

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1107 Florida Hurricane Catastrophe Fund

SPONSOR(S): Regulatory Affairs Committee; Insurance & Banking Subcommittee; Hager and others

TIED BILLS: **IDEN./SIM. BILLS:** HB 1055

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	12 Y, 0 N, As CS	Callaway	Cooper
2) Government Operations Appropriations Subcommittee	12 Y, 1 N	Keith	Topp
3) Regulatory Affairs Committee	16 Y, 1 N, As CS	Callaway	Hamon

SUMMARY ANALYSIS

The Florida Hurricane Catastrophe Fund (FHCF or Fund) is a tax-exempt trust fund created as a form of reinsurance for residential property insurers. The Fund reimburses (reinsures) insurers for a portion of their hurricane losses to residential property. Each insurance company writing insurance policies covering residential property or any policy covering a residential structure or its contents must participate in the FHCF. The deductible amount insurers must pay for reinsurance in the FHCF is set by statute and the maximum amount of coverage from the FHCF insurers can buy is also set by statute.

The goal of the bill is to begin to restructure the FHCF to reduce the size and exposure of the Fund so that the Fund relies less on bonding and more on cash resources to pay its obligations to insurers. This will also result in a reduced likelihood and reduced amount of assessments against property and casualty policyholders. Specifically, the FHCF restructuring proposed by the bill:

- reduces the size of the mandatory coverage from \$17 billion to \$16.5 billion in 2014 and maintains the reduction for subsequent years,
- extends the exemption for medical malpractice premiums from the FHCF assessment for another three years (until May 31, 2016), and
- changes the name of the finance corporation used for bonding by the FHCF.

The bill also repeals outdated provisions in the FHCF law.

In 2014, property insurance rates will likely increase due to the FHCF restructuring provided by the bill as insurers replace reinsurance sold by the FHCF with more expensive reinsurance sold by private reinsurers. Rates will likely increase 0.5% in 2014 due to the \$500 million reduction in the mandatory coverage for the FHCF as insurers replace coverage for this reduction with private reinsurance. Rates for policyholders of Citizens Property Insurance Corporation may increase 0.8%. However, if private reinsurance costs decrease in 2014 when the FHCF coverage that is being reduced is replaced by private reinsurance, then any rate increase caused by the FHCF coverage reduction could be offset by the decrease in private reinsurance costs.

The bill has no fiscal impact on state government.

The bill is effective upon becoming a law, unless expressly provided otherwise.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Florida Hurricane Catastrophe Fund (FHCF or Fund) is a tax-exempt trust fund created in 1993 as a form of reinsurance for residential property insurers.¹ The purpose of the FHCF is to protect and advance the state's interest in maintaining insurance capacity in Florida by providing reimbursements to insurers for a portion of their catastrophic hurricane losses.

The FHCF sells reinsurance to property insurance companies significantly cheaper than reinsurance sold by private reinsurance companies. It is estimated that coverage purchased through the FHCF costs insurers one-fourth to one-third what it would cost in the private reinsurance market.² There are several reasons for these cost savings:³

1. The FHCF operating cost is less than 1% of the annual premium collected, whereas, the operating costs for private reinsurance can range from 10% to 15% of the premium collected.
2. The FHCF does not pay reinsurance brokerage commissions.
3. The FHCF has no underwriting costs.
4. The FHCF is a tax-exempt entity that does not pay federal income taxes or state taxes.
5. The FHCF has the ability to issue tax-exempt debt which results in lower financing costs should it become necessary to finance losses with revenue bonds.
6. The FHCF does not include a factor for profit for reinsurance sold by the FHCF.
7. The FHCF does not include a risk load for reinsurance sold by the FHCF.

Each insurance company writing insurance policies covering residential property or any policy covering a residential structure or its contents must participate in the FHCF. (s. 215.555(4)(a), F.S. and s. 215.555(2)(c), F.S.). Residential property is defined in s. 627.4025(1), F.S. to include personal lines and commercial lines residential coverage. This coverage includes the following insurance policies: homeowner's, mobile homeowner's, dwelling, tenant's, condominium unit owner's, condominium association, cooperative association, and apartment building.

The FHCF is administered by the State Board of Administration and reimburses property insurers for a selected percentage (45, 75, or 90%) of hurricane losses to residential property above the insurer's retention (deductible).⁴ The amount of hurricane losses the FHCF will not reimburse (45, 25, or 10%) is the insurer's co-pay for FHCF reinsurance. Insurers finance the co-pay with funds from insurance premiums paid by homeowners or with private reinsurance. Most property insurers select the 90% coverage level, meaning the FHCF will reimburse the insurer 90% of the insurer's specified hurricane losses with the insurer paying the remaining co-pay of 10% from other sources.

A reimbursement contract between the FHCF and the property insurer governs an insurer's participation in the FHCF and the percentage of the insurer's reimbursement. Reimbursement contracts run from June 1st–May 30th. The current contract year (2012-2013 contract year) runs from June 1, 2012–May 30, 2013.

The FHCF must offer two options for reinsurance coverage for all residential property insurers. One of the two options is mandatory and thus must be purchased by all insurers on their residential property exposure. The voluntary coverage option, Temporary Increase In Coverage Limit Options (TICL), offers reinsurance to insurers above the mandatory coverage.

For the mandatory coverage, the FHCF charges insurers the "actuarially indicated" premium for the coverage provided by the FHCF, based on hurricane loss projection models found acceptable by the

¹ s. 215.555, F.S. The FHCF was created after Hurricane Andrew in 1992.

² Annual Report of the Florida Hurricane Catastrophe Fund Fiscal Year 2010-2011, p. 19.

³ Annual Report of the Florida Hurricane Catastrophe Fund Fiscal Year 2010-2011, p. 19.

⁴ Retention is defined to mean the amount of losses below which an insurer is not entitled to reimbursement from the Fund. A retention is calculated for each insurer based on its proportionate share of Fund premiums.

Florida Commission on Hurricane Loss Projection Methodology. Each insurer's premium amount for mandatory coverage is different because the premium is based on the insured value of the residential property the insurer insures, the location of the property insured, the construction type of the property insured, the deductible amounts for the property insured, and other factors. The premium for mandatory coverage also includes a cash build-up factor which is charged on top of the actuarially indicated premium. For the 2012-2013 contract year, the cash build-up factor is 20%, meaning an insurer's premium is 20% greater than the actuarially indicated premium. The cash build-up factor increases by 5% each year until it is 25% (2013-2014 contract year).

Florida law sets the maximum amount the FHCF reimburses insurers each year for the mandatory coverage.⁵ This is the FHCF's capacity. Under current law, the FHCF's capacity is \$17 billion for each contract year. The capacity does not increase until the FHCF's cash and bonding ability exceeds \$34 billion. This allows the FHCF to accumulate funds to pay the maximum mandatory coverage FHCF obligations (\$17 billion a year) for claims resulting from hurricanes in back-to-back seasons.⁶ Once a \$34 billion funding level is reached by the FHCF, the FHCF's capacity will increase. The method for calculating the Fund's capacity under current law allows the FHCF's cash balance to grow in years where there are no hurricanes while keeping the FHCF's exposure (capacity) frozen so that the FHCF is less reliant on bonding to meet its mandatory coverage obligations. For the current contract year, the insurance industry as a whole is covered for losses up to \$17 billion by the mandatory coverage.

Before FHCF monies are available to pay claims each insurer must meet a retention/deductible. The retention amount for each insurer is different because the amount is based on the amount of premium the insurer pays to the FHCF. For the 2012-2013 contract year, the insurance industry as a whole has an aggregate retention of \$7.389 billion for mandatory coverage, meaning the total of all individual insurer retentions/deductibles will total \$7.389 billion per hurricane event if all participating insurers reached their retention. Although the insurance industry's aggregate deductible/retention totals \$7.389 billion, insurers can obtain reimbursement from the FHCF before the insurance industry losses total \$7.389 billion because loss recovery from the FHCF is based on an individual insurer meeting its own retention for mandatory coverage prior to losses being reimbursed.

The TICL options were added to the FHCF in 2007.⁷ The purchase of these options is voluntary and if purchased provides the insurer a share of additional coverage above the mandatory FHCF coverage in \$1 billion increments. When the TICL options were created in 2007, \$12 billion of additional FHCF coverage was available for purchase. However, due to the statutory reductions in TICL options available, for the 2012-2013 Fund contract year, only \$4 billion is available for purchase.⁸ Of the \$4 billion available in TICL coverage this contract year, \$0.023 billion was purchased by insurance companies, representing less than 1% of the available coverage. By law, the 2013-2014 contract year is the last contract year TICL options can be purchased by insurers.

For the 2012-13 contract year (June 1, 2012–May 31, 2013), the maximum amount the FHCF would have to reimburse insurers is \$17.023 billion, allocated as follows:

- \$17 billion for the mandatory coverage.
- \$.023 billion for the TICL coverage option.⁹

To fund its obligations of \$17.023 billion the FHCF has \$8.503 billion in cash.

Because the obligations of the FHCF exceed the cash of the FHCF by approximately \$8.5 billion, if the FHCF had to pay its maximum actual obligations of \$17.023 billion in the 2012-2013 contract year, the FHCF would have to bond for additional funds of \$8.5 billion to pay claims. In October 2012, the Fund estimated it could borrow \$7 billion through bonding.¹⁰ Thus, the FHCF would be short \$1.5 billion to

⁵ s. 215.555(4)(c)1., F.S.

⁶ The funds may be accumulated from premiums and bonding.

⁷ Ch. 2007-1, L.O.F.

⁸ Under current law, the maximum amount of TICL coverage offered for purchase by the FHCF decreases by \$2 billion each contract year.

⁹ Report of Claims-Paying Capacity Estimates dated October 9, 2012, available at

<http://www.sbafla.com/fhcf/AdvisoryCouncil/2012MeetingMaterials/tabid/1311/Default.aspx> (last accessed March 8, 2013).

¹⁰ <https://www.flrules.org/gateway/readFile.asp?sid=12&tid=12136269&type=1&File=19.htm> (last accessed March 8, 2013).

pay claims. However, it is noteworthy that the projected shortfall of \$1.5 billion is for the contract year ending on May 31, 2013. Absent a major hurricane before the current contract year expires, the projected shortfall for the hurricane season beginning on June 1, 2013, should be lower. This is because the FHCF will receive additional revenue from the collection of premium for the 2013-2014 contract year. The current estimated additional premium is approximately \$1.1 billion.¹¹

Revenue bonds issued by the FHCF to pay claims when the FHCF's funds are inadequate are funded by emergency assessments on property and casualty policyholders.¹² The FHCF is authorized to levy emergency assessments against all property and casualty insurance premiums paid by policyholders (other than workers' compensation, accident and health, federal flood and, until May 31, 2013, medical malpractice), including surplus lines policyholders, when reimbursement premiums and other FHCF resources are insufficient to cover the FHCF's obligations.¹³ Annual assessments are capped at 6% of premium with respect to losses from any one year and a maximum of 10% of premium to fund hurricane losses from multiple years.¹⁴ Revenue bonds issued by the FHCF may be amortized over a term up to 30 years. Thus, the FHCF may levy assessments for as long as 30 years.

Currently, the FHCF is levying an assessment of 1.3% of premium against all property and casualty insurance policyholders subject to the assessment.¹⁵ Typically, insurers pass this assessment directly to policyholders. The current FHCF assessment is due to a deficit in the Fund associated with the 2005 hurricanes. This is the first assessment the FHCF has had to levy to cover a deficit since its creation in 1993. The current assessment of 1.3% will be levied until December 31, 2016.

Effect of Proposed Changes

The goal of the bill is to begin to restructure the FHCF to reduce the size and exposure of the Fund so that the Fund relies less on bonding and more on cash resources to pay its obligations to insurers. This will also result in a reduced likelihood and reduced amount of assessments against property and casualty policyholders.

Specifically, the FHCF restructuring proposed by the bill:

- reduces the size of the mandatory coverage in 2014-2015 and maintains the reduction for subsequent years,
- extends the exemption for medical malpractice premiums from the FHCF assessment for three years, and
- changes the name of the finance corporation used for bonding by the FHCF.

The bill also repeals current law relating to FHCF coverage below the retention which has expired by operation of law.

Reduces the Size of the Mandatory Coverage

In 2014, the bill reduces the limits of the FHCF mandatory coverage from the current \$17 billion to \$16.5 billion. This limit is maintained for subsequent contract years. After the 2014-2015 contract year, the limit will be more than \$16.5 billion only if the FHCF has enough funding to fully fund a \$16.5 billion single season and a \$16.5 billion second season capacity (a total of \$33 billion in funding). The current \$17 billion mandatory coverage maximum stays in effect for the 2013-2014 contract year.

The change to the mandatory coverage will help reduce the FHCF's reliance on large bonding transactions to raise funds to pay claims. Currently, if the FHCF had to pay its obligations in full, the FHCF is \$8.5 billion short in funding and is relying on bonding to raise the needed funds. In fact, the Fund's financial advisors estimate the Fund could only borrow \$7 billion through bonding in the current financial market. Thus, the Fund has a potential shortfall of over \$1.5 billion.

¹¹ The additional \$1.1 billion is not all collected at the beginning of the contract year. Instead, it is collected quarterly. Thus, the entire \$1.1 billion will not be available to pay claims starting June 1, 2013.

¹² s. 215.555(6)(a)1., F.S.; s. 215.555(6)(b)1., F.S.

¹³ s. 215.555(6)(b)1., F.S.; s. 215.555(6)(b)(10), F.S.

¹⁴ s. 215.555(6)(b)2., F.S.

¹⁵ A 1% assessment was levied and paid by insurers from January 1, 2007–December 31, 2010. The 1% assessment was increased to 1.3% on

January 1, 2011 due to increasing losses from the 2005 hurricanes.

Because of fluctuating financial markets, there is a great deal of risk and uncertainty associated with large bond transactions, making large bond transactions impossible or extremely expensive. Under current law, the FHCF is only obligated to use cash on hand and funds raised through bonding to reimburse insurers for claims.¹⁶ Thus, if the FHCF cannot raise enough funds through bonding to pay its obligations, then the FHCF is not required to pay all its obligations to insurers. This could be problematic for insurers as they rely on the Fund being able to reimburse them for claims when constructing their business model for catastrophes. Insurers do not typically purchase private reinsurance to duplicate reinsurance bought from the FHCF as duplicative reinsurance costs cannot be passed through to policyholders in a rate filing and thus is an added expense for the insurer that cannot be recouped. Furthermore, keeping bonding costs as low as possible is important because bonding costs are included in the calculation of assessments levied by the FHCF and passed through to most property and casualty policyholders.

Reducing the mandatory coverage of the FHCF will likely result in increased property insurance rates for homeowners, if all other costs to the insurer factored into rates are static. Reinsurance purchased from the FHCF is considerably cheaper than reinsurance purchased from private reinsurance companies. It is estimated that coverage purchased through the FHCF costs insurers between one-fourth to one-third what it would cost in the private reinsurance market.¹⁷ For solvency reasons, property insurers are required by the Office of Insurance Regulation (OIR) to purchase reinsurance.¹⁸ Reducing the mandatory coverage layer of the FHCF will require most property insurers to replace FHCF reinsurance with more expensive reinsurance from private reinsurers. The increased reinsurance costs will be passed through to homeowners.¹⁹ The rate impact of the bill in this regard is discussed in further detail in the Fiscal Analysis.

Extends the Exemption for Medical Malpractice Premiums from the FHCF Assessment:

Revenue bonds are issued by the FHCF to pay claims when the FHCF's funds are inadequate. These bonds are funded by emergency assessments levied by the FHCF against property and casualty insurance premiums paid by policyholders (other than workers' compensation, accident and health, federal flood and, until May 31, 2013, medical malpractice), including surplus lines policyholders.²⁰ The FHCF assessment base is over \$34.6 billion.²¹ Annual assessments are capped at 6% of premium with respect to losses from any one year and a maximum of 10% of premium to fund hurricane losses from multiple years.²²

The bill allows medical malpractice insurance policyholders to be exempt from FHCF assessments until May 31, 2016. Although these policyholders are currently exempt from the assessment base, they will be added to the base starting June 1, 2013 because their exemption expires on May 31, 2013.

Changes the Name of the Finance Corporation Used For Bonding By the FHCF The bill changes the name of the Florida Hurricane Catastrophe Fund Finance Corporation to the "State Board of Administration Finance Corporation." The Florida Hurricane Catastrophe Fund Finance Corporation is the corporation that issues revenue bonds for the Florida Hurricane Catastrophe Fund. The Florida Hurricane Catastrophe Fund Corporation had long-term ratings of Aa3/AA-/AA from Moody's, Standard and Poor's, and Fitch, respectively.²³

¹⁶ s. 215.555(2)(m), F.S.; s. 215.555(4)(c)1., F.S.

¹⁷ Annual Report of the Florida Hurricane Catastrophe Fund Fiscal Year 2009-2010, p. 18.

¹⁸ The amount of reinsurance required to be purchased varies from insurer to insurer and is based, in part, on the insurer's exposure and funds on hand to pay claims.

¹⁹ Section 627.062(2)(b), F.S. requires the OIR to consider reinsurance costs when reviewing a rate filing for approval. Section 627.062(2)(k), F.S. allows insurers to make an expedited rate filing in order to change rates based solely on reinsurance costs.

²⁰ s. 215.555(6)(b)1., F.S.; s. 215.555(6)(b)(10), F.S.

²¹ Assessment base total is as of the end of 2011. See Report Prepared for the Florida Hurricane Catastrophe Fund on Claims-Paying Capacity Estimates by Raymond James Public Finance Department, dated October 9, 2012, available at <http://www.sbafla.com/fhcf/AdvisoryCouncil/2012MeetingMaterials/tabid/1311/Default.aspx> (last accessed February 27, 2013).

²² s. 215.555(6)(b)2., F.S.

²³ Report Prepared for the Florida Hurricane Catastrophe Fund Claims-Paying Capacity Estimates, dated October 9, 2012, available at <http://www.sbafla.com/fhcf/AdvisoryCouncil/2012MeetingMaterials/tabid/1311/Default.aspx> (last accessed March 5, 2013).

This change should not impact property insurance rates. However, the change may prevent confusion among bond purchasers with other types of catastrophe bonding and may make bonds issued by the FHCF easier to sell at a lower price.

Repeals Provisions Relating to FHCF Coverage

The bill repeals several provisions in the FHCF governing statute that are obsolete because they sunset. For example, current law allowing certain insurers to buy \$10 million of FHCF coverage below their FHCF retention is repealed because current law allowing this purchase expired on May 31, 2012. Also, current law allowing insurers to buy additional reinsurance from the FHCF below their retention (TEACO coverage) is repealed because current law allowed this purchase only through May 31, 2010.

B. SECTION DIRECTORY:

Section 1: Amends s. 215.555, F.S., relating to the Florida Hurricane Catastrophe Fund, effective June 1, 2013.

Section 2: Amends s. 215.555, F.S., relating to the Florida Hurricane Catastrophe Fund, effective June 1, 2013, to repeal outdated statutory language.

Section 3: Amends s. 627.0629, F.S., relating to residential property insurance; rate filings to correct a cross reference.

Section 4: Provides an effective date of upon becoming law unless expressly provided otherwise.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Provision Relating to Medical Malpractice Exemption from Assessments

Extending the exemption for medical malpractice insurance from the FHCF assessment base for another three years will cause policyholders of the other types of property and casualty insurance included in the assessment base to pay higher assessments for those three years. Although medical malpractice is not currently in the FHCF assessment base, it was to be added as of June 1, 2013. Adding additional types of insurance to the assessment base increases the base which lowers the assessment for all types of insurance in the base. As of December 31, 2011, medical malpractice

premiums totaled almost \$555 million.²⁴ Thus, the bill precludes the FHCF assessment base of \$34.6 billion²⁵ to increase by \$555 million.

If the FHCF has to issue revenue bonds to pay claims, it is likely to obtain more favorable bonding terms with a larger assessment base. Thus, preventing medical malpractice from being added to the assessment base for another three years may result in the FHCF receiving less favorable bonding terms than it would receive had medical malpractice been added to the base on June 1, 2013.

Policyholders of medical malpractice insurance will not have to pay FHCF assessments on their medical malpractice insurance for another three years under the bill. Under current law, these policyholders would have had to start paying FHCF assessments levied due to hurricanes occurring on or after June 1, 2013.

Provisions Relating to Restructuring the FHCF

Because the restructuring of the FHCF proposed by the bill reduces the amount of reinsurance sold by the FHCF, property insurers will likely replace the reinsurance coverage currently sold by the FHCF with more expensive reinsurance sold by private reinsurers. However, the rate impact associated with replacing FHCF coverage with private reinsurance should be minimal, as outlined below.

The proposed changes will result in no increase in residential property insurance rates for the 2013-2014 contract year (June 1, 2013–May 31, 2014) because the changes reduce coverage offered by the FHCF starting in the 2014–2015 contract year.

*Estimate by the Insurance Consumer Advocate (ICA)*²⁶

The ICA estimates the mandatory coverage reduction in the bill will increase rates 0.5% in the 2014-2015 contract year.

*Estimate by the Office of Insurance Regulation*²⁷

The OIR opined the rate impact is different, depending on whether the insurer is Citizens or not.

For insurers other than Citizens, the OIR estimates the mandatory coverage reduction in the bill will increase rates 0.5% in the 2014-2015 contract year. For Citizens, the OIR estimates a rate increase of 0.8%.

Impact of Decreasing Private Reinsurance Costs on Rate Increases Resulting from the Bill

Some proponents of the bill assert costs for private reinsurance will decrease for reinsurance sold effective June 1, 2013 because there is more than adequate supply of private reinsurance in the market.²⁸ Accordingly, the proponents conclude the reduction in private reinsurance costs, which are fully passed through to policyholders in property insurance rates, will more than offset the rate increase associated with restructuring the FHCF. The ICA estimated private insurance rates would have to decrease 1.4% in 2014 to completely offset the 0.5% rate increase associated with the bill's reduction of the mandatory layer of the FHCF.²⁹ However, the ICA notes it is impossible to predict whether these estimated revenue neutral reductions in reinsurance premiums will be realized.³⁰

Furthermore, the information provided by proponents of the bill to document the anticipated decrease in private reinsurance costs are for costs effective June 1, 2013. No information has been provided to document there will also be a decrease in private reinsurance costs effective June 1, 2014 when the changes made to the FHCF mandatory layer take effect. Because private reinsurance rates depend, in

²⁴ This total includes premiums from surplus lines insurance and risk retention groups. Information obtained from the OIR on February 27, 2013, on file with the Insurance & Banking Subcommittee.

²⁵ Assessment base total is as of the end of 2011. See Report Prepared for the Florida Hurricane Catastrophe Fund on Claims-Paying Capacity Estimates by Raymond James Public Finance Department, dated October 9, 2012, available at <http://www.sbafla.com/fhcf/AdvisoryCouncil/2012MeetingMaterials/tabid/1311/Default.aspx> (last viewed February 27, 2013).

²⁶ Email from the ICA dated March 29, 2013, on file with the Insurance & Banking Subcommittee.

²⁷ Email from the OIR dated March 29, 2013, on file with the Insurance & Banking Subcommittee.

²⁸ Testimony presented at the Insurance & Banking Subcommittee meeting on March 13, 2013.

²⁹ Email from the ICA dated March 29, 2013, on file with the Insurance & Banking Subcommittee.

³⁰ Email from the ICA dated March 29, 2013, on file with the Insurance & Banking Subcommittee.

part, on the capacity of the market which depends, in part, on the amount of losses private reinsurers sustained the previous year, it is very speculative to extrapolate reinsurance cost decreases in 2013 to 2014.

Impact on Homeowners' Ability to Have Their Claims Timely Paid

Reducing the size of the FHCF could increase the likelihood homeowners will have their property insurance claims paid in a timely manner following a hurricane. If the FHCF has a bonding shortfall after a hurricane, then the FHCF may have to reimburse insurers at a slower pace while the Fund seeks additional funds to reimburse insurers through bonding. If this happens, property insurers may take longer to pay policyholders' claims as some of the funds they likely rely on to pay these claims of are derived from their receipt of reimbursements from the FHCF.

D. FISCAL COMMENTS:

The bill has no fiscal impact on state government.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None provided in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Some assert the FHCF current bonding shortfall estimate is theoretical because the FHCF would not have to pay its full obligations in one year as the estimate assumes. Rather, the FHCF would pay the obligations as they are requested by insurers, likely over two or three years. Thus, if the FHCF could not bond for funds to pay its full obligations soon after a hurricane, the FHCF would still have ample time to bond for the remaining funds needed before the full obligations were requested by insurers.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 28, 2013, the Insurance & Banking Subcommittee, heard the bill, adopted a strike-all amendment and an amendment to the strike-all amendment, and reported the bill favorably with a committee substitute. The amendments adopted made the following changes to the bill:

- Starting June 1, 2104, reduced the size of the mandatory coverage of the FHCF from \$17 billion to \$14 billion over three years (reduction of \$.5 billion in 2014, \$1 billion in 2015, and \$1.5 billion in 2016).
- Removed the increases in the insurer's co-pay amounts contained in the bill.
- Removed the increase in payment of loss adjustment expenses by the FHCF contained in the bill.
- Maintained current law allowing commercial self-insurance funds to participate in the FHCF.
- Changed the name of the FHCF Finance Corporation to the State Board of Administration Finance Corporation.
- Extended the exemption for medical malpractice insurance premiums from emergency assessments levied by the FHCF for another three years, until May 31, 2016.
- Deleted obsolete language that has expired by operation of law.

- Allowed private insurers to include the cost of private reinsurance that duplicates the reinsurance sold by the FHCF in property insurance rates, but only the private reinsurance that covers the FHCF's estimated bonding shortfall.

The staff analysis was updated to reflect the committee substitute.

On April 16, 2013, the Regulatory Affairs Committee heard the bill, adopted two amendments, and reported the bill favorably with a committee substitute. The amendments:

- Reduced the mandatory coverage by the FHCF from \$17 billion to \$16.5 billion in 2014 - 2015 and thereafter.
- Removed the bill's provisions that further reduced the mandatory coverage to \$14 billion over three years.
- Removed the bill's provision allowing property insurers to recoup the cost of private reinsurance bought to duplicate any estimated shortfall of the FHCF.

The staff analysis was updated to reflect the committee substitute.