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LEGISLATIVE ACTION

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| Senate | . | House |
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| Floor: WD | . | |
| 03/09/2012 11:35 PM | . | |
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Senator Alexander moved the following:

Senate Amendment (with title amendment)

Delete line 1053

and insert:

Section 2. Effective upon this act becoming a law, paragraph (e) of subsection (2) and paragraphs (b) and (c) of subsection (4) of section 215.555, Florida Statutes, are amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(2) DEFINITIONS.—As used in this section:

(e) "Retention" means the amount of losses below which an insurer is not entitled to reimbursement from the fund. An insurer's retention shall be calculated as follows:



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14 1. The board shall calculate and report to each insurer the
15 retention multiples for that year.

16 a. For the contract year beginning June 1, 2005, the
17 retention multiple shall be equal to \$4.5 billion divided by the
18 total estimated reimbursement premium for the contract year; for
19 subsequent years, the retention multiple shall be equal to \$4.5
20 billion, adjusted based upon the reported exposure for the
21 contract year occurring 2 years before the particular contract
22 year to reflect the percentage growth in exposure to the fund
23 for covered policies since 2004, divided by the total estimated
24 reimbursement premium for the contract year.

25 b. For the 2012-2013 contract year, the total reimbursement
26 premium for purposes of the calculation under this subparagraph
27 shall be estimated using the assumption that all insurers have
28 selected the 90-percent coverage level.

29 c. In order to implement the phase-in of reduced coverage
30 levels as provided in paragraph (4) (b), total reimbursement
31 premium for purposes of the calculation under this subparagraph
32 shall be estimated using the following assumptions:

33 (I) For the 2013-2014 contract year, the assumption is that
34 all insurers have selected the 85-percent coverage level.

35 (II) For the 2014-2015 contract year and subsequent
36 contract years, the assumption is that all insurers have
37 selected the 80-percent coverage level.

38 2. The retention multiple as determined under subparagraph
39 1. shall be adjusted to reflect the coverage level elected by
40 the insurer.

41 a. For an insurer electing the maximum coverage level
42 available under paragraph (4) (b) for a particular contract year



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43 ~~For insurers electing the 90-percent coverage level~~, the
44 adjusted retention multiple is 100 percent of the amount
45 determined under subparagraph 1.

46 b. In order to implement the phase-in of reduced coverage
47 levels as provided in paragraph (4) (b), for an insurer electing
48 a coverage level other than the maximum coverage level, the
49 adjusted retention multiple is as follows:

50 (I) With respect to the 2012-2013 contract year, for an
51 insurer ~~For insurers~~ electing the 75-percent coverage level, the
52 retention multiple is 90/75ths ~~120-percent~~ of the amount
53 determined under subparagraph 1., and for an insurer ~~For~~
54 ~~insurers~~ electing the 45-percent coverage level, the adjusted
55 retention multiple is 90/45ths ~~200-percent~~ of the amount
56 determined under subparagraph 1.

57 (II) With respect to the 2013-2014 contract year, for an
58 insurer electing the 75-percent coverage level, the retention
59 multiple is 85/75ths of the amount determined under subparagraph
60 1., and for an insurer electing the 45-percent coverage level,
61 the retention multiple is 85/45ths of the amount determined
62 under subparagraph 1.

63 (III) With respect to the 2014-2015 contract year and
64 subsequent contract years, for an insurer electing the 75-
65 percent coverage level, the retention multiple is 80/75ths of
66 the amount determined under subparagraph 1., and for an insurer
67 electing the 45-percent coverage level, the retention multiple
68 is 80/45ths of the amount determined under subparagraph 1.

69 3. An insurer shall determine its provisional retention by
70 multiplying its provisional reimbursement premium by the
71 applicable adjusted retention multiple and shall determine its



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72 actual retention by multiplying its actual reimbursement premium
73 by the applicable adjusted retention multiple.

74 4. For insurers who experience multiple covered events
75 causing loss during the contract year, beginning June 1, 2005,
76 each insurer's full retention shall be applied to each of the
77 covered events causing the two largest losses for that insurer.
78 For each other covered event resulting in losses, the insurer's
79 retention shall be reduced to one-third of the full retention.
80 The reimbursement contract must ~~shall~~ provide for the
81 reimbursement of losses for each covered event based on the full
82 retention with adjustments made to reflect the reduced
83 retentions on or after January 1 of the contract year provided
84 the insurer reports its losses as specified in the reimbursement
85 contract.

86 (4) REIMBURSEMENT CONTRACTS.—

87 (b)1. The contract shall contain a promise by the board to
88 reimburse the insurer for a specified percentage ~~45 percent, 75~~
89 ~~percent, or 90 percent~~ of its losses from each covered event in
90 excess of the insurer's retention, plus 5 percent of the
91 reimbursed losses to cover loss adjustment expenses. The
92 available coverage levels are as follows:

93 a. For the 2012-2013 contract year, 90 percent, 75 percent,
94 and 45 percent.

95 b. For the 2013-2014 contract year, 85 percent, 75 percent,
96 and 45 percent.

97 c. For the 2014-2015 contract year and subsequent contract
98 years, 80 percent, 75 percent, and 45 percent.

99 2.a. The insurer must elect one of the percentage coverage
100 levels specified in this paragraph and may, upon renewal of a



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101 reimbursement contract, elect a lower percentage coverage level
102 if no revenue bonds issued under subsection (6) after a covered
103 event are outstanding, or elect a higher percentage coverage
104 level, regardless of whether or not revenue bonds are
105 outstanding. All members of an insurer group must elect the same
106 percentage coverage level. A ~~Any~~ joint underwriting association,
107 risk apportionment plan, or other entity created under s.
108 627.351 must elect the maximum ~~90-percent~~ coverage level
109 available under subparagraph 1.

110 b. In order to implement the phase-in of reduced coverage
111 levels as provided in subparagraph 1., and notwithstanding sub-
112 paragraph a., if revenue bonds issued under subsection (6)
113 after a covered event are outstanding and the insurer has
114 elected the maximum coverage level available under subparagraph
115 1., the insurer must, upon renewal of the reimbursement
116 contract, elect the maximum coverage level available under
117 subparagraph 1. for the renewal contract year.

118 3. The contract must ~~shall~~ provide that reimbursement
119 amounts ~~shall~~ not be reduced by reinsurance paid or payable to
120 the insurer from other sources.

121 4. Notwithstanding any other provision ~~contained~~ in this
122 section, the board shall make available to insurers that
123 purchased coverage provided by this subparagraph in 2008,
124 insurers qualifying as limited apportionment companies under s.
125 627.351(6)(c), and insurers that have been approved to
126 participate in the Insurance Capital Build-Up Incentive Program
127 pursuant to s. 215.5595 a contract or contract addendum that
128 provides an additional amount of reimbursement coverage of up to
129 \$10 million. The premium to be charged for this additional



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130 reimbursement coverage shall be 50 percent of the additional
131 reimbursement coverage provided, which must ~~shall~~ include one
132 prepaid reinstatement. The minimum retention level that an
133 eligible participating insurer must retain associated with this
134 additional coverage layer is 30 percent of the insurer's surplus
135 ~~as of December 31, 2008, for the 2009-2010 contract year; as of~~
136 ~~December 31, 2009, for the 2010-2011 contract year; and as of~~
137 December 31, 2010, for the 2011-2012 contract year. This
138 coverage is ~~shall be~~ in addition to all other coverage that may
139 be provided under this section. The coverage provided by the
140 fund under this subparagraph is ~~shall be~~ in addition to the
141 claims-paying capacity as defined in subparagraph (c)1., but
142 only with respect to those insurers that select the additional
143 coverage option and meet the requirements of this subparagraph.
144 The claims-paying capacity with respect to all other
145 participating insurers and limited apportionment companies that
146 do not select the additional coverage option shall be limited to
147 their reimbursement premium's proportionate share of the actual
148 claims-paying capacity otherwise defined in subparagraph (c)1.
149 and as provided for under the terms of the reimbursement
150 contract. The optional coverage retention as specified shall be
151 accessed before the mandatory coverage under the reimbursement
152 contract, but once the limit of coverage selected under this
153 option is exhausted, the insurer's retention under the mandatory
154 coverage applies ~~will apply~~. This coverage will apply and be
155 paid concurrently with mandatory coverage. This subparagraph
156 expires on May 31, 2012.

157 (c)1. The contract must ~~shall~~ also provide that the
158 obligation of the board with respect to all contracts covering a



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159 particular contract year ~~shall~~ not exceed the actual claims-
160 paying capacity of the fund up to the limit specified in this
161 subparagraph.

162 a. For the 2012-2013 contract year, the limit is \$17
163 billion.

164 b. For the 2013-2014 contract year, the limit is \$16
165 billion.

166 c. For the 2014-2015 contract year, the limit is \$15
167 billion.

168 d. For contract years after the 2014-2015 contract year, if
169 a limit of \$17 billion for that contract year, unless the board
170 determines that there is sufficient estimated claims-paying
171 capacity to provide \$15 \$17 billion of capacity for the current
172 contract year and an additional \$15 \$17 billion of capacity for
173 subsequent contract years. If the board makes such a
174 determination, the estimated claims-paying capacity for the
175 particular contract year shall be determined by adding to the
176 \$15 \$17 billion limit one-half of the fund's estimated claims-
177 paying capacity in excess of \$30 \$34 billion. However, the
178 dollar growth in the limit may not increase in any year by an
179 amount greater than the dollar growth of the balance of the fund
180 as of December 31, less any premiums or interest attributable to
181 optional coverage, as defined by rule, which occurred over the
182 prior calendar year.

183 2. In May and October of the contract year, the board shall
184 publish in the Florida Administrative Weekly a statement of the
185 fund's estimated borrowing capacity, the fund's estimated
186 claims-paying capacity, and the projected balance of the fund as
187 of December 31. After the end of each calendar year, the board



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188 shall notify insurers of the estimated borrowing capacity,
189 estimated claims-paying capacity, and the balance of the fund as
190 of December 31 to provide insurers with data necessary to assist
191 them in determining their retention and projected payout from
192 the fund for loss reimbursement purposes. In conjunction with
193 the development of the premium formula, as provided ~~for~~ in
194 subsection (5), the board shall publish factors or multiples
195 that assist insurers in determining their retention and
196 projected payout for the next contract year. For all regulatory
197 and reinsurance purposes, an insurer may calculate its projected
198 payout from the fund as its share of the total fund premium for
199 the current contract year multiplied by the sum of the projected
200 balance of the fund as of December 31 and the estimated
201 borrowing capacity for that contract year as reported under this
202 subparagraph.

203 Section 3. Except as otherwise expressly provided in this
204 act and except for this section, which shall take effect upon
205 this act becoming a law, this act shall take effect July 1,
206 2012.

207
208 ===== T I T L E A M E N D M E N T =====

209 And the title is amended as follows:

210 Delete lines 2 - 28

211 and insert:

212 An act relating to property insurance; amending s.
213 627.351, F.S.; conforming cross-references; reducing
214 to 2 percent from 6 percent the amount of the
215 projected deficit in the coastal account for the prior
216 calendar year which is recovered through regular



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217 assessments; requiring that remaining projected
218 deficits in personal and commercial lines accounts be
219 recovered through emergency assessments after
220 accounting for the Citizens policyholder surcharge;
221 requiring the Office of Insurance Regulation of the
222 Financial Services Commission to notify assessable
223 insurers and the Florida Surplus Lines Service Office
224 of the dates assessable insurers shall collect and pay
225 emergency assessments; removing reference to
226 recoupment of residual market deficit assessments;
227 requiring the board of governors to make a
228 determination that an account has a projected deficit
229 before it levies a Citizens policy holder surcharge;
230 requiring that a limited apportionment company begin
231 collecting regular assessments within 90 days and pay
232 in full within 15 months after the assessment is
233 levied; authorizing the Office of Insurance Regulation
234 to assist the Citizens Property Insurance Corporation
235 in the collection of assessments; replacing the term
236 "market equalization surcharge" with the term
237 "policyholder surcharge"; amending s. 215.555, F.S.;
238 revising the definition of "retention"; providing for
239 calculation of an insurer's reimbursement premium and
240 retention under the reimbursement contract; revising
241 coverage levels available under the reimbursement
242 contract; revising aggregate coverage limits;
243 providing for the phase-in of changes to coverage
244 levels and limits; providing effective dates.