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LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/2R	.	Floor: SENAT/C
03/04/2016 12:58 PM	.	03/09/2016 02:47 PM
	.	

Senator Hays moved the following:

Senate Amendment (with title amendment)

Between lines 182 and 183

insert:

Section 5. 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



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12 obligations, costs, and expenses of the fund and the
13 corporation, including repayment of revenue bonds and that
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 to
31 all policies in lines of business subject to the assessment
32 issued or renewed during the 12-month period beginning on the
33 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 as long as the revenue bonds issued with respect to which the



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41 assessment was imposed are outstanding, including any bonds the
42 proceeds of which were used to refund the revenue bonds, unless
43 adequate provision has been made for the payment of the bonds
44 under the documents authorizing issuance of the bonds.

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

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



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

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

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



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

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

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

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

125 10. The exemption of medical malpractice insurance premiums
126 from emergency assessments under this paragraph is repealed May
127 31, 2019 ~~2016~~, and medical malpractice insurance premiums shall



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128 be subject to emergency assessments attributable to loss events
129 occurring in the contract years commencing on June 1, 2019 ~~2016~~.

130
131 ===== T I T L E A M E N D M E N T =====

132 And the title is amended as follows:

133 Between lines 16 and 17

134 insert:

135 amending s. 215.555, F.S.; extending the repeal date
136 of an exemption for medical malpractice insurance
137 premiums from certain emergency assessments levied by
138 the Office of Insurance Regulation for the Florida
139 Hurricane Catastrophe Fund; revising applicability;