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Upcoming Appearance of the Buyers Guide in the Florida Media:

March 24, 2009—12:30PM EST

[WTVT Television—Fox 13](#)

Tampa, Florida

["Your Turn" with Kathy Fountain](#)

Coverage of The Buyers Guide in the Media:

March 4, 2009

[WUSF—89.7 FM](#)

Special Report by Bobbie O'Brien

[The State of FL Insurance](#)

Welcome to the latest issue of Florida Homeowner Insurance Alert!

As we finish the month of March, 2009 there is no doubt that this is the defining moment of the Florida home insurance crisis. State Farm Florida is exiting the Florida Property insurance market, the Cat Fund and Citizens are dependent on an unstable bond market to make ends meet, and the rating agencies are threatening to downgrade the ratings of our insurance companies because of the Cat Fund shortfall. If the situation is not addressed now and we have a major hurricane later this year, many of us could be told that our insurance claim will not be paid until someone on Wall Street is willing to buy bonds from Florida. That is simply unacceptable!

In this issue, we are pleased to welcome policyholder attorney William "Chip" Merlin as our featured guest columnist. Chip is the President of [Merlin Law Group](#)—a Tampa based law practice that represents homeowners and businesses in Florida and other hurricane prone states that need to bring property insurance claims against insurance companies. I'm particularly excited to have Chip's thoughts on the Citizens Property Insurance Corporation mission review task force at the request of Florida Governor Charlie Crist. Second, because he is well connected with some of the threats that we all face as Florida insurance consumers during the current legislative session in Tallahassee.

Please pay close attention to what our lawmakers are doing. We all have an awful lot at stake this year!

Michael J. Letcher—President, Home Insurance Buyers Guide, LLC

Featured Guest Columnist - William "Chip" Merlin President - Merlin Law Group

For over 24 years, our firm has been protecting the fundamental promise an insurance company makes to you when it issues you a policy and collects your premium. It is that background and experience that I am relying on as I share my thoughts with you about the Florida property insurance market and particularly, the homeowner market.

As the Florida legislative session moves forward in Tallahassee, the top two issues legislators face are balancing the state budget and addressing the ongoing Florida property insurance crisis.

The first thing you should know is that as the session begins, well funded, full time insurance industry lobbyists are meeting with state leaders on a daily basis to advance their interest. As a consumer, you are concerned about two primary aspects of insurance-paying affordable rates and then having your claim paid completely and properly in the unfortunate event you experience a loss. You should be aware that many in the insurance industry lobby will be pushing for the exact opposite - higher rates and laws that would not hold them accountable to keeping your money for as long as possible following a catastrophe. Those lobbyists are trying to retract consumer protection laws that allow you to hold the industry's feet to the fire and pay your claim promptly for the full benefits.

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As things develop during the current session you should do two things. First, follow the money - in particular campaign contributions previously made by the insurance lobby to see which legislators are being influenced to back the insurance industry agenda. Second, judge the performance of your legislators on the industry reactions coming out of the session. The more complaining and dissatisfaction coming from the industry, the better job your legislators did for you as a consumer.

The first insurance issue the legislature will be dealing with is the recommendation made by our task force to raise Citizens rates to actuarially sound levels. I support doing this gradually - with annual caps on the amount of increases. If Citizens were a private company, it would have gone out of business a long time ago since it would have run out of money. So, it is time to end the subsidies that some homeowners get on insurance, but do it so that Citizens policyholders can budget for the capped increases.

You should expect the industry to push to have the rates at Citizens increased without caps. That would give private market companies the opportunity to immediately charge significantly higher rates since Citizens is the lowest, if not only, competitor in some of the markets. So far, the governor and Senate leader Jeff Atwater appear to be in support of the capped increases.

The second area being looked at has to do with protections that insurance consumers have available to them through the Civil Remedy Act and the Unfair Claims Practices Act. Ironically, Citizens Property Insurance and State Farm Florida appear to be unlikely partners in attempting to get the legislature to water down the consumer protections provided by these acts.

Many Floridians don't realize that these acts don't apply to Citizens and that the state run insurer can't be sued for extra damages associated with delays in paying claims beyond 60 days - liability that private Florida insurance companies can't avoid under these acts.

It was not uncommon during the 2004/2005 hurricanes for Citizens to use its exemption from these laws to drag out claim payments for six months or more without any consequences. This happened on a wide scale in the Florida Panhandle.

Citizens is actively lobbying to make sure that it is not subject to these acts and the additional costs that private insurance companies have to pay when claims drag out beyond 60 days. Both private companies and Citizens are actively pushing laws that would not hold companies accountable if they breach their obligations to you. Citizens and private insurance companies are taking the position that all consumer lawsuits are essentially meritless and seek to prevent actions that consumers could bring against them by using an attorney.

It is interesting to me that Citizens is using premium dollars collected in a lobbying effort to help thwart protections Florida consumers have with private insurance companies. If Citizens was required to follow the same rules as private companies, their rates would probably have to be raised to cover this cost, but only if they continued to delay and act wrongfully.

Beyond Citizens rates and consumer protections, the Florida Legislature has to take steps to stabilize the Florida Hurricane Catastrophe Fund. In my conversations with legislators, everyone can see the problem, but there are no near term solutions.

If we can avoid a major Florida hurricane this summer, the Cat Fund will have additional time to build reserves and the situation should improve in the long term - the odds are in our favor.

However, if we experience a major hurricane this year and the Cat Fund is unable to raise enough cash in the bond markets to meet its obligations to insurance companies, you should expect one of two things to happen. Either the State of Florida would have to impose major policy assessments across all insurance policies as it has done in the past and/or institute new taxes to pay for the Cat Fund shortfall. The other option would be for the Federal Government to lend the State of Florida the money that would be needed to pay hurricane claims. Governor Crist's relationship with the Obama administration and the representation we have in Congress due to our large population help our cause in the event we need a loan of this magnitude.

Whether the State of Florida or the Federal Government options come into play with regards to the Cat Fund, there is the possibility of lengthy delays to you as a Florida consumer if the Cat Fund can't borrow immediately what it needs to help pay your claim.

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Looking to the future, while we need an insurance company of last resort, Citizens should be kept as small as possible by charging more realistic rates. We need more private insurance companies selling insurance and competing for your business in all areas of Florida.

The My Safe Florida Home program should receive new funding to encourage more hurricane mitigation of homes. However, given the current budget crisis, I'm not holding my breath.

The State of Florida has a great consumer advocate in insurance commissioner Kevin McCarty. Commissioners in other states have tended to side with big insurance interests. We are lucky to have him fighting for Florida consumers.

With regards to State Farm Florida, I do not foresee any legislation coming forward to block or restrict their planned exit from the Florida property insurance market. The timing of State Farm's departure could not come at a worse time for homeowners and could slow the depopulation of Citizens. I suggest State Farm policyholders shop today because it could take time to find a replacement insurance company, and one never knows if the insurance market will be better or worse.

Finally, there could be legislation proposed that would force Florida homeowners into the private insurance market and out of Citizens if the rates are comparable to the rates being charged by Citizens.

As the legislature considers each of these items, here are some suggestions regarding the areas that you should support as a Florida insurance consumer:

- Citizen's rate increases should be subject to annual percentage caps.
- Citizens policyholders should have the same civil remedies available to them as policyholders of private companies as proposed in SB 960.
- Strengthening the unfair claims practices laws SB 962 being proposed by Senator Don Gaetz to establish proper standards for the adjustment of claims. This will help ensure that insurance claims do not take excessive amounts of time to process.

Our legislators will be in session during March and April. They will respond to you as a voter and a consumer if you write, email, or phone them with your views before the end of March. You can have a major influence on the final votes that will occur in April.

Don't allow the insurance industry to rip you off in the coming session just because we had a quiet hurricane season last year.

If you would like to learn more about Merlin Law Group please visit:

<http://www.merlinlawgroup.com/>

We also post regularly and invite your comments and feedback on our insurance law blog located at:

<http://www.propertyinsurancecoveragelaw.com/>

In future issues:

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