002-2004.
- Previously, she was a member of the Florida House of Representatives from 1997-2002, and served as the Majority Whip from 2006-2008.



Senator Paula
Dockery



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Florida's Race for Governor: Richard Scott



Businessman
Richard Scott

- **Rick Scott (R):** Born in Bloomington, IL and a U.S. Navy Veteran, Scott is considered one of America's foremost entrepreneurs. He currently resides in Naples, FL.
- Named in 1995 as Time Magazine's "25 Most Influential People," and Financial World Magazine's "CEO of the Year;" co-owner of the Texas Rangers baseball team along with George W. Bush.
- Founder of Columbia Hospital Corp. and Solantic Corp. that operate Florida urgent care facilities and started Conservatives for Patients' Rights, defending free market principles in health care that focused on defeating President Obama's government-run public option plan.



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Other Contentious State Elections

- **Florida Chief Financial Officer**

Jeff Atwater (R)	Pat Patterson (R)
Loranne Ausely (D)	Josh Larose (D)
Jim Mazzie (D)	
- **Florida Attorney General**

Pam Bondi (R)	Holly Benson (R)
Jeff Kottkamp (R)	Jim Lewis (R)
Dave Aronberg (D)	Dan Gelber (D)
- **Florida Agricultural Commissioner**

Adam Putnam (R)	Thad Hamilton (D)
Randy Hatch (D)	Scott Maddox (D)
Rick Minton (D)	



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Florida Office of Insurance Commissioner: Kevin McCarty



Commissioner
Kevin McCarty

- **Kevin McCarty:** Governor Jeb Bush and the Florida Cabinet selected Kevin McCarty as the first appointed insurance commissioner of Florida in January 2003.
- Previously, McCarty worked with the Department of Labor & Employment Security and became an expert in workers compensation issues. In 1991, he joined the Florida Department of Insurance.
- In 1992, McCarty assisted in implementing strategies to improve the private marketplace following the devastation of Hurricane Andrew.
- In order for Commissioner McCarty to be removed from office, the Governor and the CFO must agree.



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2010 FLORIDA POLITICAL BRIEFING

Composition of the Florida Senate

- 26 **Republicans.**
- 14 **Democrats.**
- At least 20 Florida Senate seats are up for election in 2010.



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Composition of the Florida House of Representatives

- 76 **Republicans.**
- 44 **Democrats.**
- All House seats are up for election in 2010.



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2010 FLORIDA LEGISLATIVE BRIEFING

SETTING THE STAGE FOR LEGISLATIVE AND REGULATORY INSURANCE ACTION



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2010 FLORIDA LEGISLATIVE BRIEFING

Overview: Florida's Regular Legislative Session

- Annual 60 day Regular Legislative Session.
- Generally runs from the beginning of March until the beginning of May each year.
- The 2010 Regular Legislative Session convened on March 2, 2010 and ended on the 60th day, April 30, 2010.



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Governor Crist's Final State of the State Address

- On March 2, 2010, Governor Crist delivered his final State of the State Address in Tallahassee.
- The Governor emphasized the “storm of skyrocketing property taxes and property insurance” problems that Floridians faced during his 1st year in office, and that after a lot of hard work, the Legislature enacted “meaningful property insurance reform....”
- He noted that, “[t]hree years later, Floridians are better off because of those insurance reforms and by the diligence of Insurance Commissioner Kevin McCarty, through his rejection of unjustified insurance premium hikes...”



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Florida's 2010/2011 Budget Deficit

- Florida reportedly faces a \$3.2 billion deficit in 2010.
- On April 30, 2010, lawmakers passed HB 5001 into law by a House vote of 77 Yeas and 43 Nays, solidifying Florida's budget at \$70.4 billion. The Senate approved the measure by a vote of 33 Yeas and 4 Nays.
- The budget debate was a politically-charged issue that overshadowed other legislative proposals, including those on insurance.



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Florida's 2010 Insurance Regulatory Environment: Setting the Stage

- Prior to the start of the 2010 Legislative Session, the OIR conducted certain analyses to determine what cost drivers and other issues were contributing to the decline of some Florida property insurers.
- Commissioner McCarty presented a report to the Florida Cabinet on March 23, 2010, identifying the following Florida-specific cost drivers: (1) increasing reinsurance costs; (2) claims-related replacement costs; (3) fraud; (4) mitigation-related premium discounts; and (5) sinkhole-related claims.



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Setting the Stage (con't)

- The OIR's goal to enact legislation regulating Florida domestic insurer affiliate transactions to require more transparency and accountability;
- Industry focus on loss cost factors negatively impacting the residential property industry;
- Media reports assailing the financial solvency of Florida's domestic homeowners market and public criticism of the OIR with respect to its purported lack of appropriate enforcement action against certain financially unstable insurers;



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Setting the Stage (con't)

- Overall dynamics in the Florida residential property insurance market involving a broad political sentiment to take no action that would result in substantial rate increases for the voting public;
- Negative accounting treatment that would implicate possible solvency concerns for certain residential property insurers based on a previously adopted change in the FHCF contract year; and,
- Governor Crist's public comments on vetoing any bill concerning residential insurance rate deregulation.



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Setting the Stage (con't)

- On May 3, 2010, Commissioner McCarty released his response to an April 23, 2010 letter from C.F.O. Sink, in which she inquired whether the OIR should take additional actions, prior to the beginning of hurricane season, to ensure authorized property insurers are financially capable of meeting their obligations.
- One of the catalysts for C.F.O. Sink's inquiry was the recent insolvency of Northern Capital and as much as six other insurance companies facing the possibility of being unable to pay claims in the event of a major disaster this hurricane season.



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Setting the Stage (con't)

- The Commissioner responded that the OIR should address the cost-drivers hindering insurance company's bottom lines and strengthen solvency requirements by increasing minimum capital requirements to \$15 million.
- He further stated that allowing the OIR to waive s. 627.4133, F.S., to permit companies to give 45 days notice for non-renewing policies upon a finding by the OIR that the insurer is in financial distress, would aid the marketplace.
- The Commissioner pointed out that all of these provisions were contained in the insurance property legislation passed this Session, CS/CS/SB 2044, which is currently awaiting the Governor's signature.



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TOP 5 FLORIDA PROPERTY INSURANCE BILLS



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CS/SB 1460: Relating to the FHCF/Contract Year

- CS/SB 1460, sponsored by Senator Garrett Richter (R-Naples), states that the FHCF contract year begins June 1st of each year, but provides that insurers enter into a contract with the FHCF by March 1st.
- This bill passed the Senate by a vote of 38 Yeas and 0 Nays on March 3, 2010. On March 24, the bill passed the House by a vote of 115 Yeas and 0 Nays. The bill was signed into law by Governor Charlie Crist on April 15, 2010.



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CS/SB 1460: Relating to the FHCF/Contract Year (con't)

- Defines the term “contract year.”
- Increases limitation on claims-paying capacity of the FHCF.
- Authorizes the State Board of Administration (“SBA”) to calculate the estimated claims-paying capacity of the FHCF for specific contract years.
- Revises contract year designations for reimbursement contracts, reimbursement premiums, TICL options and TICL options addendum.



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CS/SB 1460: Relating to the FHCF/Contract Year (con't)

- Revises the method by which an insurer's retention is calculated.
- Revises contract years relating to minimum retention levels.
- Extends the expiration date of certain provisions of state law. Increases the SBA's maximum financial obligations with respect to all contracts covering a particular contract year.
- Revises contract years for which a TICL options addendum must provide for reimbursement of TICL insurers for covered events.



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CS/CS/SB 2044: Relating to Property Insurance

- CS/CS/SB 2044 was sponsored by Garrett Richter (R-Naples), and cosponsored by Don Gaetz (R-Destin).
- On April 30, 2010, the Senate, after adopting an amendment, passed the bill by a vote of 32 Yeas and 6 Nays. Later that same day, the House concurred with the Senate's amendment and passed the bill by a vote of 83 Yeas to 34 Nays.
- The bill was enrolled on May 4, 2010.



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CS/CS/SB 2044: Relating to Property Insurance (con't)

- Amends s. 215.555 delaying the repeal of a provision exempting medical malpractice insurance premiums from emergency assessments levied by the FHCF until May 31, 2013.
- **Minimum Surplus Requirements:** Amends s. 624.408, F.S., to revise minimum surplus requirements for insurers holding a certificate of authority before July 1, 2010, to \$5 million until July 1, 2015, to \$10 million after July 1, 2015, and to \$15 million after July 1, 2020. Also revises minimum surplus requirements for a residential property insurer not holding a certificate of authority before July 1, 2010, to \$15 million.



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- **Managing General Agents:** Amends section 624.4085, F.S., to define a “surplus action level” as a loss of surplus on any quarterly or annual financial report which exceeds 15%, or which cumulatively for the calendar year exceeds 15% as of the most recent filed quarterly or annual report.
- Requires, if a company action level event occurs, the residential property insurer to prepare and submit to the OIR, a risk-based capital plan, to include certain information if that insurer conducts any business with affiliates.



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- Requires, if a surplus action level event occurs, the insurer to prepare and submit to the OIR a risk-based capital plan, which must include certain specified information.
- The risk-based capital plan must be submitted: (1) Within 45 days after the surplus action level event; or (2) If the insurer challenges an adjusted quarterly or annual financial statement under the law, within 45 days after notification to the insurer that the OIR has, after a hearing, rejected the insurer's challenge.



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- Amends s. 626.7452, F.S., to eliminate the exception that a MGA may not be examined as if it were an insurer where the MGA solely represents a single domestic insurer.
- Creates s. 628.252, F.S., requiring that every domestic property insurer notify the OIR of its intention to enter into certain agreements, contracts, and arrangements. Prohibits a domestic property insurer from entering into such agreements unless specified criteria are met.



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- **Annual Statements.** The bill amends s. 624.424, F.S., governing annual statements, by revising the frequency that an insurer may use the same accountant or partner to prepare an annual audited financial report.
- **Insurer Report Card.** Amends s. 627.0613, F.S. requiring the Office of the Consumer Advocate to objectively grade insurers annually based on the number of “valid” consumer complaints. This annual report card must be prepared by June 1, 2012, and each June 1 thereafter.



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- Amends s. 627.0613, F.S., by expanding the definition of “valid consumer complaint” to mean, rather than just a written communication from a consumer, a written communication or oral communication that is subsequently converted to a written form from a consumer. A valid complaint does not arise if the insurer’s position is upheld, the policy provision is upheld, the coverage is explained, additional information is provided or the complaint is withdrawn, or in other specified circumstances.



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- **Rate Filings Pursuant to s. 627.062, F.S.** The bill amends s. 627.062, F.S., to require OIR to issue an actual approval, rather than a notice of intent to approve, within 90 days of receipt of a filing.
- Extends the moratorium on “use and file” for rate increases to December 31, 2011.
- Prohibits the OIR from directly or indirectly disapproving a rate filing due to costs associated with agents.



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- Allows an insurer to make a separate filing for financing products used as a replacement for reinsurance in conjunction with the filing currently allowed for the adjustment of its rate for reinsurance, as well as an “inflation trend factor” published by the OIR, limited to 10 % per policyholder per year.
- OIR is required to publish an inflation trend factor by January 1, 2011, and exempts the factor from the rulemaking requirements of Ch. 120.



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- Deletes the provisions relating to recovery of costs associated with replacing TICL or the reduction in TICL, as well as the cash build up factor for the FHCF.
- The bill also deletes the provision that an insurer may not load expense or profits into this filing.
- Deletes the provision in current law that an insurer cannot use this filing if it has made a rate increase 6 months prior to this filing and cannot make a filing for a rate increase 6 months after this filing.
- However, it limits an insurer to making only one filing under this new structure in a 12 month period.



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- Amends s. 627.062 to prohibit the OIR from directly or indirectly limiting an insurer's ability to include the full amount of acquisition costs in a rate filing.
- Provides that certification is not rendered false when, after making the rate filing, the insurer provides additional or supplementary information.



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- Requires OIR to develop a website containing information for a consumer to make an informed choice in choosing an insurance product and company.
- OIR is required to consider including the following in the website: consumer price comparison, financial strength, underwriting and receivership information, and whether insurers should be required to populate this data and how often.
- OIR is further required to conduct a cost-benefit analysis before implementing such program.



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CS/CS/SB 2044: Relating to Property Insurance (con't)

- **Rate Filing/Mitigation Discounts.** The bill amends s. 627.0629, F.S., to state that the Legislature does not intend for the implementation of mitigation discounts to result in a loss of income to insurers.
- Provides for mitigation debits and credits, and allows for recovery of most revenue resulting from mitigation discounts in a base rate filing.
- Allows an insurer to include expense or profit load into the costs of reinsurance to replace the reduction in TICL as long as the increase in base rate is not in excess of 10 %.



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- **Citizens.** The bill amends s. 627.351, F.S., to insert “coastal accounts” in place of “high risk” account language consistently throughout the statute.
- Provides that the Citizens policyholder surcharge is payable upon cancellation or termination of the policy, upon renewal of the policy, or upon issuance of a new policy by Citizens within the first 12 months after the date of the levy or the period of time necessary to fully collect the Citizens policyholder surcharge amount.



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- Provides that Citizens may not levy any regular assessments with respect to a particular year's deficit until it has first levied a policyholder surcharge under this provision.
- Changes the date to December 1, 2012, rather than 2010, on which the boundaries of high-risk areas eligible for certain wind-only coverages will be reduced if certain circumstances exist.



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- The bill amends provision regarding Board of Governors to state that members appointed for having a demonstrated expertise in insurance shall be deemed to be within the scope of the exemption from certain impermissible conflicts of interest set forth in s. 112.313(7)(b).
- Prohibits any Board Member from voting on any measure which would inure to one's personal gain/loss and must publicly state the nature of his/her interest to the assembly and must disclose as a matter of public record.



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CS/CS/SB 2044: Relating to Property Insurance (con't)

- **Notice of Cancellation/Nonrenewal.** The bill amends s. 627.4133, F.S., allowing property insurers to cancel or nonrenew a policy with 45 days notice if the OIR determines that cancellations are necessary to protect the public and approves the insurer's plan for early cancellation or nonrenewal.



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- **Notice of Change in Policy Terms.** The bill creates s. 627.43141, F.S., to allow an insurer to make a change in policy terms without nonrenewing policyholders that the insurer wishes to continue insuring, provided proper notice is given. Defines “renewal,” “policy,” and “change in policy terms” and provides required form of notice of policy changes.



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- **Replacement Cost Coverage.** The bill amends s. 627.7011, F.S., to provide in the event of a loss for which a dwelling is insured on the basis of replacement costs, the insurer initially must pay at least the actual cash value of the insured loss, less any applicable deductible.
- An insured shall subsequently enter into a contract for the performance of building and structural repairs. The insurer shall pay any remaining amounts incurred to perform such repairs as the work is performed.



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- With the exception of incidental expenses to mitigate further damage, the insurer or any contractor or subcontractor may not require the policyholder to advance payment for such repairs or expenses. The insurer may waive the requirement for a contract as provided in this paragraph.
- An insured shall have a period of one 1 year after the date the insurer pays actual cash value to make a claim for replacement cost.



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- If a total loss of a dwelling occurs, the insurer shall pay the replacement cost coverage without reservation or holdback of any depreciation in value, pursuant to s. 627.702(1)(a).
- **Claims & Investigations.** The bill amends s. 627.70131, F.S., to specify insurer's duties within 90 days of receipt of either an initial or supplemental property insurance claim.



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- **Notice of Premium Discounts for Hurricane Loss Mitigation.** The bill amends s. 627.711, F.S., to remove requirement that a uniform mitigation form be certified by DFS. Removes provision requiring insurer to accept valid mitigation form signed by a "hurricane mitigation inspector certified by MSFHP."
- Includes requirement that, among other certified persons, insurers must accept as valid mitigation verification from a home inspector licensed under s. 468.8314 who has completed at least 3 hours of hurricane mitigation training.



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CS/CS/SB 2044: Relating to Property Insurance (con't)

- Provides that an insurer MAY accept the form from "any other individual or entity recognized by the insurers as possessing the necessary qualifications to properly complete a uniform mitigation form," but is not required to do so.
- Requires a person who is authorized to sign a mitigation verification form must inspect the structures referenced by the form personally, not through employees or other persons, and must certify or attest to that person's personal inspection of the structures referenced by the form.



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CS/CS/SB 2044: Relating to Property Insurance (con't)

- Provides that an individual or entity that signs a uniform mitigation form may not commit misconduct in performing hurricane mitigation inspections or in completing a uniform mitigation form that causes financial harm to a customer or the customer's insurer or that jeopardizes a customer's health and safety.



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- The licensing board of an authorized mitigation inspector who violates the statute may commence disciplinary proceedings and impose administrative fines and other sanctions authorized under the inspector's licensing act.
- Anyone who obtains evidence of fraud or evidence that an inspector has made false statements in the completion of a mitigation inspection form shall file a report with the Division of Insurance Fraud, together with all of the evidence in its possession that supports the allegation of fraud or falsity.



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CS/CS/SB 2044: Relating to Property Insurance (con't)

- At its expense, the insurer may require that any uniform mitigation verification form provided by an authorized mitigation inspector or inspection company be independently verified by an inspector, inspection company or an independent third-party quality assurance provider which does possess a quality assurance program prior to accepting the uniform mitigation verification form as valid.



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CS/CS/SB 2044: Relating to Property Insurance (con't)

- **Public Adjusters.** The bill amends s. 626.854, F.S., governing “public adjusters” to provide that compensation for a reopened or supplemental claim may not exceed 20 percent of the reopened or supplemental claim payment.
- Also provides a public adjuster may not charge or accept anything of value in excess of 20% of the amount of insurance claim payments by the insurer for claims that are not based on events that are the subject of a declaration of a state of emergency of the Governor.



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CS/CS/SB 2044: Relating to Property Insurance (con't)

- Provides that it is an unfair and deceptive insurance trade practice for a public adjuster to make statements, advertisements, or solicitations which are deceptive or misleading.
- Requires a specified disclaimer be included in bold print and capital letters to all written advertisements by any public adjusters.



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CS/CS/SB 2044: Relating to Property Insurance (con't)

- The bill requires certain persons who act on behalf of an insurer to provide at least 48 hours notice to the insured, claimant, public adjuster, or legal representative for an onsite inspection of the insured property and authorizes the insured or claimant to deny access to the property if notice is not provided. The insured/claimant may waive notice.
- Requires the public adjuster to ensure prompt notice of certain property loss claims and provides that an insurer be allowed to interview the insured directly about the loss claim.



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CS/CS/SB 2044: Relating to Property Insurance (con't)

- Prohibits the insurer from obstructing or preventing the public adjuster from communicating with the insured and requires the insurer to communicate with the public adjuster in an effort to reach agreement as to the scope of the covered loss under the insurance policy.
- Prohibits a public adjuster from restricting or preventing persons acting on behalf of the insured from having reasonable access to the insured or the insured's property.



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- Authorizes the insured's adjuster to be present for the inspection, prohibits a licensed contractor/subcontractor from adjusting a claim on behalf of an insured if such person is not a licensed public adjuster (unless excepted).
- Amends s. 626.8651, F.S., requiring that a public adjuster apprentice complete a minimum of 8 hours of continuing education to qualify for licensure, 2 hours of which must relate to ethics.



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CS/CS/SB 2044: Relating to Property Insurance (con't)

- Amends s. 626.8796, F.S., to set forth certain requirements that must be included in a public adjuster contract.
- Creates s. 626.70132, F.S., to require notice of a claim, supplemental claim, or reopened claim be given to the insurer within 3 years after the hurricane first made landfall or the windstorm caused the covered damage.



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CS/CS/SB 2044: Relating to Property Insurance (con't)

- **Federal Multiple-Peril Crop Insurance.** The bill amends s. 624.4095, F.S., regarding the calculation of an insurer's gross writing ratio.
- **Examination & Licensing Requirements.** The bill amends s. 626.221, F.S., by expanding the list of individuals who are exempt from the requirement to pass an examination before being issued a license as a customer representative.



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CS/CS/SB 2044: Relating to Property Insurance (con't)

- Following the passage of CS/CS/SB 2044, Commissioner McCarty reiterated his support for the bill in a letter dated May 10, 2010, to Governor Crist, saying that it "strikes an appropriate balance that will have lasting benefits for the people of Florida," and asked the Governor for his consideration.
- Commissioner McCarty also expressed his concern about "those who seek to take advantage of loopholes in the current law" and characterized those loopholes as the "cost drivers" that impact both consumers and the insurance industry.



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2010 FLORIDA LEGISLATIVE SESSION

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CS/CS/SB 2176 Relating to Insurance

- CS/CS/SB 2176, sponsored by Senator Durell Peaden, Jr. (R-Crestview), passed the Senate by a vote of 35 Yeas, 0 Nays on April 26, 2010. The bill was passed in the House, as amended, on April 28, 2010, by a vote of 107 Yeas, 0 Nays. On April 30, 2010, the Senate considered the amended bill, amended it further, and passed it by a vote of 37 Yeas, 1 Nay. The House concurred with the amendment and passed the bill by a vote of 119 Yeas, 0 Nays, on April 30, 2010.
- On May 4, 2010, the bill was enrolled.



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CS/CS/SB 2176 Relating to Insurance (con't)

- **Commercial Lines Rate Modernization:** Excludes the following types of insurance from the filing and review requirements of ss. 627.062(2)(a) and (f), F.S.:
 - Excess or umbrella; surety and fidelity; boiler and machinery; E&O; directors and officers, employment practices and management liability; intellectual property and patent infringement liability; advertising injury and internet liability, property risks rated under a highly protected risks rating plan; any other commercial lines that the OIR determines pursuant to specified criteria.



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CS/CS/SB 2176 Relating to Insurance (con't)

- These types of insurance coverages continue to be subject to s. 627.062(1), F.S., which requires that rates must not be excessive, inadequate, or unfairly discriminatory.
- The bill requires that an insurer must notify the OIR of any changes for the types of insurance subject to this provision, no later than 30 days after the effective date of the change in rates.
- Underwriting files, premiums, and loss and expense statistics must be maintained by the insurer and are subject to inspection by the OIR.



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CS/CS/SB 2176 Relating to Insurance (con't)

- Amends s. 627.0651, F.S., relating to rate setting for motor vehicle insurance. The bill provides that commercial motor vehicle insurance covering a fleet of 20 or more self-propelled vehicles are exempt from certain provisions.
- The bill provides that rates for insurance under s. 627.0651, F.S., may not be excessive, inadequate, or unfairly discriminatory, and must be set to allow the insurer a reasonable rate of return.



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CS/CS/SB 2176 Relating to Insurance (con't)

- With respect to insurers, the bill requires an insurer to notify the OIR of any rate changes within 30 days of the effective date of the change.
- With respect to rating organizations, the bill requires rating organizations to notify the OIR of any changes to loss cost for insurance and risks within 30 days after the effective date of the change.
- OIR may require an insurer to provide at the insurer's expense all information necessary to evaluate the condition of the company and the reasonableness of the rate.



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CS/CS/SB 2176 Relating to Insurance (con't)

- **Notice of Withdrawal from Association, Fund or Pool.** Creates s. 624.46223, F.S., which prohibits an association, fund, or pool created to form or manage a risk management program or self insurance public entity from requiring its members to give more than a 60 day notice of the member's intention to withdraw from the association, fund, or pool.



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CS/CS/SB 2176 Relating to Insurance (con't)

- **Medicare Supplement Insurers.** Amends s. 626.9541, F.S., relating to unfair methods of competition and unfair or deceptive acts or practices, to prohibit construction of this statute to prevent a Medicare supplement insurer from granting a premium credit to insureds for using an in-network inpatient facility.
- Specifies that insurers offering a Medicare supplement policy are not prohibited from entering into an agreement through a network with inpatient facilities that agree to waive the Medicare Part A deductible in whole or in part.



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CS/CS/SB 2176 Relating to Insurance (con't)

- The bill further provides that Medicare supplement insurers are not required to file a copy of the network agreement with, nor obtain approval of the agreement from, the OIR.
- Amends s. 627.6745, F.S., regarding loss ratio standards, to require insurers entering into network agreements pursuant to s. 627.6741(6), F.S., to factor the waiver of the Medicare Part A deductible and premium credit into the insurer's loss-ratio calculation and policy premium.



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CS/CS/SB 2176 Relating to Insurance (con't)

- **Warranty Associations.** The bill amends s. 634.011, F.S., relating to definitions concerning motor vehicle service agreement companies to clarify that service agreements sold to persons other than consumers and that cover motor vehicles used for commercial purposes are excluded from the definition of "motor vehicle service agreement" and are exempt from regulation under the Florida Insurance Code.



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CS/CS/SB 2176 Relating to Insurance (con't)

- The bill eliminates the prohibition against knowingly collecting a premium or charge in excess or less than the amount as specified in the motor vehicle service agreement if the excess is refunded to the agreement holder within 45 days after receipt of the agreement by the company or if the licensed sales representative's commission is reduced by the amount of any premium undercharge.



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CS/CS/SB 2176 Relating to Insurance (con't)

- The bill makes the failure to provide a consumer, upon request, a complete sample copy of the terms and conditions of the service agreement prior to the sale an unfair method of competition and unfair or deceptive act or practice. However, the bill allows compliance to be based upon the actual furnishing of such copy or by directing the consumer to a website that displays the copy.
- Because the regulatory framework of home warranty associations is similar to the oversight of motor vehicle service agreement companies, the bill makes comparable changes to home warranty associations.



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CS/CS/SB 2176 Relating to Insurance (con't)

- The bill makes the providing of home warranties without a license a misdemeanor of the first degree; repeals rate filings and eliminates form approval by OIR; and authorizes OIR to order an association to stop using noncompliant forms.
- The bill also makes the restrictions on OIR for examinations of motor service agreement companies apply to home warranty associations, and makes the same change regarding rebating for home warranty associations as it did for motor vehicle service agreement companies.



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CS/CS/SB 2176 Relating to Insurance (con't)

- The bill imposes the same requirements on home warranty associations regarding the furnishing of sample copies of the agreement while also allowing the associations to fulfill the requirement by directing a consumer to the company's website.
- Like the changes for the other associations, the bill imposes a first degree misdemeanor for providing or offering to provide a service warranty without first being licensed.



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CS/CS/SB 2176 Relating to Insurance (con't)

- The bill eliminates the requirement for form filing and approval for service warranty associations. The OIR will no longer be able to require quarterly financial reports and the same limitations on OIR regarding examinations for the other warranty companies are also included for service warranty associations.
- The bill allows service warranty providers to disclose policy terms to consumers in the same manner as the other warranty associations, and also makes the same change regarding rebating.



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CS/CS/SB 2176 Relating to Insurance (con't)

- Regarding cancellation provisions and premium refunds, the bill makes the same change for service warranty providers as it does for home warranty associations. Thus, if the contract is cancelled by the provider the return of premium must be based upon 100 percent of unearned pro rata premium, less any claims paid or the cost of repairs made on behalf of the warranty holder.



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CS/CS/SB 2176 Relating to Insurance (con't)

- **“Save our Seniors Act.”** The bill makes several changes to the Insurance Code to enhance penalties for unethical annuities sales practices as well as provide certain consumer protections for seniors who purchase annuities contracts.



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CS/CS/SB 2176 Relating to Insurance (con't)

- **Claims by Law Enforcement and Correctional Officers.** The bill provides that a law enforcement officer, correctional officer or correctional probation officer who suffers from tuberculosis, heart disease, or hypertension and who has departed from the prescribed course of treatment loses this presumption for workers' compensation claims filed under Ch. 440, F.S. The departure must be shown to have caused an aggravation of the disability causing condition.



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CS/CS/SB 2176 Relating to Insurance (con't)

- The bill also provides a definition of “prescribed course of treatment,” and provides for an independent medical examination in certain situations and specifies that only claims made prior to leaving the employment of the employing agency are eligible for a presumptive determination of causation.
- Finally, the bill provides a broader interpretation of provisions relating to workers’ compensation benefits payable to off-duty deputy sheriffs to include, but not be limited to, providing security, patrol, or traffic direction for a private employer.



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2010 FLORIDA LEGISLATIVE SESSION



CS/CS/CS/HB 159: Relating to Guaranty Associations

- CS/CS/CS/HB 159, sponsored by State Representative John Legg (R-Port Richey), cosponsored by State Representative Peter Nehr (R-Tampa), passed the House by a vote of 114 Yeas and 0 Nays on April 20, 2010. On April 22, the bill passed the Senate by a vote of 37 Yeas and 1 Nay.
- The Governor signed the bill into law on May 11, 2010.



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2010 FLORIDA LEGISLATIVE SESSION



CS/CS/CS/HB 159: Relating to Guaranty Associations (con't)

- Amends s. 631.52, F.S., pertaining to the Florida Insurance Guaranty Association (“FIGA”), by expanding an exemption from the applicability of certain provisions of state law to apply to all kinds of direct insurance except workers’ compensation claims under employer liability coverage.
- Conforms the definition of “account” to changes made by the Act with respect to FIGA.
- Revises FIGA from three into two separate accounts.



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CS/CS/CS/HB 159: Relating to Guaranty Associations (con't)

- Provides a legislative finding and declaration that all assessments paid by an insurer or insurer group as a result of a levy by the OIR, including regular and emergency assessments, constitute advances of funds from the insurer to the association.
- States that an insurer may fully recoup such advances by applying a separate recoupment factor to the premium of policies of the same kind or line as were considered by the OIR in determining the assessment liability of the insurer or insurer group.



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CS/CS/CS/HB 159: Relating to Guaranty Associations (con't)

- Deletes provisions relating to classification and payment of emergency assessments.
- Adds guidelines and a methodology for the calculation of recoupment factors for recouping certain assessments.



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CS/CS/CS/HB 159: Relating to Guaranty Associations (con't)

- Amends s. 631.713, F.S., to expand the application of certain provisions of state law related to the Florida Life and Health Guaranty Association (“FLAHIGA”) to certain residents of other states who own certain insurance policies.
- Expands the list of contracts and policies to which life and health insurance guaranty of payments provisions do not apply.



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CS/CS/CS/HB 159: Relating to Guaranty Associations (con't)

- Provides for application to coverage under certain structured settlement annuities under certain circumstances.
- “Insolvent insurer” is revised to mean a member insurer authorized to transact insurance in this state, either at the time the policy was issued or when the insured event occurred, and against which an order of liquidation with a finding of insolvency has been entered by a court of competent jurisdiction, and removes the requirement that the order be final by the exhaustion of appellate review.



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CS/CS/CS/HB 159: Relating to Guaranty Associations (con't)

- Adds provision that “resident” means a person may be a resident of only one state, which in the case of a person other than an individual shall be the person's principal place of business. Citizens of the United States who are residents of foreign countries or United States possessions, territories, or protectorates that do not have an association similar to the guaranty association created by this part shall be deemed residents of the state of domicile of the insurer issuing the policies or contracts.



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CS/CS/CS/HB 159: Relating to Guaranty Associations (con't)

- Amends s. 631.717, F.S., to revise a FLAHIGA aggregate liability for life insurance and deferred annuity contracts to not exceed \$100,000 in net cash surrender and net cash withdrawal values for life insurance, \$250,000 in net cash surrender and net cash withdrawal values for deferred annuity contracts, or \$300,000 for all benefits including cash values, with respect to any one life.



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CS/CS/CS/HB 159: Relating to Guaranty Associations (con't)

- Authorizes guaranty associations, in carrying out duties in connection with guaranteeing, assuming, or reinsuring policies or contracts, to, subject to approval of the receivership court, issue substitute coverage for a policy or contract that provides an interest rate, crediting rate, or similar factor determined by use of an index or other external reference by issuing an alternative policy or contract.



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CS/CS/CS/HB 159: Relating to Guaranty Associations (con't)

- In lieu of the index or other external reference provided for in the original policy or contract, the alternative policy or contract must provide for a fixed interest rate, payment of dividends with minimum guarantees, or a different method for calculating interest or changes in value.
- The bill creates s. 631.7295, F.S., authorizing an FLAHIGA to succeed to the rights of an insolvent insurer arising after an order of liquidation or rehabilitation with regard to certain contracts of reinsurance.



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CS/CS/CS/HB 159: Relating to Guaranty Associations (con't)

- Requires that the FLAHIGA pay all unpaid premiums due under the contract.
- Amends s. 631.735, F.S., to specify that certain advertisement prohibitions do not preclude the furnishing of written information that is in a form prepared by the FLAHIGA, that summarizes the claim, cash value, and annuity cash value limits of the association, upon request.



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CS/CS/CS/HB 159: Relating to Guaranty Associations (con't)

- Amends s. 631.904, F.S., with respect to the Florida Workers' Compensation Insurance Guaranty Association ("FWCIGA"), to revise the definition of the term "covered claim" to include unpaid claims under any employer liability coverage of a workers' compensation policy limited to the lesser of \$300,000 or the limits of the policy.



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2010 FLORIDA LEGISLATIVE SESSION

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CS/CS/CS/CS/HB 663: Relating to Building Safety

- CS/CS/CS/CS/HB 663 was sponsored by State Representative Gary Aubuchon (R- Cape Coral) and cosponsored by State Representatives Esteban Bovo (R-Hialeah), Paige Kreegel (R-Punta Gorda), Bill Proctor (R-St. Augustine), Hazel Rogers (D-Lauderhill), and Charles Van Zant (R-Palatka). The bill passed the House on April 26, 2010 by a vote of 111 Yeas to 3 Nays. On April 30, 2010, the Senate passed the bill by a vote of 39 Yeas to 0 Nays.
- On May 17, 2010, the bill was presented to the Governor for his signature; the Governor has until June 1, 2010 to act.



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2010 FLORIDA LEGISLATIVE SESSION



CS/CS/CS/CS/HB 663: Relating to Building Safety (con't)

- **Home Inspectors.** The bill amends ch. 468, Part XV, F.S., relating to the regulation and licensure of home inspectors, to create a home inspection services licensing program. The bill also sets forth certain licensing requirements as well as other provisions.
- **Mold Assessors and Remediators.** The bill amends ch. 468, Part XVI, F.S., s. 468.8311, F.S., relating to the regulation and licensure of mold inspectors and remediators, to create a mold-related services licensing program. The bill also sets forth certain licensing requirements as well as other provisions.



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CS/CS/CS/CS/HB 663: Relating to Building Safety (con't)

- **Windstorm Loss Mitigation.** The bill amends s. 553.844, F.S., to provide, notwithstanding other provisions of law, exposed mechanical equipment or appliances fastened on roofs or installed on the ground using rated stands, platforms, curbs, and/or slabs, are deemed to comply with wind resistance requirements of the 2007 Florida Building Code. This provision will expire on the effective date of the 2010 Florida Building Code.



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CS/CS/CS/CS/HB 663: Relating to Building Safety (con't)

- **Uniform Mitigation Verification Inspections.** The bill makes the following changes relating to the uniform mitigation verification process:
 - Eliminates the provision allowing a hurricane mitigation inspector, certified by the My Safe Florida Home program, to sign a uniform mitigation verification form (“form”). The My Safe Florida Home program is no longer offered by the State.
 - Allows an insurer to accept forms from persons possessing qualifications and experience acceptable to the insurer.



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CS/CS/CS/CS/HB 663: Relating to Building Safety (con't)

- Specifies that persons signing forms must personally inspect the structures referenced in the form and certify they have done so.
- Specifies that persons signing such forms may not commit misconduct in performing hurricane mitigation inspections which cause harm to an insured or the insurer or jeopardize the insured’s health and safety.



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CS/CS/CS/CS/HB 663: Relating to Building Safety (con't)

- Specifies that misconduct occurs when an inspector signs a form that:
 - Falsely indicates he/she personally inspected the structure;
 - Falsely indicates the existence of a feature that entitles an insured to a discount that the inspector knows does not exist or has not personally inspected;
 - Contains erroneous information; or
 - Contains false information regarding the existence of mitigation features.



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CS/CS/CS/CS/HB 663: Relating to Building Safety (con't)

- The bill provides that the licensing board of authorized mitigation inspectors that violate the provisions of this section may discipline and administratively fine such inspectors.
- The bill further provides that a person who obtains evidence of fraud or evidence an inspector has made false statements in completing a form must file a report with the Division of Insurance Fraud ("DIF") within DFS and that such person is immune from liability under s. 626.989(4), F.S.



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2010 FLORIDA LEGISLATIVE SESSION



CS/CS/CS/CS/HB 663: Relating to Building Safety (con't)

- Upon the conclusion of the investigation and a finding of probable cause that a violation has occurred, the DIF must submit its investigative report to the OIR and the agency responsible for the professional licensure of the inspector.
- The bill provides that an insurer, at its expense, may require that any uniform mitigation verification form provided by an authorized mitigation inspector may be independently verified by an inspector, inspection company or an independent third-party quality assurance provider before accepting the uniform mitigation verification as valid.



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PREDICTIONS FOR THE REMAINDER OF 2010



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PREDICTIONS

- **The Governor's Veto Power**

- **Contentious Elections**
 - U.S. Senate
 - Governor
 - Chief Financial Officer
 - Attorney General
 - Agricultural Commissioner



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LOOKING AHEAD TO THE 2011 LEGISLATIVE SESSION



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LOOKING AHEAD

Questions to Be Answered

- Will a new governor mean a more favorable environment for insurers?
- The 2010 Hurricane Season —will it be an active one?



QUESTIONS?





FOR MORE INFORMATION



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