CS/SB 1460 — Florida Hurricane Catastrophe Fund/Contract Year

by Banking and Insurance Committee and Senator Richter

The Florida Hurricane Catastrophe Fund (FHCF or fund) is a tax-exempt fund created in 1993 after Hurricane Andrew as a form of mandatory reinsurance for residential property insurers. All companies that write such insurance in Florida are required to buy reimbursement coverage (reinsurance) on their residential property exposure through the fund.

Legislation enacted in 2009 changed the contract year of the FHCF from June 1st through May 31st to January 1st through December 31st (a calendar year), starting January 1, 2011. To implement the contract year date change, the legislation created a "transitional" contract year for 2010, which began on June 1, 2010, and ended on December 31, 2010. The shortening of the 2010 contract year to 7 months will cause an accounting problem for insurers due to the acceleration of the recognition of an insurer’s expense (of FHCF reinsurance) resulting in potential solvency difficulties for insurers. In essence, an insurer's revenue will not match its expense, and the resulting loss could unduly reduce surplus, thus impacting an insurer’s financial solvency.

The bill corrects the “transitional” 2010 contract year problem by changing the FHCF's contract year back to June 1st through May 31st thereby eliminating the acceleration of an insurer’s expenses for purchasing FHCF reinsurance. The bill provides legislative intent language which emphasizes the importance of providing residential property insurers with more time to negotiate and purchase private reinsurance and a greater degree of certainty regarding the coverage provided by the fund. To facilitate these goals, the bill requires the FHCF’s aggregate coverage and aggregate retention to be published in the Florida Administrative Weekly by January 1 of each year, the FHCF’s reimbursement contract to be adopted by February 1 of each year, and insurers to execute their FHCF reimbursement contract by March 1 of each year (with an effective date of June 1). These procedures will afford insurers greater opportunity to better estimate their coverage from the fund and their private reinsurance needs.

The bill also changes the retention multiple formula in calculating an insurer’s retention, by using exposure from “two years” prior (as opposed to “one year” provided under current law) in calculating the retention factor. This change will permit the fund to calculate and provide retention multiples to insurers earlier in the year because the fund will no longer have to wait on its more recent exposure data. The retention formula change will enable property insurers to obtain FHCF reinsurance earlier in the year and be able to more accurately assess their need for additional private reinsurance in advance of the upcoming hurricane season.

The legislation also caps the FHCF’s mandatory layer at $17 billion, unless the FHCF has capacity to pay $17 billion in one year and $17 billion in the subsequent year. This provision accomplishes the objective of making the FHCF’s mandatory layer more of a certain or known benefit for insurers.

These provisions became law upon approval by the Governor on 4/15/10.
Vote: Senate 38-0; House 115-0