

PCS for HB 97

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1 A bill to be entitled
 2 An act relating to the Florida Hurricane Catastrophe
 3 Fund; amending s. 215.555, F.S.; providing a retention
 4 multiple; providing an additional coverage option;
 5 revising the calculation and application of the cash
 6 build-up factor; revising the authority to levy
 7 emergency assessments; providing an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

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 11 Section 1. Paragraph (e) of subsection (2), paragraph
 12 (b) of subsection (4), paragraph (b) of subsection (5), and
 13 paragraph (b) of subsection (6) of section 215.555, Florida
 14 Statutes, are amended to read:

15 215.555 Florida Hurricane Catastrophe Fund.—

16 (2) DEFINITIONS.—As used in this section:

17 (e) "Retention" means the amount of losses below which an
 18 insurer is not entitled to reimbursement from the fund. An
 19 insurer's retention shall be calculated as follows:

20 1. The board shall calculate and report to each insurer
 21 the retention multiples for that year. For the contract year
 22 beginning June 1, 2005, the retention multiple shall be equal to
 23 \$4.5 billion divided by the total estimated reimbursement
 24 premium for the contract year; for subsequent years, the
 25 retention multiple shall be equal to \$4.5 billion, adjusted

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26 | based upon the reported exposure for the contract year occurring
 27 | 2 years before the particular contract year to reflect the
 28 | percentage growth in exposure to the fund for covered policies
 29 | since 2004, divided by the total estimated reimbursement premium
 30 | for the contract year. Total reimbursement premium for purposes
 31 | of the calculation under this subparagraph shall be estimated
 32 | using the assumption that all insurers have selected the 90-
 33 | percent coverage level.

34 | 2. The retention multiple as determined under subparagraph
 35 | 1. shall be adjusted to reflect the coverage level elected by
 36 | the insurer. For insurers electing the 90-percent coverage
 37 | level, the adjusted retention multiple is 100 percent of the
 38 | amount determined under subparagraph 1. For insurers electing
 39 | the 75-percent coverage level, the retention multiple is 120
 40 | percent of the amount determined under subparagraph 1. For
 41 | insurers electing the 60-percent coverage level, the retention
 42 | multiple is 150 percent of the amount determined under
 43 | subparagraph 1. For insurers electing the 45-percent coverage
 44 | level, the adjusted retention multiple is 200 percent of the
 45 | amount determined under subparagraph 1.

46 | 3. An insurer shall determine its provisional retention by
 47 | multiplying its provisional reimbursement premium by the
 48 | applicable adjusted retention multiple and shall determine its
 49 | actual retention by multiplying its actual reimbursement premium
 50 | by the applicable adjusted retention multiple.

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51 4. For insurers who experience multiple covered events
 52 causing loss during the contract year, beginning June 1, 2005,
 53 each insurer's full retention shall be applied to each of the
 54 covered events causing the two largest losses for that insurer.
 55 For each other covered event resulting in losses, the insurer's
 56 retention shall be reduced to one-third of the full retention.
 57 The reimbursement contract shall provide for the reimbursement
 58 of losses for each covered event based on the full retention
 59 with adjustments made to reflect the reduced retentions on or
 60 after January 1 of the contract year provided the insurer
 61 reports its losses as specified in the reimbursement contract.

62 (4) REIMBURSEMENT CONTRACTS.—

63 (b)1. The contract shall contain a promise by the board to
 64 reimburse the insurer for 45 percent, 60 percent, 75 percent, or
 65 90 percent of its losses from each covered event in excess of
 66 the insurer's retention, plus 5 percent of the reimbursed losses
 67 to cover loss adjustment expenses. The 60 percent coverage level
 68 shall be available beginning with the 2019-2020 contract year.

69 2. The insurer must elect one of the percentage coverage
 70 levels specified in this paragraph and may, upon renewal of a
 71 reimbursement contract, elect a lower percentage coverage level
 72 if no revenue bonds issued under subsection (6) after a covered
 73 event are outstanding, or elect a higher percentage coverage
 74 level, regardless of whether or not revenue bonds are
 75 outstanding. All members of an insurer group must elect the same

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76 | percentage coverage level. Any joint underwriting association,
 77 | risk apportionment plan, or other entity created under s.
 78 | 627.351 must elect the 90-percent coverage level.

79 | 3. The contract shall provide that reimbursement amounts
 80 | shall not be reduced by reinsurance paid or payable to the
 81 | insurer from other sources.

82 | (5) REIMBURSEMENT PREMIUMS.—

83 | (b) The State Board of Administration shall select an
 84 | independent consultant to develop a formula for determining the
 85 | actuarially indicated premium to be paid to the fund. The
 86 | formula shall specify, for each zip code or other limited
 87 | geographical area, the amount of premium to be paid by an
 88 | insurer for each \$1,000 of insured value under covered policies
 89 | in that zip code or other area. In establishing premiums, the
 90 | board shall consider the coverage elected under paragraph (4) (b)
 91 | and any factors that tend to enhance the actuarial
 92 | sophistication of ratemaking for the fund, including
 93 | deductibles, type of construction, type of coverage provided,
 94 | relative concentration of risks, and other such factors deemed
 95 | by the board to be appropriate. Beginning with the premium
 96 | formula for the 2019-2020 contract year, the premium formula
 97 | must provide for a cash build-up factor as follows:

98 | 1. As used in this paragraph, the term "projected fund
 99 | balance" means the projected year-end balance of the fund as of
 100 | December 31 of the prior contract year as published in the

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101 Florida Administrative Register in October, adjusted for any
 102 changes in the fund's total incurred losses made on or before
 103 the date on which the independent actuarial consultant signs the
 104 report of the proposed premium formula.

105 2. When the projected fund balance is less than \$14
 106 billion, the factor is 25 percent. When the projected fund
 107 balance is at least \$14 billion, but less than \$14.5 billion,
 108 the factor is 20 percent. When the projected fund balance is at
 109 least \$14.5 billion, but less than \$15 billion, the factor is 15
 110 percent. When the projected fund balance is at least \$15
 111 billion, but less than \$15.5 billion, the factor is 10 percent.
 112 When the fund balance is at least \$15.5 billion, but less than
 113 \$16 billion, the factor is 5 percent. When the fund balance is
 114 at least \$16 billion, the factor is zero. ~~For the 2009-2010~~
 115 ~~contract year, the factor is 5 percent. For the 2010-2011~~
 116 ~~contract year, the factor is 10 percent. For the 2011-2012~~
 117 ~~contract year, the factor is 15 percent. For the 2012-2013~~
 118 ~~contract year, the factor is 20 percent. For the 2013-2014~~
 119 ~~contract year and thereafter, the factor is 25 percent.~~

120 3. The formula may provide for a procedure to determine
 121 the premiums to be paid by new insurers that begin writing
 122 covered policies after the beginning of a contract year, taking
 123 into consideration when the insurer starts writing covered
 124 policies, the potential exposure of the insurer, the potential
 125 exposure of the fund, the administrative costs to the insurer

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126 | and to the fund, and any other factors deemed appropriate by the
 127 | board. The formula must be approved by unanimous vote of the
 128 | board. The board may, at any time, revise the formula pursuant
 129 | to the procedure provided in this paragraph.

130 | (6) REVENUE BONDS.—

131 | (b) Emergency assessments.—

132 | 1. a. If the board determines that the amount of revenue
 133 | produced under subsection (5) is insufficient to fund the
 134 | obligations, costs, and expenses of the fund and the
 135 | corporation, including repayment of revenue bonds and that
 136 | portion of the debt service coverage not met by reimbursement
 137 | premiums, the board shall direct the Office of Insurance
 138 | Regulation to levy, by order, an emergency assessment on direct
 139 | premiums for all property and casualty lines of business in this
 140 | state, including property and casualty business of surplus lines
 141 | insurers regulated under part VIII of chapter 626, but not
 142 | including any workers' compensation premiums or medical
 143 | malpractice premiums.

144 | b. As used in this subsection, the term "property and
 145 | casualty business" includes all lines of business identified in
 146 | the ~~on Form 2,~~ Exhibit of Premiums and Losses, in the annual
 147 | statement required of authorized property and casualty insurers
 148 | under ~~by~~ s. 624.424 and any rule adopted under this section,
 149 | except for those lines identified as accident and health
 150 | insurance and except for policies written under the National

151 Flood Insurance Program. The assessment shall be specified as a
 152 percentage of direct written premium and is subject to annual
 153 adjustments by the board in order to meet debt obligations. The
 154 same percentage applies to all policies in lines of business
 155 subject to the assessment issued or renewed during the 12-month
 156 period beginning on the effective date of the assessment.

157 2. A premium is not subject to an annual assessment under
 158 this paragraph in excess of 6 percent of premium with respect to
 159 obligations arising out of losses attributable to any one
 160 contract year, and a premium is not subject to an aggregate
 161 annual assessment under this paragraph in excess of 10 percent
 162 of premium. An annual assessment under this paragraph continues
 163 as long as the revenue bonds issued with respect to which the
 164 assessment was imposed are outstanding, including any bonds the
 165 proceeds of which were used to refund the revenue bonds, unless
 166 adequate provision has been made for the payment of the bonds
 167 under the documents authorizing issuance of the bonds.

168 3. Emergency assessments shall be collected from
 169 policyholders. Emergency assessments shall be remitted by
 170 insurers as a percentage of direct written premium for the
 171 preceding calendar quarter as specified in the order from the
 172 Office of Insurance Regulation. The office shall verify the
 173 accurate and timely collection and remittance of emergency
 174 assessments and shall report the information to the board in a
 175 form and at a time specified by the board. Each insurer

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176 collecting assessments shall provide the information with
 177 respect to premiums and collections as may be required by the
 178 office to enable the office to monitor and verify compliance
 179 with this paragraph.

180 4. With respect to assessments of surplus lines premiums,
 181 each surplus lines agent shall collect the assessment at the
 182 same time as the agent collects the surplus lines tax required
 183 by s. 626.932, and the surplus lines agent shall remit the
 184 assessment to the Florida Surplus Lines Service Office created
 185 by s. 626.921 at the same time as the agent remits the surplus
 186 lines tax to the Florida Surplus Lines Service Office. The
 187 emergency assessment on each insured procuring coverage and
 188 filing under s. 626.938 shall be remitted by the insured to the
 189 Florida Surplus Lines Service Office at the time the insured
 190 pays the surplus lines tax to the Florida Surplus Lines Service
 191 Office. The Florida Surplus Lines Service Office shall remit the
 192 collected assessments to the fund or corporation as provided in
 193 the order levied by the Office of Insurance Regulation. The
 194 Florida Surplus Lines Service Office shall verify the proper
 195 application of such emergency assessments and shall assist the
 196 board in ensuring the accurate and timely collection and
 197 remittance of assessments as required by the board. The Florida
 198 Surplus Lines Service Office shall annually calculate the
 199 aggregate written premium on property and casualty business,
 200 other than workers' compensation and medical malpractice,

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201 | procured through surplus lines agents and insureds procuring
 202 | coverage and filing under s. 626.938 and shall report the
 203 | information to the board in a form and at a time specified by
 204 | the board.

205 | 5. Any assessment authority not used for a particular
 206 | contract year may be used for a subsequent contract year. If,
 207 | for a subsequent contract year, the board determines that the
 208 | amount of revenue produced under subsection (5) is insufficient
 209 | to fund the obligations, costs, and expenses of the fund and the
 210 | corporation, including repayment of revenue bonds and that
 211 | portion of the debt service coverage not met by reimbursement
 212 | premiums, the board shall direct the Office of Insurance
 213 | Regulation to levy an emergency assessment up to an amount not
 214 | exceeding the amount of unused assessment authority from a
 215 | previous contract year or years, plus an additional 4 percent
 216 | provided that the assessments in the aggregate do not exceed the
 217 | limits specified in subparagraph 2.

218 | 6. The assessments otherwise payable to the corporation
 219 | under this paragraph shall be paid to the fund unless the Office
 220 | of Insurance Regulation and the Florida Surplus Lines Service
 221 | Office received a notice from the corporation and the fund,
 222 | which shall be conclusive and upon which they may rely without
 223 | further inquiry, that the corporation has issued bonds and the
 224 | fund has no agreements in effect with local governments under
 225 | paragraph (c). On or after the date of the notice and until the

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226 | date the corporation has no bonds outstanding, the fund shall
 227 | have no right, title, or interest in or to the assessments,
 228 | except as provided in the fund's agreement with the corporation.

229 | 7. Emergency assessments are not premium and are not
 230 | subject to the premium tax, to the surplus lines tax, to any
 231 | fees, or to any commissions. An insurer is liable for all
 232 | assessments that it collects and must treat the failure of an
 233 | insured to pay an assessment as a failure to pay the premium. An
 234 | insurer is not liable for uncollectible assessments.

235 | 8. If an insurer is required to return an unearned
 236 | premium, it shall also return any collected assessment
 237 | attributable to the unearned premium. A credit adjustment to the
 238 | collected assessment may be made by the insurer with regard to
 239 | future remittances that are payable to the fund or corporation,
 240 | but the insurer is not entitled to a refund.

241 | 9. If a surplus lines insured or an insured who has
 242 | procured coverage and filed under s. 626.938 is entitled to the
 243 | return of an unearned premium, the Florida Surplus Lines Service
 244 | Office shall provide a credit or refund to the agent or such
 245 | insured for the collected assessment attributable to the
 246 | unearned premium before remitting the emergency assessment
 247 | collected to the fund or corporation.

248 | 10. The intent of the Legislature is that emergency
 249 | assessments be levied only in the context of debt financing
 250 | under this subsection. The authority to direct the Office of

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251 | Insurance Regulation to levy emergency assessments under this
252 | paragraph applies only in circumstances where debt issued under
253 | this subsection is outstanding or where the issuance of such
254 | debt has been authorized.

255 | Section 2. This act shall take effect upon becoming a law.