

Bill No. PCS for SB 1980 (070118)

Barcode 304604

CHAMBER ACTION

Senate

House

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The Committee on Banking and Insurance (Garcia) recommended  
the following amendment:

**Senate Amendment (with directory and title amendments)**

On page 12, line 14, through  
page 16, line 17, delete those lines

and insert:

(a) General provisions.--

1. Upon the occurrence of a hurricane and a  
determination that the moneys in the fund are or will be  
insufficient to pay reimbursement at the levels promised in  
the reimbursement contracts, the board may take the necessary  
steps under paragraph (c) or paragraph (d) for the issuance of  
revenue bonds for the benefit of the fund. The proceeds of  
such revenue bonds may be used to make reimbursement payments  
under reimbursement contracts; to refinance or replace  
previously existing borrowings or financial arrangements; to  
pay interest on bonds; to fund reserves for the bonds; to pay  
expenses incident to the issuance or sale of any bond issued  
under this section, including costs of validating, printing,

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1 and delivering the bonds, costs of printing the official  
2 statement, costs of publishing notices of sale of the bonds,  
3 and related administrative expenses; or for such other  
4 purposes related to the financial obligations of the fund as  
5 the board may determine. The term of the bonds may not exceed  
6 30 years. The board may pledge or authorize the corporation to  
7 pledge all or a portion of all revenues under subsection (5)  
8 and under paragraph (b) to secure such revenue bonds and the  
9 board may execute such agreements between the board and the  
10 issuer of any revenue bonds and providers of other financing  
11 arrangements under paragraph (7)(b) as the board deems  
12 necessary to evidence, secure, preserve, and protect such  
13 pledge. If reimbursement premiums received under subsection  
14 (5) or earnings on such premiums are used to pay debt service  
15 on revenue bonds, such premiums and earnings shall be used  
16 only after the use of the moneys derived from assessments  
17 under paragraph (b). The funds, credit, property, or taxing  
18 power of the state or political subdivisions of the state  
19 shall not be pledged for the payment of such bonds. The board  
20 may also enter into agreements under paragraph (c) or  
21 paragraph (d) for the purpose of issuing revenue bonds in the  
22 absence of a hurricane upon a determination that such action  
23 would maximize the ability of the fund to meet future  
24 obligations.

25           2. The Legislature finds and declares that the  
26 issuance of bonds under this subsection is for the public  
27 purpose of paying the proceeds of the bonds to insurers,  
28 thereby enabling insurers to pay the claims of policyholders  
29 to assure that policyholders are able to pay the cost of  
30 construction, reconstruction, repair, restoration, and other  
31 costs associated with damage to property of policyholders of

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1 covered policies after the occurrence of a hurricane. ~~Revenue~~  
2 ~~bonds may not be issued under this subsection until validated~~  
3 ~~under chapter 75. The validation of at least the first~~  
4 ~~obligations incurred pursuant to this subsection shall be~~  
5 ~~appealed to the Supreme Court, to be handled on an expedited~~  
6 ~~basis.~~

(b) Emergency assessments.--

8 1. If the board determines that the amount of revenue  
9 produced under subsection (5) is insufficient to fund the  
10 obligations, costs, and expenses of the fund and the  
11 corporation, including repayment of revenue bonds and that  
12 portion of the debt service coverage not met by reimbursement  
13 premiums, the board shall direct the Office of Insurance  
14 Regulation to levy, by order, an emergency assessment on  
15 direct premiums for all property and casualty lines of  
16 business in this state, including property and casualty  
17 business of surplus lines insurers regulated under part VIII  
18 of chapter 626, but not including any workers' compensation  
19 premiums or medical malpractice premiums. As used in this  
20 subsection, the term "property and casualty business" includes  
21 all lines of business identified on Form 2, Exhibit of  
22 Premiums and Losses, in the annual statement required of  
23 authorized insurers by s. 624.424 and any rule adopted under  
24 this section, except for those lines identified as accident  
25 and health insurance and except for policies written under the  
26 National Flood Insurance Program. The assessment shall be  
27 specified as a percentage of direct written ~~future~~ premium  
28 ~~collections~~ and is subject to annual adjustments by the board  
29 ~~to reflect changes in premiums subject to assessments~~  
30 ~~collected under this subparagraph~~ in order to meet debt  
31 obligations. The same percentage shall apply to all policies

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1 in lines of business subject to the assessment issued or  
2 renewed during the 12-month period beginning on the effective  
3 date of the assessment.

4           2. A premium is not subject to an annual assessment  
5 under this paragraph in excess of 6 percent of premium with  
6 respect to obligations arising out of losses attributable to  
7 any one contract year, and a premium is not subject to an  
8 aggregate annual assessment under this paragraph in excess of  
9 10 percent of premium. An annual assessment under this  
10 paragraph shall continue as long as ~~until~~ the revenue bonds  
11 issued with respect to which the assessment was imposed are  
12 outstanding, including any bonds the proceeds of which were  
13 used to refund the revenue bonds, unless adequate provision  
14 has been made for the payment of the bonds under the documents  
15 authorizing issuance of the bonds.

16           3. Emergency assessments shall be collected from  
17 policyholders. Emergency assessments shall be remitted by  
18 insurers as a percentage of direct written premium for the  
19 preceding calendar quarter as specified in the order from the  
20 Office of Insurance Regulation. ~~With respect to each insurer~~  
21 ~~collecting premiums that are subject to the assessment, the~~  
22 ~~insurer shall collect the assessment at the same time as it~~  
23 ~~collects the premium payment for each policy and shall remit~~  
24 ~~the assessment collected to the fund or corporation as~~  
25 ~~provided in the order issued by the Office of Insurance~~  
26 ~~Regulation.~~ The office shall verify the accurate and timely  
27 collection and remittance of emergency assessments and shall  
28 report the information to the board in a form and at a time  
29 specified by the board. Each insurer collecting assessments  
30 shall provide the information with respect to premiums and  
31 collections as may be required by the office to enable the

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1 office to monitor and verify compliance with this paragraph.

2           4. With respect to assessments of surplus lines  
3 premiums, each surplus lines agent shall collect the  
4 assessment at the same time as the agent collects the surplus  
5 lines tax required by s. 626.932, and the surplus lines agent  
6 shall remit the assessment to the Florida Surplus Lines  
7 Service Office created by s. 626.921 at the same time as the  
8 agent remits the surplus lines tax to the Florida Surplus  
9 Lines Service Office. The emergency assessment on each insured  
10 procuring coverage and filing under s. 626.938 shall be  
11 remitted by the insured to the Florida Surplus Lines Service  
12 Office at the time the insured pays the surplus lines tax to  
13 the Florida Surplus Lines Service Office. The Florida Surplus  
14 Lines Service Office shall remit the collected assessments to  
15 the fund or corporation as provided in the order levied by the  
16 Office of Insurance Regulation. The Florida Surplus Lines  
17 Service Office shall verify the proper application of such  
18 emergency assessments and shall assist the board in ensuring  
19 the accurate and timely collection and remittance of  
20 assessments as required by the board. The Florida Surplus  
21 Lines Service Office shall annually calculate the aggregate  
22 written premium on property and casualty business, other than  
23 workers' compensation and medical malpractice, procured  
24 through surplus lines agents and insureds procuring coverage  
25 and filing under s. 626.938 and shall report the information  
26 to the board in a form and at a time specified by the board.

27           5. Any assessment authority not used for a particular  
28 contract year may be used for a subsequent contract year. If,  
29 for a subsequent contract year, the board determines that the  
30 amount of revenue produced under subsection (5) is  
31 insufficient to fund the obligations, costs, and expenses of

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1 the fund and the corporation, including repayment of revenue  
 2 bonds and that portion of the debt service coverage not met by  
 3 reimbursement premiums, the board shall direct the Office of  
 4 Insurance Regulation to levy an emergency assessment up to an  
 5 amount not exceeding the amount of unused assessment authority  
 6 from a previous contract year or years, plus an additional 4  
 7 percent provided that the assessments in the aggregate do not  
 8 exceed the limits specified in subparagraph 2.

9           6. The assessments otherwise payable to the  
 10 corporation under this paragraph shall be paid to the fund  
 11 unless and until the Office of Insurance Regulation and the  
 12 Florida Surplus Lines Service Office have received from the  
 13 corporation and the fund a notice, which shall be conclusive  
 14 and upon which they may rely without further inquiry, that the  
 15 corporation has issued bonds and the fund has no agreements in  
 16 effect with local governments under paragraph (c). On or after  
 17 the date of the notice and until the date the corporation has  
 18 no bonds outstanding, the fund shall have no right, title, or  
 19 interest in or to the assessments, except as provided in the  
 20 fund's agreement with the corporation.

21           7. Emergency assessments are not premium and are not  
 22 subject to the premium tax, to the surplus lines tax, to any  
 23 fees, or to any commissions. An insurer is liable for all  
 24 assessments that it collects and must treat the failure of an  
 25 insured to pay an assessment as a failure to pay the premium.  
 26 An insurer is not liable for uncollectible assessments.

27           8. When an insurer is required to return an unearned  
 28 premium, it shall also return any collected assessment  
 29 attributable to the unearned premium. A credit adjustment to  
 30 the collected assessment may be made by the insurer with  
 31 regard to future remittances that are payable to the fund or

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1 corporation, but the insurer is not entitled to a refund.

2           9. When a surplus lines insured or an insured who has  
3 procured coverage and filed under s. 626.938 is entitled to  
4 the return of an unearned premium, the Florida Surplus Lines  
5 Service Office shall provide a credit or refund to the agent  
6 or such insured for the collected assessment attributable to  
7 the unearned premium prior to remitting the emergency  
8 assessment collected to the fund or corporation.

9           10. The exemption of medical malpractice insurance  
10 premiums from emergency assessments under this paragraph is  
11 repealed May 31, 2007, and medical malpractice insurance  
12 premiums shall be subject to emergency assessments  
13 attributable to loss events occurring in the contract years  
14 commencing on June 1, 2007.

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17 ===== D I R E C T O R Y   C L A U S E   A M E N D M E N T =====

18 And the directory clause is amended as follows:

19           On page 8, lines 20 and 21, delete those lines

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21 and insert: paragraph (b) of subsection (5), and paragraphs  
22 (a) and (b) of subsection (6) of section 215.555, Florida  
23 Statutes, are

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26 ===== T I T L E   A M E N D M E N T =====

27 And the title is amended as follows:

28           On page 1, line 6, after the semicolon,

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30 insert:

31           deleting a requirement that bonds be validated;