

1 A bill to be entitled
 2 An act relating to Florida Hurricane Catastrophe Fund
 3 emergency assessments; amending s. 215.555, F.S.; delaying
 4 the repeal of an exemption from certain emergency
 5 assessments provided for medical malpractice insurance
 6 premiums and the subjection of such premiums to emergency
 7 assessments; providing an effective date.

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

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 11 Section 1. Paragraph (b) of subsection (6) of section
 12 215.555, Florida Statutes, is amended to read:

13 215.555 Florida Hurricane Catastrophe Fund.—

14 (6) REVENUE BONDS.—

15 (b) Emergency assessments.—

16 1. If the board determines that the amount of revenue
 17 produced under subsection (5) is insufficient to fund the
 18 obligations, costs, and expenses of the fund and the
 19 corporation, including repayment of revenue bonds and that
 20 portion of the debt service coverage not met by reimbursement
 21 premiums, the board shall direct the Office of Insurance
 22 Regulation to levy, by order, an emergency assessment on direct
 23 premiums for all property and casualty lines of business in this
 24 state, including property and casualty business of surplus lines
 25 insurers regulated under part VIII of chapter 626, but not
 26 including any workers' compensation premiums or medical
 27 malpractice premiums. As used in this subsection, the term
 28 "property and casualty business" includes all lines of business

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29 identified on Form 2, Exhibit of Premiums and Losses, in the
30 annual statement required of authorized insurers by s. 624.424
31 and any rule adopted under this section, except for those lines
32 identified as accident and health insurance and except for
33 policies written under the National Flood Insurance Program. The
34 assessment shall be specified as a percentage of direct written
35 premium and is subject to annual adjustments by the board in
36 order to meet debt obligations. The same percentage shall apply
37 to all policies in lines of business subject to the assessment
38 issued or renewed during the 12-month period beginning on the
39 effective date of the assessment.

40 2. A premium is not subject to an annual assessment under
41 this paragraph in excess of 6 percent of premium with respect to
42 obligations arising out of losses attributable to any one
43 contract year, and a premium is not subject to an aggregate
44 annual assessment under this paragraph in excess of 10 percent
45 of premium. An annual assessment under this paragraph shall
46 continue as long as the revenue bonds issued with respect to
47 which the assessment was imposed are outstanding, including any
48 bonds the proceeds of which were used to refund the revenue
49 bonds, unless adequate provision has been made for the payment
50 of the bonds under the documents authorizing issuance of the
51 bonds.

52 3. Emergency assessments shall be collected from
53 policyholders. Emergency assessments shall be remitted by
54 insurers as a percentage of direct written premium for the
55 preceding calendar quarter as specified in the order from the
56 Office of Insurance Regulation. The office shall verify the

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57 | accurate and timely collection and remittance of emergency
58 | assessments and shall report the information to the board in a
59 | form and at a time specified by the board. Each insurer
60 | collecting assessments shall provide the information with
61 | respect to premiums and collections as may be required by the
62 | office to enable the office to monitor and verify compliance
63 | with this paragraph.

64 | 4. With respect to assessments of surplus lines premiums,
65 | each surplus lines agent shall collect the assessment at the
66 | same time as the agent collects the surplus lines tax required
67 | by s. 626.932, and the surplus lines agent shall remit the
68 | assessment to the Florida Surplus Lines Service Office created
69 | by s. 626.921 at the same time as the agent remits the surplus
70 | lines tax to the Florida Surplus Lines Service Office. The
71 | emergency assessment on each insured procuring coverage and
72 | filing under s. 626.938 shall be remitted by the insured to the
73 | Florida Surplus Lines Service Office at the time the insured
74 | pays the surplus lines tax to the Florida Surplus Lines Service
75 | Office. The Florida Surplus Lines Service Office shall remit the
76 | collected assessments to the fund or corporation as provided in
77 | the order levied by the Office of Insurance Regulation. The
78 | Florida Surplus Lines Service Office shall verify the proper
79 | application of such emergency assessments and shall assist the
80 | board in ensuring the accurate and timely collection and
81 | remittance of assessments as required by the board. The Florida
82 | Surplus Lines Service Office shall annually calculate the
83 | aggregate written premium on property and casualty business,
84 | other than workers' compensation and medical malpractice,

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85 procured through surplus lines agents and insureds procuring
86 coverage and filing under s. 626.938 and shall report the
87 information to the board in a form and at a time specified by
88 the board.

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

102 6. The assessments otherwise payable to the corporation
103 under this paragraph shall be paid to the fund unless and until
104 the Office of Insurance Regulation and the Florida Surplus Lines
105 Service Office have received from the corporation and the fund a
106 notice, which shall be conclusive and upon which they may rely
107 without further inquiry, that the corporation has issued bonds
108 and the fund has no agreements in effect with local governments
109 under paragraph (c). On or after the date of the notice and
110 until the date the corporation has no bonds outstanding, the
111 fund shall have no right, title, or interest in or to the
112 assessments, except as provided in the fund's agreement with the

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113 corporation.

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

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

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

133 10. The exemption of medical malpractice insurance
134 premiums from emergency assessments under this paragraph is
135 repealed May 31, 2013 ~~2010~~, and medical malpractice insurance
136 premiums shall be subject to emergency assessments attributable
137 to loss events occurring in the contract years commencing on
138 June 1, 2013 ~~2010~~.

139 Section 2. This act shall take effect upon becoming a law.