

# FLORIDA INSURANCE REPORT

Keeping You Informed About Florida  
Volume XII, Issue II



## Citizens Proposes Small Personal Residential Rate Decrease

By: Travis Miller

Over the last few years, we have grown accustomed to talking about Citizens Property Insurance Corporation's rates being inadequate and serving as an impediment to policies finding coverage in the admitted market. However, as the rate glide path in 2010 has continued to take effect each year, an increasing number of insurers have been assuming policies from Citizens each year and reducing its policy count. Now, as further evidence of the effectiveness of the glide path and improved market conditions, the Citizens Board of Governors recently recommended a statewide average decrease of 2.9% for its personal residential programs in 2015. By law, Citizens files recommended rates with the Office of Insurance Regulation. The OIR reviews the recommended rates and has final rate-setting authority.

The statutorily-mandated glide path continues to suppress rate increases in Citizens, although to a lesser degree than in prior years. Citizens' indicated rates without the glide

path would produce a 1.6% increase as compared to the 2.9% decrease. Under the recommended rates, about 70% of Citizens' policyholders will see rate decreases, while about 30% will have increases. Citizens points out that while many areas of the state have reached or approached rate adequacy, some areas or product lines continue to show rate needs such as those in the coastal areas and older homes.

The commercial program continues to play catch-up on rates, with the indicated rates without a glide path being a 27.8% increase but with the glide path reducing the recommended increase to 6.3%.

Citizens points to the several years of implementing the glide path along with several catastrophe-free years and competitive reinsurance market conditions as significant factors in producing the favorable indications on the personal residential program.

### Inside this Issue:

- OIR Sends Survey to Florida Personal Lines Property Insurers - Page 2
- Anti-Discrimination Law Relating to Gun Ownership Now in Effect - Page 3
- Chambers USA Again Recognizes Radey Insurance Team - Page 4
- Travis Miller Named Inaugural Chairman of FSU Risk Management & Insurance Executive Council - Page 5
- OIR Proposes Changes to Annuity Suitability and Disclosure Rule - Page 6
- Governor's Race Headlines 2014 Election Cycle - Page 7

## OIR Sends Survey to Florida Personal Lines Property Insurers

By: Karen Asher-Cohen

OIR has sent a survey to all Florida personal lines residential property insurers in its effort to comply with section 627.351(6)(a)3., Florida Statutes, which limits the eligibility with Citizens Property Insurance Corporation for higher-value personal lines residential structures, unless the Office determines that there is “not a reasonable degree of competition” in the county of the risk.

In her memorandum accompanying the survey, Sandra Starnes, OIR Director of Property & Casualty Forms & Rates, stated: “To facilitate in this determination [required by section 627.351], the Office is conducting a survey of the Florida personal lines residential property writers. The Office is requesting that each insurer provide information for each personal lines residential structure where the Coverage A amount (or the combined Coverage A and Coverage C amount for a single condominium unit) is greater

than \$650,000.” Each personal lines property insurer was requested to provide the following information to OIR by July 3, 2014:

An email stating that the company does not write any personal lines residential structures where the Coverage A amount (or the combined Coverage A and Coverage C amount for a single condominium unit) is greater than \$650,000, or

A completed excel file with the requested information.

Each company that writes personal lines residential property insurance in Florida, within an insurer group, was required to submit a separate spreadsheet with the requested information.

---

## Citizens to Postpone Adding Renewal Policies to Clearinghouse

By: Travis Miller

Citizens Property Insurance Corporation has announced that it will not add renewal policies to its clearinghouse until closer to November 1 rather than August or September as previously planned. Currently, new business entering Citizens goes through the clearinghouse process, which allows participating insurers to identify policies meeting their desired underwriting criteria and make offers of coverage before the policies enter Citizens. If a participating insurer offers coverage within 15 percent of the Citizens rate, the policy is not eligible to be written by Citizens.

Citizens President and CEO Barry Gilway told its Board of Governors, “there were a few areas we felt needed to be improved but very clearly we’ll be ready by the end of

the year.”

According to Citizens, the clearinghouse has resulted in about 3300 applicants being written in the voluntary market instead of entering the residual market. The clearinghouse became available for new business in January 2014. It started with four insurers quoting policies, but has now grown to have eleven participating insurers. Barry Gilway indicated that about twenty insurers might participate when renewal policies are added to the system. The rules will be slightly different for renewal policies, with Citizens policyholders being rendered ineligible only if an authorized insurer offers coverage at or below the Citizens rate.

## Anti-Discrimination Law Relating to Gun Ownership and Possession Now in Effect

By: Travis Miller



A new law limiting the ability of personal lines property and personal lines auto insurers to use gun possession or ownership information in underwriting or rating took effect July 1. The legislature passed SB 424 during the 2014 legislative session, and the bill was signed into law as Chapter Law 2014-180.

The new law amended section 626.9541 relating to unfair trade practices in the business of insurance. The new law specifies that personal lines insurers cannot refuse to insure or renew, or otherwise terminate, policies based upon applicants' or policyholders' lawful possession or use of firearms or ammunition. The new law also prevents unfair rate discrimination based upon the lawful use or ownership of firearms. The new law, however, specifically allows rates that are not unfairly discriminatory relating to insuring firearms with values exceeding standard policy limits.

The new law also prohibits personal lines insurers from disclosing information relating to gun ownership or use to third parties unless expressly allowed by the applicants or insureds or unless necessary to facilitate quoting policies, binding coverage, or adjusting claims.

The Office of Insurance Regulation recently indicated that it does not anticipate issuing rules relating to the new law because the new law speaks for itself and does not contain rulemaking authority.

---

## Changes to Application of Insurance Premium Tax

On July 1, 2014, the Florida Department of Revenue issued Tax Information Publication (TIP) 14B8-02 relating to bail bond premiums and title insurance premiums. Effective January 1, 2015, the portion of direct written bail bond premiums retained by licensed bail bond agents or licensed managing general agents is no longer subject to insurance premium tax.

For title insurance policies this is effective for policies written on or after January 1, 2015 through at least December 31, 2017 on the portion of title insurance premiums retained by title insurance agents or agencies.

However, that portion of direct premiums not retained by agents or agencies remains taxable at 1.75%.

## Chambers USA Again Recognizes Radey Insurance Team

Chambers USA has again recognized the Radey insurance practice as a top tier practice in Florida in its annual rankings. Chambers USA mentions that Radey is known for its Tallahassee-based insurance regulatory practice that includes experience in regulatory and corporate insurance matters, mergers and acquisitions, rate and form filings, and unfair trade practice laws. Chambers USA also notes that the firm handles insurance-related litigation in federal and state courts and has several former state regulators as part of its team.

The rankings mention David Yon for his “deep expertise in insurance regulatory matters” and for having significant experience with insurance dispute resolutions. Chambers USA also cites David for his knowledge of “the intricacies of regulatory insurance law.”

Chambers USA points out that Harry Thomas handles insurance coverage and regulatory litigation, as well as re-

insurance disputes. The publication recognizes Harry as being “particularly well versed in defending insurance companies in class actions.”

According to the publication, Travis Miller has “a thriving insurance regulatory practice, frequently representing insurers in matters before the Florida Office of Insurance Regulation and the Florida Department of Financial Services.” They also mention that clients described Travis as “a top-notch regulatory counsel” during their review process.

Firm president Travis Miller said, “We appreciate being recognized again in Chambers USA. We understand that recognitions like this can only come from the trust clients place in us to assist them with their regulatory, corporate and litigation needs. We are thankful for the opportunities to assist our clients in these areas when the need arises.”

---

## Meet Ted Prekop

### Radey’s Newest Associate

Ted Prekop is the newest member of the Radey Law Firm family. Originally from Cleveland, Ohio, Ted received his B.A. degree in Biology and Chemistry from Cornell University in 2009. In 2012, Ted graduated *cum laude* from the University of Florida Levin College of Law with a Certificate in Intellectual Property Law. During law school, Ted worked as an intern for the First District Court of Appeal in Tallahassee, Florida where he gained important appellate experience. Ted’s practice focuses primarily on administrative and insurance law.



“We are pleased to have Ted join our team,” said firm president Travis Miller. “Ted has an outstanding academic background and has hit the ground running since he joined us.”

## Travis Miller Named Inaugural Chairman of FSU Risk Management & Insurance Executive Council



Travis Miller has been named the first chairman of the Risk Management & Insurance Executive Council supporting the Risk Management & Insurance program of the Florida State University College of Business. The vision of the FSU program in Risk Management & Insurance is to be the preeminent program in the country. The program is consistently ranked among the top five or six programs in the nation and has a strong foundation to enhance its standing in the years ahead. The Executive Council will allow alumni and friends of the program to support the program's goals by making greater resources and opportunities available to faculty and students.

Graduates of the program almost always find employment within the industry, which is a testament to the reputation the program has developed for producing high quality graduates. The program also continues to evolve to meet the needs of the market, introducing a double major in Professional Sales and Risk Management and Insurance to give students exposure to the principles of not only insurance and managing risk but also marketing and developing products.

Travis is a graduate of the Florida State University College of Business with degrees in accounting and finance. In 2009, he became involved with the Risk Management & Insur-

ance program. At that time, the program was reactivating its Center for Insurance Research to support research initiatives. Travis and other friends of the program organized an advisory board to support the Center for Insurance Research and to advance the goals of the program. With the support of the dean of the College of Business and program faculty, this advisory board has now grown into the current Risk Management & Insurance Executive Council, which will support the program as a whole (which continues to include the Center for Insurance Research).

The evolution of the Executive Council comes at an exciting time for the Risk Management & Insurance Program, the College of Business, and Florida State University as a whole. The university has embarked on a path toward becoming one of the country's top 25 public universities. As one facet of this process, the university has identified several themes—so-called “Big Ideas,” that serve as focal points for advancements of the university. These Big Ideas typically extend across academic disciplines and bring together resources from throughout the university community. One of these Big Ideas is the Risk Initiative in which the university seeks to take a comprehensive approach to helping individuals, businesses and government anticipate, prepare for and respond to risk. The university

will strive to position itself as a world leader in the study of risk and to enhance our collectively ability to manage and mitigate risk. The Risk Management & Insurance program within the College of Business is an important component of the university's interdisciplinary view of risk.

Individuals and companies interested in supporting the program have a range of opportunities to do so. For example, companies can host tours of their facilities for students, make internships available, and of course look to the program for their hiring needs. The Florida insurance market is diverse, with a growing presence of Florida-based insurers, regional operations of national insurers, a strong producer community, and many other niche segments of the industry. With a nationally-ranked Risk Management & Insurance program supporting research and education in these fields, the industry and the university can work together to ensure this state continues to attract and develop the talent necessary to serve this vibrant industry.

## OIR Releases Premium & Enrollment Data for the HMO and Small Employer Group Health Insurance Market

By: Karen Asher-Cohen

The Florida Office of Insurance Regulation released three reports containing premium and enrollment data on the 39 health maintenance organizations (HMOs) and 20 small employer group health insurance companies currently providing coverage in the Florida market. A small employer group covers one to 50 employees. The following is a brief description of the three reports:

The “[Managed Care Quarterly Data Summary](#)” report contains financial information about the HMOs operating in the Florida market in 2013, with specific 4<sup>th</sup> quarter breakouts. The report includes information on each company’s assets, liabilities, capital and surplus; premiums; and enrollment figures by county and market segment.

The “[Quarterly Small Employer Group Carrier-Reported Estimates of Earned Premium and Enrollment](#)” report provides the number of basic, standard, and other small group health insurance plans in force for the period of October 1, 2013 - December 31, 2013. The report also includes the number of plans with a Health Savings Account (HSA) and a Health Reimbursement Arrangement (HRA), as well as the number of enrollees (by employees and their dependents), the total amount of premiums earned, and the percentage of earned premiums from new enrollment.

The “[Summary of Small Employer Group Health CY 2013 Annualized Premiums Earned](#)” report is a 2013 year-end calculation of each health insurance company’s overall market share of the small employer group health market, plus the total premiums earned. The report also provides aggregate gross annual premiums for new standard and basic plans and each company’s corresponding market share. In 2013, Blue Cross & Blue Shield of Florida, Inc. (30.32%), United HealthCare Insurance Company (22.95%), and Aetna Health, Inc. (12.20%) were the three largest writers of small employer group health insurance in Florida.

---

## OIR Proposes Changes to Annuity Suitability and Disclosure Rule

By: Karen Asher-Cohen

OIR is conducting rulemaking proceedings to amend rule 69B-162.011, “Suitability and Disclosure in Annuity Contracts - Forms Required,” to conform the rule to section 627.4554, F.S. In the 2013 legislative session, section 627.4554 was amended to extend the Florida consumer protection laws relating to the sales of annuities to all consumer of any age, not just the previously required senior consumers. The statute was revised to reflect the standards, procedures, and guidelines adopted in the 2010 NAIC Annuity Suitability Model Regulation. Also, the new, proposed title of the rule is “Suitability and Disclosure in Annuity Investments - Forms Required.”

OIR held a hearing on the proposed rule on June 17, 2014. The complete language of the proposed rule, and a copy of the forms adopted by the rule, are available at our website, [www.radeylaw.com](http://www.radeylaw.com).

## Governor's Race Headlines 2014 Election Cycle

By: Travis Miller

The Governor's race and the campaigns to fill Florida's Cabinet seats (CFO, Attorney General and Commissioner of Agriculture) are always of interest to the insurance industry because the Governor and Cabinet sit collectively as the Financial Services Commission. Given the nature of the office and the candidates involved, the Governor's race will be the most watched race this fall. Meanwhile, two of the seats involve incumbents running with token opposition or no opposition and therefore are expected to be filled by their existing office holders.

### Governor

This race has widely been characterized as a battle between the public's perception of incumbent Rick Scott's efforts in attracting jobs to Florida against former Governor Charlie Crist's likeability even as he has switched parties and taken inconsistent policy positions in recent years. Rick Scott succeeded Charlie Crist as Governor and immediately focused on creating jobs, promising that he would generate 700,000 jobs in seven years. Scott is widely credited with taking the steps needed to pursue this goal, but he has not always been embraced by the public and certainly not the media. Meanwhile, Charlie Crist has remained popular and likeable even as it is hard to discern where he stands on key issues.

The campaign opened with Crist reportedly holding a lead of eight or even 10 points in early polls. However, the Scott campaign has run several ads, some aimed at showing the Governor's personal side and some aimed at showing Crist's shortcomings. Over time, the polls have tightened, with some recent sources suggesting the candidates are essentially tied. The Crist campaign points to the positive sign that the former Governor has been able to maintain his ground even while he has not started advertising in earnest. Opponents, however, suggest that Crist's inconsistent policy positions and some perceived campaign missteps have caught up with him and don't play well with voters.

Crist has a primary opponent in longtime Democrat Nan Rich. However, Crist largely has ignored Rich, even refus-

ing to debate her, as he concentrates on his race against Governor Scott. It seems unlikely that Rich will have the campaign resources needed to force Crist to deal with her. This means Scott and Crist will roll into the general election with plenty of campaign cash at their disposal. Given that most voters won't start paying attention until after the summer, this race is too close to call.

### Chief Financial Officer

Republican Chief Financial Officer Jeff Atwater has drawn only token opposition in his bid for reelection. The Democrats are expected to place substantially all of their emphasis on the Governor's race, so Atwater's opponent will not be well financed. Atwater therefore is expected to win another term as CFO.

### Attorney General

Republican incumbent Attorney General Pam Bondi will face off against either George Sheldon or Perry Thurston this fall. Sheldon is a former deputy attorney general and led Florida's Department of Children and Families. More recently, he has served in the Obama administration as Acting Assistant Secretary for Children and Families at the U.S. Department of Health and Human Services. Thurston is a state representative who also has filed to run for a state senate seat for 2016, perhaps given an indication of his own assessment of the likelihood of defeating both Sheldon in a primary and Bondi in a general election this fall.

A recent poll suggested Bondi holds a slight lead in a hypothetical matchup against Sheldon, although the poll indicated a large number of voters are undecided at this time as would be expected this early in a down-ballot race.

### Commissioner of Agriculture

Current Commissioner of Agriculture and former U.S. Representative Adam Putnam is unopposed in seeking reelection. The Republican will retain his Cabinet seat.

## Experience.Service.Success.

The Radey Law Firm believes that service to clients must be efficient and dedicated. Our location in Tallahassee, Florida, provides us the opportunity to be at the heart of the regulatory, legislative, and judicial arenas. The Florida Insurance Report is provided to our clients and friends in a condensed summary format and should not be relied upon as a complete report nor be considered legal advice or opinion.

### Our Insurance Team



**Karen Asher-Cohen**  
karen@radeylaw.com



**Donna E. Blanton**  
dblanton@radeylaw.com



**Bert L. Combs**  
bcombs@radeylaw.com



**Thomas A. Crabb**  
tcrabb@radeylaw.com



**Travis L. Miller**  
tmiller@radeylaw.com



**Ted Prekop**  
tprekop@radeylaw.com



**Harry O. Thomas**  
hthomas@radeylaw.com



**David A. Yon**  
david@radeylaw.com

Nick Iarossi and Ron LaFace, Jr. are of counsel to the firm and principals in Capital City Consulting, LLC, a Tallahassee government relations and advocacy firm.

### Florida's Capital Law Firm for Regulated Industries

301 South Bronough Street, Suite 200, Tallahassee, FL 32301

850-425-6654/850-425-6694 (Fax)

www.radeylaw.com