

**CITIZENS REVIEW GROUP:
Office of Insurance Regulation (OIR)**

**Report to Governor-elect Crist
& Lieutenant Governor-elect Kottkamp**

**Office of Insurance Regulation/Financial Services
Commission**

December 2006

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Office of Insurance Regulation/Financial Services Commission

I. Overview of the Department/Agency and the CRG's activities

(a) Establishment

The Florida Legislature created the Office of Insurance Regulation (Office) in 2003 in Public Law 2002-404 (HB 3-E) to implement the amendment made to the Florida State Constitution in 1998. Chapter Law 2002-404 created the Financial Services Commission (FSC) as an independent agency housed within the Department of Financial Services. (see Agency Transition Materials)

(b) Authority – statutes.

Section 20.121, F.S., created by Chapter Law 2002-404 sets forth the authority of the Office to be responsible for all activities concerning insurers and other risk bearing entities, including licensing, rates, policy forms, market conduct, claims, issuance of certificates of authority, solvency, Viatical settlements, premium financing, and administrative supervision, as provided under the Florida Insurance Code. The Insurance Code is defined at Section 624.01, F.S., to be chapters 624-632, 634, 635, 636, 641, 642, 648, and 651. The Office also has certain statutory responsibilities under Chapters 20, 112, 120, 440, and 817, F.S. (see Agency Transition Materials)

(c) Mission/objectives.

The OIR summarizes its core mission as: To ensure that insurance companies licensed to do business in Florida are financially viable; operating within the laws and regulations governing the insurance industry; and offering insurance products at fair and adequate rates which do not unfairly discriminate against the buying public.

“Fair. Fast. and Professional,” is the organization’s motto.

(see Agency Transition Materials)

(d) Department personnel the CRG met with:

Kevin McCarty, Commissioner

David Foy, Chief of Staff

Steve Parton, General Counsel

Dan Callahan, Inspector General

Belinda Miller, Deputy Commissioner, Property & Casualty

Rich Robleto, Deputy Commissioner, Life & Health, and Specialty

Sharon Binnun, Deputy Commissioner, Business Development & Market Research

Richard Koon, Director, Property & Casualty Product Review

Claude Mueller, Director, Property & Casualty Financial Oversight

Monica Rutkowski, Director, Life & Health Product Review

Ken Ritzenthaler, Actuary, Property & Casualty Product Review

(e) Non-department personnel/entities the CRG received input from:
Tim Meenan, Florida Insurance Guarantee Fund, Nationwide Insurance
Paul Sanford, Blue Cross and Blue Shield of Florida, FCCI Insurance Group
Eric Thorn, Jobs and Entrepreneurship Council
The Honorable Don Brown, Jobs and Entrepreneurship Council
Jeff Grady, Florida Association of Independent Agents
Scott Johnson, Florida Association of Independent Agents
Suzanne Murphy, Citizens Insurance Company
Christine Turner, Citizens Insurance Company
Candace Jones, Citizens Insurance Company
Chris Holly, Florida Association of Counties
The Honorable Alex Sink, Chief Financial Officer-elect
The Honorable Tom Gallagher, Chief Financial Officer
The Honorable Dan Gelber, House Minority Leader
The Honorable Julio Robaina, State House Member
The Honorable Bob Allen, State House Member
William Stander, Property Casualty Insurers of America
George Grawe, Allstate Florida
Mike Madden, Florida League of Cities
Mark Trafton, III Florida Insurance Council
Steve Burgess, Office of Consumer Advocate
The Honorable Charles Bronson, Agriculture Commissioner
The Honorable Bill McCollum, Attorney General-elect
Raul De La Heria, Worker's Compensation Attorney

II. Department/Agency Structure

(a) Organization

Please refer to the Office's organizational chart (attached)

(b) Number of employees – In Fiscal Year 2006-2007, the Office has 311 Full-Time equivalent employees (FTE's). In Fiscal Year 05-06, the Office had 305 FTE's.

(c) Employee breakdown (SMS, SES, CS, OPS)

As of December 6, 2007, the Office has the following employee breakdown:

SMS – 7, SES – 126, Career Service – 178, OPS – 8

(d) Turnover rates

6.42% turnover rate for fiscal year 05-06. (see Agency Transition Materials)

(e) Advisory boards (for gubernatorial appointment)

See Agency Transition Materials

The Office of Insurance Regulation currently serves as a representative, provides administrative support, and monitors thirty (30) boards, working groups, task forces, and residual market entities. Of those thirty (30) boards, the Governor makes the following appointments pursuant to the provisions of Florida's Insurance Code:

1. 624.91(6)(a)(4) - Florida Healthy Kids Corporation...3 members

2. 627.351 - Citizens Insurance Board of Governors...2 members
3. 627.64872 - Florida Health Insurance Plan...5 members
4. 651.121 - Continuing Care Advisory Council ...10 members

III. Operations

(a) Program Areas/Responsibilities

Pursuant to appropriations and budget conventions, the responsibilities of the Office of Insurance Regulation are apportioned between two principal program areas: Executive Direction and Support and Compliance and Enforcement. (see Agency Transition Materials)

Executive Direction and Support

- Office of the Commissioner of Insurance Regulation
- Office of the Inspector General
- Office of General Counsel/Legal Services

Compliance and Enforcement

- Office of the Chief of Staff
- Deputy Commissioner for Property and Casualty Insurance
- Deputy Commissioner for Life and Health Insurance
- Deputy Commissioner for Business Development and Market Research.

(b) Budget

i. 2006-2007 Operating Budget

Executive Direction and Support (ED&S) - \$2,932,341

Compliance and Enforcement (C&E) - \$24,191,392

Total: \$27,123,733

ii. 2007-2008 Operating Budget - Proposed Legislative Budget Request

ED&S - \$3,856,164 (32% increase)

C&E - \$25,411,600 (5% increase)

Total: \$29,267,764 (8% total increase)

iii. Comparison to previous years

	FY 2004-2005	FY 2005-2006	FY 2006-2007
FTE Employees	305	305	311
OIR Operating Budget	\$22,715,093	\$24,021,122	\$27,123,733
LBR (D3A's) Issue Requests	\$6,645,829	\$2,720,000	\$4,480,942

iv. Source of funding

The Office of Insurance Regulation budget source is the Insurance Regulatory Trust Fund (IRTF). 100 percent of all operating revenues come from the IRTF.

v. Expenditures

2006-2007 Expenditures (as of November 30, 2006)
 ED&S - \$1,224,616
 C&E - \$8,064,016
 Total: \$9,288,632

(c) Pending contracts are available for review as needed.

(d) Other key dates approaching (OIR provided CRG the following)

- Citizens Property Insurance Corporation
 - i. new bond issue, expected to be approved in December 2006.
 - ii. OIR will be receiving a filing with a rate increase of approximately 25% statewide, which would go into effect in January, 2007.
 - iii. Citizens is required to make a rate filing for the 1-in-70 year event in time to implement the rate in March 2007 (SB 1980)
- Florida Insurance Guaranty Association (FIGA) may need to do an initial assessment by year-end.
- 2007 Hurricane Season – June 1 to November 30
- National Association of Insurance Commissioner Meetings (NAIC) – the NAIC conducts four national meetings per year. (see ref. 1)
- NAIC Accreditation On-Site Review - the NAIC conducts an on-site state accreditation review no less than every five years. Florida is scheduled for this review in 2008. (see ref. 1)
- CMS Recertification of Florida’s HIPAA Mechanism – Compliance is re-evaluated by CMS every three years. The next evaluation is due in 2007. The Office has prepared its submission to be sent to CMS. (see ref. 1)

(e) Mechanisms for providing/receiving end user/stakeholder input

OIR provides information and external communication through its website (www.floir.com). OIR interacts with regulated entities and with insurance consumers through a website portal that simplifies Insurance Company applications to do business in Florida via the “I-File” system. Also, OIR conducts public meetings, issue or rule development workshops, and provides on-line survey tools to solicit public input. (see Agency Transition Materials)

(f) Accountability measures

Pursuant to Section 216.1827, F.S., the following performance measures and standards were adopted by the Florida Legislature for the 2006-2007 Fiscal Year.

Compliance and Enforcement	
Measure	Standard
Maximum number of days from date of applications for a new certificate of authority initially submitted to the OIR to the date the OIR approves or denies the application pursuant to 120.80(9), F.S.	180 days

Number of applications processed	328
Number of rate and forms review completed	13,000
Percent of rate and forms filings completed within 90 days	92%
Number of financial review and examinations completed	11,952
Percent of financial analysis reviews completed timely (within 90 days)	93%
Number of examinations and investigations that are completed for licensed companies and unlicensed entities	760
Current number of licensed/regulated insurance entities	3,500
Residual market premium as a percent of total premium for homeowner's (total), mobile home, dwelling fire insurance	22.5%
Residual market premium as a percent of total premium for workers' compensation insurance	0.75%
Residual market premium as a percent of total premium for automobile insurance	0.5%
Average risk based capital percentage	5%
Percent of financial exams completed within 18 months of exam date	98%
Executive Direction and Support Services	
Measure	Standard
Administrative costs as a percent of total agency costs	<12.6%
Administrative costs as a percent of total agency positions	<12.6%

(g) Shared missions with other state agencies

OIR's mission of consumer protection and support of a healthy insurance market is shared by the Joint Underwriting Association, the state guaranty funds, the Agency for Health Care Administration (transparency of health insurance, joint licensure of HMOs), the Department of Children and Families (long term care partnership program), Department of Community Affairs (mitigation, building codes), Department of Elder Affairs (Medicare supplemental insurance, long term care, and senior issues) and the Department of Health (medical malpractice, children's health issues). The Office also coordinates work with the Division of Emergency Management on disaster relief issues. The mission also requires working closely with the Department of Financial Services, particularly the Consumer Services, Agent & Agency, Fraud, and Rehabilitation and Liquidation Divisions, and occasionally the Division of Workers Compensation. The Office has had, within the past couple of years, some substantial joint investigations with the Attorney General's office, and has worked with the Office of Financial Regulation on viatical and unlicensed entity cases. In addition, the Office remains in communication and information sharing with the federal Centers for Medicare and Medicaid Services on Medicare and HIPAA consumer protections. In addition, the Office works closely with Enterprise Florida, Inc. (EFI) to maximize insurance company recruitment efforts. (see Agency Transition Materials)

(h) Relevant federal law or federal partnerships (See Agency Transition Materials)

- OIR interacts with the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) regarding HMO issues.
- Federal Emergency Management Agency (FEMA), with respect to claims made under the Sherman Act.
- Health Insurance Portability and Accountability Act (HIPAA) creates a framework for Health Insurance Regulation and Fraud and Abuse program.
- OIR oversees Florida's Medicare Supplement Insurance Laws that mirror national model regulations for Medicare Supplemental Insurance.
- Federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) requires companies to obtain OIR approval to strip out prescription benefits.
- Federal Regulations to Make Available "Long Term Care Partnership" Plans require OIR, Department of Financial Services, Agency for Healthcare Administration, and the Department of Children and Family Services to develop regulations as provided by the 2006 Legislature for compliance with federal regulations to make available "Long Term Care (LTC) Partnership" plans to Florida consumers.

Reports that are due according to federal law:

Health Insurance Portability and Accountability Act (HIPAA)

(i) Reports due to be issued in the next 12 months

- Office of Insurance Regulation Annual Report – due annually; pursuant to Sections 624.313 and .315; 627.9122, .914 and .915; 634.137; 641.23, F.S.
- Officers and Directors Liability Claims – due annually; pursuant to Section 627.9122(3), F.S.
- Workers' Compensation Marketplace Availability and Affordability – due January 1, 2007; pursuant to Section 627.211(6), F.S.
- Health Flex Program Evaluation (Joint Report with AHCA) – due January 1, 2007; pursuant to Section 408.909(9), F.S.
- Financial Services Commission – Probable Maximum Loss (PML), Financing, Potential Assessments for Citizens Property Insurance Corporation, Florida Catastrophe Fund, and the Florida Insurance Guaranty Association – due February 1, 2007; pursuant to Section 627.3519, F.S.
- Life Insurance Travel Underwriting Company Reports – due March 1, 2007; pursuant to Section 626.9541(1)(dd)(6), F.S.
- Small Employers Health Care Access Program – due March 1, 2007; pursuant to Section 627.6699(15)(l), F.S.

- Health and Accident Insurance Report– due May 15, 2007; pursuant to Section 627.9175(2)(c), F.S.
- Long Range Program Plans – due September 15, 2007 (draft) and October 15, 2007 (final); pursuant to Section 216.013, F.S.
- Long-Term and Annual Audit Plans Based on Periodic Assessments – due September 30, 2007; pursuant to Section 20.005(5)(h) and (7), F.S.
- Medical Malpractice Liability Claims – due October 1, 2007; pursuant to Section 627.912(6)(b), F.S.
- Agency Rule Variances and Waivers – due October 1, 2007; pursuant to Section 120.542(9), F.S.
- Florida Comprehensive Health Association Summary of Activities – due October 15, 2007; pursuant to Section 627.6488(40)(i), F.S.
- Legislative Budget Request – due October 15, 2007; pursuant to Section 216.023, F.S.
- Florida Health Insurance Plan Annual Report – due December 1, 2007; pursuant to Section 627.64872

Biennial – Triennial Reports

- Workers' Compensation Three Member Panel – due January 1, 2007; pursuant to 440.13(12)(e)(4), F.S.
- Agency Rules Report – Identifies Rules Filed for Adoption and Repeal – due October 1, 2007; pursuant to Section 120.74, F.S.
- Financial Services Commission –Independent Actuarial Peer Review of Workers' Compensation Rating Organization – due February 1, 2008; pursuant to Section 627.285, F.S.
- Citizens Market Conduct Examination – Plan of Operation and Internal Operations Compliance – due February 1, 2008; pursuant to Section 627.351(6)(k), F.S.
- Title Insurance – Premium Review – due June 1, 2009; pursuant to Section 627.782(7), F.S.

One-Time Reports

- Attached and Free Standing Structures – due January 1, 2007; pursuant to Section 38 of SB 1980 passed during the 2006 Legislative Session.
- Home Structure Rating System – due March 31, 2007; pursuant to Section 39 of SB 1980 passed during the 2006 Legislative Session.
- Re-evaluation of Discounts, Credits, Rate Differentials, and Reductions – due July 1, 2007; pursuant to Section 627.0629(1), F.S.
- Workers' Compensation Marketplace Availability and Affordability – due January 1, 2007; pursuant to Section 627.211(6), F.S.
- Health Flex Program Evaluation (Joint Report with AHCA) – due February 1, 2007; pursuant to Section 408.909(9), F.S.

IV. Legislative Priorities (OIR provided CRG the following)

- Outsourcing of financial examinations
- Expansion of the CAT Fund
- Eliminate wind-only policies from Citizens (eliminate cherry picking)
- Eliminate the wind boundaries (Citizens writes full policy in old wind areas)
- Allow consumers with policies to return to Citizens if the private insurer's rates are more than 25% above Citizens
- Alternative Risk Transfer (ART) Mechanisms
 - Special Purpose Reinsurance Vehicles; Protected Cells; Derivatives
 - Authorizing the CAT Fund and Citizens to use CAT bonds, sidecars, and other capital market alternatives
 - Authorize state participation in an insurance exchange to securitize and market to investors specified CAT risks
- Alien Reinsurers (reduce collateral levels applied to foreign insurers)
- Healthy Florida – Healthy Florida would provide stop loss reinsurance for low income employee groups, which would lower the health insurance premiums by about 40%.
- Florida Health Insurance Plan (FHIP) - support the opening of the Florida Health Insurance Plan, a high risk pool that was established in 2004, but the Plan has never been funded. Eliminate the Panhandle Statewide Building Code exception
- Continue the Insurance Capital Build-Up Incentive Program
- Interstate Compact - this initiative is part of a nationwide effort to provide insurers with the ability to better compete with the banking industry by providing them with faster access to the insurance market with new policy forms.
- Acquisition Filings (removing burdensome regulatory structure)
(see ref. 1 for expanded explanations for all priorities)

V. Past Successes

OIR provided to CRG the following:

- Policyholder Restitution
- Stopped a fraudulent Viatical Settlement Provider
- Stopped unfair trade practices by Insurers and Insurance Brokers
- Conducted over 70 Rate Change Public Hearings across the state
- Designed and implemented a state of art Catastrophic Claims Reporting System
- Worked with large states to create a Multi-State Filing Program for insurers
- Reported via market research impending Commercial Property Insurance crisis
- Created web based Workers Compensation Insurance Data Collection system
- Successfully petitioned 2005 Legislature for Long Term Care Insurance reforms
- Reduced insurer's application process timeline by two thirds using innovations in technology
- Created "FAME" system to allow electronic filings required of regulated companies

VI. Missed Opportunities / Challenges

OIR provided the CRG the following:

- Citizens Property Insurance Corporation – review concerns about Citizens’ successful implementation of Orders of the Office of Insurance Regulation
- Review flexibility or lack thereof of State of Florida regarding certain specialty products (i.e. warranty products)
- Review lack of implementation of an Interstate Compact for life and annuity products
- Review ability or lack thereof to meaningfully influence the rates in the reinsurance market

VII. The Next Four Years

The CRG on Insurance provides the following:

(a) Immediate or short term concerns

- High expectations for rate relief by consumers from Special Session (the proposed fixes offered by the Governor’s panel will not reduce rates in a meaningful way)
- An affordability crisis due in some part to spiraling reinsurance rates
- The State’s over-exposure due to the size of Citizens’ policy portfolio
- Perception of the marketplace that Florida is highly over-regulated partly leading to a shrinking private insurance market
- Perception that OIR’s regulatory actions may be based on politics rather than policies
- Perception that OIR may use rule-making authority to set public policy
- Communication is badly strained between OIR and Citizens to the detriment of our State because of a poorly defined mission and role for Citizens Insurance Company

(b) Long-term Plans

- Address the market concerns about over regulation by reviewing all statutes and rulemaking for efficacy
- Redefine the mission and purpose of Citizens Insurance Company
- Amend Mirzwa to allow a consumer appeals process

(c) Future goals (Reflecting Governor-elect Crist’s vision of hope, safety, opportunity)

- Lower insurance prices immediately
- Put the consumer first in the property insurance equation
- Aggressively and uniformly strengthen building codes statewide
- Restore insurance market by creating market competition
- Establish a bright line between policy and regulation for OIR
- Reexamine the 2003 Cabinet reorganization with respect to Insurance Industry regulation and public policy

(d) Cutting edge ideas and innovation

- Make Citizen's actuarially sound by removing wind-only policies and charging rates that are actually slightly higher than market rates
- Support the creation of an expanded CAT fund in order to allow access as incentive for positive market behavior by Insurance Companies (bundling, price roll backs, etc)
- Make the expansion of the insurance property and casualty markets a top economic development priority tasking Enterprise Florida and other government entities to engage
- Address affordability crisis by creating new markets such as low risk pools for similar type businesses and self insurance pools created with the assistance of the banking industry

Organizational Chart

Florida Office of Insurance Regulation
Organizational Chart - October 2006

