

POLICY BACKGROUND:

PROPERTY INSURANCE

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Hurricanes

Property insurance is one of the top issues in Florida policymaking because of hurricanes. The state has been among the hardest-hit in the country by tropical weather over the last couple of decades, and six of the 10 costliest hurricanes in U.S. history have caused damage in Florida, according to the [Insurance Institute](#). The costliest hurricane in terms of insured property losses in Florida was 1992's Hurricane Andrew, which caused about \$26 billion in damage in 2019 dollars when it devastated Miami-Dade County. Irma caused about \$25 billion in damage in 2017, though not all of that was in Florida. Two storms that hit Florida hard during the active 2004 and 2005 seasons are also on the Top 10 list: Hurricane Charley, which was particularly devastating in Southwest Florida and caused more than \$13 billion in damage, and 2005's Hurricane Wilma, which hit the Miami and Fort Lauderdale areas and the Keys, and caused \$10 billion in damage.

2022 Property Insurance Measures, RAP Fund

For decades Florida policymakers have tried to figure out the best way to keep the state's property insurance market stable in the face of such massive potential losses. There have been a number of efforts to spread the potential cost of large storms, harden the state's housing stock, tweak laws related to claims, and most recently, tackle fraud and high litigation expenses, which the [industry says have become among its biggest problems in controlling costs](#). In the spring of 2022, industry officials, regulators and homeowners were all telling lawmakers that premiums were again rising excessively and [several insurers were pulling out of the market or going out of business](#). While lawmakers were unable to reach an agreement on how to address the re-emerging problem during a contentious regular session, they returned in May for a special session aimed primarily at property insurance reform. While Republicans did focus extensively on trying to reign in litigation costs and fraud, the final legislation ([SB 2D](#)), which was later signed by Gov. Ron DeSantis, also sought to provide insurance companies with an additional layer of reinsurance to tap into before having to go to the backup Florida Hurricane Catastrophe Fund (see below). The new ["Reinsurance to Assist Policyholders Fund," or "RAP Fund,"](#) provides access to [a \\$2 billion backing account](#), which should allow companies to reduce

their private reinsurance and pass the savings on to policyholders. Even supporters of the legislation acknowledged, however, that it was likely to take some time before the changes would ease the big rate increases that have flummoxed home owners since 2020. [The Insurance Information Institute said](#) that even with the new legislation in place, premiums in the state were expected to increase to an average of \$4,231 in 2022, almost three times the national average rate.

Citizens Property Insurance Corp

In 2002, lawmakers passed legislation combining two high-risk insurance pools, the Florida Windstorm Underwriting Association and the Florida Residential Property & Casualty Joint Underwriting Association, to create [Citizens Property Insurance Corp.](#), which remains the state's insurer of last resort. It was intended to provide wind insurance coverage to those Florida homeowners who can't buy insurance on the private market. After the devastation of the 2004 and 2005 hurricane seasons, Citizens grew to be the state's largest property insurer. At its peak in 2011, Citizens had 1.5 million policies, about a quarter of the state's insurance market. That put Florida residents on the hook for potentially more than \$11 billion in assessments had there been a particularly bad storm. Citizens has since reduced its policy count, but in recent years its number of customers has begun going up again as private insurers have failed and canceled policies. In May of 2022 [Citizens had about 883,300 policies in force](#), nearly double the 475,000 policies it had in force as recently as 2020.

Citizens is generally funded by policyholder premiums. But if it has a deficit because of a particularly bad storm - or a large number of payouts in a short time - Florida law requires that Citizens make up the shortfall by levying assessments on most Florida homeowners policyholders. That potential has bolstered the effort through the years [to keep Citizens from becoming too large](#). State law caps how much Citizens can raise premiums in a given year. In 2021, lawmakers passed a broad property insurance bill ([SB 76](#)) [that, among other things, raised that cap from 10% to 15%](#).

The Florida Hurricane Catastrophe Fund

The [Hurricane Catastrophe Fund](#), known as the CAT Fund, is a backup fund administered by the [State Board of Administration](#) that provides reinsurance to insurers writing property policies in Florida. All insurers that cover property in the state, including Citizens, are [required to have CAT Fund reinsurance](#). Private insurers pay premiums to provide the money for the fund, which was created in a 1993 special session in the wake of huge losses from Hurricane Andrew.

When insurers have to pay out large amounts in claims in a bad storm season, the CAT Fund is tapped to back them up. The reimbursement coverage is triggered when insurers meet a “retention amount,” which is similar to a deductible on a consumer insurance policy. The CAT fund can impose emergency assessments and can issue bonds if needed to cover its own claims. The new RAP Fund, created in 2022, would be tapped into first by participating insurers, and if needed, the CAT Fund would then provide additional reinsurance beyond that.

Through the 2021 season, [the CAT Fund had only ever paid out reimbursements to insurers for hurricane losses in five seasons](#): 1995, 2004, 2005, 2017 and 2018. The highest payout amount was in 2005, in which it had to reimburse insurers \$5.5 billion to cover damage from Hurricanes Dennis, Katrina and Wilma. That season came on the heels of 2004’s reimbursements of \$3.8 billion in aggregate to 136 insurers covering damage from Charley, Francis, Ivan and Jean. As of Dec. 31, 2020, [the CAT Fund had a balance](#) of \$10.6 billion

Earlier Reform Efforts

In the mid-2000s, after the particularly difficult 2004 and 2005 hurricane seasons, [Florida faced a crisis](#), with property insurance increasingly becoming unaffordable or unavailable. The [response came](#) in 2007 when lawmakers passed [HB 1A](#), expanding the use of the Hurricane Catastrophe Fund and lowering the rates of Citizens Property

Insurance. The move essentially shifted some of the state's hurricane risk away from private insurance companies and homeowners and to the state's residents in general through the [state-backed organizations](#).

Floods and Storm Surge

Homeowners' insurance policies typically cover wind damage from hurricanes - but don't cover flood risk. Water damage from flooding during storms is covered instead by [the federal flood insurance program](#). Florida leads the nation in the number of flood policies, according to the [National Flood Insurance Program](#), with about 1.8 million policies in force.

Sinkholes

Hurricanes aren't the only insured hazard for homeowners, just the biggest. [Florida has more sinkholes](#) than any other state in the country. [Section 627.706, Florida Statutes](#), requires every property insurer authorized to write policies in the state to cover "[catastrophic ground cover collapse](#)," but some sinkhole damage might not be covered.

Homeowners Bill of Rights

In 2014, the Legislature created a "[Homeowners Bill of Rights](#)," spelling out certain guarantees for homeowners in the property insurance claims process. The list of rights, spelled out in [Florida Statutes 627.7142](#), includes the right to have an acknowledgment of a claim within a certain time frame and full payment of undisputed parts of claims within 90 days, along with mediation of disputes in many cases.

Other Recent Legislation

2021: The Legislature passed a bill ([SB 76](#)) on the final day of the session that made

changes to rules around property insurance in a bid to stem losses for insurers. [Among the changes made by the bill](#) was a shortening of the deadline for filing some claims, and a change in the rules for suing insurance companies in an effort to reduce litigation. The bill also tries to tackle what insurers say has been a major increase in roof damage claims and lawsuits related to those claims. The bill clamps down on advertising trying to induce people to file roof damage claims or lawsuits. [Critics said changes to the bill during the legislative process made it less likely it would reduce property insurance rates than it might have](#) under its original form.

2020: Sen. Anitere Flores filed a bill ([SB 1204](#)) that would have capped Citizens Property Insurance Corp. wind insurance rate increases to 10 percent on a single policy annually. Flores had filed the bill in several successive years. It again failed to pass in 2020, dying in the Senate Banking and Insurance Committee.

2019: Gov. Ron DeSantis signed into law [HB 7065](#) aimed at reducing “Assignment of Benefits” lawsuits in a bid to reduce property insurance rate hikes.

The Law

[Citizens Property Insurance Corp. Statute](#), F.S. 627.351(6).

[Hurricane Catastrophe Fund Statute](#), F.S. 215.555

[Sinkhole Coverage Statute](#), F.S. 627.706

Additional Reading

[Insurance Information Institute Florida Fact File](#)

[CAT Fund 2020 Annual Report of Aggregate Net Probable Maximum Loss](#)

[FLOIR 2018 Annual Report](#)

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930 Thomasville Rd Ste 200

Tallahassee, FL 32303

850-915-0100

sales@lobbytools.com