

1 legislative findings and purposes; providing
2 for issuance of revenue bonds through counties
3 and municipalities to fund assistance programs
4 for paying covered claims for hurricane damage;
5 providing procedures, requirements, and
6 limitations for counties, municipalities, and
7 the Florida Insurance Guaranty Association,
8 Inc., relating to issuance and validation of
9 such bonds; prohibiting pledging the funds,
10 credit, property, and taxing power of the
11 state, counties, and municipalities for payment
12 of bonds; specifying authorized uses of bond
13 proceeds; limiting the term of bonds;
14 specifying a state covenant to protect
15 bondholders from adverse actions relating to
16 such bonds; specifying exemptions for bonds,
17 notes, and other obligations of counties and
18 municipalities from certain taxes or
19 assessments on property and revenues;
20 authorizing counties and municipalities to
21 create a legal entity to exercise certain
22 powers; requiring the association to issue an
23 annual report on the status of certain uses of
24 bond proceeds; providing report requirements;
25 requiring the association to provide a copy of
26 the report to the Legislature and Chief
27 Financial Officer; prohibiting repeal of
28 certain provisions relating to certain bonds
29 under certain circumstances; providing
30 severability; providing an effective date.

31

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

2

3 Section 1. Paragraph (f) is added to subsection (2) of
4 section 631.181, Florida Statutes, to read:

5 631.181 Filing and proof of claim.--

6 (2)

7 (f) The signed statement required by this section
8 shall not be required on claims for which adequate claims file
9 documentation exists within the records of the insolvent
10 insurer. Claims for payment of unearned premium shall not be
11 required to use the signed statement required by this section
12 if the receiver certifies to the guaranty fund that the
13 records of the insolvent insurer are sufficient to determine
14 the amount of unearned premium owed to each policyholder of
15 the insurer and such information is remitted to the guaranty
16 fund by the receiver in electronic or other mutually
17 agreed-upon format.

18 Section 2. Subsection (3) of section 631.54, Florida
19 Statutes, is amended to read:

20 631.54 Definitions.--As used in this part:

21 (3) "Covered claim" means an unpaid claim, including
22 one of unearned premiums, which arises out of, and is within
23 the coverage, and not in excess of, the applicable limits of
24 an insurance policy to which this part applies, issued by an
25 insurer, if such insurer becomes an insolvent insurer and the
26 claimant or insured is a resident of this state at the time of
27 the insured event or the property from which the claim arises
28 is permanently located in this state. For entities other than
29 individuals, the residence of a claimant, insured, or
30 policyholder is the state in which the entity's principal
31

1 place of business is located at the time of the insured event.

2 "Covered claim" shall not include:

3 (a) Any amount due any reinsurer, insurer, insurance
4 pool, or underwriting association, sought directly or
5 indirectly through a third party, as subrogation,
6 contribution, indemnification, or otherwise; or

7 (b) Any claim that would otherwise be a covered claim
8 under this part that has been rejected by any other state
9 guaranty fund on the grounds that an insured's net worth is
10 greater than that allowed under that state's guaranty law.
11 Member insurers shall have no right of subrogation,
12 contribution, indemnification, or otherwise, sought directly
13 or indirectly through a third party, against the insured of
14 any insolvent member.

15 Section 3. Paragraph (a) of subsection (1), paragraph
16 (d) of subsection (2), and paragraph (a) of subsection (3) of
17 section 631.57, Florida Statutes, are amended, and paragraph
18 (e) is added to subsection (3) of that section, to read:

19 631.57 Powers and duties of the association.--

20 (1) The association shall:

21 (a)1. Be obligated to the extent of the covered claims
22 existing:

23 a. Prior to adjudication of insolvency and arising
24 within 30 days after the determination of insolvency;

25 b. Before the policy expiration date if less than 30
26 days after the determination; or

27 c. Before the insured replaces the policy or causes
28 its cancellation, if she or he does so within 30 days of the
29 determination.

30 2.a. The obligation under subparagraph 1. shall
31 include only that amount of each covered claim which is in

1 excess of \$100 and is less than \$300,000, except with respect
2 to policies covering condominium associations or homeowners'
3 associations, which associations have a responsibility to
4 provide insurance coverage on residential units within the
5 association, the obligation shall include that amount of each
6 covered property insurance claim which is less than \$100,000
7 multiplied by the number of condominium units or other
8 residential units; however, as to homeowners' associations,
9 this ~~sub-subparagraph~~ ~~subparagraph~~ applies only to claims for
10 damage or loss to residential units and structures attached to
11 residential units.

12 b. Notwithstanding sub-subparagraph a., the
13 association has no obligation to pay covered claims that are
14 to be paid from the proceeds of bonds issued under s. 631.695.
15 However, the association shall assign and pledge the first
16 available moneys from all or part of the assessments to be
17 made under paragraph (3)(a) to or on behalf of the issuer of
18 such bonds for the benefit of the holders of such bonds. The
19 association shall administer any such covered claims and
20 present valid covered claims for payment in accordance with
21 the provisions of the assistance program in connection with
22 which such bonds have been issued.

23 3. In no event shall the association be obligated to a
24 policyholder or claimant in an amount in excess of the
25 obligation of the insolvent insurer under the policy from
26 which the claim arises.

27 (2) The association may:
28 (d) Negotiate and become a party to such contracts as
29 are necessary to carry out the purpose of this part.
30 Additionally, the association may enter into such contracts
31 with a municipality, a county, or a legal entity created

1 pursuant to s. 163.01(7)(g) as are necessary in order for the
2 municipality, county, or legal entity to issue bonds under s.
3 631.695. In connection with the issuance of any such bonds and
4 the entering into of any such necessary contracts, the
5 association may agree to such terms and conditions as the
6 association deems necessary and proper.

7 (3)(a) To the extent necessary to secure the funds for
8 the respective accounts for the payment of covered claims, ~~and~~
9 ~~also~~ to pay the reasonable costs to administer the same, and
10 to secure the funds for the account specified in s.
11 631.55(2)(c), or to retire indebtedness, including, without
12 limitation, the principal, redemption premium, if any, and
13 interest on, and related costs of issuance of, bonds issued
14 under s. 631.695, and the funding of any reserves and other
15 payments required under the bond resolution or trust indenture
16 pursuant to which such bonds have been issued, the office,
17 upon certification of the board of directors, shall levy
18 assessments in the proportion that each insurer's net direct
19 written premiums in this state in the classes protected by the
20 account bears to the total of said net direct written premiums
21 received in this state by all such insurers for the preceding
22 calendar year for the kinds of insurance included within such
23 account. Assessments shall be remitted to and administered by
24 the board of directors in the manner specified by the approved
25 plan. Each insurer so assessed shall have at least 30 days'
26 written notice as to the date the assessment is due and
27 payable. Every assessment shall be made as a uniform
28 percentage applicable to the net direct written premiums of
29 each insurer in the kinds of insurance included within the
30 account in which the assessment is made. The assessments
31 levied against any insurer shall not exceed in any one year

1 | more than 2 percent of that insurer's net direct written
2 | premiums in this state for the kinds of insurance included
3 | within such account during the calendar year next preceding
4 | the date of such assessments.

5 | (e)1.a. In addition to assessments otherwise
6 | authorized in paragraph (a) and to the extent necessary to
7 | secure the funds for the account specified in s. 631.55(2)(c),
8 | or to retire indebtedness, including, without limitation, the
9 | principal, redemption premium, if any, and interest on, and
10 | related costs of issuance of, bonds issued under s. 631.695,
11 | and the funding of any reserves and other payments required
12 | under the bond resolution or trust indenture pursuant to which
13 | such bonds have been issued, the department, upon
14 | certification of the board of directors, shall levy emergency
15 | assessments as provided in this paragraph upon insurers
16 | holding a certificate of authority. The emergency assessments
17 | payable under this paragraph by any insurer shall not exceed
18 | in any single year more than 2 percent of that insurer's
19 | direct written premiums, net of refunds, in this state during
20 | the preceding calendar year for the kinds of insurance within
21 | the account specified in s. 631.55(2)(c).

22 | b. Any emergency assessments authorized under this
23 | paragraph shall be levied by the department upon insurers
24 | holding a certificate of authority, upon certification as to
25 | the need for such assessments by the board of directors, in
26 | each year that bonds issued under s. 631.695 and secured by
27 | such emergency assessments are outstanding, in such amounts up
28 | to such 2-percent limit as required in order to provide for
29 | the full and timely payment of the principal of, redemption
30 | premium, if any, and interest on, and related costs of
31 | issuance of, such bonds. The emergency assessments provided

1 for in this paragraph are assigned and pledged to the
2 municipality, county, or legal entity issuing bonds under s.
3 631.695, for the benefit of the holders of such bonds, in
4 order to enable such municipality, county, or legal entity to
5 provide for the payment of the principal of, redemption
6 premium, if any, and interest on such bonds, the cost of
7 issuance of such bonds, and the funding of any reserves and
8 other payments required under the bond resolution or trust
9 indenture pursuant to which such bonds have been issued,
10 without the necessity of any further action by the
11 association, the department, or any other party. To the extent
12 that bonds are issued under s. 631.695 and the association
13 determines to secure such bonds by a pledge of revenues
14 received from the emergency assessments, such bonds, upon such
15 pledge of revenues, shall be secured by and payable from the
16 proceeds of such emergency assessments, and the proceeds of
17 emergency assessments levied under this paragraph shall be
18 remitted directly to and administered by the trustee or
19 custodian appointed for such bonds.

20 c. Emergency assessments under this paragraph may be
21 payable in a single payment or, at the option of the
22 association, may be payable in 12 monthly installments with
23 the first installment being due and payable at the end of the
24 month after an emergency assessment is levied and subsequent
25 installments being due not later than the end of each
26 succeeding month.

27 d. If emergency assessments are imposed, the report
28 required by s. 631.695(7) shall include an analysis of the
29 revenues generated from the emergency assessments imposed
30 under this paragraph.

31

1 e. If emergency assessments are imposed, the
2 references in paragraph (1)(b) and s. 631.695(2) and (7) to
3 assessments levied under paragraph (3)(a) shall include
4 emergency assessments levied under this paragraph.

5 2. In order to ensure that insurers paying emergency
6 assessments levied under this paragraph continue to charge
7 rates that are neither inadequate nor excessive, within 90
8 days after being notified of such assessments, each insurer
9 that is to be assessed pursuant to this paragraph shall submit
10 a rate filing for coverage included within the account
11 specified in s. 631.55(2)(c) and for which rates are required
12 to be filed under s. 627.062. If the filing reflects a rate
13 change that, as a percentage, is equal to the difference
14 between the rate of such assessment and the rate of the
15 previous year's assessment under this paragraph, the filing
16 shall consist of a certification so stating and shall be
17 deemed approved when made. Any rate change of a different
18 percentage shall be subject to the standards and procedures of
19 s. 627.062.

20 3. An annual assessment under this paragraph shall
21 continue while the bonds issued with respect to which the
22 assessment was imposed are outstanding, including any bonds
23 the proceeds of which were used to refund bonds issued
24 pursuant to s. 631.695, unless adequate provision has been
25 made for the payment of the bonds in the documents authorizing
26 the issuance of such bonds.

27 4. Emergency assessments under this paragraph are not
28 premium and are not subject to the premium tax, to any fees,
29 or to any commissions. An insurer is liable for all emergency
30 assessments that the insurer collects and shall treat the
31 failure of an insured to pay an emergency assessment as a

1 failure to pay the premium. An insurer is not liable for
2 uncollectible emergency assessments.

3 Section 4. Section 631.695, Florida Statutes, is
4 created to read:

5 631.695 Revenue bond issuance through counties or
6 municipalities.--

7 (1) The Legislature finds:

8 (a) The potential for widespread and massive damage to
9 persons and property caused by hurricanes making landfall in
10 this state can generate insurance claims of such a number as
11 to render numerous insurers operating within this state
12 insolvent and therefore unable to satisfy covered claims.

13 (b) The inability of insureds within this state to
14 receive payment of covered claims or to timely receive such
15 payment creates financial and other hardships for such
16 insureds and places undue burdens on the state, the affected
17 units of local government, and the community at large.

18 (c) In addition, the failure of insurers to pay
19 covered claims or to timely pay such claims due to the
20 insolvency of such insurers can undermine the public's
21 confidence in insurers operating within this state, thereby
22 adversely affecting the stability of the insurance industry in
23 this state.

24 (d) The state has previously taken action to address
25 these problems by adopting the Florida Insurance Guaranty
26 Association Act, which, among other things, provides a
27 mechanism for the payment of covered claims under certain
28 insurance policies to avoid excessive delay in payment and to
29 avoid financial loss to claimants or policyholders because of
30 the insolvency of an insurer.

31

1 (e) In the wake of the unprecedented destruction
2 caused by various hurricanes that have made landfall in this
3 state, the resultant covered claims, and the number of
4 insurers rendered insolvent thereby, it is evident that
5 alternative programs must be developed to allow the Florida
6 Insurance Guaranty Association, Inc., to more expeditiously
7 and effectively provide for the payment of covered claims.

8 (f) It is therefore determined to be in the best
9 interests of, and necessary for, the protection of the public
10 health, safety, and general welfare of the residents of this
11 state, and for the protection and preservation of the economic
12 stability of insurers operating in this state, and it is
13 declared to be an essential public purpose, to permit certain
14 municipalities and counties to take such actions as will
15 provide relief to claimants and policyholders having covered
16 claims against insolvent insurers operating in this state by
17 expediting the handling and payment of covered claims.

18 (g) To achieve the foregoing purposes, it is proper to
19 authorize municipalities and counties of this state
20 substantially affected by the landfall of a category 1 or
21 greater hurricane to issue bonds to assist the Florida
22 Insurance Guaranty Association, Inc., in expediting the
23 handling and payment of covered claims of insolvent insurers.

24 (h) In order to avoid the needless and indiscriminate
25 proliferation, duplication, and fragmentation of such
26 assistance programs, it is in the best interests of the
27 residents of this state to authorize municipalities and
28 counties severely affected by a category 1 or greater
29 hurricane to provide for the payment of covered claims beyond
30 their territorial limits in the implementation of such
31 programs.

1 (i) It is a paramount public purpose for
2 municipalities and counties substantially affected by the
3 landfall of a category 1 or greater hurricane to be able to
4 issue bonds for the purposes described in this section. Such
5 issuance shall provide assistance to residents of those
6 municipalities and counties as well as to other residents of
7 this state.

8 (2) The governing body of any municipality or county
9 the residents of which have been substantially affected by a
10 category 1 or greater hurricane may issue bonds to fund an
11 assistance program in conjunction with, and with the consent
12 of, the Florida Insurance Guaranty Association, Inc., for the
13 purpose of paying claimants' or policyholders' covered claims
14 as defined in s. 631.54 arising through the insolvency of an
15 insurer, which insolvency is determined by the Florida
16 Insurance Guaranty Association, Inc., to have been a result of
17 a category 1 or greater hurricane, regardless of whether such
18 claimants or policyholders are residents of such municipality
19 or county or the property to which such claim relates is
20 located within or outside the territorial jurisdiction of such
21 municipality or county. The power of a municipality or county
22 to issue bonds as described in this section is in addition to
23 any powers granted by law and may not be abrogated or
24 restricted by any provisions in such municipality's or
25 county's charter. A municipality or county issuing bonds for
26 this purpose shall enter into such contracts with the Florida
27 Insurance Guaranty Association, Inc., or any entity acting on
28 behalf of the Florida Insurance Guaranty Association, Inc., as
29 are necessary to implement the assistance program. Any bonds
30 issued by a municipality or county or combination thereof
31 under this subsection shall be payable from and secured by

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

8 (3) Bonds may be validated by such municipality or
9 county pursuant to chapter 75. The proceeds of such bonds may
10 be used to pay covered claims of insolvent insurers; to
11 refinance or replace previously existing borrowings or
12 financial arrangements; to pay interest on bonds; to fund
13 reserves for the bonds; to pay expenses incident to the
14 issuance or sale of any bond issued under this section,
15 including costs of validating, printing, and delivering the
16 bonds, costs of printing the official statement, costs of
17 publishing notices of sale of the bonds, costs of obtaining
18 credit enhancement or liquidity support, and related
19 administrative expenses; or for such other purposes related to
20 the financial obligations of the fund as the association may
21 determine. The term of the bonds may not exceed 30 years.

22 (4) The state covenants with holders of bonds of the
23 assistance program that the state will not take any action
24 that will have a material adverse effect on such holders and
25 will not repeal or abrogate the power of the board of
26 directors of the association to direct the Office of Insurance
27 Regulation to levy the assessments and to collect the proceeds
28 of the revenues pledged to the payment of such bonds as long
29 as any such bonds remain outstanding unless adequate provision
30 has been made for the payment of such bonds in the documents
31 authorizing the issuance of such bonds.

1 (5) The accomplishment of the authorized purposes of
2 such municipality or county under this section is in all
3 respects for the benefit of the people of the state, for the
4 increase of their commerce and prosperity, and for the
5 improvement of their health and living conditions. Such
6 municipality or county, in performing essential governmental
7 functions in accomplishing its purposes, is not required to
8 pay any taxes or assessments of any kind whatsoever upon any
9 property acquired or used by the county or municipality for
10 such purposes or upon any revenues at any time received by the
11 county or municipality. The bonds, notes, and other
12 obligations of such municipality or county, and the transfer
13 of and income from such bonds, notes, and other obligations,
14 including any profits made on the sale of such bonds, notes,
15 and other obligations, are exempt from taxation of any kind by
16 the state or by any political subdivision or other agency or
17 instrumentality of the state. The exemption granted in this
18 subsection is not applicable to any tax imposed by chapter 220
19 on interest, income, or profits on debt obligations owned by
20 corporations.

21 (6) Two or more municipalities or counties the
22 residents of which have been substantially affected by a
23 category 1 or greater hurricane may create a legal entity
24 pursuant to s. 163.01(7)(g) to exercise the powers described
25 in this section as well as those powers granted in s.
26 163.01(7)(g). Reference in this section to a municipality or
27 county includes such legal entity.

28 (7) The association shall issue an annual report on
29 the status of the use of bond proceeds as related to
30 insolvencies caused by hurricanes. The report must contain the
31 number and amount of claims paid. The association shall also

1 include an analysis of the revenue generated from the
2 assessment levied under s. 631.57(3)(a) to pay such bonds. The
3 association shall submit a copy of the report to the President
4 of the Senate, the Speaker of the House of Representatives,
5 and the Chief Financial Officer within 90 days after the end
6 of each calendar year in which bonds were outstanding.

7 Section 5. No provision of s. 631.57 or s. 631.695,
8 Florida Statutes, shall be repealed until such time as the
9 principal, redemption premium, if any, and interest on all
10 bonds issued under s. 631.695, Florida Statutes, payable and
11 secured from assessments levied under s. 631.57(3)(a), Florida
12 Statutes, have been paid in full or adequate provision for
13 such payment has been made in accordance with the bond
14 resolution or trust indenture pursuant to which such bonds
15 were issued.

16 Section 6. If any provision of this act or the
17 application thereof to any person or circumstance is held
18 invalid, the invalidity shall not affect other provisions or
19 applications of the act which can be given effect without the
20 invalid provision or application, and to this end the
21 provisions of this act are declared severable.

22 Section 7. This act shall take effect upon becoming a
23 law.

24
25
26
27
28
29
30
31