

By Senator Alexander

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A bill to be entitled

An act relating to property insurance; amending s. 215.555, F.S.; increasing the claims-paying capacity of the Florida Hurricane Catastrophe Fund; amending s. 627.351, F.S.; providing a cap on deficits of the Citizens Property Insurance Corporation deficits which may be recovered through assessments; providing effective dates.

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

Section 1. Effective June 1, 2005, or upon becoming a law, whichever occurs later, paragraph (c) of subsection (4) of section 215.555, Florida Statutes, is amended to read:

215.555 Florida Hurricane Catastrophe Fund.--

(4) REIMBURSEMENT CONTRACTS.--

(c)1. The contract shall also provide that the obligation of the board with respect to all contracts covering a particular contract year shall not exceed the actual claims-paying capacity of the fund up to a limit of ~~\$18~~\$15 billion for that contract year, adjusted based upon the reported exposure from the prior contract year to reflect the percentage growth in exposure to the fund for covered policies since 2003, provided the dollar growth in the limit may not increase in any year by an amount greater than the dollar growth of the cash balance which occurred over the prior calendar year.

2. In May before the start of the upcoming contract year and in October during the contract year, the board shall publish in the Florida Administrative Weekly a statement of

1 | the fund's estimated borrowing capacity and the projected
2 | balance of the fund as of December 31. After the end of each
3 | calendar year, the board shall notify insurers of the
4 | estimated borrowing capacity and the balance of the fund as of
5 | December 31 to provide insurers with data necessary to assist
6 | them in determining their retention and projected payout from
7 | the fund for loss reimbursement purposes. In conjunction with
8 | the development of the premium formula, as provided for in
9 | subsection (5), the board shall publish factors or multiples
10 | that assist insurers in determining their retention and
11 | projected payout for the next contract year. For all
12 | regulatory and reinsurance purposes, an insurer may calculate
13 | its projected payout from the fund as its share of the total
14 | fund premium for the current contract year multiplied by the
15 | sum of the projected balance of the fund as of December 31 and
16 | the estimated borrowing capacity for that contract year as
17 | reported under this subparagraph.

18 | Section 2. Paragraph (b) of subsection (6) of section
19 | 627.351, Florida Statutes, is amended to read:

20 | 627.351 Insurance risk apportionment plans.--

21 | (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

22 | (b)1. All insurers authorized to write one or more
23 | subject lines of business in this state are subject to
24 | assessment by the corporation and, for the purposes of this
25 | subsection, are referred to collectively as "assessable
26 | insurers." Insurers writing one or more subject lines of
27 | business in this state pursuant to part VIII of chapter 626
28 | are not assessable insurers, but insureds who procure one or
29 | more subject lines of business in this state pursuant to part
30 | VIII of chapter 626 are subject to assessment by the
31 | corporation and are referred to collectively as "assessable

1 insureds." An authorized insurer's assessment liability shall
2 begin on the first day of the calendar year following the year
3 in which the insurer was issued a certificate of authority to
4 transact insurance for subject lines of business in this state
5 and shall terminate 1 year after the end of the first calendar
6 year during which the insurer no longer holds a certificate of
7 authority to transact insurance for subject lines of business
8 in this state.

9 2.a. All revenues, assets, liabilities, losses, and
10 expenses of the corporation shall be divided into three
11 separate accounts as follows:

12 (I) A personal lines account for personal residential
13 policies issued by the corporation or issued by the
14 Residential Property and Casualty Joint Underwriting
15 Association and renewed by the corporation that provide
16 comprehensive, multiperil coverage on risks that are not
17 located in areas eligible for coverage in the Florida
18 Windstorm Underwriting Association as those areas were defined
19 on January 1, 2002, and for such policies that do not provide
20 coverage for the peril of wind on risks that are located in
21 such areas;

22 (II) A commercial lines account for commercial
23 residential policies issued by the corporation or issued by
24 the Residential Property and Casualty Joint Underwriting
25 Association and renewed by the corporation that provide
26 coverage for basic property perils on risks that are not
27 located in areas eligible for coverage in the Florida
28 Windstorm Underwriting Association as those areas were defined
29 on January 1, 2002, and for such policies that do not provide
30 coverage for the peril of wind on risks that are located in
31 such areas; and

1 (III) A high-risk account for personal residential
2 policies and commercial residential and commercial
3 nonresidential property policies issued by the corporation or
4 transferred to the corporation that provide coverage for the
5 peril of wind on risks that are located in areas eligible for
6 coverage in the Florida Windstorm Underwriting Association as
7 those areas were defined on January 1, 2002. The high-risk
8 account must also include quota share primary insurance under
9 subparagraph (c)2. The area eligible for coverage under the
10 high-risk account also includes the area within Port
11 Canaveral, which is bordered on the south by the City of Cape
12 Canaveral, bordered on the west by the Banana River, and
13 bordered on the north by Federal Government property. The
14 office may remove territory from the area eligible for
15 wind-only and quota share coverage if, after a public hearing,
16 the office finds that authorized insurers in the voluntary
17 market are willing and able to write sufficient amounts of
18 personal and commercial residential coverage for all perils in
19 the territory, including coverage for the peril of wind, such
20 that risks covered by wind-only policies in the removed
21 territory could be issued a policy by the corporation in
22 either the personal lines or commercial lines account without
23 a significant increase in the corporation's probable maximum
24 loss in such account. Removal of territory from the area
25 eligible for wind-only or quota share coverage does not alter
26 the assignment of wind coverage written in such areas to the
27 high-risk account.

28 b. The three separate accounts must be maintained as
29 long as financing obligations entered into by the Florida
30 Windstorm Underwriting Association or Residential Property and
31 Casualty Joint Underwriting Association are outstanding, in

1 accordance with the terms of the corresponding financing
2 documents. When the financing obligations are no longer
3 outstanding, in accordance with the terms of the corresponding
4 financing documents, the corporation may use a single account
5 for all revenues, assets, liabilities, losses, and expenses of
6 the corporation.

7 c. Creditors of the Residential Property and Casualty
8 Joint Underwriting Association shall have a claim against, and
9 recourse to, the accounts referred to in sub-sub-subparagraphs
10 a.(I) and (II) and shall have no claim against, or recourse
11 to, the account referred to in sub-sub-subparagraph a.(III).
12 Creditors of the Florida Windstorm Underwriting Association
13 shall have a claim against, and recourse to, the account
14 referred to in sub-sub-subparagraph a.(III) and shall have no
15 claim against, or recourse to, the accounts referred to in
16 sub-sub-subparagraphs a.(I) and (II).

17 d. Revenues, assets, liabilities, losses, and expenses
18 not attributable to particular accounts shall be prorated
19 among the accounts.

20 e. The Legislature finds that the revenues of the
21 corporation are revenues that are necessary to meet the
22 requirements set forth in documents authorizing the issuance
23 of bonds under this subsection.

24 f. No part of the income of the corporation may inure
25 to the benefit of any private person.

26 3. With respect to a deficit in an account:

27 a. When the deficit incurred in a particular calendar
28 year is not greater than 10 percent of the aggregate statewide
29 direct written premium for the subject lines of business for
30 the prior calendar year, the entire deficit shall be recovered
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1 through regular assessments of assessable insurers under
2 paragraph (g) and assessable insureds.

3 b. When the deficit incurred in a particular calendar
4 year exceeds 10 percent of the aggregate statewide direct
5 written premium for the subject lines of business for the
6 prior calendar year, the corporation shall levy regular
7 assessments on assessable insurers under paragraph (g) and on
8 assessable insureds in an amount equal to the greater of 10
9 percent of the deficit or 10 percent of the aggregate
10 statewide direct written premium for the subject lines of
11 business for the prior calendar year. Any remaining deficit
12 shall be recovered through emergency assessments under
13 sub-subparagraph d.

14 c. Each assessable insurer's share of the amount being
15 assessed under sub-subparagraph a. or sub-subparagraph b.
16 shall be in the proportion that the assessable insurer's
17 direct written premium for the subject lines of business for
18 the year preceding the assessment bears to the aggregate
19 statewide direct written premium for the subject lines of
20 business for that year. The assessment percentage applicable
21 to each assessable insured is the ratio of the amount being
22 assessed under sub-subparagraph a. or sub-subparagraph b. to
23 the aggregate statewide direct written premium for the subject
24 lines of business for the prior year. Assessments levied by
25 the corporation on assessable insurers under sub-subparagraphs
26 a. and b. shall be paid as required by the corporation's plan
27 of operation and paragraph (g). Assessments levied by the
28 corporation on assessable insureds under sub-subparagraphs a.
29 and b. shall be collected by the surplus lines agent at the
30 time the surplus lines agent collects the surplus lines tax
31 required by s. 626.932 and shall be paid to the Florida

1 Surplus Lines Service Office at the time the surplus lines
2 agent pays the surplus lines tax to the Florida Surplus Lines
3 Service Office. Upon receipt of regular assessments from
4 surplus lines agents, the Florida Surplus Lines Service Office
5 shall transfer the assessments directly to the corporation as
6 determined by the corporation.

7 d. Upon a determination by the board of governors that
8 a deficit in an account exceeds the amount that will be
9 recovered through regular assessments under sub-subparagraph
10 a. or sub-subparagraph b., the board shall levy, after
11 verification by the office, emergency assessments, for as many
12 years as necessary to cover the deficits, to be collected by
13 assessable insurers and the corporation and collected from
14 assessable insureds upon issuance or renewal of policies for
15 subject lines of business, excluding National Flood Insurance
16 policies. The amount of the emergency assessment collected in
17 a particular year shall be a uniform percentage of that year's
18 direct written premium for subject lines of business and all
19 accounts of the corporation, excluding National Flood
20 Insurance Program policy premiums, as annually determined by
21 the board and verified by the office. The office shall verify
22 the arithmetic calculations involved in the board's
23 determination within 30 days after receipt of the information
24 on which the determination was based. Notwithstanding any
25 other provision of law, the corporation and each assessable
26 insurer that writes subject lines of business shall collect
27 emergency assessments from its policyholders without such
28 obligation being affected by any credit, limitation,
29 exemption, or deferment. Emergency assessments levied by the
30 corporation on assessable insureds shall be collected by the
31 surplus lines agent at the time the surplus lines agent

1 collects the surplus lines tax required by s. 626.932 and
2 shall be paid to the Florida Surplus Lines Service Office at
3 the time the surplus lines agent pays the surplus lines tax to
4 the Florida Surplus Lines Service Office. The emergency
5 assessments so collected shall be transferred directly to the
6 corporation on a periodic basis as determined by the
7 corporation and shall be held by the corporation solely in the
8 applicable account. The aggregate amount of emergency
9 assessments levied for an account under this sub-subparagraph
10 in any calendar year may not exceed the greater of 10 percent
11 of the amount needed to cover the original deficit, plus
12 interest, fees, commissions, required reserves, and other
13 costs associated with financing of the original deficit, or 10
14 percent of the aggregate statewide direct written premium for
15 subject lines of business and for all accounts of the
16 corporation for the prior year, plus interest, fees,
17 commissions, required reserves, and other costs associated
18 with financing the original deficit.

19 e. The corporation may pledge the proceeds of
20 assessments, projected recoveries from the Florida Hurricane
21 Catastrophe Fund, other insurance and reinsurance
22 recoverables, market equalization surcharges and other
23 surcharges, and other funds available to the corporation as
24 the source of revenue for and to secure bonds issued under
25 paragraph (g), bonds or other indebtedness issued under
26 subparagraph (c)3., or lines of credit or other financing
27 mechanisms issued or created under this subsection, or to
28 retire any other debt incurred as a result of deficits or
29 events giving rise to deficits, or in any other way that the
30 board determines will efficiently recover such deficits. The
31 purpose of the lines of credit or other financing mechanisms

1 is to provide additional resources to assist the corporation
2 in covering claims and expenses attributable to a catastrophe.
3 As used in this subsection, the term "assessments" includes
4 regular assessments under sub-subparagraph a.,
5 sub-subparagraph b., or subparagraph (g)1. and emergency
6 assessments under sub-subparagraph d. Emergency assessments
7 collected under sub-subparagraph d. are not part of an
8 insurer's rates, are not premium, and are not subject to
9 premium tax, fees, or commissions; however, failure to pay the
10 emergency assessment shall be treated as failure to pay
11 premium. The emergency assessments under sub-subparagraph d.
12 shall continue as long as any bonds issued or other
13 indebtedness incurred with respect to a deficit for which the
14 assessment was imposed remain outstanding, unless adequate
15 provision has been made for the payment of such bonds or other
16 indebtedness pursuant to the documents governing such bonds or
17 other indebtedness.

18 f. As used in this subsection, the term "subject lines
19 of business" means insurance written by assessable insurers or
20 procured by assessable insureds on real or personal property,
21 as defined in s. 624.604, including insurance for fire,
22 industrial fire, allied lines, farmowners multiperil,
23 homeowners multiperil, commercial multiperil, and mobile
24 homes, and including liability coverage on all such insurance,
25 but excluding inland marine as defined in s. 624.607(3) and
26 excluding vehicle insurance as defined in s. 624.605(1) other
27 than insurance on mobile homes used as permanent dwellings.

28 g. The Florida Surplus Lines Service Office shall
29 determine annually the aggregate statewide written premium in
30 subject lines of business procured by assessable insureds and
31 shall report that information to the corporation in a form and

1 at a time the corporation specifies to ensure that the
2 corporation can meet the requirements of this subsection and
3 the corporation's financing obligations.

4 h. The Florida Surplus Lines Service Office shall
5 verify the proper application by surplus lines agents of
6 assessment percentages for regular assessments and emergency
7 assessments levied under this subparagraph on assessable
8 insureds and shall assist the corporation in ensuring the
9 accurate, timely collection and payment of assessments by
10 surplus lines agents as required by the corporation.

11 i. The other provisions of this paragraph
12 notwithstanding, the maximum amount of deficits in all
13 accounts combined, attributable to losses from a single
14 calendar year, which may be recovered directly or indirectly
15 through any form of regular or emergency assessment under this
16 paragraph may not exceed \$8 billion.

17 Section 3. Except as otherwise expressly provided in
18 this act, this act shall take effect upon becoming a law.

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21 SENATE SUMMARY

22 Increases the capacity of the Florida Hurricane
23 Catastrophe Fund from \$15 billion to \$18 billion. Limits
24 the maximum amount of annual deficits of the Citizens
Property Insurance Corporation which may be recovered
through assessments to \$8 billion.