HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GGPC 10-01 Florida Hurricane Catastrophe Fund Assessments
SPONSOR(S): General Government Policy Council
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1594

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	General Government Policy Council		Callaway	Hamby
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

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

If the cash balance of the FHCF is not sufficient to cover losses, the law allows the issuance of revenue bonds, which are funded by emergency assessments on property and casualty policyholders. The fund is authorized to levy emergency assessments against most property and casualty insurance premiums paid by policyholders, including surplus lines policyholders, when reimbursement premiums and other fund resources are insufficient to cover the fund's obligations. By law, workers' compensation, accident and health, federal flood and, until May 31, 2010, medical malpractice insurance are not included in the fund's assessment base and thus are not assessed for fund deficits. Lines of property and casualty insurance included in the fund's assessment base and thus assessed for fund deficits include, but are not limited to, property insurance, automobile insurance, and commercial insurance.

The bill continues the exemption of medical malpractice insurance premiums from the FHCF emergency assessment for three years, from May 31, 2010 to May 31, 2013. Medical malpractice insurance premiums were subject to FHCF's emergency assessments from 1993 (when the Fund was created) until 2003 when an exemption was enacted. The exemption was initially enacted for three years, until May 31, 2007, but was extended for another three years in 2006, until May 31, 2010. Because the bill extends the exemption another three years, until May 31, 2013, the FHCF will not be able to assess medical malpractice insurance for fund deficits until after May 31, 2013.

Physicians will benefit from continuing the exemption of medical malpractice insurance premiums from the fund's assessment base because they will not have these assessments added to their malpractice insurance premium. However, policyholders of property and casualty insurance subject to the Fund's assessments will pay more in assessments because the assessments will be spread among the Fund's existing assessment base rather than spread among the larger assessment base that would result from the expiration of the exemption and the inclusion of medical malpractice insurance premiums in the assessment base.

The bill has no fiscal impact on local or state governments.

The bill is effective upon becoming a law.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida Hurricane Catastrophe Fund Emergency Assessments

The Florida Hurricane Catastrophe Fund (FHCF or fund) is a tax-exempt trust fund created in 1993 after Hurricane Andrew as a form of mandatory reinsurance for residential property insurers.[1] All insurers that write residential property insurance in Florida are required to buy reimbursement coverage (reinsurance) on their residential property exposure through the FHCF. The fund is administered by the State Board of Administration and is a tax-exempt source of reimbursement to property insurers for a selected percentage (45, 75, or 90 percent) of hurricane losses above the insurer's retention (deductible).[2]

If the cash balance of the FHCF is not sufficient to cover losses, the law allows the issuance of revenue bonds, which are funded by emergency assessments on property and casualty policyholders. The fund is authorized to levy emergency assessments against most property and casualty insurance premiums paid by policyholders, including surplus lines policyholders, when reimbursement premiums and other fund resources are insufficient to cover the fund's obligations. By law, workers' compensation, accident and health, federal flood and, until May 31, 2010, medical malpractice insurance are not included in the fund's assessment base and thus are not assessed for fund deficits. Lines of property and casualty insurance included in the fund's assessment base and thus assessed for fund deficits include, but are not limited to, property insurance, automobile insurance, and commercial insurance.

Annual emergency assessments are capped at 6 percent of premium with respect to losses from any one year and a maximum of 10 percent of premium to fund hurricane losses from multiple years. Revenue bonds issued by the FHCF may be amortized over a term up to 30 years. Thus, the FHCF may levy emergency assessments for as long as 30 years.

The fund had a deficit due to the 2005 hurricanes that resulted in a one percent emergency assessment, which will remain in effect until approximately 2014 on all assessable lines of business. Although historically the Fund's assessment base has increased 7 percent a year, the assessment base declined by -2.42 percent in 2006 and -4.69 percent in 2007. The 2009 year-end calculations are

[1] Section 215.555, F.S.
[2] Retention is defined to mean the amount of losses below which an insurer is not entitled to reimbursement from the fund. A retention is calculated for each insurer based on its proportionate share of fund premiums.

not yet finalized, but it is anticipated that the base will decline further, according to officials with the fund.[3]

Proposed Changes Relating to Medical Malpractice Exemption from FHCF Assessment Base

The bill continues the exemption of medical malpractice insurance premiums from the FHCF emergency assessment for three years, from May 31, 2010 to May 31, 2013. Medical malpractice insurance premiums were subject to FHCF's emergency assessments from 1993 (when the Fund was created) until 2003 when an exemption was enacted. The exemption was initially enacted for three years, until May 31, 2007, but was extended for another three years in 2006, until May 31, 2010. Because the bill extends the exemption another three years, until May 31, 2013, the FHCF will not be able to assess medical malpractice insurance for deficits until after May 31, 2013. Medical malpractice insurance premiums in 2008 totaled approximately $597 million, about 1.7 percent of the Fund's assessment base.[4] Thus, this amount will continue to be excluded from the Fund's assessment base due to the bill's extension of the medical malpractice exemption.[5]

B. SECTION DIRECTORY:

Section 1: Amends s. 215.555, F.S., relating to the Florida Hurricane Catastrophe Fund.

Section 2: Provides an effective date of "upon becoming a law."

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Under the bill, medical malpractice insurance premiums will continue to be exempt from assessments by the Florida Hurricane Catastrophe Fund. Thus, physicians will not have these assessments added to their malpractice insurance premium. However, policyholders of property and casualty insurance subject to the Fund's assessments will pay more in assessments because the assessments will be spread among the Fund's existing assessment base rather than spread among the larger assessment base that would result from the expiration of the exemption and the inclusion of medical malpractice insurance premiums in the assessment base.

[3] Information obtained from the Florida Hurricane Catastrophe Fund on file with the Insurance, Business & Financial Affairs Policy Committee.
[4] The Florida Hurricane Catastrophe Fund's assessment base is currently $34.9 billion.
[5] http://www.floir.com/pdf/MedicaMalReport10012009.pdf

D. FISCAL COMMENTS:

Medical malpractice premiums in 2008 totaled approximately $597 million, about 1.7 percent of the Florida Hurricane Catastrophe Fund's assessment base. Thus, this amount will continue to be excluded from the Fund's assessment base due to the bill's extension of the medical malpractice exemption. According to a representative of the Fund, a report from Moody's issued in February 2010 on the Fund's bond rating noted the bond rating (currently a rating of Aa3) could be downgraded if the Fund's assessment base experienced a decline or flattening.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None provided in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.