



## Insurance Company Halts New Homeowner's Policies

NBC San Diego

**SAN DIEGO** -- One of the country's largest insurance companies announced Friday it will stop writing new homeowner's policies in California.

Allstate said the change would take effect in California on July 1, 2007. The company

said it fears the threat of costly natural disasters including fires, floods, and earthquakes.

The announcement is being criticized as a "short-sighted" business decision by Insurance Commissioner Steve Poizner. Also, a consumer advocate group, The Foundation for Taxpayer and Consumer Rights, issued a statement from its office in Santa Monica, accusing Allstate of trying to pressure the state to approve its request to increase rates by 12.2 percent.

Allstate said the firestorms of 2003 in Southern California cost the company \$300 million.

The last major company to stop taking new policies was State Farm in 2002. At the time, the company cited a risk in toxic mold claims. But they were back in business with new homeowners one year later.

Allstate said they would continue to renew existing homeowner's insurance policies.



## Consumer Group Blocks Class Action Settlement Against Mercury Insurance Involving Coupons

PR Newswire 5/17/07

For the second time, a proposed settlement of a class action lawsuit against an insurance

company for tens of millions of dollars in illegal overcharges was rejected by the Los Angeles Superior Court on Tuesday in part because it would have allowed the company to pay in the form of coupons that required the policyholders to buy more insurance from the company.

Superior Court Judge Victoria G. Chaney acted after lawyers for the Foundation for Taxpayer and Consumer Rights submitted a brief opposing the proposed settlement as unfair, inadequate and unreasonable. It was the second coupon-based settlement agreement between the parties to be opposed by FTCR and rejected by the court.

The case, *Donabedian v. Mercury Insurance* (BC249019), charges that beginning in 1995, Mercury surcharged policyholders because they were previously uninsured or had had a lapse in coverage. Such surcharges are specifically prohibited by Proposition 103. Proposition 103 also permits consumers to sue insurance companies for refunds when they violate its requirements.

Rather than require Mercury to refund the overcharges, estimated to be at least \$76 million, the proposed settlement would have allowed the company to send out \$45 coupons that could only be used toward the purchase of additional Mercury insurance policies or extra coverage. They could not be used to offset the cost of an existing insurance policy. That and other flaws in the proposal led FTCR, which intervened in the case in 2005, to object.

"Class action lawsuits are a crucial instrument of justice. They enable consumers to join together to stop abusive practices and get their money back when they have been overcharged," said Harvey

Rosenfield, one of FTCR's lawyers in the case and the author of Proposition 103. "Coupon settlements that have no real value and come with conditions that make them impossible to use undermine public confidence in the system of justice and encourage the defendants' lobby in its campaign to shut the courthouse doors to legitimate suits. The Superior Court's decision protects the integrity of the legal process and the rights of Mercury's current and former customers."

FTCR's Litigation Project is directed by Pamela Pressley. The Bay area firm of Chavez and Gertler are FTCR's co-counsel in this case.

Read FTCR's briefs opposing the latest settlement:

<http://www.consumerwatchdog.org/resources/DonabedianFTCROpposition2May07.pdf>

## Fla. Site Compares Home Insurance Rates

By DAVID ROYSE, AP

Gov. Charlie Crist knows a new law hasn't cut home insurance rates as much as he and consumers had expected, but he launched a new Web site Tuesday that might help homeowners comparison shop to save money.

Crist said some insurance companies have not filed for rates as low as he had hoped after lawmakers changed state law in January to try to lower premiums. The law made state backup coverage for insurers more available and at a cheaper cost than what they typically pay on the private market.

Rates being charged by major home insurance companies have gone down only 10 percent since the legislation passed - not a lot compared to how much they have risen since the 2004 and 2005 hurricane seasons. Some customers saw their rates increase by more than 100 percent in the last few years.

But Crist defended the legislation. He said while rates haven't gone down as much as he wishes they would have, they generally have fallen.

"The rates for the first time in a long time actually are coming down. Would I like it to be more? You bet I would. And do I feel a little bit of sense that maybe some of these companies have bro-

ken some of their promises? ... That concerns me," he said.

Crist said the rates haven't gone down as much as they could because of resistance from the industry.

"We need to continue to push the industry," he said. "We need to continue to hold their feet to the fire."

Chris Neal, a spokesman for the state's largest private insurer, State Farm, said the company can't simply lower rates if it means it could be caught unable to pay claims in the event of a big storm.

"Our rates are based on our risk and our predictions on future claims," Neal said. "We need adequate premiums to cover potential hurricanes in the future. You can't artificially reduce that risk and our rates reflect that."

Since the law was changed, State Farm has filed for new rates that are 7 percent lower on average statewide. The filing is still in the regulatory process, however, and could change.

The state Web site lets residents see the rates that insurance companies would offer for a sample home in their county. But it has limitations.

It compares rates based on a \$150,000 home - far below typical cost in Florida - that is 5 years old, with a 2 percent deductible. Also, it shows some rates for companies that may not be selling new policies in the particular area, which could give some users a false sense that their rates could drop.

Still, Crist said the site would give people some assistance in finding other possibilities if they still believe their property insurance rates are too high.

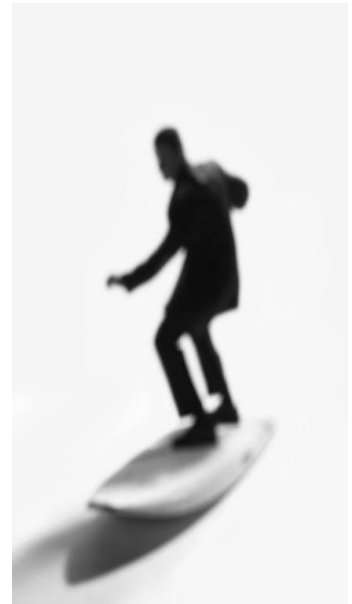
"This will empower consumers," Crist said. "What we need to do is encourage consumers to shop. ... This gives them a choice."

State Farm, which is the dominant company after state-backed Citizens Property Insurance, questions the methodology for the comparisons, and in some cases the accuracy of the data.

State Farm shows up as having the highest rates in many cases and spokesman Neal said it's not a fair comparison because the company is often being compared to other companies that aren't actually selling policies in some areas.

If those companies are actually writing policies, and are charging much less than State Farm, Neal said, "it seems like they would have more policies."

Insurance Commissioner Kevin McCarty said the site was a work in progress. For example, officials plan to add a tool to compare rates for a \$300,000 home, a much more realistic benchmark for houses in most of Florida.



**Gov. Charlie Crist has made it easy for Floridians to surf the web for the best insurance rates.**

**Here is the site:**  
[www.ShopAndCompareRates.com](http://www.ShopAndCompareRates.com)



**State lawmakers expanding Citizens' insurance reach**

Bay News 9

Due to the hurricanes of 2004 and 2005, property insurance bills have skyrocketed.

Florida is no stranger to mammoth hurricanes, or for that matter mammoth insurance premiums.

Thanks to the fury of the 2004 and 2005 hurricane seasons, property insurance bills are astronomical. Enter the state-run insurance company—Citizens Property Insurance. Thanks to a handful of new reforms it's no longer the most expensive insurer of last resort.

Governor Charlie Crist is a big fan.

"It continues to grow," Crist said. "And that shouldn't surprise any of us. It's finally allowed to compete."

**Expanding Citizens**

The Capitol may not look much like an insurance office, but

neighborhood politicians are in direct competition with the private agents. In fact, Citizens is on track to take on 100,000 more policies this month alone, which means big changes in the front office.

In the months after the storms of 2004, Citizens was blasted for not acting quickly enough to take care of tens of thousands of homeowners who filed claims. But, times are changing. A task force is conducting a top-to-bottom review. In the pipeline, thousands of new staffers, including more adjusters on the ground.

State Senator Mike Fasano is vice-chair of the task force.

"Everybody has a policy that said that if you pay your premium on time and you send it in on time and it's received, that insurance company has an obligation and responsibility to put your home back the way it was prior to the claim being filed, and that's what we want to make certain that Citizens does," Republican Senator Mike Fasano of New Port Richey said.

But with way more than a million policies, the program is already the state's largest insurer. It's one thing to cover homes in risky coastal areas

private companies won't touch. But Sam Miller with the Florida Insurance Council complains expansion isn't fair.

"I'd like to see Citizens, you know, do what it has to do but not do anymore, and somewhere down the road maybe we'll get there," Miller said. "What it's going to have to do is massive. As long as there's a Citizens, there's going to be red ink. So why make the red ink any greater than it is?"

While the Citizens rates are in many cases the lowest around, private insurers warn that the state doesn't have enough money to cover losses if a big storm hits.



State Senator Mike Fasano is on the task force examining the property insurance issue.

**Fla. homeowners have more insurance options**

TALLAHASSEE, Fla. (AP) — Eight insurance companies can now sell policies for homes and businesses, adding new options in the troubled Florida property insurance market.

The state Office of Insurance Regulation says three companies were approved to sell commercial insurance, while

five others were approved to sell homeowners insurance policies. They represent over one billion dollars in capital investment.

Jonathon Kees is a spokesman for the insurance office. He calls the approval a good sign of competition in the market and there is interest in Florida for writing property insurance.

The homeowners' insurers include: Modern USA Insurance Company; Olympus Insurance Company; Privilege

Underwriters Reciprocal Exchange Incorporated; American Keystone Insurance Company; and Homeowners Choice Property and Casualty Insurance Company.

On the commercial side is: Ironshore Insurance Limited; Praetorian Specialty Insurance Company; and Arch Insurance Company Europe Limited.

This Florida Supreme Court case is the first of many wind-water cases from the 2004 hurricane season to reach the Supreme Court and likely will set a precedent for others when the justices rule at a later date.

## Court Hears Hurricane Insurance Case

By BILL KACZOR  
Associated Press Writer

TALLAHASSEE, Fla. (June 7, 2007) — An insurance company lawyer argued to the Florida Supreme Court on Thursday that his client should not have to pay full policy limits for wind damage to a home destroyed mainly by flooding during Hurricane Ivan.

Florida Farm Bureau Casualty Insurance Co. wants the justices to reverse an appellate court decision that it must pay the \$65,000 policy limit although its adjusters say wind was responsible for only \$11,583.93 and the policy excludes water damage.

It's the first of many wind-water cases from the 2004 hurricane season to reach the Supreme Court and likely will set a precedent for others when the justices rule at a later date.

The decision will not apply to future hurricanes because the Legislature in 2005 changed state law to make it clear insurance companies do not have to pay for damages caused by excluded perils.

"It is undisputed that our covered peril did not cause the total loss," Elliot Scherker told the justices on behalf of Farm Bureau Casualty.

The 1st District Court of Appeal, though, decided Farm Bureau must pay policy limits to Eugene Cox for his home along Blackwater Bay near Milton in the Florida Panhandle.

The ruling was based on a 2004 interpretation of Florida's 1899 Valued Policy Law by the 4th District Court of Appeal. That decision never went to the Supreme Court, but Scherker argued it was an erroneous interpretation of the law.

The 4th District ruled in favor of Zennon Mierzwa, who lost his Fort Lauderdale home in 1999 to Hurricane Irene. The appellate judges ordered the Florida Windstorm Underwriting Association, predecessor of the state-created Citizens

Property Insurance Corp., to pay full wind policy limits.

Cox's lawyer, Louis Rosenbloum, argued both appellate courts had simply followed the letter of the law as then written no matter how unfair that may seem.

"The best argument from our position is the 2005 legislation itself," Rosenbloum told the justices. "Because why in the world would they have changed it if it so clearly states what Farm Bureau says?"

Rosenbloum says no one knows how many wind-water cases are pending but it's probably in the hundreds, nearly all from the Panhandle due to Ivan.

The 1st District recently ruled against Citizens in another of those cases, rejecting the company's argument that it was exempt from the Mierzwa ruling because of its unique position under state law.



## Court Approves \$6.8 Million Settlement With State Farm Insurance for Screen Damage From Hurricanes Katrina and Wilma

Business Wire, May 24, 2007

A Broward County, Florida Court has approved a class action settlement on behalf of more than 12,000 State Farm Florida Insurance policyholders in Florida who will receive 100 percent of the damages they requested in a \$6.8 million settlement of claims filed last year in which they alleged State Farm refused to pay replacement costs of screen enclosures damaged by Hurricanes Katrina and Wilma, attorneys for the plaintiffs announced today.

State Farm depreciated the cost of screen enclosures damaged by the hurricanes, allowing it to pay significant discounts to replace the screens. Attorneys for the plaintiffs at Lee & Amtzis and Kopelman & Blankman had argued that State Farm's policy directly contravened the language of the policyholders' agreements.

"The settlement approved by the court is significant in that more than 12,000 State Farm policyholders in Florida will be made completely whole," said Eric Lee, lead counsel for the plaintiffs. "There have been many lawsuits against insurance companies related to hurricane damage, but few that have resulted in a complete recovery of the plaintiffs' damages."

The lawsuit was brought by Plaintiff Jason Hammett who instituted an action in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida on February 6, 2006. Hammett brought claims on behalf of himself and all Florida homeowners who submitted claims to State Farm for damages to screening enclosures during hurricanes Katrina and Wilma in 2005.

After more than a year, the parties agreed to a settlement that stipulates State Farm will:

Pay more than 12,000 policyholders 100% of the damages claimed in this class action.

## Florida and Louisiana taking different paths on insurance woes

By DOUG SIMPSON, AP

BATON ROUGE, La. (AP) — Florida and Louisiana are hurricane-prone states with similar property insurance problems, but their governors are taking wildly different approaches to fixing the insurance headaches.

Florida Gov. Charlie Crist, a Republican, has led that state's push to increase government regulation of the insurance industry, setting price controls and publicly attacking insurers who oppose him.

Insurance experts prefer the path taken by Gov. Kathleen Blanco, a Democrat who has teamed with Louisiana's Republican insurance commissioner in supporting an industry-friendly approach to decrease — not increase — government's role in the market. Among experts, Blanco's approach is considered more likely to ease the cost of insurance in the years ahead.

"It's more tempting, more expedient, to try to address the short-term issues. But it really is an issue that needs to be addressed for the long run," said Rob Hoyt, professor of risk management and insurance at the University of Georgia.

The policies backed by Blanco and Insurance Commissioner Jim Donelon are theories: changes in state law that are designed — not guaranteed — to lure more insurance companies to Louisiana. They assume those moves will attract more companies and policy rates will fall as competition rises.

Blanco and Donelon insist that no immediate cure exists for double- and triple-digit rate

hikes — particularly in coastal Louisiana — and Florida-style solutions would only make things worse in the long term. They say the only way to bring rates down is to remove government regulation from the marketplace, to make the state more appealing to industry.

"I wish I could wave a wand and make rates go down," Donelon recently told the House Insurance Committee. "But it doesn't work that way."

Blanco is backing Donelon's unusual proposal to offer \$100 million in financial incentives to firms that agree to begin doing business in coastal Louisiana. South Carolina has a new \$6 million plan that includes tax credits for insurers, but Donelon's plan is considered the first in the nation that would offer taxpayer cash directly to private insurance firms, much as states offer money to other industries — such as auto manufacturers — to attract jobs.

The industry likes the plan, but Hoyt said incentives probably aren't the most important factor in solving Louisiana's insurance troubles.

"You can offer incentives for any business, but if the opportunity to succeed in the long run is not there, its success is going to be transitory and short," Hoyt said.

On that front, Blanco supports abolishing the Louisiana Insurance Rating Commission, a state body of political appointees that has the power to block insurance companies when they want to raise rates by more than 10 percent. Companies regulated by the commission have long complained that the panel's powers impede business and should be eliminated.

No other state still has an insurance rating commission.

William Ferguson, professor of insurance at the University of Louisiana-Lafayette, said doing

away with the regulating commission is arguably the most important move that Blanco could make.

"It's actually a very big deal. That's a step in the right direction — to depoliticize the insurance process is really vital to the insurance situation in Louisiana," Ferguson said. "Historically, that body has been heavily politicized. It hasn't served the interest of the citizenry, because the artificial, nonmarket-driven activity has really put a damper on things."

The six-member Insurance Rating Commission still meets every month, but the state House has already approved Blanco's legislation to abolish the panel. The measure would take effect July 1, meaning the rating commission's June 19 meeting could be its last.

All Louisiana homeowners would be affected if the Blanco-Donelon plans are enacted.

But homeowners and businesses in hurricane-stricken coastal areas are the most in need of some sort of relief from jumping policy rates, a prime reason the recovery from the 2005 storms has been so slow.

"The insurance situation has really been an albatross around the recovery's neck down here," said Peter Ricchiuti, a Tulane University finance professor who monitors companies in the New Orleans area. "Everyone, from individuals who want to come back to companies that want to expand, finds that insurance is the last great variable."

*House Bills 678 and 960, and Senate Bill 185, are at <http://legis.state.la.us/>*

### THE TWO, VERY DIFFERENT APPROACHES:

**Florida Gov. Charlie Crist, a Republican, has led that state's push to increase government regulation of the insurance industry, setting price controls and publicly attacking insurers who oppose him.**

**Louisiana Gov. Kathleen Blanco, a Democrat, has teamed up with Louisiana's Republican insurance commissioner in supporting an industry-friendly approach to decrease — not increase — government's role in the market.**



**July 31, 2007 is the deadline for applicants who want to rebuild or repair their homes.**

**Approved applicants can receive up to \$150,000 — part of the \$7.6 billion provided by the feds.**

## Louisiana Sets Deadline for Storm Damage Claims

By Leslie Eaton, NY Times

The Road Home, the Louisiana grant program for homeowners who lost their houses to Hurricanes Katrina and Rita, is expected to cost far more than the \$7.5 billion provided by the federal government, in part because many more families have applied than officials had anticipated.

### Hurricane Katrina

As a result, Louisiana officials on Tuesday night set a July 31 deadline for applicants, who can receive up to \$150,000 to repair or rebuild their houses. With the cutoff date, the state hopes to be able to figure out how much more money it needs to pay for the program; the shortfall is projected to be \$2.9 billion.

The financial woes of the Road Home have set off a frenzy of finger-pointing between federal and state officials, who blame one another for the projected shortfall.

But it has stirred something close to despair among some Louisiana residents, who were already bemoaning the sluggish way the program has given out the money it does have; only 22,000 families statewide, out of 140,000 applicants, have received grants so far, for a total of \$1.3 billion.

The new problem has reinforced the fears of many in New Orleans that they are being abandoned by the federal government, even as it acknowledges that its levee system failed during Hurricane Katrina.

"There's no way they can ever make everybody whole, but they need to fix the thing they broke," said Frank A. Silvestri, a New Orleans lawyer and co-founder of the Citizens' Road Home Action Team, which has been critical of the program.

Evidence that the program is likely to run out of money has been building for several weeks as the state has finally begun making a significant number of grants since the inception of the Road Home nine months ago. The grants have averaged about \$76,000, which is more than the roughly \$60,000 the state predicted last August.

State officials say that many more houses turned out to have had severe damage than federal data indicated back when the program was created. They have also been surprised by a recent surge in applications, which are running at several hundred a day, almost two years after the storms, said Gentry Brann, director of communications for the program.

The state also expected private insurance companies to cover a larger percentage of the damage, said Walter J. Leger Jr., a lawyer and member of the Louisiana Recovery Authority, which created the Road Home program.

"Anecdotally, the companies aren't paying," Mr. Leger said. "National Flood Insurance paid out, but private insurers didn't." Insurance benefits are generally subtracted from grants awarded by the program.

But Mr. Leger and other state officials concede that many homeowners may have preferred to try to get larger grants from the Road Home, rather than fight with their insurers.

The Bush administration contends that the state itself created the shortfall by paying for home damage caused by wind, rather than limiting the program to flood damage. Insurance policies are more likely to cover wind damage than flood damage.

The decision to pay for wind damage added about 43,000 houses to the likely total covered by the program, at a cost of about \$2.6 billion, according to data from the office of Donald E. Powell, President Bush's coordinator for Gulf Coast rebuilding.

Even so, Mr. Powell "is not opposed to additional funding — if the state can make a clear case for more funds," his spokeswoman, Susan Aspey, wrote in an e-mail message. "He wants to get this resolved as quickly as possible for the people of Louisiana, and he's indicated his willingness to sit down with the governor and her staff to work towards that end."

State officials, from the governor on down, say the program has always covered wind damage, and that they do not understand why Mr. Powell is raising the issue so late in the game. The state had a similar run-in with the Department of Housing and Urban Development over the way it paid out the grant money, and ended up changing the program in April.

Louisiana is also fighting the Federal Emergency Management Agency for more than \$1 billion it was counting on for the Road Home program. FEMA says it cannot release the money — intended for hazard-mitigation efforts like elevating houses — because the Road Home discriminates against younger people by exempting people 65 and older from a requirement that grant recipients live in their rebuilt houses for three years.

Further complicating the financial picture is the fact that the state treasury is running a budget surplus of about \$3 billion, which some in Washington have argued should be used to bail out the Road Home.

A United States Senate subcommittee that held a hearing on the program last week is likely to recommend ways to fix it in a report to be released in June, said Stephanie Allen, a spokeswoman for Senator Mary L. Landrieu, the Louisiana Democrat who is chairwoman of the subcommittee.

"She doesn't think the federal government should be responsible for the entire bailout," Ms. Allen said. "It should be a com-

## Legislative term ends on recovery high note

### N.O. gains tools for carrying out plans

By Bill Barrow and Ed Anderson, Times Picayune 7/03/07

BATON ROUGE -- With devastation still evident across the paths of Hurricanes Katrina and Rita, Gov. Kathleen Blanco and many lawmakers in the storm-affected areas believe late-session activity yielded many legislative successes that will aid individuals, businesses and local governments in recovery efforts.

Even New Orleans Mayor Ray Nagin, who publicly blasted the governor's rebuilding efforts as recently as a June 14 rally at the Capitol, is "happier," according to a spokesman, after the Legislature put the finishing touches on a nine-week session that ended Thursday.

The list of legislation, much of which still awaits Blanco's approval or veto, includes direct investments in public rebuilding projects and flood protection for the metropolitan area, tax breaks for businesses and individuals, approval of several insurance law changes that Blanco pushed, and a \$1 billion infusion to the Road Home, the state's deficit-bound residential rebuilding program.

"We are pleased," said Kenya Smith, the mayor's executive assistant for intergovernmental affairs. "We now have many of the tools we need, and we appreciate all the hard work of our delegation and the entire Legislature."

House Appropriations Chairman John Alario, D-

Westwego, said, "I think we (lawmakers) stood up tremendously" for recovery efforts, while taking care of other business.

#### 'Personality rift'

Not everyone was so effusive. Rookie Rep. J.P. Morrell, D-New Orleans, said the state could have -- and should have -- done more to speed recovery, particularly in New Orleans.

"I think we did fairly well," Morrell said. "But New Orleans did not get as much as it should have." He said that may be a result of "very public disagreements between the governor and the mayor. . . . The personality rift between the governor and the mayor affected everything and has really become obnoxious."

Smith conceded that his word choice to describe the mayor's mood -- "happier" -- is relative. "There is still plenty more to do," he said.

Among the proposals that didn't pass: anything seeking systemic changes in how the Road Home is administered. Lawmakers made an art form out of hammering the governor's Office of Community Development, the Louisiana Recovery Authority and ICF International, the private firm running Road Home. But Blanco and her allies trumped accompanying legislation using an argument she has offered since lawmakers urged her in December to fire ICF: Starting over would do nothing to help homeowners get their money faster.

#### City building projects

The city's biggest prizes are a long-term commitment for the state to cover debt service, about \$23 million annually, on more than \$300 million in borrowing to help spur infrastructure projects, and a financing plan for a teaching hospital to

replace the old Charity Hospital.

Smith and city lobbyist Rodney Braxton said they do not know precisely when the city will sell bonds or what projects would benefit first, but they said residents should soon see a noticeable uptick in construction activity on public structures.

Rep. Juan LaFonta, D-New Orleans, trumpeted the infrastructure investment as the premier achievement for New Orleans. "That ought to be the headlines right there," he said of the deal he helped broker as chairman-elect of the Legislative Black Caucus and an organizer of the city's delegation.

Nagin has blamed the city's slow recovery progress on what he says is an inability to front the cash needed to start projects before seeking reimbursement from the Federal Emergency Management Agency's Public Assistance Program. "It does not eliminate those problems, but it does alleviate them," Smith said.

FEMA has noted that the Public Assistance Program will pay advances for planning and design work. The mayor, however, has rejected that option, saying his overburdened City Hall staff has neither the time nor the expertise to complete cumbersome legwork required to secure the up-front money.

#### Speeding rebuilding

Public rebuilding efforts in Orleans and surrounding parishes could be helped further by a bill that streamlines the bidding process for public rebuilding projects in the hurricane-flood zone. The measure by Sen. Edwin Murray, D-New Orleans, essentially allows

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**The largest direct benefit would grant a one-time income tax credit in 2008 equal to 7 percent of the taxpayer's homeowners' insurance premium. A separate measure would make it easier for policyholders to get their rebates for paying assessments to keep the state's insurer of last resort solvent. Instead of waiting for a tax return to be filed, policyholders could file a rebate form, to be developed by the Department of Revenue, immediately after paying their Louisiana Citizens Property Insurance Corp. assessments.**

### Legislative term ends...

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one bidding phase, rather than separate, more time-consuming processes of securing one contract for design work and another for actual construction.

Blanco has indicated no public opposition to the proposal.

Alario called special attention to the approval of more than \$70 million for a public hospital in New Orleans, expected to be built in conjunction with a new federally financed Veterans Affairs hospital. And, with federal officials balking at the proposal, lawmakers also wrote the remaining \$226 million of the projected start-up costs into the state's five-year construction plan. That also allowed the state to shift federal block grant money previously earmarked for the hospital toward the state's \$1 billion Road Home investment.

Another Murray initiative would create a special Orleans-St. Bernard Recovery Zone to offer sales tax exemptions on equipment purchased by certain new manufacturing and technology companies in those two parishes. The benefit would expire in 2010. The idea initially stood in its own bill and would have affected additional parishes, but it ended up as a Senate floor amendment attached to a separate tax bill.

Considering the plethora of tax breaks that won approval in the closing hours of the session, the measure could conflict with Blanco's constitutional requirement to balance the budget for the fiscal year that began Sunday and her stated desire not to saddle her successor with too many tax-break obligations in future

budget years. Blanco said after the session that she plans to review each proposed tax cut on its own merits and in the broader context of the state balance sheet.

### Tourism investment

Other New Orleans benefits include \$30 million for improvements at City Park, a state agency; \$8 million for improvements to the Ernest N. Morial New Orleans Convention Center as well as bonds for its expansion; and \$4 million for the city's convention and visitors bureau. Lawmakers also approved what has been dubbed the "Broadway South" tax bill, which grants corporate income tax credits for shows that open in Louisiana. Blanco has expressed concern about the cost. Alario said the recovery effort is linked to the tourism industry's growth.

In the way of law enforcement, the city was a big winner in a statewide bill to improve the indigent defender system; and the state steered about \$7 million to help the New Orleans Police Department fill out its staff in anticipation of the pullout of the State Police and National Guard at year's end.

Outside New Orleans, the five-year capital outlay budget also includes money for flood protection projects affecting every parish in the metropolitan area. The plan also includes projects and purchases related to hurricane prevention and response. Among them: a hurricane safehouse-storage facility and an emergency preparedness center in Jefferson Parish; and generators and a state emergency warehouse in St. Tammany Parish.

Alario noted that Jefferson Parish was appropriated \$4 million of coastal protection money for levees east of the Harvey Canal; an additional

\$10 million went for levee protection near Lafitte; and St. Tammany received \$2.5 million to clear canals, charges that FEMA did not allow.

### A hospital for St. Bernard

By being designated a rural parish, hurricane-ravaged St. Bernard Parish is eligible for federal money to help open a hospital. The parish now does not have a hospital in operation "so this is huge," said sponsor Rep. Nita Hutter, R-Chalmette. She said there is about \$17 million set aside in the state's capital construction budget for a 60-bed hospital.

Several tax breaks and insurance changes rank as the most important session outcomes for most businesses and homeowners, at least those who aren't waiting for Road Home checks to rebuild.

The largest direct benefit would grant a one-time income tax credit in 2008 equal to 7 percent of the taxpayer's homeowners' insurance premium. A separate measure would make it easier for policyholders to get their rebates for paying assessments to keep the state's insurer of last resort solvent. Instead of waiting for a tax return to be filed, policyholders could file a rebate form, to be developed by the Department of Revenue, immediately after paying their Louisiana Citizens Property Insurance Corp. assessments.

On other insurance matters, policyholders in hurricane-hit parishes will get a three-year reprieve from paying the 10 percent surcharge on Citizens policies. Another bill would waive the markup for at least three years whenever Citizens claims a majority of the market. And homeowners could

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## Committee approves Blanco insurance revision bills

By Mike Hasten, Gannett

BATON ROUGE – Gov. Kathleen Blanco’s plans for improving the state’s insurance market cleared their first hurdle Wednesday even though doubts still surround a plan to give companies \$100 million for doing business here.

Blanco told the House Insurance Committee that her overall plan is to bring more insurers into the state so the competition would lower rates for policyholders.

Availability of affordable insurance is “inextricably tied to growth of our state and our ability to recover,” she said. “The growth we’ve see all over the state could be stymied.”

The panel approved bills that would require insurance companies to lower rates to policyholders that build new structures or upgrade existing ones to meet the statewide building code, abolish the Insurance Rating Commission and create a consumer advocate office in the Department of Insurance.

Another would bundle policies currently issued through the

Citizens Property Insurance Corporation and offer them for sale to private insurers. While Citizens, the state “insurer of last resort,” has some high-risk policies, it also has some “profitable policies” that insurers would want, said Chad Brown, executive director of Citizens.

Donelon said he has his doubts any company would want the policies but he is willing to try.

Over concerns that it might violate the constitutional provision against giving away state money, the panel also approved legislation pushed by Blanco and Commissioner of Insurance Jim Donelon to lure more insurers.

A \$100 million pool would be set aside to offer insurance companies grants ranging from \$2 million to \$10 million for selling insurance policies in the state. To qualify, a company must have at least \$25 million in assets, be able to match the amount of cash received by the state and to sell at least 25 percent of their new policies to people currently covered by the Louisiana Citizens Property Insurance Corp.

Donelon said that if a company that gets a grant folds, the state would recover the money

Rep. Troy Hebert, D-

Jeanerette, has asked for an attorney general’s opinion of whether the proposal is constitutional.

In committee, he said “If I vote for this, I’m going to have to hold my nose pretty tight.”

Rep. Rick Farrar, D-Pineville, said he couldn’t find any reason to vote for the bill.

“I’ve got a lot of concerns about this,” he said, calling the plan “corporate welfare for insurance companies.”

Farrar said that instead of giving companies \$100 million “I’d feel much better about giving state residents \$100 million and telling them to go out and purchase insurance.”

Hebert got the committee to attach several amendments to the bill, one of which requires that a company getting a grant must take at least 50 percent of its policies from Citizens in south and central Louisiana parishes.

The committee also attached an amendment by Rep. Shirley Bowler, R-Harahan, which says the grants to insurance companies would be “cooperative endeavors” in a move to erase the questions of unconstitutionality.

Bowler joined Farrar in being the only two committee members to vote against the bill.

**A \$100 million pool would be set aside to offer insurance companies grants ranging from \$2 million to \$10 million for selling insurance policies in the state. To qualify, a company must have at least \$25 million in assets, be able to match the amount of cash received by the state and to sell at least 25 percent of their new policies to people currently covered by the Louisiana Citizens Property Insurance Corp.**

## Legislative sessions end...

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get a carrot to meet the new statewide building code: They will be entitled to discounted insurance premiums from their insurance companies.

The level of discount was not specified.

Other tax breaks include an income tax deduction equal to 50 percent of the costs of building or retrofitting an existing home to make it more storm-proof and a separate, one-time rebate for state sales taxes paid on rebuilding materials. The first deduction

is capped at \$5,000. The second is capped at \$3,000.

### Carter: Insurance crisis hurting humanitarian efforts



Former President Jimmy Carter

VIOLET, La. -- Former President Jimmy Carter said the insurance crisis along the Gulf Coast is wiping out much of the benefit that humanitarian organizations are trying to provide to victims of the devastating 2005 hurricane season.

"The federal government has got to take the leadership" in making homeowners insurance more affordable along the Gulf Coast, Carter said Monday while visiting the construction site of two new houses being built by Habitat for Humanity.

Carter spent much of the day in this St. Bernard Parish town about 14 miles southeast of downtown New Orleans — an area where nearly every house flooded substantially when levees failed along a shipping canal that runs from New Orleans to the Gulf of Mexico.

Wearing a hard hat, a red handkerchief around his neck and tool belt with a hammer dangling off his hip, Carter spent some time helping out on the construction site and also toured the area.

The homes are the 1,000th and 1,001st built by the organization in the region within the past 20 months. And the group plans to build about 2,600 more during the next few years.

The former Nobel Peace Prize winner, whose Atlanta-based Carter Center does humanitarian work and monitors elections worldwide, echoed the

frustration of numerous residents in the area who've seen insurance rates skyrocket since the storm, whether their homes were damaged or not.

Carter said the typical interest-free, 30-year mortgage payment for the modest, raised, one-floor homes built by Habitat for Humanity run about \$220 per month. Insurance on those same homes can sometimes run as high as \$500 a month, Carter said, essentially tripling the cost of the home to those the house-building organization is trying to help.

Carter stopped short of blaming the insurance companies of gouging, as many angry homeowners have, but said low- or middle-income working families cannot be expected to afford current rates.

"I don't want to criticize our free enterprise system," Carter said. "The federal government needs to move in and give a fallback position."

Expanding the federally subsidized flood insurance program to cover homeowners from extreme events like hurricanes could be an option, as long as coverage limits are kept in the low six-figure range, Carter said.

The homes of people with limited means "ought to be the main target of a federally supplemented insurance program and not just a \$3.5 million house, which is some of those being built along the Gulf Coast," Carter said.

Carter said other problems he noticed included a lack of activity in certain hard-hit neighborhoods, where blocks of abandoned, flood-damaged homes stand amid overgrown yards with no clear indication

of whether they will be demolished or renovated.

"It's pretty discouraging to me to see how few people are coming back and how few of the homes are being either demolished or otherwise," Carter said. "We ... need a clearer picture of the people who don't ever intend to come back into their homes, to go ahead and make those homes available or the lots available for housing to be constructed. One of the impediments now to Habitat's building is a lack of space on which to build new houses."

In the New Orleans area, Habitat for Humanity usually builds homes about 3 1/2 feet above the ground, making them far less prone to flooding than many of the ranch-style, brick homes built on slabs in numerous area subdivisions in the past 50 years. Those neighborhoods, many built in drained swamp, tended to be the hardest hit when levees breached during Hurricane Katrina.

The lots where the two Habitat for Humanity homes were going up were in such a neighborhood, yet the former president said he was optimistic that the families moving into the new homes would not be surrounded by ruin indefinitely.

"I think the folks moving in here are very fortunate," he said. "They're not going to be surrounded by an abandoned housing area. They're going to be surrounded by a housing area that's going to be rejuvenated, although it might take four or five or six years. I think it's going to be a very nice place to live."

## Farmers fined for linking pay to payouts

POA

The North Dakota Insurance Commissioner, Jim Poolman, fined Farmers Insurance Group \$750,000 for allegedly setting up incentives for

its auto insurance adjusters to underpay some claims and deny others.

The fine is the highest penalty the state Insurance Department has ever levied, Poolman said. It is for "claims handling practices that were, at best, unfair, and at worst, abusive to the policyholder," he said.

The investigation, which began in August 2004, uncovered evidence that Farmers Insurance had quotas for denying claims and assuming that others were fraudulent, which delayed any payments to customers. Farmers also set payments for injuries according to predetermined ranges.

**"The pay of Farmers Insurance employees was pegged to whether they kept insurance payouts down."**

Jim Poolman, ND Insurance Commissioner

## Insurance rate relief becomes law in MB

Homeowners can apply for grants to refurbish houses

By Jenny Burns - The Sun News

Homeowners in South Carolina, especially the hurricane-prone coast, can now receive grants and tax credits for making their homes more wind resistant, thanks to a bill signed into law Monday.

Gov. Mark Sanford and a group of lawmakers gathered at the Myrtle Beach Area Chamber of Commerce for the signing, saying that support from lawmakers across the state made the bill possible.

How you can take advantage of these credits will be outlined in a new Web site - [www.scsafehome.com](http://www.scsafehome.com) - that the Department of Insurance should have online by Wednesday, said Ann Roberson, insurance department spokeswoman.

The first applications to apply for grant money will be available August 15, she said.

And on June 27, the insurance department will be offering two workshops on how to retrofit your home at the Home Depot on Oak Forest Lane in Myrtle Beach. The Federal Alliance for Safe Homes will explain how to install shutters, roof tie-downs and garage door track reinforcements at free afternoon and evening workshops. The times haven't been set yet.

The state's insurance department has \$2.3 million in grant money and hopes to look for more through federal matches, Insurance Director Scott

Richardson said.

"Mitigation is the big key. It allows people to help themselves," he said.

The bill is the state's latest step aimed at easing insurance rates along the coast, which began skyrocketing last year. In the past four months, the state has also expanded the wind pool twice, which has led to more insurance coverage being offered in areas where it was difficult to find.

### Some of the bill's details:

Offers homeowners tax credits of up to \$1,000 for the cost of making their home more wind resistant.

Offers tax credits of up to \$1,250 for low income property owners who pay more than 5 percent of their income toward insurance premiums.

Reduces sales tax by 3 percent for building supplies used to make homes more wind resistant.

Requires insurers to give consumers a list of all discounts they can get for retrofitting their property and requires them to offer such discounts.

Requires insurers to give 90 days notice for cancellation in hurricane season and 60 days notice for the rest of the year.

Provides matching grants for single family, modular or manufactured homeowners to retrofit their properties. Homes must be owner occupied and be valued at \$300,000 or less, and have undergone a wind certification and hurricane mitigation inspection.

What will help homeowners the most, Richardson said, is the

overall insurance climate created from enacting market-based solutions because it will continue to bring in more carriers.

That will help more in the long term than anything, he said.

"That will bring players," he said.

But not all homeowners are satisfied. Carol Torbic, who lives in Brittany Park in Myrtle Beach, told Richardson Monday that she wasn't sure how any of this would help her condominium association. She paid \$3,300 for a special assessment for insurance on top of her \$250 a month association fee. Allstate dropped her association's policy, affecting 44 homeowners in her neighborhood.

Richardson said the recent licensing of two surplus lines carriers in the state will help condo owners the most, creating more competition in prices.

The bill offers incentives to insurance companies for covering property in the wind pool, the state's insurer of last resort. They get a credit of 25 percent against the premium tax.

Richardson said this amount would be a significant number to the insurance companies and hopefully give them a reason to continue writing wind coverage.

Rep. Tracy Edge, R-North Myrtle Beach, said the next 90 days will tell whether the state and lawmakers have done enough to help the insurance crisis.

"We shouldn't have any [insurance] increases," Edge said. "Between now and Labor Day will be the true test."

### THE BILL AT A GLANCE:

- ◆ Offers homeowners tax credits of up to \$1,000 for the cost of making their home more wind resistant.
- ◆ Offers tax credits of up to \$1,250 for low income property owners who pay more than 5 percent of their income toward insurance premiums.
- ◆ Reduces sales tax by 3 percent for building supplies used to make homes more wind resistant.
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## Texas Supreme Court throws out asbestos award

### Mechanic fails to prove extent of exposure, loses \$169,000 judgment

By Chuck Lindell  
AMERICAN-STATESMAN

Creating a tougher standard for patients who allege asbestos poisoning, the Texas Supreme Court voided a Corpus Christi mechanic's \$169,000 damage award Friday, saying he failed to quantify how much asbestos had been inhaled on the job.

During more than 30 years as a mechanic, Arturo Flores ground hundreds of brake pads, each 7 percent to 28 percent asbestos, to reduce brake squealing. The process raised a lot of dust in a small room, and Flores developed breathing problems. He was diagnosed with asbestosis, an incurable, frequently debilitating lung condition. He sued four manufacturers of the brake pads.

Three companies settled, but BorgWarner disputed that Flores, a longtime smoker, had asbestosis. The Michigan auto parts supplier lost at trial and on appeal.

The Supreme Court, however, found that the lower courts mistakenly blamed Flores' illness on BorgWarner brake pads based on his frequent, regular exposure to the dust from grinding. But without establishing how much asbestos could have been inhaled or whether the amounts were sufficient to cause asbestosis, there is no way to judge BorgWarner's liability, the court said.

"There is no question, on this record, that mechanics in the braking industry could be exposed to respirable asbestos fibers. But without more, this testimony is insufficient to establish that the BorgWarner brake pads were a substantial factor in causing Flores' disease," Chief Justice Wallace Jefferson wrote on behalf of the unanimous court.

"One of toxicology's central tenets is that 'the dose makes the poison,' " the court said.

BorgWarner lawyer Deborah Hankinson praised the ruling for restoring fairness to asbestos litigation.

"I just think this applies standards you ordinarily expect to see in other product liability cases," she said.

But Brent Rosenthal, Flores' appeals lawyer, said the decision will make it more difficult for deserving asbestosis patients to press lawsuits. And although the court indicated that expert testing could help prove the presence of asbestos, that testing is too expensive for many, he said.

Friday's ruling would have had far-reaching implications for asbestos lawsuits were it not for a 2005 state law that required asbestosis plaintiffs to meet strict medical requirements, including X-rays and specific breathing tests, Rosenthal said.

"From a plaintiff's perspective, the law is extremely demanding, rigorous and restrictive," he said. "It literally decimated asbestos litigation in this state."

**This new law is extremely demanding, rigorous and restrictive. It literally decimated asbestos litigation in this state.**