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LEGISLATIVE ACTION

Senate

House

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Floor: 1/RS/2R

04/24/2013 10:31 AM

Senator Sobel moved the following:

Senate Amendment (with title amendment)

Before line 28

insert:

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

215.555 Florida Hurricane Catastrophe Fund.—

(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



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

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



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43 bonds, unless adequate provision has been made for the payment
44 of the bonds under the documents authorizing issuance of the
45 bonds.

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

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



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

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

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



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

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

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

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

127 10. The exemption of medical malpractice insurance premiums
128 from emergency assessments under this paragraph is repealed May
129 31, 2016 ~~2013~~, and medical malpractice insurance premiums shall



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130 be subject to emergency assessments attributable to loss events
131 occurring in the contract years commencing on June 1, 2016 ~~2013~~.

132
133 ===== T I T L E A M E N D M E N T =====

134 And the title is amended as follows:

135 Delete line 3

136 and insert:

137 rates and forms; amending s. 215.555, F.S.; postponing
138 the date that repeals the Florida Hurricane
139 Catastrophe Fund emergency assessment exemption for
140 medical malpractice insurance premiums; amending s.
141 627.062, F.S.; exempting