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LEGISLATIVE ACTION

Senate

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House

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Floor: 2/AD/2R

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04/24/2013 10:31 AM

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Senator Sobel moved the following:

1           **Senate Substitute for Amendment (202090) (with title**  
2 **amendment)**

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4           Before line 28

5 insert:

6           Section 1. Paragraph (b) of subsection (6) of section  
7 215.555, Florida Statutes, is amended to read:

8           215.555 Florida Hurricane Catastrophe Fund.—

9           (6) REVENUE BONDS.—

10          (b) *Emergency assessments*—

11          1. If the board determines that the amount of revenue  
12 produced under subsection (5) is insufficient to fund the  
13 obligations, costs, and expenses of the fund and the



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

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



43 any bonds the proceeds of which were used to refund the revenue  
44 bonds, unless adequate provision has been made for the payment  
45 of the bonds under the documents authorizing issuance of the  
46 bonds.

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

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



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

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

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



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

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

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

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

128 10. The exemption of medical malpractice insurance premiums  
129 from emergency assessments under this paragraph is repealed May



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130 31, 2016 ~~2013~~, and medical malpractice insurance premiums shall  
131 be subject to emergency assessments attributable to loss events  
132 occurring in the contract years commencing on June 1, 2016 ~~2013~~.  
133

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

135 And the title is amended as follows:

136 Delete line 3

137 and insert:

138 rates, fees, and forms; amending s. 215.555, F.S.;

139 postponing the date that repeals the Florida Hurricane

140 Catastrophe Fund emergency assessment exemption for

141 medical malpractice insurance premiums; amending s.

142 627.062, F.S.; exempting