

## Florida Government and Politics Weekly Update (Week of February 16, 2009)

### Property Insurance: Florida Insurance Commissioner Kevin M. McCarty Conditionally Approves State Farm Florida's Withdrawal

On February 13, 2009, Florida Insurance Commissioner Kevin M. McCarty issued an order approving the withdrawal of State Farm Florida Insurance Company (State Farm Florida) from the Florida property insurance market, but rejecting major elements of the withdrawal plan as submitted by the company. State Farm Florida had submitted a withdrawal plan to the Florida Office of Insurance Regulation on January 27, 2009 that would affect approximately 1.2 million policies.

Approval of the withdrawal is contingent on State Farm Florida's compliance with several requirements. If State Farm Florida decides to challenge the conditions for its withdrawal, it has 21 days from the date of the order to request a hearing before the State of Florida Division of Administrative Hearings. Among the key conditions imposed by Commissioner McCarty on State Farm Florida and its parent, State Farm Mutual Automobile Insurance Company (State Farm), are:

- State Farm must "facilitate the orderly transition of policies" from State Farm Florida to other insurers as directed by the Office of Insurance Regulation and may not directly or indirectly place any policies in Citizens Property Insurance Corporation.
- State Farm may not interfere with the ability of State Farm agents to place policies directly with other insurers. Currently, State Farm agents may write business only for State Farm companies or the Citizens Property Insurance Corporation.
- State Farm must consider all offers to buy or assume all or parts of State Farm Florida's business.
- State Farm Florida must surrender its certificate of authority — its license to do business in Florida — within 30 days after issuance of the order.

Several Florida-based startup insurance companies are actively seeking to pick up policyholders that would be dropped by State Farm Florida under the withdrawal plan.

### Property Insurance: Update on Potential Florida Hurricane Catastrophe Fund Shortfall

In another property insurance development, on February 9, 2009, the Senate Committee on Ways and Means (Committee) heard testimony regarding the potential shortfall in the Florida Hurricane Catastrophe Fund, which provides up to \$29 billion in reinsurance to cover Florida insurers' hurricane losses. According to the staff of the fund and its financial advisors, credit market conditions will limit the fund's ability to pay claims to approximately \$10.5 billion, leaving a potential \$18.5 billion shortfall. Deputy Insurance Commissioner Belinda H. Miller testified that the Office of Insurance Regulation continues to operate on the assumption that the fund will be able to honor its obligations in full, and that the credit market conditions affect the timing of payments rather than the fund's ultimate ability to honor its obligations. Committee Chair JD Alexander (R-Winter Haven) stated that the shortfall "is one of the potentially most significant risks to the Florida economy, even more so than our budget issues."

### State Budget: Appropriations Committees Consider Further Budget Cuts Amid Warnings of an Increasing Revenue Shortfall

Florida House and Senate appropriations committees conducted line-by-line reviews of state agency funding during the week of February 9, 2009, in an effort to address the continuing decline in state revenues. The committees are in the process of writing a state budget for the 2009 – 2010 fiscal year.

Senate Committee on Ways and Means Chair JD Alexander announced that sales tax collections for December 2008 and January 2009 fell \$224 million below projections, which could mean that recently enacted budget cuts are not sufficient to cover the shortfall for the fiscal year ending on June 30, 2009. Sen. Alexander also noted that property tax revenues that support school districts could decline by as much as \$1 billion.

At week's end, it was not clear how the federal economic stimulus legislation would affect the state's need to raise revenues or decrease spending. Legislators expressed concern about the non-recurring nature of the federal stimulus and provisions that would require the stimulus funding to go to new projects, rather than "supplanting" state funding for existing activities.

In the Florida House of Representatives, the Finance & Tax Council reviewed most of the 239 sales tax exemptions that had been enacted in the 60 years since Florida first imposed the tax. The council considered approximately \$12 billion worth of exemptions, but did

not consider the exemptions for legal, banking, and other services, which have an estimated value of \$23 billion. In general, the council found that the exemptions were justified, or that increasing the scope of the sales tax during a recession would delay recovery. The exemption for bottled water was widely criticized, but the largest exemptions, including groceries and drugs, appeared to be safe.

## **Tax Reform: Governor Charlie Crist to Propose Additional Property Tax Restrictions**

Gov. Crist, who made property tax reductions a centerpiece of his 2006 campaign, is expected to propose a series of constitutional amendments to cap or reduce property taxes, according to newspaper reports. The proposals could reduce city, county, and school district revenues by approximately \$600 million a year.

According to the press reports, the constitutional amendments that would be placed before voters in 2010 would:

- Cap city and county tax collections at their current level, adjusted for inflation and population growth, with any excess collections placed in a rainy day fund
- Limit increases in the assessed value of non-homestead property to five percent a year, instead of the current 10 percent limit
- Increase the homestead tax exemption for first-time home buyers
- Prohibit assessment increases on homestead properties that have declined in value

The proposals are likely to be controversial. A lobbyist for the Florida Education Association stated that at a time when “schools are suffering like never before” and additional revenues are needed, the proposals would reduce school funding.

## **Environment: New Difficulties Arise for State Buyout of U.S. Sugar Land**

The purchase of approximately 180,000 acres of United States Sugar Corporation (U.S. Sugar) land by the South Florida Water Management District is contingent on the district’s ability to finance the \$1.34 billion purchase. The district has announced that it intends to obtain financing through the issuance of “certificates of participation,” which are similar to bonds.

On February 10, 2009, Sen. Michael S. “Mike” Bennett (R-Bradenton) filed a bill that would allow a water management district to issue certificates of participation only after the issuance was approved by the voters of the district in a referendum. Sen. Bennett, who has previously expressed concerns about the U.S. Sugar deal, stated that current law gives the appointed boards of water management districts “unbelievable taxing power and authority.” Asked whether his bill would affect the U.S. Sugar purchase, Sen. Bennett noted that the water management district might be able to secure financing before the bill takes effect and that Gov. Crist, a strong supporter of the land purchase, could veto the bill.

The transaction also could be affected by the failure thus far of U.S. Sugar and the water management district to reach an agreement on environmental standards for U.S. Sugar’s continued use of the land. The purchase agreement allows U.S. Sugar to continue farming the land for seven years, provided that it uses “best management practices” to reduce pollution. An agreement on pollution standards is not expected for at least another month.

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