



850230

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/22/2011	.	
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The Committee on Budget (Fasano) recommended the following:

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

Between lines 249 and 250

insert:

(6) REVENUE BONDS.—

(b) *Emergency assessments*—

1. If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy, by order, an emergency assessment on direct



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

31 2. A premium is not subject to an annual assessment under  
32 this paragraph in excess of 6 percent of premium with respect to  
33 obligations arising out of losses attributable to any one  
34 contract year, and a premium is not subject to an aggregate  
35 annual assessment under this paragraph in excess of 10 percent  
36 of premium. An annual assessment under this paragraph shall  
37 continue as long as the revenue bonds issued with respect to  
38 which the assessment was imposed are outstanding, including any  
39 bonds the proceeds of which were used to refund the revenue  
40 bonds, unless adequate provision has been made for the payment  
41 of the bonds under the documents authorizing issuance of the  
42 bonds.



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

55           4. With respect to assessments of surplus lines premiums,  
56 each surplus lines agent shall collect the assessment at the  
57 same time as the agent collects the surplus lines tax required  
58 by s. 626.932, and the surplus lines agent shall remit the  
59 assessment to the Florida Surplus Lines Service Office created  
60 by s. 626.921 at the same time as the agent remits the surplus  
61 lines tax to the Florida Surplus Lines Service Office. The  
62 emergency assessment on each insured procuring coverage and  
63 filing under s. 626.938 shall be remitted by the insured to the  
64 Florida Surplus Lines Service Office at the time the insured  
65 pays the surplus lines tax to the Florida Surplus Lines Service  
66 Office. The Florida Surplus Lines Service Office shall remit the  
67 collected assessments to the fund or corporation as provided in  
68 the order levied by the Office of Insurance Regulation. The  
69 Florida Surplus Lines Service Office shall verify the proper  
70 application of such emergency assessments and shall assist the  
71 board in ensuring the accurate and timely collection and



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72 remittance of assessments as required by the board. The Florida  
73 Surplus Lines Service Office shall annually calculate the  
74 aggregate written premium on property and casualty business,  
75 other than workers' compensation and medical malpractice,  
76 procured through surplus lines agents and insureds procuring  
77 coverage and filing under s. 626.938 and shall report the  
78 information to the board in a form and at a time specified by  
79 the board.

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

93 6. The assessments otherwise payable to the corporation  
94 under this paragraph shall be paid to the fund unless and until  
95 the Office of Insurance Regulation and the Florida Surplus Lines  
96 Service Office have received from the corporation and the fund a  
97 notice, which shall be conclusive and upon which they may rely  
98 without further inquiry, that the corporation has issued bonds  
99 and the fund has no agreements in effect with local governments  
100 under paragraph (c). On or after the date of the notice and



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101 until the date the corporation has no bonds outstanding, the  
102 fund shall have no right, title, or interest in or to the  
103 assessments, except as provided in the fund's agreement with the  
104 corporation.

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

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

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

124 10. The exemption of medical malpractice insurance premiums  
125 from emergency assessments under this paragraph is repealed May  
126 31, 2011 ~~2013~~, and medical malpractice insurance premiums shall  
127 be subject to emergency assessments attributable to loss events  
128 occurring in the contract years commencing on June 1, 2011 ~~2013~~.

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

131 And the directory clause is amended as follows:

132       Delete lines 221 and 222

133 and insert:

134 subsection (2) and paragraph (b) of subsection (6) of section  
135 215.555, Florida Statutes, are amended to read:

136

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

138 And the title is amended as follows:

139       Delete line 5

140 and insert:

141       Catastrophe Fund, to exclude certain losses; moving up  
142       the date for repealing the exemption for medical  
143       malpractice insurance premiums from emergency  
144       assessments; providing