The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the General Government Appropriations Committee

BILL: PCS for SB 28-A

INTRODUCER: General Government Appropriations and Senator Baker

SUBJECT: Capital Build-Up Incentive Program

DATE: January 6, 2009 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kynoch	DeLoach	GA	**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

The bill directs the State Board of Administration to transfer to the General Revenue Fund, all repayments of principal, interest, and late fees received from insurers participating in the Insurance Capital Build-Up Incentive Program.

By June 30, 2009, it is estimated the transfers will increase the General Revenue Fund by $36.7 million. This amount is comprised of the estimated $34.7 million cash on hand January 2009 and a $2 million interest payment receivable due April 2009. Repayments from insurer for surplus notes continues until Fiscal Year 2027-2028. Beginning Fiscal Year 2008-2009, it is anticipated the repayment stream will provide the General Revenue Fund approximately $25.6 million on a recurring basis.

The bill substantially amends section 215.5595(2)(f), Florida Statutes.

II. Present Situation:

Property Insurance Legislation in 2006

Following the hurricanes of 2004 and 2005, the Legislature in 2006 established the Insurance Capital Build-Up Incentive Program in ch. 2006-12, L.O.F., and appropriated $250 million in non-recurring general revenue to the State Board of Administration (SBA) for the program. The program provides for the lending of state funds in the form of surplus notes to authorized residential property insurers that commit to writing increased residential coverage at specified levels. The maximum dollar amount of a surplus note issued under the program is $25 million.

The surplus note is repayable to the state with a 20-year term at the 10-year U.S. Treasury Bond interest rate, with interest only payments during the first three years.

Insurers applying for a surplus note prior to June 1, 2007, were required to contribute new capital to its surplus equal to the amount of the surplus note. Insurers applying after that date but before June 1, 2008, were limited to a surplus note equal to one-half of its new capital contribution. The insurer's surplus, new capital, and the surplus note must total at least $50 million. In addition, the insurer must commit to meeting a minimum writing ratio of net written premium-to-surplus of at least two-to-one for the term of the surplus note, for residential property insurance in Florida that covers the peril of wind.

In 2007, ch. 2007-090, L.O.F., revised the conditions for insurers writing a specified amount of manufactured housing residential property insurance.

In 2008, ch. 2008-66, L.O.F., revised the minimum premiums that the insurer must commit to write, by adding a minimum *gross* premium-to-surplus ratio requirement, as an alternative to the previous *net* premium-to-surplus writing ratio requirement. Gross premiums include the reinsurance premiums that the insurer pays (cedes) to a reinsurer, whereas net premiums do not. For each of the first three years of the surplus note, an insurer must write at least 15 percent of its premiums for new policies for policies taken out of Citizens Property Insurance Corporation (Citizens).

Further, the program was revised such that additional surplus notes could be executed by the SBA. Insurers applying by September 1, 2008, were eligible for a surplus note loan equal to the amount of new capital that an insurer contributed. Insurers that applied after September 1 but before June 1, 2009, could apply for a surplus note equal to one-half of the amount of new capital that the insurer contributes. To fund the program, Citizens was directed to transfer $250 million from its personal lines account and commercial lines account to the General Revenue Fund on December 15, 2008, unless the estimated year-end surplus in the Personal Lines Account and the Commercial Lines Account was less than $1 billion. The State Board of Administration (SBA), beginning July 1, 2009, was to make quarterly transfers to Citizens of interest and principal payments for surplus notes that were funded by appropriations from Citizens in Fiscal Year 2008-2009. Citizens was prohibited from using any of the amendments to the Insurance Capital Build-Up Program or any transfer of funds as justification or cause in seeking any rate or assessment increase. However, this provision did not limit the amount of an assessment that may be greater due to the transfer of these funds. The SBA was directed to transfer to Citizens on January 15, 2009, uncommitted or unreserved funds that were funded by transfers from Citizens.

Section 16 of ch. 2008-66, L.O.F., which directed the transfer of $250 million from Citizens to the General Revenue Fund was vetoed by the Governor. Section 78 of ch. 2008-152, L.O.F., appropriated $250 million in nonrecurring general revenue for the Capital Insurance Build-Up Incentive Program, contingent upon the transfer of funds from Citizens. This section was also vetoed by the Governor.

As of June 2007, the full initial appropriation of $250 million for the Capital Build-Up Incentive Program has been utilized, including $247.5 million in loans to thirteen qualifying insurers and

$2.5 million in administrative costs. These insurers have contributed a combined $296 million in new capital to their surplus amounts, resulting in $543.5 million in new capital introduced into the Florida market. The thirteen companies pledged to write a total of 1,713,135 new policies pursuant to the terms of the program.

As of January 2009, the SBA has received approximately $34.7 million in repayments of interest and late fees from insurers participating in the program.

III. Effect of Proposed Changes:

Section 1 amends s. 215.5595(2)(f), F.S., requiring the State Board of Administration to transfer all repayments of principal, interest, and late fees received from insurers participating in the Capital Insurance Build-Up Incentive Program to General Revenue Fund within 30 days of receipt.

Section 2 provides that this act shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The State Board of Administration is directed to transfer to the General Revenue Fund all funds received as repayment of principal and interest on surplus note loans issued under the Insurance Capital Build-Up Incentive Program.

By June 30, 2009, it is estimated the transfers will increase the General Revenue Fund by $36.7 million. This amount is comprised of the estimated $34.7 million cash on hand

January 2009 and a $2 million interest payment receivable due April 2009. Repayments from insurer for surplus notes continues until Fiscal Year 2027-2028. Beginning Fiscal Year 2008-2009, it is anticipated the repayment stream will provide the General Revenue Fund approximately $25.6 million on a recurring basis.

An additional $1.2 million will remain invested by the State Board of Administration until such time as the restrictions on the Commingled Asset Management Program-Money Market Account are lifted.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.