Bringing stability to a market in crisis

An overview of the FRPCJUA, 1992-2000

May 2000
Executive Summary

- The Florida Residential Property and Casualty Joint Underwriting Association was created in a special session of the Florida Legislature in December 1992, some three months after Hurricane Andrew caused $16 billion in insured losses in South Florida and the near collapse of the state’s property insurance market. The JUA’s basic mission, set out in state statute, is to provide residential property insurance coverage “for applicants who are in good faith entitled, but are unable, to procure insurance through the voluntary market.”

- The JUA began writing policies in March 1993 and experienced explosive growth from the outset. In January 1995, when Bill Nelson took office as the newly elected State Treasurer and Insurance Commissioner, the JUA had already soared to 675,497 policies – a growth rate of more than 33,000 policies a month in its first 21 months. Nelson made it a top priority to rein in the JUA and dramatically reduce its size.

- Nelson immediately made major personnel changes to the association and sought significant structural changes. He appointed a new 13-member JUA Board of Governors, which in turn hired a new Executive Director. Later, Nelson directed the JUA to shut down its operations in Sarasota and to consolidate all operations in Tallahassee. Nelson also demanded that the JUA sever its relationship with a Sarasota company that was providing policy administration, claims adjusting and general administrative support services to the JUA after evidence of mismanagement and misspending were uncovered.

- The 1995 annual legislative session was a turning point in the JUA’s history. During the session, Nelson and legislative leaders put into state law cash bonuses and deficit assessment exemptions designed to encourage insurance companies to remove policies from the JUA. These “take-out” incentives have been an overwhelming success.

- Over the past four years, 34 insurance companies have removed more than 1.1 million Personal Lines Residential policies from the JUA. The JUA’s Personal Lines book of business peaked at nearly 937,000 policies and $98 billion in exposure in the fall of 1996. As of April 30, 2000, the JUA had shrunk to 59,628 policies and $9.5 billion in exposure. Meanwhile, the JUA’s Commercial Lines book of business has been reduced from nearly 2,300 policies and $13 billion in exposure down to 93 policies and about $407 million in exposure. The reduction in policies and exposure has significantly reduced the JUA’s “Probable Maximum Loss” from a catastrophic hurricane.

- The JUA has also adopted effective “keep-out” programs designed to allow insurance companies to provide residential property insurance to applicants for JUA coverage before they are placed into the association. These keep-out programs have helped reduce the flow of new business into the JUA from 9,000 policies per week in 1996 to the current level of about 600 to 800 policies per week.

- The JUA’s financial picture has improved considerably since its inception. The JUA began operations with no start-up capital, no state funding and no pre-event catastrophe financing. Today, the JUA has about $130 million in surplus, which is part of a catastrophe-financing program totaling $1.8 billion, an amount that well exceeds the association’s projected losses from a 1-in-500 year hurricane season.
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Since its creation seven years ago in the aftermath of Hurricane Andrew, the Florida Residential Property and Casualty Joint Underwriting Association has played a critical role in restoring the state’s collapsed property insurance market. In its brief life span, the JUA has served as a safety net for more than 1.1 million consumers who could not obtain private property insurance for their homes and as a catalyst for bringing desperately needed new insurance companies and worldwide reinsurance capital into the Florida market.

In 1995, State Treasurer and Insurance Commissioner Bill Nelson and the Florida Legislature, alarmed by the tremendous growth of the JUA, placed into state law financial incentives designed to attract insurance companies to return to the Florida marketplace and to remove policies from the association. Had Nelson and the Legislature not taken this action, the size of the JUA today would easily exceed 1.5 million policies. That would have made the JUA, by far, Florida’s largest residential property insurer, surpassing such industry titans as State Farm and Allstate.

Instead, the concerted effort to shrink the JUA – and thus to reduce the threat of assessments that insurance companies and all Florida property insurance policyholders would pay if the association suffered a substantial deficit from hurricane losses – has been an overwhelming success. Over the past four years, 34 insurance companies have removed more than 1.1 million policies from the JUA with dramatic results. In the fall of 1996, the JUA swelled to nearly 937,000 Personal Lines Residential policies and $98 billion in exposure. As of April 30, 2000, the association had just 59,628 policies and about $9.5 billion in exposure.

The JUA has changed considerably as an organization, too. Created virtually overnight in a special legislative session in late 1992, it began operations with no start-up cash from the state and no surplus. A special $500 assessment on property insurance companies and premium dollars from policyholders were its only funding sources. Today, it is a professionally run, efficient insurance organization with about $130 million in surplus, which is part of a $1.8 billion catastrophe-financing program established to cover losses from a catastrophic hurricane.

Indeed, the JUA has helped bring stability to an insurance marketplace in crisis, and has undergone a remarkable evolution in its short period of existence. What follows is an overview of some of the highlights, successes and changes that have impacted the organization since it first appeared on Florida’s landscape.

**Hurricane Andrew changes everything**

The grim statistics are seared into the memories of most Floridians: On August 24, 1992, Hurricane Andrew roared through portions of South Florida, virtually flattening neighborhoods and causing $16 billion in insured residential and commercial losses. It was by far the costliest natural disaster in United States history.

The cost to the stability of Florida’s property insurance market was equally severe. In Andrew’s wake, 11 small property insurance companies became insolvent. Most of the large insurance companies doing business in the state realized they were seriously overexposed to large hurricane losses and
stopped writing new policies. The companies announced plans to cancel or non-renew some 800,000 existing policyholders in a desperate move to reduce their exposure.

By the fall of 1992, a growing number of homeowners were already left without property insurance coverage, and their needs had to be addressed. Then Insurance Commissioner Tom Gallagher activated the Florida Property and Casualty Joint Underwriting Association – which was previously created by lawmakers as an insurer of last resort for commercial property and casualty insurance policies but had remained dormant – and authorized it to provide coverage to the stranded homeowners.

Realizing the state faced an escalating crisis in the availability of property insurance, the Florida Legislature met in special session in December 1992 and, among other actions, created the Florida Residential Property and Casualty Joint Underwriting Association. Its basic mission, set out in state statute, was to provide residential property insurance coverage “for applicants who are in good faith entitled, but are unable, to procure insurance through the voluntary market.” The JUA was authorized to write Homeowners, Mobile Homeowners, Dwelling Fire, Tenants and Condominium Unit Owner’s policies.

Initially operating out of a cubicle at the Florida Department of Insurance, the JUA was set up and began issuing policies in March 1993.

A period of rapid growth and changes

Virtually from the day it opened for business, the JUA experienced explosive growth. The homeowners who had been placed in the Florida Property and Casualty Joint Underwriting Association (FPCJUA) as a stopgap measure were transferred over to the JUA. By January 1994, the JUA surged to 244,052 Personal Lines Residential policies – a phenomenal growth rate of more than 27,000 policies a month.

In April 1994, Gallagher activated the FPCJUA to begin writing Commercial Residential business – policies for condominium associations, apartment buildings and homeowners associations. It too began to grow rapidly.

A legal controversy arose when the Department of Insurance authorized the FPCJUA to write Commercial Residential policies with windstorm coverage within the coastal territories of the Florida Windstorm Underwriting Association. The FWUA was initially created by the Florida Legislature in 1970 to provide windstorm coverage in the Florida Keys and certain other coastal areas to property owners who could not obtain coverage from a private insurer. But its territories had been expanded significantly, especially in South Florida counties, following Hurricane Andrew.

The FWUA and the American Insurance Association challenged the Department’s order. In November 1994, the First District Court of Appeal in Tallahassee struck down the Department’s order, ruling that the FPCJUA could not provide windstorm coverage in the geographic areas served by the FWUA. This ruling effectively barred the FWUA and the FRPCJUA from competing for windstorm business and had an important impact on consumers. In the future, if property owners residing in an FWUA territory could not obtain coverage from a private insurer, they would have to obtain their windstorm coverage from the FWUA and their other underlying coverage such as fire, theft and personal liability coverage from the JUA.
In January 1995, when Bill Nelson took office as the newly elected State Treasurer and Insurance Commissioner, the JUA had a whopping 675,497 policies. In its first 21 months of existence, the JUA had experienced a growth rate of more than 33,000 policies a month. Nelson made it a top priority to rein in the JUA and dramatically reduce its size.

Nelson immediately made major personnel changes. He appointed a new 13-member JUA Board of Governors. The JUA Board, in turn, elected William B. Wilson, a prominent Orlando attorney, as Chairman of the Board. Wilson hired James W. Newman Jr., a longtime insurance industry executive and former Insurance Commissioner of Virginia, as the JUA’s new Executive Director.

Nelson and legislative leaders had become increasingly alarmed by the JUA’s continuing growth and shaky financial footing by the start of the annual legislative session in the spring of 1995. During the session, they worked together on a series of changes to state law designed to reduce the size of the JUA and assure that the JUA would have a source of money it could count on if a hurricane hit Florida and inundated the JUA with thousands of claims. It was a turning point in the JUA’s history.

The critical 1995 legislative session

When the Legislature created the JUA in late 1992, it gave the association the authority to impose assessments on property insurance companies, based on the companies’ market share, to cover any JUA deficits. In the 1995 legislative session, lawmakers made important changes to the assessment process.

In particular, the Legislature developed a two-step assessment process for the JUA in the event the association incurred a deficit. The Legislature gave the JUA the authority to impose a one-time Regular Assessment on insurance companies to cover a deficit. These assessments were capped at either 10 percent of the deficit or 10 percent of the aggregate statewide written premium for property insurance in the previous year, whichever was larger. If the deficit exceeded what could be covered by a Regular Assessment, the JUA was authorized to impose Emergency Assessments directly upon all Florida property insurance policyholders. These assessments also were capped annually at either 10 percent of the deficit or 10 percent of the aggregate statewide written premium for property insurance in the previous year, plus various interest and financing costs associated with the deficit, whichever was larger. With these assessments, the JUA for the first time had in place a reliable funding source available to pay claims if the association exhausted its own resources, and a revenue stream to repay long-term debt if the JUA was forced to borrow money to pay hurricane losses.

Meanwhile, the Legislature wrote findings into state law stating that the JUA had grown “beyond legislative expectations” and had become, by virtue of its size, a significant impediment to restoring a healthy property insurance market. The potential that the JUA could impose large deficit assessments on insurance companies was discouraging them from re-entering the Florida market or increasing their market shares. The Legislature also found that “extraordinary measures,” beyond tightening the eligibility requirements for obtaining JUA coverage and raising premium rates to the top of the market, were necessary to shrink the association.

As a result, the Legislature placed into state law “depopulation” initiatives designed to entice insurance companies to remove policies from the JUA. These incentives took two forms. An insurance company could qualify for a cash bonus of up to $100 per policy if it removed at least 25,000 policies
and kept them on the company’s books for at least three years. The JUA staff devised a formula under which a company that removed a block of policies reflecting the mix of policies in the JUA as of June 1995 could qualify for the full $100 per policy bonus. Companies that took fewer policies from high-risk counties and fewer policies with windstorm coverage qualified for a lesser bonus amount. In addition, a company that removed at least 50,000 JUA policies could qualify for exemptions from deficit assessments on those policies for three years. The exemptions would be 100 percent in the first year, 75 percent in the second year, and 50 percent in the third year.

Under another section of state law, the Legislature also gave the JUA Board of Governors broad general authority to adopt additional incentive programs to further encourage insurance companies to remove policies.

The Legislature also took steps to address concerns that the JUA’s growth rate was partly due to comparatively low premium rates. Lawmakers placed language in state statute saying that JUA rates should be “actuarially sound and not competitive” with private insurers. To that end, lawmakers established a formula in state statute in which JUA rates were to be set at least as high as the highest rates charged among the 10 largest companies writing homeowners policies and the five largest companies writing mobile home policies in the state. That formula was later changed so that, today, JUA rates are required to be no lower than the highest rates charged among the 20 largest companies writing homeowners policies and the five largest companies writing mobile home policies in the state.

Also, the Legislature adopted Nelson’s proposal to transfer a growing number of commercial residential policies from the FPCJUA to the Residential JUA. This occurred in June 1995, consolidating and simplifying the handling of both Personal Lines Residential policies and Commercial Lines Residential policies in one organization.

The first catastrophe financing steps are taken

Besides halting the continuing rapid growth of the JUA, Nelson and JUA Board members had another critical concern – the association’s ability to quickly tap large sums of money to pay claims in the event that another large hurricane struck Florida. While the assessments approved by the Legislature gave the JUA the ability to cover a deficit by issuing bonds, it would take some time after a storm to obtain cash from those sources. The JUA needed a pool of money that would be available immediately after a storm to pay claims and start the rebuilding process.

Nelson and the JUA Board realized that debt financing needed to be arranged before a large hurricane occurred, rather than waiting until after a hurricane. With J.P. Morgan acting as the lead investment banker, the JUA staff and its consultants began educating the world financial markets about the association and its mission with the intention of securing a large Line of Credit for the association.

Before a Line of Credit could be put into place, however, the JUA had a hurdle to clear. In November 1994, Florida voters had approved a constitutional amendment enacting a state revenue cap. The question arose as to whether the JUA would be subject to that cap, prompting then-Gov. Lawton Chiles to seek an advisory opinion on the issue from the Florida Supreme Court.

In July 1995, the state Supreme Court issued an opinion that assessments, premiums and other revenues of the JUA were not state revenues for purposes of the state revenue cap. With the opinion in place, J.P. Morgan and the JUA moved forward on the Line of Credit.
This work culminated in September 1995, when the JUA put into place a $1.5 billion Line of Credit with a worldwide consortium of banks. The two-year Line of Credit was the first pre-event catastrophe financing in the association’s history.

**Depopulation begins in earnest**

When the depopulation incentives approved during the 1995 legislative session were signed into law in June 1995, the JUA was ready to begin the monumental task of reducing its size. That summer, Nelson and legislative leaders traveled around the country to meet with the chief executives of major property insurance companies and urge them to return to the Florida market and remove policies from the JUA.

In June 1995, the JUA Board heard its first takeout proposal, as Bankers Security Insurance Company of St. Petersburg asked to remove up to 100,000 policies under the incentive program enacted by the Legislature. In July 1995, AIB Financial Group in Miami applied to remove up to 25,000 mobile homeowner policies. In August 1995, Argus Fire and Casualty Insurance Company asked to take another 50,000 policies. Ultimately, these three companies would remove in excess of 184,000 policies from the JUA.

Meanwhile, during the summer of 1995, the JUA Board adopted a Supplemental Takeout Bonus Program. Under this program, insurance companies that removed 5,000 to 12,499 policies could qualify for a cash bonus of up to $40 per policy, and insurers that removed 12,500 to 25,000 policies could qualify for a cash bonus of up to $60 per policy. The Board adopted these supplemental bonuses after recognizing that not all insurance companies were large enough or prepared to take 25,000 policies in order to obtain the $100 per policy bonus.

During the fall of 1995, the JUA and the Department of Insurance worked together on a take-out program called the Open House Program, utilizing the broad authority granted to the JUA in state law to create enhanced incentives. Under the Open House Program, the requirements for obtaining a cash bonus of up to $100 per policy remained the same. However, insurance companies could now qualify for a three-year, 100 percent exemption from deficit assessments by removing a minimum of 1,000 policies.

Commissioner Nelson and the JUA invited insurance executives from around the country to a meeting in Tampa in December 1995 to unveil the Open House Program. The turnout was heavy, as more than 100 executives crowded the meeting room.

Ultimately, a dozen insurance companies removed more than 461,000 policies from the JUA under the Open House Program. The biggest take-out plans came from Florida Select Insurance Company, which was approved to take 133,000 policies; Southern Family Insurance Company, which was approved to take 105,000 policies; and New Hampshire Insurance Company, which was approved to take 100,000 policies.

Clearly, the cash bonuses and deficit assessment exemptions initiated by Nelson and the Legislature were luring insurers back to Florida.
The JUA turns the corner

In February 1996, Bankers Security Insurance Company took the first 1,586 policies out of the JUA. Every month after that, thousands more policies flowed out of the JUA as the insurance companies approved for take-outs by the JUA Board and the Department of Insurance began to remove policies under the Statutory Incentive Program and the Open House Program.

But even with this outflow of policies, the JUA continued to grow in size as roughly 16,000 new Personal Lines Residential policies were written into the association each month through the spring and summer of 1996. By September that year, the number of Personal Lines Residential policies climbed to 936,837, an all-time high, and the structure and contents exposure statewide swelled to more than $98 billion the following month. It seemed inevitable that the JUA would surpass one million policies. But in fact, the JUA had peaked.

By the fall of 1996, several of the insurance companies approved to remove policies under the Open House Program began to launch substantial takeouts. In the five months between October 1996 and February 1997, the JUA shrunk by an astounding 335,500 Personal Lines policies as companies removed large blocks of policies. By the start of the annual legislative session in March 1997, the JUA stood at just over 601,000 policies.

In early 1997, the JUA Board adopted a new depopulation program, The Market Challenge Phase One, which offered essentially the same incentives available under the Open House Program. Ultimately, two companies removed more than 73,900 policies under The Market Challenge Phase One.

Meanwhile, there was also activity underway to reduce the number of Commercial Lines Residential policies in the JUA. In March 1996, the JUA’s commercial book of business peaked at $12.7 billion in exposure. During the 1996 legislative session, lawmakers authorized a takeout program for condominium associations and apartment buildings similar to the Personal Lines takeouts approved a year earlier. By March 1997, the number of commercial residential policies hit an all-time high of 2,291.

In the spring of 1997, the JUA Board approved a plan devised by JUA staff to automatically non-renew all commercial residential policies. The intent was to require commercial policyholders to shop the private market for coverage each year before being allowed back into the association. The strategy worked; the number of commercial policies in the JUA has declined steadily each month since the non-renewal program was started. While insurance companies have removed more than 600 commercial policies, most left the JUA because owners were able to find coverage on their own from admitted or surplus lines insurers.

Continuing its push for removal of Homeowner’s policies, the JUA Board in the summer of 1997 launched The Market Challenge Phase Two, which was identical to The Market Challenge Phase One. The final tally on The Market Challenge Phase Two: four insurers removed more than 108,000 policies.

The JUA Board also adopted an incentive program specifically geared toward mobile home policies. Any insurance company willing to remove at least 10,000 mobile home policies from the JUA would be eligible for a $100 per policy cash bonus. In other words, a bonus of at least $1 million.
The reason: by mid-1997, there were some 73,000 mobile home policies in the JUA. Many of the policies were located in counties considered “low risk” and had been in the association almost from its inception. Also, insurers had shown little interest in removing mobile homes – the JUA had received only two proposals from companies seeking such policies.

The mobile home initiative achieved quick success – within a few weeks, the JUA received takeout proposals seeking more mobile home policies than the association actually had to give away. In a few months, the number of mobile home policies in the JUA was dramatically reduced.

**South Florida exposure gets special attention**

By January 1998, the JUA was down to just under 384,000 Personal Lines policies and $51 billion in exposure. However, more than 70 percent of the policies and more than 81 percent of the exposure were concentrated in Dade, Broward and Palm Beach Counties, the area where the property insurance market had been slowest to recover since Hurricane Andrew. And with each new takeout, the percentage of policies and exposure in the three counties was growing.

The JUA crafted a depopulation program specifically geared toward enticing insurance companies to remove policies from these South Florida counties. Under this 1998 Coastal Countdown program approved by the JUA Board early in the year, insurers could obtain a cash bonus of $200 per policy by removing at least 5,000 wind policies from Dade County or $150 per policy for removing 5,000 policies from Broward and/or Palm Beach Counties. Insurers meeting these requirements also qualified for a cash bonus of $100 per policy for wind policies removed from other coastal counties.

But soon after the Coastal Countdown program was adopted, it became clear that many insurance companies could not meet the requirement of removing at least 5,000 policies from Dade County because of the high reinsurance costs involved. The JUA Board revised the program requiring insurers to remove at least 5,000 policies, with a minimum of 1,500 policies coming from Dade County and 3,500 policies coming from Broward and/or Palm Beach Counties.

By late 1998, insurers had removed most of the policies in North Florida, inland counties and other coastal counties. More than 90 percent of the JUA’s policies and exposure were concentrated in Dade, Broward and Palm Beach Counties, making the success of the Coastal Countdown program even more imperative. By November 1999, six companies had removed more than 67,000 policies from the JUA under the new program.

**Keep-out programs stem flow of new business**

While the JUA had placed significant emphasis since 1995 on shrinking the size of the association through its various takeout incentive programs, the continuing flow of new policies into the JUA each month was a cause for concern. For example, in late 1996, the JUA was receiving more than 30,000 new policies a month. During 1997, the association averaged more than 20,000 new policies a month. Although the monthly total declined through the year, the JUA in 1998 still averaged more than 11,000 new policies each month. This continuing inflow threatened to erode the successes the JUA had achieved through its depopulation efforts.

In response, the JUA in early 1998 adopted “keep-out” programs designed to prevent policies from being written into the association in the first place. The first program, dubbed the Voluntary Keep-out Program, was launched in the spring of 1998. Under the Voluntary Keep-out Program, the JUA first
sent a mailing to insurance companies asking whether they were willing to write a meaningful amount of new business on an ongoing basis, and if so, what types of policies they were seeking. Twelve companies responded that they would write new policies. Then, the JUA sent information on each of these companies and the business they would write to the roughly 6,000 JUA appointed insurance agents statewide. These agents, also known as producers, were asked to voluntarily submit applications for coverage to one or more of the companies on the list if the type of policy their customer was seeking matched what the company was willing to write.

The advantages of the Voluntary Keep-out Program were three-fold: The program enabled JUA-appointed agents to establish new, ongoing business relationships with insurance companies writing in the voluntary market. It enabled companies to write new business in a relatively inexpensive manner. And, of course, it kept policies out of the JUA.

The second keep-out program, launched in the fall of 1998, was the On-site Keep-out Program. Under this program, 15 insurance companies agreed to spend up to a week at a time at one of the JUA’s five Service Company locations around the state: one in Sarasota, two in Miami, and one each in Cocoa Beach and Jacksonville. The companies were offered the opportunity to review applications for JUA coverage as they arrived in the mail at the Service Companies. If the company chose to provide residential property insurance coverage to the applicant, he or she was rendered ineligible for the JUA and the policy was issued by the keep-out company rather than the association.

The On-Site Keep-out Program proved successful. In the 18 months between October 1998 and April 2000, the 15 companies participating in the program provided coverage to more than 11,000 applicants, thus keeping those policies out of the JUA. Perhaps as important, by April 2000 the amount of new business entering the JUA had declined to 600 to 800 policies a month. The JUA staff believes one reason for the decline in new business is that producers are trying harder to find coverage for their customers in the private market, knowing a company participating in the On-site Keep-out Program could take the policy if the application is submitted to the JUA.

Making the JUA more efficient and professional

Commissioner Nelson and the JUA Board had expended considerable effort since 1995 to reduce the size of the JUA through the takeout and keep-out programs. At the same time, they had also worked to improve the professionalism and efficiency of the association and to shore up its finances so that it could adequately respond to a catastrophic hurricane.

For example, when Nelson took office in January 1995, the JUA’s executive staff was based in Tallahassee while its underwriting and operations staff was based in Sarasota, close to the residence of the former JUA Board Chairman. Nelson and the JUA Board wanted to consolidate the JUA staff in Tallahassee, to improve its efficiency and accountability. This move was accomplished in 1996.

In early 1995, Nelson and the JUA Board began taking a hard look at a Sarasota company that was providing policy administration and claims adjusting services on about half the JUA policies. The company, Shared Market Insurance Services Inc., or SMISI, was created in late 1993 by the then-Chairman of the JUA Board.

Supporters contended the company could perform JUA work cheaper than private insurance companies under contract with the association, and thus was saving the JUA millions of dollars annually in fees. But Nelson and the JUA Board questioned SMISI’s management and spending practices.
The JUA Board asked a national accounting firm to audit the company, and the Department of Insurance opened an investigation. The inquiries culminated in August 1995, when Nelson announced that four top SMISI executives had been terminated. Among other things, Nelson questioned guaranteed four-year contracts given to executives, large employee bonuses and other perks.

At Nelson’s urging, SMISI also severed its relationship with Coordinated Claims Consultants (CCC) of Melbourne, a company that had subcontracted to provide commercial residential claims administration services for the JUA. Nelson said his regulators had found CCC was actually farming out its claims processing work to another company and was doing little or no work.

By December 1995, the JUA board voted to terminate its service provider agreement with SMISI and to fold the work being performed by SMISI into the JUA.

Meanwhile, in the fall of 1995 the JUA Board opted to rebid its Service Company contracts, reducing from six to four the number of JUA Service Companies. This resulted in significant cost savings to the JUA.

At the time, the Service Companies were responsible for both policy administration and claims processing on behalf of the JUA. Shortly after the contracts were rebid, an agreement was reached with the Service Companies to separate out claims processing. The JUA then entered into separate agreements with a number of claims adjusting firms, resulting in additional savings in loss adjustment expenses. Similar changes were made for the JUA’s commercial business, leading to a substantial reduction in policy administration and claims adjusting costs there, too.

One of the unsuccessful bidders for a Service Company contract, Bankers Insurance Company, challenged the JUA through administrative appeals and lawsuits filed in state and federal courts. This has led to protracted litigation between Bankers and the JUA. However, to date the JUA has prevailed in every legal forum and received rulings that its bid process was justified and fair.

Over time, the JUA also made a series of changes to its underwriting rules to make it function more like a standard property insurance company. For example, early public policy regarding the JUA was to make it as easy as possible for consumers to obtain coverage. In 1993 and 1994, the JUA had virtually no rules barring properties because they had uninsurable conditions. This resulted in a large number of “non-standard” properties – those in such poor condition they have difficulty finding coverage in the private market – being written into the JUA.

Today, the JUA has 21 uninsurable properties rules barring coverage for condemned properties, properties built over water or landfills, and other such hazards. Additionally, the JUA now requires physical inspections of properties and a detailed estimate of the true cost of replacing a dwelling should it be severely damaged or destroyed.

In 1997, the JUA also switched from a standard $500 all-perils deductible for homeowners to a legislatively-mandated 2-percent hurricane deductible and a $1,000 all-other-perils deductible for all policies except mobile home policies, which have a $500 all-other-perils deductible. Lawmakers enacted the separate hurricane deductible as a way to keep rates from rising and at the same time to make property owners more responsible for sharing in hurricane losses.

The JUA also took steps to improve the oversight and administration of its huge agent force. By 1997, the JUA had some 6,000 agents statewide appointed as producers authorized to write policies into the association. That was more agents than many national insurers have on a countrywide basis, and it reflected the early public policy of making access to the JUA as easy as possible for consumers.
During its first few years of operations, the JUA contracted individually with each of its agents. But during early 1997, the JUA negotiated with the five major statewide agent associations to switch to an Agency Contract, in which the JUA contracted with insurance agencies, rather than individual agents, to write business into the JUA. Under the Agency Contract, which took effect on January 1, 1998, all producers within an agency who wrote residential property insurance were required to be listed on the contract. This gave the JUA a better idea of who was actually submitting policies to the JUA, and made one individual – the agency owner – responsible for making sure his employees were submitting policies to the association in accordance with its agent and underwriting rules. By late 1999, the JUA had roughly 2,900 Agency Contracts in force.

In June 1999, the JUA Board of Governors approved the introduction of a Limited Agency Contract that allows agencies to service renewal policies but prohibits them from submitting new applications for coverage to the JUA. Agencies signing up for a Limited Agency Contract are only required to designate one agent per office to service JUA business and save significantly on annual appointment fees. Under an Agency Contract, all agents writing residential property insurance must be appointed. The Limited Agency Contract took effect on January 1, 2000.

**Coordinating efforts with the FWUA**

Besides striving to improve its own efficiency and professionalism, the JUA has worked closely with the Florida Windstorm Underwriting Association to coordinate activities mutually impacting the two organizations and their policyholders. Much of this coordination stems from a joint JUA-FWUA panel that was created by the Legislature.

The 1996 Legislature established the Legislative Working Group on Residual Property Insurance Markets. The Working Group was a 14-member panel of legislators, government officials, consumers and representatives of other affected interests that was charged with developing recommendations to the Legislature for a permanent residual market mechanism to replace the JUA and the FWUA.

In December 1996, the Working Group issued its final report, which concluded that the JUA and the FWUA should continue to exist as separate entities at that time. However, the report recommended that the two associations should work toward better coordination and eventual consolidation, and that the associations should designate three or four people to serve on an executive committee and/or attend meetings of both boards.

Based on that recommendation, the 1997 Legislature created the Residual Property Insurance Market Coordinating Council. The membership of the Coordinating Council, by statute, includes the Executive Director and Chairman of the Board of both the JUA and the FWUA. The Coordinating Council is chaired by the Florida Insurance Consumer Advocate.

The Coordinating Council has held a series of meetings since 1997 and discussed important issues such as the catastrophe financing plans of the JUA and the FWUA, the flood insurance requirements of both associations and depopulation programs. But perhaps the single most important issue discussed by the Coordinating Council has been the joint efforts of the JUA and the FWUA to obtain federal tax-exempt status in Congress.
Seeking federal tax-exempt status in Congress

In 1997, the JUA and the FWUA contracted with the Washington, D.C. law firm of Baker and Hostetler to pursue legislation in Congress seeking federal tax-exempt status for both associations. This legislation would amend Section 501C of the Internal Revenue Code.

The goal of this effort is to allow both associations to build surplus on a tax-exempt basis. This would provide a direct benefit to property insurance policyholders in Florida. If a large hurricane strikes the state, the associations would use their respective surpluses to pay storm claims. This could result in delaying, reducing, or possibly even avoiding the imposition of Regular Assessments upon member insurance companies (who can recoup this money from policyholders) or Emergency Assessments directly upon all property insurance policyholders in Florida.

Both associations face significant tax liabilities. The JUA paid $20 million in federal taxes in 1996, $88 million in 1997 and $48 million in 1998. The 1997 Legislature required the FWUA to retain its surplus for the payment of claims. The association can no longer distribute surplus dollars to member companies like it did when it was a partnership. The FWUA paid $21 million in federal taxes in 1997 but faced no federal tax liability for tax year 1998 due to hurricane losses.

During 1998, the Legislature passed a resolution urging Congress to grant federal tax-exempt status to the JUA and the FWUA. Congress recessed in 1998 without approving the measure and the two associations continued to seek federal tax-exempt status in 1999. A provision to grant federal tax-exempt status to the JUA and the FWUA was included in “The Taxpayer Refund and Relief Act of 1999,” which was passed by both the House and the Senate, but the tax-cut bill was later vetoed by President Clinton for unrelated reasons. The JUA and the FWUA have determined that the two associations have a better chance of obtaining tax-exempt status by pursuing the measure jointly, rather than individually.

Additionally, the JUA Board voted separately in 1998 to consider seeking a private-letter ruling from the Internal Revenue Service to obtain federal tax-exempt status. The JUA’s independent auditors suggested the JUA may be able to obtain such a ruling based on changes made over time to its statutes. While the JUA and FWUA statutes have grown more similar over time, the effort to obtain such a ruling probably is more difficult for the FWUA.

In the fall of 1999, the JUA filed a request for a private-letter ruling from the IRS and filed amended tax returns seeking more than $172 million in federal taxes paid from 1996 to 1999. The JUA is seeking to recover these taxes already paid on the basis that it should be considered a tax-exempt entity. Work on the private-letter ruling and the amended tax returns was continuing into 2000.

Securing additional hurricane financing

The JUA had taken a major step forward by securing a two-year, $1.5 billion Line of Credit with a worldwide consortium of banks in September 1995. For the first time, the JUA had pre-event financing giving the association a quick source of cash to pay claims in the event of a catastrophic hurricane. By late 1996, it became clear that the JUA could increase its hurricane financing, since the association’s financial picture had improved and the worldwide financial markets were now familiar with the JUA.

For example, the JUA had incurred deficits in its Personal Lines Residential account of $17.7 million in 1994 and $22.8 million in 1995. In 1996, the JUA imposed Regular Assessments on member insurance companies and collected these assessments with little difficulty. Although the size of the
deficits was modest, the exercise demonstrated to the world financial markets that the assessment system placed into state law by the Legislature worked, and that the JUA could meet its financial obligations. Additionally, the JUA has operated at a profit since 1996.

With J.P. Morgan again working as the JUA’s investment banker advisor, the association in May 1997 issued $500 million in pre-event notes and secured a new two-year, $1.5 billion Line of Credit. Significantly, the JUA received solid ratings of A3 by Moody’s Investors Service and A- by Standard & Poor’s Ratings Group on the pre-event notes, indicating the rating agencies viewed the JUA notes as a good investment. The interest from investors in the notes was strong, and the association could have issued more than $500 million in notes if it had chosen to do so.

Combined with other funding sources – the JUA’s surplus, a Regular Assessment on insurance companies and proceeds the association would receive from the Florida Hurricane Catastrophe Fund – the JUA had in place a $3 billion catastrophe financing program for the 1997 hurricane season. By the 1998 hurricane season, the financing program totaled $3.5 billion, thanks to the fact that the JUA’s surplus had grown to $250 million and the association’s expected CAT Fund recovery had increased. By late 1998, the financial condition of the JUA was the best in the association’s five-year history.

As the policy count drops, so does the PML

One of the key benefits of the decline in JUA policies between late 1996 and 1998 was the impact on the association’s Probable Maximum Loss for a one-in-100 year hurricane season. In the fall of 1996, when the JUA peaked at nearly 937,000 policies and $98 billion in exposure, the JUA’s 100-year annual aggregate PML stood at $5.3 billion. Yet the JUA only had $1.5 billion in catastrophe financing in place at that time to cover losses from a major hurricane.

By the summer of 1998, with the policy count substantially reduced, the JUA’s 100-year annual aggregate PML had declined to $2.4 billion. At the same time, the JUA had in place $3.5 billion in catastrophe financing. This meant that, for the first time, the JUA had ready access to capital substantially larger than the losses it would incur in a one-in-100 year storm season.

By early 1999, various computer models run by the JUA projected the association’s 100-year annual aggregate PML to have dropped even further to between $1.5 billion and $1.9 billion. As a result, the JUA board in March 1999 voted to reduce the existing $1.5 billion Line of Credit to $750 million and to extend it for one year.

The goal was to have a $2.7 billion catastrophe-financing package in place for the 1999 hurricane season, including the new Line of Credit and other funding sources. This amount would again allow the JUA to more than cover its expected losses from a 100-year hurricane season and at the same time save $2.8 million in financing costs by reducing the Line of Credit.

More milestones in 1999

On New Year’s Day 1999, the JUA celebrated a milestone – the association dropped below 250,000 policies for the first time in five years. While the continuing decline in the JUA’s size was good news, that event also triggered a provision in state law prohibiting the association from allowing insurers to qualify for takeout bonuses or deficit assessment exemptions once the policy count drops below 250,000.
As a result, Nelson and the JUA staff worked during the 1999 legislative session on a bill to remove the prohibition from state law and to allow the association to attract new insurance companies to the state and continue to reduce the size of the association. The measure was passed by both houses of the Legislature and signed into law by Governor Jeb Bush.

During the spring of 1999, three different entities came forward with dramatic plans to remove all or most of the remaining policies in the JUA. The three groups were Clarendon National Insurance Company and two newly-forming companies, Magna Insurance Company and Tarpon Insurance Company. News of these sweeping proposals generated headlines in newspapers across the state.

During the course of negotiations on these three proposals, the JUA Board of Governors adopted a new takeout incentive program, the Enhanced Takeout Program, making it available to insurers from December 31 to June 30 each year. Under this program, insurers could qualify for a bonus of $300 per policy by removing a minimum of 30,000 policies with windstorm coverage. At least 90 percent of these policies had to come from the JUA’s heavily-concentrated area of Dade, Broward and Palm Beach Counties. Also, the JUA agreed to set aside an additional $210 per policy in a “contingent catastrophic reserve” fund for companies meeting these minimum requirements. This fund could be tapped by the company if the company exceeds its expected annual hurricane loss projections during the three-year period that the takeout bonus is in escrow.

On May 31, 1999, Clarendon National Insurance Company removed 81,000 policies under the Enhanced Takeout Program, with more than 76,000 policies coming from Dade, Broward and Palm Beach Counties. It was the single largest takeout from the heavily-concentrated South Florida area in the JUA’s history and had a dramatic impact on the association’s policy count and exposure. As of June 30, 1999, the JUA had been reduced to 114,998 Personal Lines policies and $18.6 billion in exposure.

Clarendon’s massive takeout helped to reduce the JUA’s Probable Maximum Loss to $1.2 billion for a one-in-100 year storm season. The reduction in policy count, exposure and PML prompted the JUA Board to make further revisions to the association’s 1999 hurricane financing program. In June 1999, the JUA purchased $100 million in catastrophe reinsurance. This reinsurance, coupled with an available surplus of $130 million and $450 million in coverage from the Florida Hurricane Catastrophe Fund, greatly minimized the scope of an assessment the JUA might be forced to impose following a large hurricane. All told, the JUA had $2.16 billion in financing in place for the 1999 hurricane season, an amount well in excess of the association’s 100-year PML.

Through the summer and early fall of 1999, the JUA hovered between about 107,000 and 115,000 policies, luckily avoiding any catastrophic storm losses when monstrous Hurricane Floyd turned away from South Florida at the last moment and when Hurricane Irene weakened before directly striking Dade, Broward and Palm Beach Counties.

Meanwhile, the JUA staff began contemplating how the association could shed the largest number of policies possible once the Enhanced Takeout Program opened to insurers again on December 31, 1999. The JUA staff decided to pre-package two sets of 40,000 policies with nearly identical policy types and exposures. The rationale was that the JUA was already heavily concentrated in South Florida, and had large numbers of both very low value and very high value properties – homes valued up to $1 million. The packages would require insurers to remove policies in all value ranges, and thus prevent the JUA’s book of business from becoming even more concentrated than it already was.
In early October 1999, the JUA announced the availability of the two packages to the insurance community, setting a deadline of November 16, 1999 for interested companies to submit takeout proposals. Three companies submitted proposals by the deadline – Magna Florida Insurance Company, Southern Family Insurance Company and National Insurance Company.

Subsequently, Southern Family informed the JUA that it was interested in removing about 30,000 policies, rather than a 40,000-policy package. Southern Family’s takeout was thus deferred to early 2000. National Insurance Company withdrew from the bidding, saying that it would consider submitting a new proposal in 2000. Thus, Magna Florida Insurance Company was the only bidder left for one of the 40,000-policy packages.

On December 9, 1999, the JUA Board of Governors approved Magna to remove 40,000 policies from the association, effective January 31, 2000. Magna subsequently changed its name to Qualsure Insurance Corporation after receiving approval for its takeout. As of Qualsure’s takeout on January 31, 2000, the JUA stood at 67,000 policies and $15 billion in exposure. The JUA was at its lowest policy count since early 1993, soon after it opened for business.

Recognizing the ever-increasing concentration of policies and exposure in Dade, Broward and Palm Beach, the JUA Board amended the Enhanced Takeout Program, reducing from 30,000 to 20,000 the minimum number of policies that had to be removed to qualify for a $300 per policy bonus.

During March 2000, the JUA Board voted to obtain a $640 million Line of Credit from a worldwide consortium of banks. The Line of Credit, along with about $130 million in surplus and other-funding sources, gave the JUA $1.8 billion in catastrophe financing for the 2000 hurricane season. That amount of financing exceeded the association’s estimated Probable Maximum Loss from a 1-in-500-year hurricane season. In other words, the JUA now had the ability to pay claims from a hurricane season that included a storm far worse than 1992’s Hurricane Andrew.

Through smaller monthly takeouts by several insurance companies, the JUA policy count and exposure continued to decline. By April 30, 2000 the JUA stood at 59,628 personal lines policies which accounted for $9.5 billion in exposure. More than 98 percent of the policies and more than 99 percent of the exposure were located in Dade, Broward and Palm Beach Counties. Meanwhile, the commercial lines book of business had dropped to 93 policies and 407 million in exposure.

By May 2000, the story of the JUA’s success in helping to stabilize Florida’s shaky property insurance market could be told in remarkable numbers. In the seven years since Hurricane Andrew, 34 insurance companies had stepped forward to remove more than 1.1 million policies from the JUA. In turn, the JUA had paid more than $130 million in takeout bonuses into escrow accounts set up for the companies.

And still, in the ever-evolving world of the JUA, there was more work to be done and more changes underway. Nelson continued to encourage companies to return to Florida and to remove policies from the JUA. The JUA was working internally to further streamline its operations to reflect the dramatic changes that had occurred since 1995. Each week, roughly 600 to 800 consumers who could not obtain property insurance coverage in the private market continued to turn to the JUA for their insurance needs. There was talk of new, significant takeout proposals from companies on the horizon.

As Florida’s property insurance market continued on its path to recovery, the JUA remained a steady presence to assist consumers in need.