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CS/HB 529

2020 Legislature

1
 2 An act relating to insurance guaranty associations;
 3 amending s. 631.57, F.S.; revising the obligations of
 4 the Florida Insurance Guaranty Association,
 5 Incorporated, for policies covering condominium
 6 associations and homeowners' associations; revising
 7 the percentage limits on the emergency assessments
 8 levied against insurers by the Office of Insurance
 9 Regulation; providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Paragraph (a) of subsection (1) and paragraph
 14 (e) of subsection (3) of section 631.57, Florida Statutes, are
 15 amended to read:

16 631.57 Powers and duties of the association.—

17 (1) The association shall:

18 (a)1. Be obligated to the extent of the covered claims
 19 existing:

20 a. Prior to adjudication of insolvency and arising within
 21 30 days after the determination of insolvency;

22 b. Before the policy expiration date if less than 30 days
 23 after the determination; or

24 c. Before the insured replaces the policy or causes its
 25 cancellation, if she or he does so within 30 days of the

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26 | determination.

27 | 2. The obligation under subparagraph 1. includes only the
28 | amount of each covered claim which is in excess of \$100 and is
29 | less than \$300,000, except that policies providing coverage for
30 | homeowner's insurance shall provide for an additional \$200,000
31 | for the portion of a covered claim which relates only to the
32 | damage to the structure and contents.

33 | 3.a. Notwithstanding subparagraph 2., the obligation under
34 | subparagraph 1. for policies covering condominium associations
35 | or homeowners' associations, which associations have a
36 | responsibility to provide insurance coverage on residential
37 | units within the association, shall include that amount of each
38 | covered property insurance claim which is less than \$200,000
39 | ~~\$100,000~~ multiplied by the number of condominium units or other
40 | residential units; however, as to homeowners' associations, this
41 | sub-subparagraph applies only to claims for damage or loss to
42 | residential units and structures attached to residential units.

43 | b. Notwithstanding sub-subparagraph a., the association
44 | has no obligation to pay covered claims that are to be paid from
45 | the proceeds of bonds issued under s. 631.695. However, the
46 | association shall assign and pledge the first available moneys
47 | from all or part of the assessments to be made under paragraph
48 | (3) (a) to or on behalf of the issuer of such bonds for the
49 | benefit of the holders of such bonds. The association shall
50 | administer any such covered claims and present valid covered

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51 | claims for payment in accordance with the provisions of the
52 | assistance program in connection with which such bonds have been
53 | issued.

54 | 4. In no event shall the association be obligated to a
55 | policyholder or claimant in an amount in excess of the
56 | obligation of the insolvent insurer under the policy from which
57 | the claim arises.

58 | (3)

59 | (e)1. In addition to assessments authorized in paragraph
60 | (a), and to the extent necessary to secure the funds for the
61 | account specified in s. 631.55(2)(b) for the direct payment of
62 | covered claims of insurers rendered insolvent by the effects of
63 | a hurricane and to pay the reasonable costs to administer such
64 | claims, or to retire indebtedness, including, without
65 | limitation, the principal, redemption premium, if any, and
66 | interest on, and related costs of issuance of, bonds issued
67 | under s. 631.695 and the funding of any reserves and other
68 | payments required under the bond resolution or trust indenture
69 | pursuant to which such bonds have been issued, the office, upon
70 | certification of the board of directors, shall levy emergency
71 | assessments upon insurers holding a certificate of authority.
72 | The emergency assessments levied against any insurer may not
73 | exceed in any one calendar year more than 4 ~~2~~ percent of that
74 | insurer's net written premiums in this state for the kinds of
75 | insurance within the account specified in s. 631.55(2)(b).

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76 2. Emergency assessments authorized under this paragraph
77 shall be levied by the office upon insurers in accordance with
78 paragraph (f), upon certification as to the need for such
79 assessments by the board of directors. If the board participates
80 in the issuance of bonds in accordance with s. 631.695,
81 emergency assessments shall be levied in each year that bonds
82 issued under s. 631.695 and secured by such emergency
83 assessments are outstanding in amounts up to such 4 percent ~~2-~~
84 ~~percent~~ limit as required in order to provide for the full and
85 timely payment of the principal of, redemption premium, if any,
86 and interest on, and related costs of issuance of, such bonds.
87 The emergency assessments are assigned and pledged to the
88 municipality, county, or legal entity issuing bonds under s.
89 631.695 for the benefit of the holders of such bonds in order to
90 provide for the payment of the principal of, redemption premium,
91 if any, and interest on such bonds, the cost of issuance of such
92 bonds, and the funding of any reserves and other payments
93 required under the bond resolution or trust indenture pursuant
94 to which such bonds have been issued, without further action by
95 the association, the office, or any other party. If bonds are
96 issued under s. 631.695 and the association determines to secure
97 such bonds by a pledge of revenues received from the emergency
98 assessments, such bonds, upon such pledge of revenues, shall be
99 secured by and payable from the proceeds of such emergency
100 assessments, and the proceeds of emergency assessments levied

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101 under this paragraph shall be remitted directly to and
102 administered by the trustee or custodian appointed for such
103 bonds.

104 3. Emergency assessments used to defease bonds issued
105 under this part may be payable in a single payment or, at the
106 option of the association, may be payable in 12 monthly
107 installments with the first installment being due and payable at
108 the end of the month after an emergency assessment is levied and
109 subsequent installments being due by the end of each succeeding
110 month.

111 4. If emergency assessments are imposed, the report
112 required by s. 631.695(7) must include an analysis of the
113 revenues generated from the emergency assessments imposed under
114 this paragraph.

115 5. If emergency assessments are imposed, the references in
116 sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to
117 assessments levied under paragraph (a) must include emergency
118 assessments imposed under this paragraph.

119 6. If the board of directors participates in the issuance
120 of bonds in accordance with s. 631.695, an annual assessment
121 under this paragraph shall continue while the bonds issued with
122 respect to which the assessment was imposed are outstanding,
123 including any bonds the proceeds of which were used to refund
124 bonds issued pursuant to s. 631.695, unless adequate provision
125 has been made for the payment of the bonds in the documents

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126 | authorizing the issuance of such bonds.

127 | Section 2. This act shall take effect July 1, 2020.