

By the Committee on General Government Appropriations; and
Senator Baker

601-03211-10

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1 A bill to be entitled
2 An act relating to the Florida Hurricane Catastrophe
3 Fund; amending s. 215.555, F.S., relating to emergency
4 assessments to fund the obligations, costs, and
5 expenses of the Florida Hurricane Catastrophe Fund;
6 delaying the repeal of an exemption from such
7 assessments which is provided for medical malpractice
8 insurance premiums; providing an effective date.

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10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Paragraph (b) of subsection (6) of section
13 215.555, Florida Statutes, is amended to read:

14 215.555 Florida Hurricane Catastrophe Fund.—

15 (6) REVENUE BONDS.—

16 (b) *Emergency assessments*.—

17 1. If the board determines that the amount of revenue
18 produced under subsection (5) is insufficient to fund the
19 obligations, costs, and expenses of the fund and the
20 corporation, including repayment of revenue bonds and that
21 portion of the debt service coverage not met by reimbursement
22 premiums, the board shall direct the Office of Insurance
23 Regulation to levy, by order, an emergency assessment on direct
24 premiums for all property and casualty lines of business in this
25 state, including property and casualty business of surplus lines
26 insurers regulated under part VIII of chapter 626, but not
27 including any workers' compensation premiums or medical
28 malpractice premiums. As used in this subsection, the term
29 "property and casualty business" includes all lines of business

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30 identified on Form 2, Exhibit of Premiums and Losses, in the
31 annual statement required of authorized insurers by s. 624.424
32 and any rule adopted under this section, except for those lines
33 identified as accident and health insurance and except for
34 policies written under the National Flood Insurance Program. The
35 assessment shall be specified as a percentage of direct written
36 premium and is subject to annual adjustments by the board in
37 order to meet debt obligations. The same percentage shall apply
38 to all policies in lines of business subject to the assessment
39 issued or renewed during the 12-month period beginning on the
40 effective date of the assessment.

41 2. A premium is not subject to an annual assessment under
42 this paragraph in excess of 6 percent of premium with respect to
43 obligations arising out of losses attributable to any one
44 contract year, and a premium is not subject to an aggregate
45 annual assessment under this paragraph in excess of 10 percent
46 of premium. An annual assessment under this paragraph shall
47 continue as long as the revenue bonds issued with respect to
48 which the assessment was imposed are outstanding, including any
49 bonds the proceeds of which were used to refund the revenue
50 bonds, unless adequate provision has been made for the payment
51 of the bonds under the documents authorizing issuance of the
52 bonds.

53 3. Emergency assessments shall be collected from
54 policyholders. Emergency assessments shall be remitted by
55 insurers as a percentage of direct written premium for the
56 preceding calendar quarter as specified in the order from the
57 Office of Insurance Regulation. The office shall verify the
58 accurate and timely collection and remittance of emergency

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59 assessments and shall report the information to the board in a
60 form and at a time specified by the board. Each insurer
61 collecting assessments shall provide the information with
62 respect to premiums and collections as may be required by the
63 office to enable the office to monitor and verify compliance
64 with this paragraph.

65 4. With respect to assessments of surplus lines premiums,
66 each surplus lines agent shall collect the assessment at the
67 same time as the agent collects the surplus lines tax required
68 by s. 626.932, and the surplus lines agent shall remit the
69 assessment to the Florida Surplus Lines Service Office created
70 by s. 626.921 at the same time as the agent remits the surplus
71 lines tax to the Florida Surplus Lines Service Office. The
72 emergency assessment on each insured procuring coverage and
73 filing under s. 626.938 shall be remitted by the insured to the
74 Florida Surplus Lines Service Office at the time the insured
75 pays the surplus lines tax to the Florida Surplus Lines Service
76 Office. The Florida Surplus Lines Service Office shall remit the
77 collected assessments to the fund or corporation as provided in
78 the order levied by the Office of Insurance Regulation. The
79 Florida Surplus Lines Service Office shall verify the proper
80 application of such emergency assessments and shall assist the
81 board in ensuring the accurate and timely collection and
82 remittance of assessments as required by the board. The Florida
83 Surplus Lines Service Office shall annually calculate the
84 aggregate written premium on property and casualty business,
85 other than workers' compensation and medical malpractice,
86 procured through surplus lines agents and insureds procuring
87 coverage and filing under s. 626.938 and shall report the

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88 information to the board in a form and at a time specified by
89 the board.

90 5. Any assessment authority not used for a particular
91 contract year may be used for a subsequent contract year. If,
92 for a subsequent contract year, the board determines that the
93 amount of revenue produced under subsection (5) is insufficient
94 to fund the obligations, costs, and expenses of the fund and the
95 corporation, including repayment of revenue bonds and that
96 portion of the debt service coverage not met by reimbursement
97 premiums, the board shall direct the Office of Insurance
98 Regulation to levy an emergency assessment up to an amount not
99 exceeding the amount of unused assessment authority from a
100 previous contract year or years, plus an additional 4 percent
101 provided that the assessments in the aggregate do not exceed the
102 limits specified in subparagraph 2.

103 6. The assessments otherwise payable to the corporation
104 under this paragraph shall be paid to the fund unless and until
105 the Office of Insurance Regulation and the Florida Surplus Lines
106 Service Office have received from the corporation and the fund a
107 notice, which shall be conclusive and upon which they may rely
108 without further inquiry, that the corporation has issued bonds
109 and the fund has no agreements in effect with local governments
110 under paragraph (c). On or after the date of the notice and
111 until the date the corporation has no bonds outstanding, the
112 fund shall have no right, title, or interest in or to the
113 assessments, except as provided in the fund's agreement with the
114 corporation.

115 7. Emergency assessments are not premium and are not
116 subject to the premium tax, to the surplus lines tax, to any

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117 fees, or to any commissions. An insurer is liable for all
118 assessments that it collects and must treat the failure of an
119 insured to pay an assessment as a failure to pay the premium. An
120 insurer is not liable for uncollectible assessments.

121 8. When an insurer is required to return an unearned
122 premium, it shall also return any collected assessment
123 attributable to the unearned premium. A credit adjustment to the
124 collected assessment may be made by the insurer with regard to
125 future remittances that are payable to the fund or corporation,
126 but the insurer is not entitled to a refund.

127 9. When a surplus lines insured or an insured who has
128 procured coverage and filed under s. 626.938 is entitled to the
129 return of an unearned premium, the Florida Surplus Lines Service
130 Office shall provide a credit or refund to the agent or such
131 insured for the collected assessment attributable to the
132 unearned premium prior to remitting the emergency assessment
133 collected to the fund or corporation.

134 10. The exemption of medical malpractice insurance premiums
135 from emergency assessments under this paragraph is repealed May
136 31, 2013 ~~2010~~, and medical malpractice insurance premiums shall
137 be subject to emergency assessments attributable to loss events
138 occurring in the contract years commencing on June 1, 2013 ~~2010~~.

139 Section 2. This act shall take effect upon becoming a law.