

By the Committee on Banking and Insurance

311-618-01

1 A bill to be entitled
2 An act relating to property insurance; amending
3 s. 166.111, F.S.; eliminating authority of
4 certain municipalities to issue bonds to assist
5 the Florida Insurance Guaranty Association in
6 paying claims related to Hurricane Andrew;
7 creating s. 626.8741, F.S.; limiting fees that
8 may be charged by public adjusters for claims
9 arising from a hurricane or catastrophe;
10 amending s. 627.7013, F.S.; extending the
11 operation of the law limiting the number of
12 personal lines residential policies that may be
13 terminated by an insurer for the purpose of
14 reducing the insurer's exposure to hurricane
15 claims; making legislative findings; amending
16 s. 627.7014, F.S.; extending the operation of
17 the law limiting the number of condominium
18 association property insurance policies that
19 may be terminated by an insurer for the purpose
20 of reducing the insurer's exposure to hurricane
21 claims; making legislative findings; creating
22 s. 627.7018, F.S.; authorizing the Department
23 of Insurance to adopt rules after a hurricane
24 or other catastrophe; requiring insurers to
25 adjust personal lines insurance hurricane
26 claims within specified time periods and to
27 advance funds for additional living expenses;
28 authorizing rules providing for the department
29 to examine insurers and to adjust claims under
30 certain circumstances; authorizing the
31 department, by rule, to extend time limits upon

1 an insured to perform any act or transmit
2 information or funds with respect to his or her
3 insurance coverage; amending s. 631.54, F.S.;
4 redefining the terms "covered claim" and
5 "member insurer" used in the laws relating to
6 the Florida Insurance Guaranty Association;
7 amending s. 631.57, F.S., relating to the
8 powers and duties of the association;
9 authorizing the Department of Insurance to
10 impose an additional assessment on member
11 insurers to pay for claims against insurers
12 rendered insolvent by a hurricane; authorizing
13 units of local government to issue bonds in
14 conjunction with the association; authorizing
15 the association to form an entity to issue
16 bonds and incur other indebtedness; providing
17 legislative intent that no action be taken to
18 impair any bond indenture or financing
19 agreement; providing that the security interest
20 in any financing documents to secure bonds or
21 other indebtedness of the association remains
22 valid notwithstanding any bankruptcy or similar
23 proceeding against the association; providing
24 for the priority of the security interest in
25 such bonds or indebtedness; exempting the
26 Florida Residential Property and Casualty Joint
27 Underwriting Association and the Florida
28 Windstorm Underwriting Association from
29 assessments made by the Florida Insurance
30 Guaranty Association, except for assessments
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1 related to a hurricane; providing an effective
2 date.

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

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6 Section 1. Section 166.111, Florida Statutes, is
7 amended to read:

8 166.111 Authority to borrow.--

9 ~~(1)~~ The governing body of every municipality may
10 borrow money, contract loans, and issue bonds as defined in s.
11 166.101 from time to time to finance the undertaking of any
12 capital or other project for the purposes permitted by the
13 State Constitution and may pledge the funds, credit, property,
14 and taxing power of the municipality for the payment of such
15 debts and bonds.

16 ~~(2)(a) The Legislature finds:~~

17 ~~1. The widespread and massive damage to persons and~~
18 ~~property caused by the August 24, 1992, storm known as~~
19 ~~Hurricane Andrew has generated insurance claims of such a~~
20 ~~nature as to render numerous insurers operating within this~~
21 ~~state insolvent, and therefore unable to satisfy covered~~
22 ~~claims.~~

23 ~~2. The inability of insureds within this state to~~
24 ~~receive payment of covered claims or to receive such payment~~
25 ~~on a timely basis creates financial and other hardships for~~
26 ~~such insureds and places undue burdens on the state, the~~
27 ~~affected units of local government, and the community at~~
28 ~~large.~~

29 ~~3. In addition, the failure of insurers to pay covered~~
30 ~~claims or to pay such claims on a timely basis due to the~~
31 ~~insolvency of such insurers can undermine the public's~~

1 ~~confidence in insurers operating within this state, thereby~~
2 ~~adversely affecting the stability of the insurance industry in~~
3 ~~this state.~~

4 ~~4. The state has previously taken action to address~~
5 ~~these problems by adopting the Florida Insurance Guaranty~~
6 ~~Association Act, which, among other things, provides a~~
7 ~~mechanism for the payment of covered claims under certain~~
8 ~~insurance policies to avoid excessive delay in payment and to~~
9 ~~avoid financial loss to claimants or policyholders because of~~
10 ~~the insolvency of an insurer.~~

11 ~~5. In the wake of the unprecedented destruction caused~~
12 ~~by Hurricane Andrew, the resultant covered claims, and the~~
13 ~~number of insurers rendered insolvent thereby, it is evident~~
14 ~~that alternative programs must be developed to allow the~~
15 ~~Florida Insurance Guaranty Association to more expeditiously~~
16 ~~and effectively provide for the payment of covered claims.~~

17 ~~6. It is therefore determined to be in the best~~
18 ~~interests of, and necessary for, the protection of the public~~
19 ~~health, safety, and general welfare of the residents of this~~
20 ~~state, and for the protection and preservation of the economic~~
21 ~~stability of insurers operating in this state, and it is~~
22 ~~hereby declared to be an essential public purpose, to permit~~
23 ~~certain municipalities to take such actions as will provide~~
24 ~~relief to claimants and policyholders having covered claims~~
25 ~~against insolvent insurers operating in this state, by~~
26 ~~expediting the handling and payment of covered claims.~~

27 ~~7. To achieve the foregoing purposes, it is proper to~~
28 ~~authorize municipalities of this state substantially affected~~
29 ~~by Hurricane Andrew to issue bonds to assist the Florida~~
30 ~~Insurance Guaranty Association in expediting the handling and~~
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1 ~~payment of covered claims against insolvent insurers operating~~
2 ~~in this state.~~

3 ~~8. In order to avoid the needless and indiscriminate~~
4 ~~proliferation, duplication, and fragmentation of such~~
5 ~~assistance programs, it is proper to authorize a municipality~~
6 ~~severely affected by Hurricane Andrew to provide for the~~
7 ~~payment of covered claims beyond its territorial limits in the~~
8 ~~implementation of such programs.~~

9 ~~(b) The governing body of any municipality the~~
10 ~~residents of which have been substantially affected by the~~
11 ~~August 24, 1992, storm known as Hurricane Andrew, or any~~
12 ~~county as defined in s. 125.011(1), may issue no more than~~
13 ~~\$500 million, in aggregate principal amount, of bonds as~~
14 ~~defined in s. 166.101 from time to time to fund an assistance~~
15 ~~program, in conjunction with the Florida Insurance Guaranty~~
16 ~~Association, for the purpose of paying to claimants or~~
17 ~~policyholders covered claims, as such term is defined in s.~~
18 ~~631.54(3), arising through the insolvency of an insurer~~
19 ~~occurring on or before March 31, 1993, which insolvency is~~
20 ~~determined by the Florida Insurance Guaranty Association to~~
21 ~~have been a result of Hurricane Andrew, regardless of whether~~
22 ~~such claimants or policyholders are residents of such~~
23 ~~municipality or the property to which such claim relates is~~
24 ~~located within or outside of the territorial jurisdiction of~~
25 ~~such municipality. A municipality issuing bonds for this~~
26 ~~purpose shall enter into such contracts with the Florida~~
27 ~~Insurance Guaranty Association or any entity acting on behalf~~
28 ~~of the Florida Insurance Guaranty Association as are necessary~~
29 ~~to implement the assistance program. Any bonds issued by a~~
30 ~~municipality under this subsection shall be payable from and~~
31 ~~secured by moneys received by or on behalf of the municipality~~

1 ~~from assessments levied under s. 631.57(3)(e), and assigned~~
2 ~~and pledged under s. 631.57(3)(e) to or on behalf of the~~
3 ~~municipality for the benefit of the holders of such bonds in~~
4 ~~connection with such assistance program. The funds, credit,~~
5 ~~property, and taxing power of the municipality shall not be~~
6 ~~pledged for the payment of such bonds.~~

7 ~~(c) The governing body of the municipality issuing~~
8 ~~bonds authorized by paragraph (b) shall require all firms,~~
9 ~~including, but not limited to, the financial advisers, legal~~
10 ~~counsel, and underwriters, providing professional services in~~
11 ~~the issuance of such bonds to include minority firms in the~~
12 ~~provision of such services. To meet such participation~~
13 ~~requirement, the minority firm must have full-time employees~~
14 ~~located in this state and a permanent place of business~~
15 ~~located in this state, and must be a firm which is at least 51~~
16 ~~percent owned by minority persons as defined by s. 288.703(3),~~
17 ~~or any combination thereof, and whose management and daily~~
18 ~~operations are controlled by such persons. Minority firms must~~
19 ~~be offered participation in not less than 20 percent of the~~
20 ~~respective contracts for professional services.~~

21 Section 2. Section 626.8741, Florida Statutes, is
22 created to read:

23 626.8741 Limitations on fees for public adjusters
24 following a catastrophe.--

25 (1) This section applies if a state of emergency is
26 declared by executive order or proclamation of the Governor
27 pursuant to s. 252.36 due to the occurrence of a hurricane or
28 other catastrophe.

29 (2) As to any one insured or claimant, a public
30 adjuster may not charge, agree to, or accept as compensation
31 or reimbursement any payment, commission, or fee equal to more

1 than 10 percent of any insurance settlement or proceeds for a
2 claim arising from a hurricane or catastrophe. All
3 compensation for service and reimbursement of costs regarding
4 any one claimant or insured is to be aggregated for purposes
5 of this limit.

6 Section 3. Paragraph (c) is added to subsection (1) of
7 section 627.7013, Florida Statutes, and paragraph (e) of
8 subsection (2) of that section is amended to read:

9 627.7013 Orderly markets for personal lines
10 residential property insurance.--

11 (1) FINDINGS AND PURPOSE.--

12 (c) The Legislature finds, as of January 1, 2001,
13 that:

14 1. The conditions described in paragraphs (a) and (b)
15 remain applicable to the property insurance market in this
16 state in 2001 and are likely to remain applicable for several
17 years thereafter.

18 2. The general instability of the market is reflected
19 by the following facts:

20 a. The Florida Windstorm Underwriting Association has
21 more than 400,000 policies in force and the Florida
22 Residential Property and Casualty Joint Underwriting
23 Association has more than 60,000 policies in force.

24 b. A further extension of the operation of this
25 section until June 1, 2004, will provide an opportunity for
26 the market to stabilize and for continuation of residual
27 market depopulation efforts.

28 (2) MORATORIUM COMPLETION.--

29 (e) This subsection is repealed ~~on~~ June 1, ~~2004~~ 2001.

30 Section 4. Present paragraph (c) of subsection (1) of
31 section 627.7014, Florida Statutes, is redesignated as

1 paragraph (d), a new paragraph (c) is added to that
2 subsection, and paragraph (d) of subsection (2) of that
3 section is amended to read:

4 627.7014 Orderly markets for condominium association
5 residential property insurance.--

6 (1) FINDINGS AND PURPOSE.--

7 (c) The Legislature finds, as of January 1, 2001,
8 that:

9 1. The conditions described in paragraph (a) remain
10 applicable to the commercial residential property insurance
11 market in this state in 2001 and are likely to remain
12 applicable for several years thereafter.

13 2. The general instability of the market is reflected
14 by the fact that the Florida Windstorm Underwriting
15 Association has approximately 9,000 commercial residential
16 policies in force as of December 31, 2000.

17 3. An extension of the operation of this section until
18 June 1, 2004, will provide an opportunity for the market to
19 stabilize and for continuation of residual market depopulation
20 efforts.

21 (2) MORATORIUM.--

22 (d) This subsection is repealed ~~on~~ June 1, 2004 ~~2001~~.

23 Section 5. Section 627.7018, Florida Statutes, is
24 created to read:

25 627.7018 Timely adjustment of hurricane claims; grace
26 period; department rulemaking authority.--

27 (1) This section applies to personal lines insurance
28 claims if a state of emergency is declared by executive order
29 or proclamation of the Governor pursuant to s. 252.36 due to
30 the occurrence of a hurricane or other catastrophe.

31 (2) The department may adopt rules:

1 (a) Requiring insurers to have an insurance adjuster
2 visit all claimants within a specified, reasonable time
3 period.

4 (b) Requiring insurers to inspect all damage and make
5 an initial assessment within a specified, reasonable time
6 period and to make a good-faith and reasonable effort to
7 adjust and settle all claims and, when applicable, begin
8 earnest negotiations toward settlement.

9 (c) Requiring insurers to advance appropriate funds to
10 all insureds entitled to additional living expenses.

11 (d) Providing for the department or its contract
12 examiner to conduct an examination of an insurer after
13 repeated instances of alleged failure to comply with time
14 limits for the adjustment of claims and for the department or
15 its contract examiner to adjust claims that have not been
16 adjusted by the insurer as required or, alternatively, to
17 require the insurer to contract with an independent adjuster
18 acceptable to the department to adjust the claims.

19 (e) Extending any time limit upon an insured to
20 perform any act or transmit information or funds with respect
21 to his or her insurance coverage, as is reasonable under the
22 circumstances, if a determination is made that damage from a
23 hurricane or other catastrophe has been so extensive as to
24 impair the ability of insureds to comply with contractual time
25 limits.

26 Section 6. Subsections (3) and (7) of section 631.54,
27 Florida Statutes, are amended to read:

28 631.54 Definitions.--As used in this part:

29 (3) "Covered claim" means an unpaid claim, including
30 one of unearned premiums, which arises out of, and is within
31 the coverage, and not in excess of, the applicable limits of

1 an insurance policy to which this part applies, issued by an
2 insurer, if such insurer becomes an insolvent insurer after
3 October 1, 1970, and the claimant or insured is a resident of
4 this state at the time of the insured event or the property
5 from which the claim arises is permanently located in this
6 state. "Covered claim" shall not include any amount due any
7 reinsurer, insurer, insurance pool, the Florida Residential
8 Property and Casualty Joint Underwriting Association, the
9 Florida Windstorm Underwriting Association, or any other
10 underwriting association, as subrogation recoveries or
11 otherwise. Member insurers shall have no right of subrogation
12 against the insured of any insolvent member.

13 (7) "Member insurer" means any person who writes any
14 kind of insurance to which this part applies under s. 631.52,
15 including the exchange of reciprocal or interinsurance
16 contracts, and is licensed to transact insurance in this
17 state. The term does not include the Florida Residential
18 Property and Casualty Joint Underwriting Association or the
19 Florida Windstorm Underwriting Association formed pursuant to
20 s. 627.351.

21 Section 7. Subsection (3) of section 631.57, Florida
22 Statutes, is amended and subsection (7) is added to that
23 section to read:

24 631.57 Powers and duties of the association.--

25 (3)(a) To the extent necessary to secure the funds for
26 the respective accounts for the payment of covered claims and
27 also to pay the reasonable costs to administer the same, the
28 department, upon certification of the board of directors,
29 shall levy assessments in the proportion that each insurer's
30 net direct written premiums in this state in the classes
31 protected by the account bears to the total of said net direct

1 written premiums received in this state by all such insurers
2 for the preceding calendar year for the kinds of insurance
3 included within such account. Assessments shall be remitted
4 to and administered by the board of directors in the manner
5 specified by the approved plan. Each insurer so assessed shall
6 have at least 30 days' written notice as to the date the
7 assessment is due and payable. Every assessment shall be made
8 as a uniform percentage applicable to the net direct written
9 premiums of each insurer in the kinds of insurance included
10 within the account in which the assessment is made. The
11 assessments levied against any insurer shall not exceed in any
12 one year more than 2 percent of that insurer's net direct
13 written premiums in this state for the kinds of insurance
14 included within such account during the calendar year next
15 preceding the date of such assessments.

16 (b) If sufficient funds from such assessments,
17 together with funds previously raised, are not available in
18 any one year in the respective account to make all the
19 payments or reimbursements then owing to insurers, the funds
20 available shall be prorated and the unpaid portion shall be
21 paid as soon thereafter as funds become available.

22 (c) Assessments shall be included as an appropriate
23 factor in the making of rates.

24 (d) No state funds of any kind shall be allocated or
25 paid to said association or any of its accounts.

26 (e)1.

27 a. In addition to assessments otherwise authorized in
28 paragraph (a), as a ~~temporary~~ measure related to insolvencies
29 caused by one or more hurricanes ~~Hurricane Andrew~~, and to the
30 extent necessary to secure the funds for the account specified
31 in s. 631.55(2)(c), or to retire indebtedness, including,

1 without limitation, the principal, redemption premium, if any,
2 and interest on, and related costs of issuance of, bonds
3 issued under paragraph (f) or paragraph (g)~~s. 166.111(2)~~, and
4 the funding of any reserves and other payments required under
5 the bond resolution or trust indenture pursuant to which such
6 bonds have been issued, the department, upon certification of
7 the board of directors, shall levy assessments upon insurers
8 holding a certificate of authority as follows:

9 (I) Except as provided in sub-sub-subparagraph (II),
10 the assessments payable under this paragraph by any insurer
11 shall not exceed in any 1 year more than 2 percent of that
12 insurer's direct written premiums, net of refunds, in this
13 state during the preceding calendar year for the kinds of
14 insurance within the account specified in s. 631.55(2)(c).

15 (II) If the amount levied under sub-sub-subparagraph
16 (I) is less than 2 percent of the insurer's direct written
17 premiums, net of refunds, in this state during the calendar
18 year preceding the year of occurrence of the hurricane causing
19 the need for the assessment under this paragraph ~~1991~~ for the
20 kinds of insurance within the account specified in s.
21 631.55(2)(c), in addition to and separate from such
22 assessment, the assessment shall also include the difference
23 between the amount calculated based on the calendar year
24 preceding the year of occurrence of the hurricane ~~1991~~ and the
25 amount determined under sub-sub-subparagraph (I). If this
26 sub-sub-subparagraph is held invalid, the invalidity shall not
27 affect other provisions of this section, and to this end the
28 provisions of this section are declared severable.

29 (III) In addition to any other insurers subject to
30 this subparagraph, this subparagraph also applies to any
31 insurer that held a certificate of authority on the date of

1 occurrence of the hurricane causing the need for the
2 assessment under this paragraph August 24, 1992. If this
3 sub-sub-subparagraph is held invalid, the invalidity shall not
4 affect other provisions of this section, and to this end the
5 provisions of this section are declared severable.

6 b. Any assessments authorized under this paragraph
7 shall be levied by the department upon insurers referred to in
8 sub-subparagraph a., upon certification as to the need
9 therefor by the board of directors, ~~in 1992 and~~ in each year
10 that bonds issued under paragraph (f) or paragraph (g)~~s-~~
11 ~~166.111(2)~~are outstanding, in such amounts up to such 2
12 percent limit as required in order to provide for the full and
13 timely payment of the principal of, redemption premium, if
14 any, and interest on, and related costs of, issuance of bonds
15 ~~issued under s. 166.111(2)~~. The assessments provided for in
16 this paragraph are hereby assigned and pledged ~~to a~~
17 ~~municipality issuing bonds under s. 166.111(2)(b)~~, for the
18 benefit of the holders of such bonds, in order to ~~enable such~~
19 ~~municipality to~~ provide for the payment of the principal of,
20 redemption premium, if any, and interest on such bonds, the
21 cost of issuance of such bonds, and the funding of any
22 reserves and other payments required under the bond resolution
23 or trust indenture pursuant to which such bonds have been
24 issued, without the necessity of any further action by the
25 association, the department, or any other party. To the
26 extent that bonds are issued under paragraph (f) or paragraph
27 (g)~~s. 166.111(2)~~, the proceeds of assessments levied under
28 this paragraph shall be remitted directly to and administered
29 by the trustee appointed for such bonds.

30 c. Assessments under this paragraph shall be payable
31 in 12 monthly installments with the first installment being

1 due and payable at the end of the month after an assessment is
2 levied, and subsequent installments being due not later than
3 the end of each succeeding month.

4 ~~d. The association shall issue a monthly report on the~~
5 ~~status of the use of the bond proceeds as related to~~
6 ~~insolvencies caused by Hurricane Andrew. The report must~~
7 ~~contain the number of claims paid and the amount of claims~~
8 ~~paid. The association shall also include an analysis of the~~
9 ~~revenue generated from the additional assessment levied under~~
10 ~~this subsection. The report must be sent to the Legislature~~
11 ~~and the Insurance Commissioner monthly.~~

12 2. ~~In order to assure that insurers paying assessments~~
13 ~~levied under this paragraph continue to charge rates that are~~
14 ~~neither inadequate nor excessive, Within 90 days after being~~
15 notified of such assessments, each insurer that is to be
16 assessed pursuant to this paragraph may ~~shall~~ make a rate
17 filing for coverage included within the account specified in
18 s. 631.55(2)(c) and for which rates are required to be filed
19 under s. 627.062. If the filing reflects a rate change that,
20 as a percentage, is equal to the difference between the rate
21 of such assessment and the rate of the previous year's
22 assessment under this paragraph, the filing shall consist of a
23 certification so stating and shall be deemed approved when
24 made, subject to the department's continuing authority to
25 require actuarial justification as to the adequacy of any rate
26 at any time. Any rate change of a different percentage shall
27 be subject to the standards and procedures of s. 627.062.

28 (f) The governing body of any unit of local government
29 having any residents that are insured by a member insurer
30 rendered insolvent due to a hurricane, as determined by the
31 board, may issue bonds as defined in s. 125.013 or s. 166.101,

1 in conjunction with the association, for the purpose of
2 funding the obligations of the association. Revenue bonds may
3 not be issued until validated pursuant to chapter 75, unless a
4 state of emergency is declared by executive order or
5 proclamation of the Governor pursuant to s. 252.36 which makes
6 such findings as are necessary to determine that it is in the
7 best interests of and necessary for the protection of the
8 public health, safety, and welfare of residents of this state
9 and declares it an essential public purpose to permit certain
10 municipalities or counties to issue bonds that will provide
11 relief to claimants and policyholders of member insurers of
12 the association. Any such unit of local government may enter
13 into such contracts with the association and with any other
14 entity created pursuant to this subsection as are necessary to
15 carry out this paragraph. Any bonds issued under this
16 paragraph must be payable from and secured by moneys received
17 by the association from assessments under paragraph (e) and
18 assigned and pledged to or on behalf of the unit of local
19 government for the benefit of the holders of such bonds. The
20 funds, credit, property, and taxing power of the state or of
21 the unit of local government may not be pledged for the
22 payment of such bonds. The authority granted by this paragraph
23 is in addition to the bonding authority granted by paragraph
24 (g).

25 (g)1. The plan of operation may authorize the
26 formation of a private nonprofit corporation, a private
27 nonprofit unincorporated association, a partnership, a trust,
28 a limited liability company, or a nonprofit mutual company
29 that may be empowered, among other things, to borrow money by
30 issuing bonds or by incurring other indebtedness and to
31 accumulate reserves or funds to be used for the payment of

1 claims of member insurers rendered insolvent due to a
2 hurricane, as determined by the board. The plan may authorize
3 all actions necessary to facilitate the issuance of bonds,
4 including the pledging of moneys received by the association
5 from assessments under paragraph (e). Any entity created under
6 this paragraph may sue and be sued; borrow money; issue bonds,
7 notes, or debt instruments; pledge or sell assessments under
8 paragraph (e) as security for such bonds, notes, or debt
9 instruments; enter into any contracts or agreements necessary
10 or proper to accomplish such borrowings; and take other
11 actions necessary to carry out the purposes of this paragraph.

12 2. The association may issue bonds or incur other
13 indebtedness or have bonds issued on its behalf by a unit of
14 local government pursuant to paragraph (f) only if a hurricane
15 occurs that results in the association's being unable to
16 secure sufficient funds for the account specified in s.
17 631.55(2)(c) by making assessments as authorized in paragraph
18 (a). Any such entity may accumulate reserves and retain
19 surpluses as of the end of any year to provide for the payment
20 of claims owing by the association during that year or any
21 future year.

22 3. In recognition of s. 10, Art. I of the State
23 Constitution, which prohibits the impairment of obligations of
24 contracts, it is the intent of the Legislature that no action
25 be taken to impair any bond indenture or financing agreement
26 or any revenue source committed by contract to such bond or
27 other indebtedness issued or incurred by the association or
28 any other entity created under this subsection.

29 4. Notwithstanding any other provision of law:
30 a. The pledge or sale of, the lien upon, and the
31 security interest in any rights, revenues, or other assets of

1 the association created or purported to be created pursuant to
2 any financing documents to secure any bonds or other
3 indebtedness of the association are valid and enforceable,
4 notwithstanding any rehabilitation, insolvency, liquidation,
5 bankruptcy, receivership, conservatorship, reorganization, or
6 similar proceeding against the association under the laws of
7 this state or any other applicable laws.

8 b. Any such proceeding does not relieve the
9 association of its obligation or otherwise affect its ability
10 to perform its obligation to levy or collect assessments, or
11 any other rights, revenues, or assets of the association which
12 are pledged.

13 c. Each such pledge or sale of, lien upon, and
14 security interest in, including the priority of such pledge,
15 lien, or security interest, any such assessments, or other
16 rights, revenues, or assets which are levied or collected
17 after the commencement of any such proceeding shall continue
18 unaffected by such proceeding.

19 d. As used in this subsection, the term "financing
20 documents" means any agreement, instrument, or other document
21 evidencing any bonds or other indebtedness of the association
22 or pursuant to which any such bonds or other indebtedness have
23 been or may be issued and pursuant to which any rights,
24 revenues, or other assets of the association are pledged or
25 sold to secure the repayment of such bonds or indebtedness,
26 together with the payment of interest on such bonds or such
27 indebtedness, or the payment of any other obligation of the
28 association related to such bonds or indebtedness.

29 e. Any such pledge or sale of assessments, revenues,
30 contract rights, or other rights or assets of the association
31 constitutes a lien and security interest or a sale that is

1 immediately effective and attaches to such assessments,
2 revenues, contract, or other rights or assets, whether or not
3 imposed or collected when the pledge or sale is made. Any such
4 pledge or sale is effective, valid, binding, and enforceable
5 against the association or other entity making such pledge or
6 sale and is valid and binding against and superior to any
7 competing claims or obligations owed to any other person or
8 entity, including policyholders in this state, asserting
9 rights in any such assessments, revenues, contract, or other
10 rights or assets to the extent set forth in and in accordance
11 with the terms of the pledge or sale contained in the
12 applicable financing documents, whether or not any such person
13 or entity has notice of such pledge or sale and without the
14 need for any physical delivery, recordation, filing, or other
15 action.

16 (7) The Florida Residential Property and Casualty
17 Joint Underwriting Association and the Florida Windstorm
18 Underwriting Association are exempt from all assessments made
19 by the association, except that the Florida Residential
20 Property and Casualty Joint Underwriting Association and the
21 Florida Windstorm Underwriting Association are required to pay
22 all assessments levied by the association pursuant to
23 paragraph (3)(e). Any assessment levied under this subsection
24 must be levied in the proportion that the Florida Residential
25 Property and Casualty Joint Underwriting Association's or the
26 Florida Windstorm Underwriting Association's net direct
27 written premiums in this state in the classes protected by the
28 account bears to the total of the net direct written premiums
29 received in this state by all insurers for the preceding year
30 for all coverages listed under s. 631.55(2)(c).

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