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LEGISLATIVE ACTION

Senate

House

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Floor: WD/2R

04/23/2010 02:12 PM

Senator Aronberg moved the following:

1 **Senate Amendment to Amendment (425822) (with title**
2 **amendment)**

3
4 Between lines 51 and 52
5 insert:

6 Section 2. Paragraph (b) of subsection (6) of section
7 215.555, Florida Statutes, is amended to read:

8 215.555 Florida Hurricane Catastrophe Fund.—

9 (6) REVENUE BONDS.—

10 (b) *Emergency assessments*.—

11 1. If the board determines that the amount of revenue
12 produced under subsection (5) is insufficient to fund the
13 obligations, costs, and expenses of the fund and the



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14 corporation, including repayment of revenue bonds and that
15 portion of the debt service coverage not met by reimbursement
16 premiums, the board shall direct the Office of Insurance
17 Regulation to levy, by order, an emergency assessment on direct
18 premiums for all property and casualty lines of business in this
19 state, including property and casualty business of surplus lines
20 insurers regulated under part VIII of chapter 626, but not
21 including any workers' compensation premiums or medical
22 malpractice premiums. As used in this subsection, the term
23 "property and casualty business" includes all lines of business
24 identified on Form 2, Exhibit of Premiums and Losses, in the
25 annual statement required of authorized insurers by s. 624.424
26 and any rule adopted under this section, except for those lines
27 identified as accident and health insurance and except for
28 policies written under the National Flood Insurance Program. The
29 assessment shall be specified as a percentage of direct written
30 premium and is subject to annual adjustments by the board in
31 order to meet debt obligations. The same percentage shall apply
32 to all policies in lines of business subject to the assessment
33 issued or renewed during the 12-month period beginning on the
34 effective date of the assessment.

35 2. A premium is not subject to an annual assessment under
36 this paragraph in excess of 6 percent of premium with respect to
37 obligations arising out of losses attributable to any one
38 contract year, and a premium is not subject to an aggregate
39 annual assessment under this paragraph in excess of 10 percent
40 of premium. An annual assessment under this paragraph shall
41 continue as long as the revenue bonds issued with respect to
42 which the assessment was imposed are outstanding, including any



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43 bonds the proceeds of which were used to refund the revenue
44 bonds, unless adequate provision has been made for the payment
45 of the bonds under the documents authorizing issuance of the
46 bonds.

47 3. Emergency assessments shall be collected from
48 policyholders. Emergency assessments shall be remitted by
49 insurers as a percentage of direct written premium for the
50 preceding calendar quarter as specified in the order from the
51 Office of Insurance Regulation. The office shall verify the
52 accurate and timely collection and remittance of emergency
53 assessments and shall report the information to the board in a
54 form and at a time specified by the board. Each insurer
55 collecting assessments shall provide the information with
56 respect to premiums and collections as may be required by the
57 office to enable the office to monitor and verify compliance
58 with this paragraph.

59 4. With respect to assessments of surplus lines premiums,
60 each surplus lines agent shall collect the assessment at the
61 same time as the agent collects the surplus lines tax required
62 by s. 626.932, and the surplus lines agent shall remit the
63 assessment to the Florida Surplus Lines Service Office created
64 by s. 626.921 at the same time as the agent remits the surplus
65 lines tax to the Florida Surplus Lines Service Office. The
66 emergency assessment on each insured procuring coverage and
67 filing under s. 626.938 shall be remitted by the insured to the
68 Florida Surplus Lines Service Office at the time the insured
69 pays the surplus lines tax to the Florida Surplus Lines Service
70 Office. The Florida Surplus Lines Service Office shall remit the
71 collected assessments to the fund or corporation as provided in



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72 the order levied by the Office of Insurance Regulation. The
73 Florida Surplus Lines Service Office shall verify the proper
74 application of such emergency assessments and shall assist the
75 board in ensuring the accurate and timely collection and
76 remittance of assessments as required by the board. The Florida
77 Surplus Lines Service Office shall annually calculate the
78 aggregate written premium on property and casualty business,
79 other than workers' compensation and medical malpractice,
80 procured through surplus lines agents and insureds procuring
81 coverage and filing under s. 626.938 and shall report the
82 information to the board in a form and at a time specified by
83 the board.

84 5. Any assessment authority not used for a particular
85 contract year may be used for a subsequent contract year. If,
86 for a subsequent contract year, the board determines that the
87 amount of revenue produced under subsection (5) is insufficient
88 to fund the obligations, costs, and expenses of the fund and the
89 corporation, including repayment of revenue bonds and that
90 portion of the debt service coverage not met by reimbursement
91 premiums, the board shall direct the Office of Insurance
92 Regulation to levy an emergency assessment up to an amount not
93 exceeding the amount of unused assessment authority from a
94 previous contract year or years, plus an additional 4 percent
95 provided that the assessments in the aggregate do not exceed the
96 limits specified in subparagraph 2.

97 6. The assessments otherwise payable to the corporation
98 under this paragraph shall be paid to the fund unless and until
99 the Office of Insurance Regulation and the Florida Surplus Lines
100 Service Office have received from the corporation and the fund a



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101 notice, which shall be conclusive and upon which they may rely
102 without further inquiry, that the corporation has issued bonds
103 and the fund has no agreements in effect with local governments
104 under paragraph (c). On or after the date of the notice and
105 until the date the corporation has no bonds outstanding, the
106 fund shall have no right, title, or interest in or to the
107 assessments, except as provided in the fund's agreement with the
108 corporation.

109 7. Emergency assessments are not premium and are not
110 subject to the premium tax, to the surplus lines tax, to any
111 fees, or to any commissions. An insurer is liable for all
112 assessments that it collects and must treat the failure of an
113 insured to pay an assessment as a failure to pay the premium. An
114 insurer is not liable for uncollectible assessments.

115 8. When an insurer is required to return an unearned
116 premium, it shall also return any collected assessment
117 attributable to the unearned premium. A credit adjustment to the
118 collected assessment may be made by the insurer with regard to
119 future remittances that are payable to the fund or corporation,
120 but the insurer is not entitled to a refund.

121 9. When a surplus lines insured or an insured who has
122 procured coverage and filed under s. 626.938 is entitled to the
123 return of an unearned premium, the Florida Surplus Lines Service
124 Office shall provide a credit or refund to the agent or such
125 insured for the collected assessment attributable to the
126 unearned premium prior to remitting the emergency assessment
127 collected to the fund or corporation.

128 10. The exemption of medical malpractice insurance premiums
129 from emergency assessments under this paragraph is repealed May



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130 31, 2013 ~~2010~~, and medical malpractice insurance premiums shall
131 be subject to emergency assessments attributable to loss events
132 occurring in the contract years commencing on June 1, 2013 ~~2010~~.
133

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

135 And the title is amended as follows:

136
137 Delete line 66

138 and insert:

139
140 make a "file and use" filing; amending s. 215.555,
141 F.S.; delaying the repeal of a provision exempting
142 medical malpractice insurance premiums from emergency
143 assessments to the Hurricane Catastrophe Fund;
144 delaying the date on and after which medical
145 malpractice insurance premiums become subject to
146 emergency assessments; providing an effective