HCR 53

Creation of a Coastal Reinsurance Assistance Program

Report to the Legislature

Louisiana Department of Insurance

Timothy J. Temple, Commissioner

LOUISIANA DEPARTMENT OF INSURANCE

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Report in Response to House Concurrent Resolution 53 by Rep. Glorioso Creation of a Coastal Reinsurance Assistance Program / HCR 53 - 2024

March 1, 2025

TABLE OF CONTENTS

I. INTRODUCTION

The Louisiana Legislature, recognizing the need to address the challenges posed by hurricanes and their aftermath, passed House Concurrent Resolution 53 (HCR 53), by Rep. Glorioso and others, urging and requesting "the commissioner of insurance to investigate the potential to create a Coastal Reinsurance Assistance Program to offer a reinsurance product to insurers at a reduced cost, and require the cost savings to be passed to consumers through reduced property insurance premiums."

The text of HCR 53 refers to the Coastal Wind Zone Plan proposed by the Travelers Insurance Institute (https://www.travelers.com/travelers-institute/coastal-challenges) in 2009, which advocated for a federally supported reinsurance program for states along the coasts of the Gulf of America and the Atlantic Ocean.

The body of HCR 53 also discusses the reinsurance programs in the state of Florida—Florida Optional Reinsurance Assistance (FORA) Program, Reinsurance to Assist Policyholders (RAP), and Florida Hurricane Catastrophe Fund (FHCF).

The Louisiana Department of Insurance (LDI) received one letter from the Reinsurance Association of America (Appendix B) offering the perspective of the reinsurance industry on public reinsurance programs.

This report discusses the proposals and makes recommendations in response to HCR 53.

II. THE TRAVELERS COASTAL WIND ZONE PLAN

The Travelers Coastal Wind Zone Plan consists of four principles:

- A stable and consistent regulatory environment
- Transparency in calculation of premium
- Cost-based federal reinsurance mechanism with savings passed on to consumers
- Mitigation against losses

A Stable and Consistent Regulatory Environment

The first principle asserts that state regulation lacks stability and predictability, especially in coastal states.

> "The impact of constantly changing rules on the willingness of insurers to commit capital in high-risk coastal markets is underestimated and underappreciated…. We propose that an independent federal commission establish standards and rules for coastal named windstorm rating and underwriting. This commission would oversee this narrow portion of the homeowners' insurance market in the 18 coastal states. The remainder of the homeowners' insurance market would remain subject to state regulation as it currently is today." (Travelers, p.5)

The creation of a federal regulator for coastal wind insurance would create the possibility, if not the probability, of federal expansion into the traditionally state-based regulation of property insurance rating and underwriting.

> "As a result of this plan, a new independent federal commission of five members appointed by the President of the United States and confirmed by the U.S. Senate would be created to establish rating and underwriting standards and oversee insurers writing this coverage. Insurers would be required to file rates with the federal board, which would be reviewed for compliance with approved standards." (Travelers, p. 9)

The plan purports to be a fair plan to all homeowners across the United States.

> "This plan is based on the basic tenet of insurance, which is to spread the risk among as many people as possible who are subject to that same risk. Under the Travelers Coastal Wind Zone Plan, only those with named windstorm exposure would pay the premiums for the coverage, and there should be no direct subsidy or other financial support from policyholders with limited or no exposure to such storms."
>
> "Also, individuals within the coastal zones will be charged a premium commensurate with their risks, so people living in higher risk areas would pay more than those living in lower risk areas, and those living in lower risk areas would not be subsidizing those in higher risk areas. As a result, some homeowners will be faced with increased premiums, and significantly so. However, the impact of the proposed federal reinsurance mechanism and

> non-insurance subsidies such as tax credits or direct government payments, means that those who can least afford risk-based pricing should receive some relief." (Travelers, p.6)

The first principle of the plan does not address several issues relative to a stable and consistent regulatory environment:

- Where would the entity reside in the federal government?
  - FEMA?
  - Treasury?
- What would be the source of funding?
  - Appropriations?
  - Fees from participating insurers and modelers?
  - Fees, assessments, or excise taxes on policyholder premiums?
- How would the "non-insurance subsidies such as tax credits or direct government payments" work to relieve those "who can least afford risk-based pricing?"
  - Does this contradict the assertion that the "plan proposes a private, market-based system, without federal subsidies for insurers"?
  - Who would fund the tax credits or direct payments?

<u>Transparency in Calculation of Premium</u>

The second principle presents a "concept" of insurance companies "individually and competitively set[ting] risk-based and actuarially sound rates using approved standards and certified windstorm risk models approved by the federal commission." (Travelers, p.5)

> "The plan does not envision the federal commission developing its own model, but rather evaluating and certifying wind risk catastrophe models developed by firms and insurers. This improves past practices of leaving consumers to wonder about the models' reliability." (Travelers, p. 9)

The second principle also raises several questions relative to transparency:

- To what extent would the federal commission require modeling firms to disclose proprietary information?
- Would the federal commission have its own modeling experts to review and validate models or rely upon external experts from industry or academic institutions?
- Without its own model, how would the federal commission validate "underlying model assumptions such as frequency, severity, vulnerability and mitigation factors"?
- Would rating information be available to the public for inspection?

<u>Cost-Based Federal Reinsurance Mechanism with Savings Passed on to Consumers</u>

The third principle envisions "the creation of a federal cost-based reinsurance mechanism for extreme events, such as events with losses that are multiples of those arising out of Hurricane Katrina."

> "…In order to provide financial protection for the unlikely, yet possible, occurrence of multiple events within one year, reinsurance coverage should be applied on a seasonal aggregate basis. The reinsurance would be made available to insurers at cost by the federal government so there would be no subsidy, and insurers would be obligated to pass the savings directly to their customers." (Travelers, p.5)

The third principle is short of detail on how the mechanism would work:

- How would the federal government operate a reinsurance mechanism?
    - A government program like the National Flood Insurance Program (NFIP) or Terrorism Risk Insurance Program (TRIP)?
    - A structure like a state reinsurance program?
    - A pool or joint underwriting association (JUA) of reinsurers?
- At what point would the reinsurance program pay claims?
    - How large an event is one "with losses that are multiples of those arising out of Hurricane Katrina"?

Mitigation Against Losses

The fourth principle focuses on insurance and non-insurance incentives for mitigation.

> "In the coastal wind zone states, mitigation must be a centerpiece of any effective catastrophe insurance proposal, and there should be federal guidelines for strong building codes, federal incentives for state and local adoption and enforcement of those codes, enhanced construction technology and land use planning requirements. In addition, there should be meaningful premium credits for mitigation and consideration of state and local property tax incentives for retrofitting houses." (Travelers, p.5)

The fourth principle is already in action in several states, including Louisiana, and the federal government:

- Louisiana encourages strong building codes and retrofitting existing structures.
    - The Louisiana State Uniform Construction Code is one of the few statewide building codes in the United States.
    - The Louisiana Insurance Code (La. R.S. 22:1483) provides for insurance incentives for construction or retrofitting to the State Uniform Construction Code or the FORTIFIED standards of the Insurance Institute for Business and Home Safety (IBHS).
    - Louisiana provides tax relief in the form of a "construction code retrofitting deduction" (La. R.S. 47:293(2)) for "voluntarily retrofit[ting] an existing residential structure."
    - The Louisiana Fortify Homes Program (LFHP) that provides grants for the retrofit of existing residential roofs to the IBHS FORTIFIED Roof standard pursuant to La. R.S. 22:1483.1.
    - IBHS ranked Louisiana #5 among Gulf and Atlantic coastal states ("Hurricane Coast") for 2024 (https://ibhs.org/public-policy/rating-the-states/).
- Other states have retrofit programs like LFHP:

    - Alabama (Strengthen Alabama Homes)
    - Florida (My Safe Florida Home)
    - Oklahoma (Strengthen Oklahoma Homes)
    - Mississippi
    - Kentucky
    - South Carolina
- FEMA promulgated the P-804 standard for mitigation that closely aligns with the 2020 FORTIFIED Home Standard of the IBHS.
- Congress will consider legislation like the previously proposed Disaster Resiliency and Coverage Act of 2024, which provides for tax incentives and grants for retrofitting homes for wind, earthquake, and other catastrophic perils.

III. FLORIDA REINSURANCE PROGRAMS

Florida Optional Reinsurance Assistance (FORA)

Florida Optional Reinsurance Assistance (FORA) was a one-year program designed to operate in conjunction with the Reinsurance to Assist Policyholders (RAP) program and provided four optional layers of reinsurance. The Florida Legislature allocated up to $1 billion in general funds to support FORA.

Eligible Insurers:

To be eligible for coverage under the FORA program, an insurer must be a participating insurer in the Florida Hurricane Catastrophe Fund (FHCF) as of November 30, 2022. Citizens Property Insurance Corporation (Citizens) is not eligible for FORA coverage.

The first three layers of FORA are designed to provide coverage only for the RAP insurers that were required to participate in Contract Year 2022-2023. Therefore, RAP insurers for Contract Year 2023-2024 are not eligible to select FORA layers 1 through 3, because that coverage would duplicate the RAP coverage already in place. All eligible insurers may select layer 4.

Program Details:

A FORA insurer's coverage in layers 1 through 4 will be based on their FHCF market share, with layer 1 positioned directly below the FHCF retention. Layers 1 through 3 are designed to sit adjacent to the effective 2023 RAP industry layer. The combined coverage available in layers 1 through 3 is approximately $0.9 billion, and the coverage available in layer 4 will be based on the remaining industry limit from the $1 billion of General Revenue funds after the take-up of coverage in layers 1 through 3 plus all FORA premium collected.

Florida Reinsurance to Assist Policyholders (RAP)

The Reinsurance to Assist Policyholders (RAP) program was created by the Florida Legislature, which allocated up to $2 billion in general funds to support RAP through June 30, 2025, after which the program will expire unless the legislature appropriates additional funds. (Section 215.5551, Florida Statutes)

Qualifying Insurers:

RAP insurers include insurers participating in the Florida Hurricane Catastrophe Fund (FHCF) on June 1, 2022, and insurers that meet the statutory qualifications. Citizens Property Insurance Corporation (Citizens) and any company the Florida Office of Insurance Regulation (OIR) certifies as in an unsound financial condition, do not qualify for RAP coverage. Qualifying companies will receive a calculated share of the $2 billion; therefore, a qualifying company's percentage share of the RAP limit will be different than its percentage share of the FHCF's $17 billion limit outlined in Section 215.555, Florida Statutes.

RAP Program Details:

The RAP program is unrelated to the FHCF and designed for access prior to the FHCF layer of coverage. At no charge to the insurer, the RAP program provides a layer of coverage that is below the FHCF industry retention. RAP insurers will be reimbursed 90% of their covered losses from each covered event more than their RAP retention, plus a 10% loss adjustment expense allowance, not to exceed the RAP limit. A RAP insurer that has any private reinsurance that duplicates the RAP coverage must defer coverage until 2023-2024.

The retention and payout multiples for the FHCF layer and the RAP layer must be treated separately for each company. These multiples cannot be combined and applied to the industry FHCF premium because FHCF industry premium includes companies that do not qualify for RAP coverage. Multiples for both retentions and limits must be calculated separately for each program, adjusting the ratio for the industry limits for the qualifying percentage of RAP coverage.

<u>Florida Hurricane Catastrophe Fund (FHCF)</u>

The Florida Hurricane Catastrophe Fund (FHCF) is a tax-exempt state trust fund that provides reimbursements to residential property insurance companies for a portion of their catastrophic hurricane losses in Florida.

Participation in the FHCF is mandatory for all residential property insurance companies doing business in Florida, and each company is required to enter a reimbursement contract with the FHCF. The coverage provided by the FHCF is like private reinsurance (with several significant differences) but at a lower cost than private market prices. In general, the FHCF covers a percentage of the company's insurance losses more than their "retention" (like a deductible), up to a maximum payout.

The FHCF is designed to be self-supporting (except in extraordinary situations) and funded only with premium revenues paid by residential property insurance companies, investment income, and in some circumstances, revenue bonds backed by emergency assessments on most types of property and casualty insurance premiums.

IV. DISCUSSION

Coastal Wind Zone Plan

Federal

A coastal wind zone plan like that proposed by the Travelers Insurance Institute would create a federal insurance regulatory capability that could easily expand into other areas of regulation and supervision currently within the jurisdiction of state legislatures and insurance commissioners.

A federal commission to oversee the reinsurance mechanism would require staff or contractors to supervise and examine participating insurers by certifying catastrophe models, reviewing rates and underwriting standards, and verifying that reinsurance savings flow through the insurer to the policyholder.

The program would require funding from congress either by appropriation or some type of fee structure. The operations of a commission require funds. So too would the "non-insurance subsidies such as tax credits or direct government payments" for those "who can least afford risk-based pricing." Instead of "federal subsidies for insurers," the program would subsidize policyholders' payments to insurers.

In the current climate of Washington, D.C., it is difficult to conjure a scenario where a new federal agency is born to assume responsibility for a portion of the economy assigned to state regulation by the McCarran-Ferguson Act (15 USC Ch. 20).

In the previous congress, Rep. Moskowitz of Florida introduced H.R. 3525, Natural Disaster Risk Reinsurance Program Act of 2023, which would have created a voluntary program for states with a structure like the Travelers Coastal Wind Zone Plan. The bill did not advance beyond referral to committee.

Compact

Another possibility would be the creation of a multistate organization through an interstate compact that could manage such a program. The Compact Clause of the United States Constitution, Article I, Section 10, Clause 3, requires that any agreement or compact between or among states receive the approval of congress. Explicit consent requires an act of congress.

There is a question regarding the legal effect of something short of explicit consent. In *Amica Life Insurance Company v. Wertz,* 462 P.3d 51, 58 (2020), the Colorado Supreme Court held that, in the context of an interstate compact that did not receive the consent of Congress, the legislature could not delegate rulemaking authority that could contradict Colorado statutes to a compact governing body.

In short, a compact governing body would require an act of congress to ensure adequate legal authority and a funding source from the member states in the absence of unlikely federal funding.

FORA & RAP

The temporary FORA and RAP reinsurance layers received a general fund appropriation from the state of Florida for $1 billion and $2 billion respectively. To fund such programs in Louisiana at 20% of the Florida amount (based on Louisiana having about 20% of Florida's population) would require funding in the amount of $200 million and $400 million respectively.

Over one-half billion dollars in funds would have to come from the general fund, a new tax, or, possibly, insurance policy or industry assessments.

In Florida, the State Board of Administration (SBA) operates the FORA and RAP plans. The SBA also operates the FHCF through a contractor, so it has substantial experience administering a reinsurance program.

There is no FHCF structure in Louisiana upon which to base participation in a FORA or RAP-type reinsurance program. The state would have to create or contract with an administrator and set eligibility criteria for participating insurers.

The fiscal and administrative burdens of creating programs of this type, even temporarily, are substantial.

FHCF

The FHCF is beyond the four corners of HCR 53, but it is the foundation for the FORA and RAP funds. The FHCF is a multibillion-dollar fund that provides a layer of reinsurance to admitted insurers writing residential property coverage.

In March 2007, the Louisiana Recovery Authority Support Foundation (LRA-SF) contracted with Paragon Strategic Solutions to produce a report entitled "Louisiana Hurricane Catastrophe Fund Analysis" (Paragon Report). The report did not advocate for or against the creation of a Louisiana Hurricane Catastrophe Fund (LHCF), but it did thoroughly review the options for creating a LHCF patterned after the FHCF.

The Paragon Report reviewed various funding sources such as premiums, policy assessments, bonds, and other risk transfer purchased by the LHCF. The report assumed an initial capital contribution by the state of $100 million and analyzed increases to $150 million and $200 million. The report also considered the impact of subsequent annual contributions of $10 million after the initial $100 million. (p. 6) Even with substantial state contributions or a six percent policy assessment it would take several years without a hurricane for the LHCF, as imagined by Paragon, to have sufficient finances to withstand a major storm.

The Paragon Report demonstrates the resources needed to create a publicly sponsored reinsurance program. It further demonstrates the complexity of creation and operation of a reinsurance mechanism.

V. CONCLUSION

The creation of a regional or single-state reinsurance mechanism will require a substantial amount of capital from either the federal government, participating states, or a state acting on its own from general appropriations or some type of fee or assessment on insurers and policyholders.

The creation of a layer or layers of reinsurance within a state or the hurricane coasts of the Atlantic and Gulf of America will not spread risk. Rather, it will create dangerous levels of financial risk concentration in areas already prone to catastrophic physical risk concentrations.

The purpose of insurance and by extension reinsurance is to transfer and spread financial risk for losses especially large, catastrophic type losses. The creation of public reinsurance programs fails to do that and dangerously concentrates risk in states that already bear a considerable risk of loss, physical and financial.

The creation of a multistate coastal wind zone plan will require federal legislation whether a federal program, interstate compact, or some combination of both. An act of congress is the only way to ensure that a compact would have the explicit consent of congress and the benefit of the Supremacy Clause when setting rules to govern the reinsurance mechanism.

Mitigation efforts to require building, rebuilding, and retrofitting to the latest codes and to standards above building codes show the most promise for reducing physical risks of damage and reducing financial exposure of homeowners and policyholders.

VI. RECOMMENDATIONS

The Louisiana Department of Insurance recommends:

- Against the creation of public reinsurance programs that would concentrate financial risk in the most risk prone areas.
- Against the creation of any federal reinsurance program that would displace state legislation, regulation, and supervision of property insurance related to catastrophe events.
- Mitigation efforts that enhance resilience:
    - Secure and dedicated funding source for the Louisiana Fortify Homes Program (LFHP) to assist homeowners with the cost of retrofitting or replacing their roof to the FORTIFIED Roof standard.
    - Strengthen building standards especially in the Coastal Zone.
    - Federal funds to support community and individual grants for resilience.
    - Federal legislation to provide income tax parity for state pre-disaster mitigation grants and to create tax-deferred disaster savings accounts like education or health savings accounts.
- Support for projects by the Coastal Protection and Restoration Authority (CPRA), universities, and other organizations that support resilience.

VII. APPENDIX

A. HCR 53
B. Letter from Reinsurance Association of America RAA

ENROLLED

2024 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 53

BY REPRESENTATIVES GLORIOSO, BAGLEY, BAMBURG, BRAUD, FIRMENT, FREEMAN, HEBERT, ILLG, JORDAN, JACOB LANDRY, MENA, AND WILDER

A CONCURRENT RESOLUTION

To urge and request the commissioner of insurance to investigate the potential to create a Coastal Reinsurance Assistance Program designed to provide reinsurance coverage for homeowners' policies at a much lower cost to property insurers and thus, providing significant savings to property owners.

WHEREAS, the Coastal Reinsurance Assistance Program should be modeled in part after the Florida Optional Reinsurance Assistance (FORA) Program recently implemented in Florida; and

WHEREAS, the proposed Coastal Reinsurance Assistance Program should seek to create a cooperative reinsurance product funded by coastal states including but not limited to Texas, Louisiana, Mississippi, Alabama, Georgia, South Carolina, and North Carolina; and

WHEREAS, the proposed Coastal Reinsurance Assistance Program should provide reinsurance coverage to property insurers at rates significantly lower than commercially available reinsurance in exchange for reductions in premiums to property owners in the participating states; and

WHEREAS, property insurance premiums have dramatically increased over the past three years, becoming increasingly unaffordable for many property owners; and

WHEREAS, without meaningful reductions in the cost of property insurance in the coming years, many property owners could potentially face foreclosure; and

WHEREAS, many insurers have left Louisiana and are no longer offering property insurance policies to Louisiana residents; and

WHEREAS, due to the lack of competition in the marketplace and lack of options for insurance, many property owners have been forced to obtain insurance through the

Louisiana Citizens Property Insurance Corporation. Further, many property owners are forced to go uninsured; and

WHEREAS, in 2023, Florida created the FORA Program for the 2023 hurricane season to do all of the following:

(1) Create an optional hurricane reinsurance program that insurers can purchase at reasonable rates. Rates vary by tier level purchased and range from fifty percent to sixty-five percent rate on line.

(2) Provide purchase tiers that begin at the Florida Hurricane Catastrophe Fund (FHCF) attachment point and cumulatively are limited to no more than five billion dollars below the FHCF attachment point.

(3) Allow insurers that purchase FORA coverage or that receive free Reinsurance to Assist Policyholders (RAP) coverage at each tier to have the option to purchase the next tier down.

(4) Maintain the RAP program, established in May 2022, thus allowing those insurers and their policyholders that could not participate during 2022-2023 to receive and benefit from RAP reinsurance in 2023-2024.

(5) Fund FORA coverage with one billion dollars in general revenue funds and the premiums insurers pay for FORA coverage; and

WHEREAS, it is in the interest of the citizens of Louisiana for the commissioner of insurance to investigate the potential to create a reinsurance program similar to Florida's FORA program to provide premium reduction relief to our citizens; and

WHEREAS, because Louisiana does not have as large of a population as Florida, it may be more feasible for Louisiana to negotiate a reinsurance cooperative that partners with multiple other coastal states to share costs and spread the risk associated with a reinsurance program; and

WHEREAS, the Travelers Insurance Institute conducted a study and produced a coastal wind zone plan, and such study may serve the commissioner of insurance as a foundation for creating a Coastal Reinsurance Assistance Program and cooperative between coastal states from Texas to the eastern seaboard.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the commissioner of insurance to investigate the potential to create a

Coastal Reinsurance Assistance Program to offer a reinsurance product to insurers at a reduced cost, and require the cost savings to be passed to consumers through reduced property insurance premiums.

BE IT FURTHER RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana Department of Insurance to report its findings from the study called for in this Resolution to the House Committee on Insurance, the Senate Committee on Insurance, and the David R. Poynter Legislative Research Library by February 1, 2025.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the commissioner of insurance.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

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November 1, 2024

Commissioner Tim Temple
Louisiana Department or Insurance
Baton Rouge, Louisiana

Via email

RE: RAA's Comments on Catastrophe Funds

Commissioner Temple:

We appreciate the opportunity to share our thoughts – gleaned from decades of experience in all 50 states dealing with catastrophe challenges to the insurance marketplace – which will hopefully answer some of your questions about government-run catastrophe funds.

Initial Observations

We start by saying while catastrophe risk is challenging, we have learned that catastrophe risk is best insured in an insurance market that permits and encourages many insurance company competitors with access to global reinsurance (including capital market equivalents) markets. Adopting policies that attract capital to Louisiana is key.

Spreading and diversifying Louisiana's risk across the global risk bearing markets helps to maximize the resources that will ultimately pay for losses, while minimizing the amount of loss per insuring entity. To accomplish this, insurance premiums need to be sufficient to enable insurers to pay for: (a) expected losses, (b) administrative expenses, and (c) reinsurance and risk transfer expenses, with a margin that provides a reasonable opportunity for a reasonable profit.

As your team works through these decisions, we urge your office and the Legislature to think long term, considering the industry needs for solvency, certainty, and viability.

How Do Reinsurers View Catastrophe Risk in the United States?

For antitrust reasons, we do not poll our members about their marketplace decisions. However, we do consume extensive amounts of open-source market data to give us a sense of how reinsurers collectively view risk.

It's fair to say that both insurers and reinsurers are spending more time and resources in forecasting how weather patterns will their operations in the years to come. Storm modeling continues to improve over time. While not perfect, the models are useful and can help insurers inform their underwriting decisions and risk transfer needs.

Insurers need to manage their catastrophe accumulations, through reinsurance and other means, to limit the amount of insurer capital and the cost of the capital put at risk to a level that is acceptable to insurer management and consumers alike. Catastrophe models are generally designed to help insurers do so, by improving their understanding of and preparation for the likelihood and projected cost of large-scale catastrophic events.

Reinsurers continue to express interest in providing cover to insurers generally, including those doing business in Louisiana. The RAA continues to seek a regulatory environment that ensures the industry remains globally competitive and financially robust. To that end, we would urge policymakers to choose public policies which encourage existing insurers to remain active and attract new insurers to begin writing in the state's insurance market.

What Is a Catastrophe Fund?

A "reinsurance catastrophe fund," or "cat fund" for short, is a government-created reinsurer that effectively makes state taxpayers the reinsurers of their own insurers. These are also referred to as "reinsurance pools" as well. **The RAA highly discourages states from creating cat funds.**

Creating a reinsurance catastrophe fund has been proven to be ineffective compared to private insurance and reinsurance arrangements. The only reinsurance cat fund exists in Florida – the Florida Hurricane Catastrophe Fund (FHCF). The experiences of the FHCF serve as ample notice as to why such funds are problematic.

After the 2004 and 2005 hurricanes bankrupted the FHCF, the Fund assessed not only residential policies but also auto policies, renters' policies and business policies. Thus, non-homeowners were forced to bail out the Fund. In short, Florida's Fund is financed by everyone in Florida – meaning there's no effective risk transfer outside of the state.

Since 2005 and over a decade of no landfalling Florida hurricanes, the Florida fund built up to $12.5 billion in 2022 through higher rates on Florida homeowners. $10 billion of that was lost when Hurricane Ian hit.

Specific Concerns with Cat Funds

So as not to create a granular list of concerns, we've opted to provide you with analysis highlighting what we believe are the major challenges with cat funds in general.

Risk Concentration Concerns

Aside from the concerns property insurers doing business in Louisiana may raise, we believe a cat fund would create some fundamental problems for the Louisiana (re)insurance property markets if enacted.

A traditional reinsurance treaty for larger companies provides reinsurance for losses across state lines, permitting them to spread catastrophe risks irrespective of where they occur. In typical treaties, there is no "Louisiana" specific reinsurance limit. Louisiana consumers benefit when their insurer buys reinsurance which covers larger geographical areas. By spreading risk in this fashion, it lowers the cost of the reinsurance they purchase.

A Louisiana cat fund, on the other hand, would concentrate:

- The riskiest properties,
- In the riskiest areas,
- Within a single state,
- Into a single reinsurance facility,
- Without a mechanism to transfer that financial risk beyond the borders of the state.

Concentrating high risk properties in high-risk areas into an insurance or reinsurance facility, in which the funding invariably comes from all Louisiana taxpayers or ratepayers, can create significant challenges for the state for years to come.

Meanwhile, multi-state companies are already purchasing reinsurance to cover multiple states at the same time. Ceding risks to a Louisiana cat fund would mean they would be paying twice for Louisiana reinsurance: once to their multistate reinsurer, and again to the cat fund. Thus, we would not expect significant participation from larger insurers in a Louisiana reinsurance facility.

Unintended Consequences

The pool would potentially encourage further incursion into tropical storm-prone areas by suppressing reinsurance costs for companies writing policies there. By making more insurance available in those areas, without meaningful mitigation efforts and land use reforms to address future construction in those high-risk areas, a cat fund creates a greater risk of storm loss in the state. (Re)insurers would need to consider this increased risk when evaluating underwriting risks in Louisiana.

Assessments on Insurers

A common feature of cat fund proposals includes creating a mechanism to assess insurers doing business in the state to replenish money paid out by the cat fund to insurers. Industry assessments would mean non-participating insurers would be subsidizing the reinsurance of their competitor insurers who are participating in the cat fund.

Even if industry assessments were not part of the cat fund, and the pool was completely drained of capital due to a large event, the sole source of re-capitalizing for the cat fund would likely be ceded premiums and (potentially) any tax revenues directed by the Legislature. This would mean taxpayers and ratepayers are the ultimate reinsurers of those companies choosing to cede high risk properties in high-risk areas to the pool.

Potential Need to Incur Debt

Between the time a storm reduces the cat fund balance and the fund can be replenished, the fund may need to issue debt to ensure solvency. So in addition to replenishing itself, the fund would also need to pay the cost of issuing and servicing debt as well. This cost may be significant, depending on the frequency of debt issuance and the prevailing interest rate at which it must be issued.

Conclusion

In 2007, Paragon Strategic Solutions completed a study at the request of the Louisiana Recovery Authority Support Foundation to analyze the feasibility of a cat fund in Louisiana. It's important to note Paragon clearly informed the Foundation **"[t]he creation of a hurricane fund in Louisiana would result in the state actually acting as a reinsurer."** (emphasis added.) To achieve the necessary funding for the fund for an event between a 1 in 11 and 1 in 20 year loss without assessments on the insurers in the state, the fund would need to collect reinsurance premiums for "12.7 years assuming no losses occur during that period."

Suffice it to say the initial capital requirement to set up a cat fund is substantial.

Policymakers should not gloss over the needed amount or how the funding will be achieved. Assessments on the industry to collect the needed funds, rather than tax revenues, will further pressure the state's insurance markets. If tax funds used for initial capitalization, policymakers should be prepared for questions as to why tax revenues are being used to subsidize a portion of the insurance industry's expenses, especially if the properties most benefitting from the cat fund are higher valued homes in high-risk areas.

At the end of the day, Commissioner Temple, we do not think the citizens and policymakers of Louisiana will be satisfied with a cat fund. Your leadership has already produced significant policy changes which we believe will help attract new capital into the Louisiana insurance marketplace. We urge you to continue your agenda of removing impediments to capital coming into Louisiana, rather than erecting a costly government reinsurance pool.

We hope this is of help. Please let me know if the RAA can provide you with additional information.

Sincerely,

Paul Martin

Paul Martin
Vice President-State Relations

ENROLLED

2024 Regular Session

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BY REPRESENTATIVES GLORIOSO, BAGLEY, BAMBURG, BRAUD, FIRMENT, FREEMAN, HEBERT, ILLG, JORDAN, JACOB LANDRY, MENA, AND WILDER

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WHEREAS, property insurance premiums have dramatically increased over the past three years, becoming increasingly unaffordable for many property owners; and

WHEREAS, without meaningful reductions in the cost of property insurance in the coming years, many property owners could potentially face foreclosure; and

WHEREAS, many insurers have left Louisiana and are no longer offering property insurance policies to Louisiana residents; and

WHEREAS, due to the lack of competition in the marketplace and lack of options for insurance, many property owners have been forced to obtain insurance through the

Louisiana Citizens Property Insurance Corporation. Further, many property owners are forced to go uninsured; and

WHEREAS, in 2023, Florida created the FORA Program for the 2023 hurricane season to do all of the following:

(1) Create an optional hurricane reinsurance program that insurers can purchase at reasonable rates. Rates vary by tier level purchased and range from fifty percent to sixty-five percent rate on line.

(2) Provide purchase tiers that begin at the Florida Hurricane Catastrophe Fund (FHCF) attachment point and cumulatively are limited to no more than five billion dollars below the FHCF attachment point.

(3) Allow insurers that purchase FORA coverage or that receive free Reinsurance to Assist Policyholders (RAP) coverage at each tier to have the option to purchase the next tier down.

(4) Maintain the RAP program, established in May 2022, thus allowing those insurers and their policyholders that could not participate during 2022-2023 to receive and benefit from RAP reinsurance in 2023-2024.

(5) Fund FORA coverage with one billion dollars in general revenue funds and the premiums insurers pay for FORA coverage; and

WHEREAS, it is in the interest of the citizens of Louisiana for the commissioner of insurance to investigate the potential to create a reinsurance program similar to Florida's FORA program to provide premium reduction relief to our citizens; and

WHEREAS, because Louisiana does not have as large of a population as Florida, it may be more feasible for Louisiana to negotiate a reinsurance cooperative that partners with multiple other coastal states to share costs and spread the risk associated with a reinsurance program; and

WHEREAS, the Travelers Insurance Institute conducted a study and produced a coastal wind zone plan, and such study may serve the commissioner of insurance as a foundation for creating a Coastal Reinsurance Assistance Program and cooperative between coastal states from Texas to the eastern seaboard.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the commissioner of insurance to investigate the potential to create a

Coastal Reinsurance Assistance Program to offer a reinsurance product to insurers at a reduced cost, and require the cost savings to be passed to consumers through reduced property insurance premiums.

BE IT FURTHER RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana Department of Insurance to report its findings from the study called for in this Resolution to the House Committee on Insurance, the Senate Committee on Insurance, and the David R. Poynter Legislative Research Library by February 1, 2025.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the commissioner of insurance.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

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November 1, 2024

Commissioner Tim Temple
Louisiana Department or Insurance
Baton Rouge, Louisiana

Via email

RE: RAA's Comments on Catastrophe Funds

Commissioner Temple:

We appreciate the opportunity to share our thoughts – gleaned from decades of experience in all 50 states dealing with catastrophe challenges to the insurance marketplace – which will hopefully answer some of your questions about government-run catastrophe funds.

Initial Observations

We start by saying while catastrophe risk is challenging, we have learned that catastrophe risk is best insured in an insurance market that permits and encourages many insurance company competitors with access to global reinsurance (including capital market equivalents) markets. Adopting policies that attract capital to Louisiana is key.

Spreading and diversifying Louisiana's risk across the global risk bearing markets helps to maximize the resources that will ultimately pay for losses, while minimizing the amount of loss per insuring entity. To accomplish this, insurance premiums need to be sufficient to enable insurers to pay for: (a) expected losses, (b) administrative expenses, and (c) reinsurance and risk transfer expenses, with a margin that provides a reasonable opportunity for a reasonable profit.

As your team works through these decisions, we urge your office and the Legislature to think long term, considering the industry needs for solvency, certainty, and viability.

How Do Reinsurers View Catastrophe Risk in the United States?

For antitrust reasons, we do not poll our members about their marketplace decisions. However, we do consume extensive amounts of open-source market data to give us a sense of how reinsurers collectively view risk.

It's fair to say that both insurers and reinsurers are spending more time and resources in forecasting how weather patterns will their operations in the years to come. Storm modeling continues to improve over time. While not perfect, the models are useful and can help insurers inform their underwriting decisions and risk transfer needs.

Insurers need to manage their catastrophe accumulations, through reinsurance and other means, to limit the amount of insurer capital and the cost of the capital put at risk to a level that is acceptable to insurer management and consumers alike. Catastrophe models are generally designed to help insurers do so, by improving their understanding of and preparation for the likelihood and projected cost of large-scale catastrophic events.

Reinsurers continue to express interest in providing cover to insurers generally, including those doing business in Louisiana. The RAA continues to seek a regulatory environment that ensures the industry remains globally competitive and financially robust. To that end, we would urge policymakers to choose public policies which encourage existing insurers to remain active and attract new insurers to begin writing in the state's insurance market.

What Is a Catastrophe Fund?

A "reinsurance catastrophe fund," or "cat fund" for short, is a government-created reinsurer that effectively makes state taxpayers the reinsurers of their own insurers. These are also referred to as "reinsurance pools" as well. **The RAA highly discourages states from creating cat funds.**

Creating a reinsurance catastrophe fund has been proven to be ineffective compared to private insurance and reinsurance arrangements. The only reinsurance cat fund exists in Florida – the Florida Hurricane Catastrophe Fund (FHCF). The experiences of the FHCF serve as ample notice as to why such funds are problematic.

After the 2004 and 2005 hurricanes bankrupted the FHCF, the Fund assessed not only residential policies but also auto policies, renters' policies and business policies. Thus, non-homeowners were forced to bail out the Fund. In short, Florida's Fund is financed by everyone in Florida – meaning there's no effective risk transfer outside of the state.

Since 2005 and over a decade of no landfalling Florida hurricanes, the Florida fund built up to $12.5 billion in 2022 through higher rates on Florida homeowners. $10 billion of that was lost when Hurricane Ian hit.

Specific Concerns with Cat Funds

So as not to create a granular list of concerns, we've opted to provide you with analysis highlighting what we believe are the major challenges with cat funds in general.

Risk Concentration Concerns

Aside from the concerns property insurers doing business in Louisiana may raise, we believe a cat fund would create some fundamental problems for the Louisiana (re)insurance property markets if enacted.

A traditional reinsurance treaty for larger companies provides reinsurance for losses across state lines, permitting them to spread catastrophe risks irrespective of where they occur. In typical treaties, there is no "Louisiana" specific reinsurance limit. Louisiana consumers benefit when their insurer buys reinsurance which covers larger geographical areas. By spreading risk in this fashion, it lowers the cost of the reinsurance they purchase.

A Louisiana cat fund, on the other hand, would concentrate:

- The riskiest properties,
- In the riskiest areas,
- Within a single state,
- Into a single reinsurance facility,
- Without a mechanism to transfer that financial risk beyond the borders of the state.

Concentrating high risk properties in high-risk areas into an insurance or reinsurance facility, in which the funding invariably comes from all Louisiana taxpayers or ratepayers, can create significant challenges for the state for years to come.

Meanwhile, multi-state companies are already purchasing reinsurance to cover multiple states at the same time. Ceding risks to a Louisiana cat fund would mean they would be paying twice for Louisiana reinsurance: once to their multistate reinsurer, and again to the cat fund. Thus, we would not expect significant participation from larger insurers in a Louisiana reinsurance facility.

Unintended Consequences

The pool would potentially encourage further incursion into tropical storm-prone areas by suppressing reinsurance costs for companies writing policies there. By making more insurance available in those areas, without meaningful mitigation efforts and land use reforms to address future construction in those high-risk areas, a cat fund creates a greater risk of storm loss in the state. (Re)insurers would need to consider this increased risk when evaluating underwriting risks in Louisiana.

Assessments on Insurers

A common feature of cat fund proposals includes creating a mechanism to assess insurers doing business in the state to replenish money paid out by the cat fund to insurers. Industry assessments would mean non-participating insurers would be subsidizing the reinsurance of their competitor insurers who are participating in the cat fund.

Even if industry assessments were not part of the cat fund, and the pool was completely drained of capital due to a large event, the sole source of re-capitalizing for the cat fund would likely be ceded premiums and (potentially) any tax revenues directed by the Legislature. This would mean taxpayers and ratepayers are the ultimate reinsurers of those companies choosing to cede high risk properties in high-risk areas to the pool.

Potential Need to Incur Debt

Between the time a storm reduces the cat fund balance and the fund can be replenished, the fund may need to issue debt to ensure solvency. So in addition to replenishing itself, the fund would also need to pay the cost of issuing and servicing debt as well. This cost may be significant, depending on the frequency of debt issuance and the prevailing interest rate at which it must be issued.

Conclusion

In 2007, Paragon Strategic Solutions completed a study at the request of the Louisiana Recovery Authority Support Foundation to analyze the feasibility of a cat fund in Louisiana. It's important to note Paragon clearly informed the Foundation **"[t]he creation of a hurricane fund in Louisiana would result in the state actually acting as a reinsurer."** (emphasis added.) To achieve the necessary funding for the fund for an event between a 1 in 11 and 1 in 20 year loss without assessments on the insurers in the state, the fund would need to collect reinsurance premiums for "12.7 years assuming no losses occur during that period."

Suffice it to say the initial capital requirement to set up a cat fund is substantial.

Policymakers should not gloss over the needed amount or how the funding will be achieved. Assessments on the industry to collect the needed funds, rather than tax revenues, will further pressure the state's insurance markets. If tax funds used for initial capitalization, policymakers should be prepared for questions as to why tax revenues are being used to subsidize a portion of the insurance industry's expenses, especially if the properties most benefitting from the cat fund are higher valued homes in high-risk areas.

At the end of the day, Commissioner Temple, we do not think the citizens and policymakers of Louisiana will be satisfied with a cat fund. Your leadership has already produced significant policy changes which we believe will help attract new capital into the Louisiana insurance marketplace. We urge you to continue your agenda of removing impediments to capital coming into Louisiana, rather than erecting a costly government reinsurance pool.

We hope this is of help. Please let me know if the RAA can provide you with additional information.

Sincerely,

Paul Martin
Vice President-State Relations