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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/16/2013	.	
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The Committee on Banking and Insurance (Hays) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Effective June 1, 2013, paragraph (n) of subsection (2), paragraph (c) of subsection (4), and paragraph (d) of subsection (6) of section 215.555, Florida Statutes, are amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

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

(n) "Corporation" means the State Board of Administration  
~~Florida Hurricane Catastrophe Fund~~ Finance Corporation created



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13 in paragraph (6) (d).

14 (4) REIMBURSEMENT CONTRACTS.—

15 (c)~~1~~. The contract must ~~shall~~ also provide that the  
16 obligation of the board with respect to all contracts covering a  
17 particular contract year ~~shall~~ not exceed the actual claims-  
18 paying capacity of the fund up to the limit specified in this  
19 paragraph.

20 1. Fund limits are as follow:

21 a. For the 2013-2014 contract year, the limit is \$17  
22 billion.

23 b. For the 2014-2015 contract year and subsequent contract  
24 years, the limit is \$16 billion.

25 2. After the 2014-2015 contract year, if a limit of \$17  
26 billion for that contract year, unless the board determines that  
27 there is sufficient estimated claims-paying capacity to provide  
28 \$16 ~~\$17~~ billion of capacity for the current contract year and an  
29 additional \$16 ~~\$17~~ billion of capacity for subsequent contract  
30 years. ~~If the board makes such a determination,~~ the estimated  
31 claims-paying capacity for the particular contract year shall be  
32 determined by adding to the \$16 ~~\$17~~ billion limit one-half of  
33 the fund's estimated claims-paying capacity in excess of \$32 ~~\$34~~  
34 billion. However, the dollar growth in the limit may not  
35 increase in any year by an amount greater than the dollar growth  
36 of the balance of the fund as of December 31, ~~less any premiums~~  
37 ~~or interest attributable to optional coverage,~~ as defined by  
38 rule, which occurred over the prior calendar year.

39 3.2. In May and October of the contract year, the board  
40 shall publish in the Florida Administrative Register ~~Weekly~~ a  
41 statement of the fund's estimated borrowing capacity, the fund's



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42 estimated claims-paying capacity, and the projected balance of  
43 the fund as of December 31. After the end of each calendar year,  
44 the board shall notify insurers of the estimated borrowing  
45 capacity, estimated claims-paying capacity, and the balance of  
46 the fund as of December 31 to provide insurers with data  
47 necessary to assist them in determining their retention and  
48 projected payout from the fund for loss reimbursement purposes.  
49 In conjunction with the development of the premium formula, as  
50 provided ~~for~~ in subsection (5), the board shall publish factors  
51 or multiples that assist insurers in determining their retention  
52 and projected payout for the next contract year. For all  
53 regulatory and reinsurance purposes, an insurer may calculate  
54 its projected payout from the fund as its share of the total  
55 fund premium for the current contract year multiplied by the sum  
56 of the projected balance of the fund as of December 31 and the  
57 estimated borrowing capacity for that contract year as reported  
58 under this subparagraph.

59 (6) REVENUE BONDS.—

60 (d) State Board of Administration ~~Florida Hurricane~~  
61 ~~Catastrophe Fund Finance Corporation.~~—

62 1. In addition to the findings and declarations in  
63 subsection (1), the Legislature also finds and declares that:

64 a. The public benefits corporation created under this  
65 paragraph will provide a mechanism ~~necessary~~ for the cost-  
66 effective and efficient issuance of bonds. This mechanism will  
67 eliminate unnecessary costs in the bond issuance process,  
68 thereby increasing the amounts available for ~~to pay~~  
69 reimbursement for losses to property sustained as a result of  
70 hurricane damage.



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71           b. The purpose of such bonds is to fund reimbursements  
72 through the Florida Hurricane Catastrophe Fund ~~to pay~~ for the  
73 costs of construction, reconstruction, repair, restoration, and  
74 other costs associated with damage to properties of  
75 policyholders of covered policies due to the occurrence of a  
76 hurricane.

77           c. The efficacy of the financing mechanism will be enhanced  
78 by the corporation's ownership of the assessments, by the  
79 insulation of the assessments from possible bankruptcy  
80 proceedings, and by covenants of the state with the  
81 corporation's bondholders.

82           ~~2.a.~~ The State Board of Administration Finance Corporation  
83 ~~There is created, which is~~ a public benefits corporation ~~and,~~  
84 ~~which is~~ an instrumentality of the state, ~~to be known as the~~  
85 ~~Florida Hurricane Catastrophe Fund Finance Corporation.~~ The  
86 State Board of Administration Finance Corporation is for all  
87 purposes the successor to the Florida Hurricane Catastrophe Fund  
88 Finance Corporation.

89           ~~a.b.~~ The corporation shall operate under a five-member  
90 board of directors consisting of the Governor or a designee, the  
91 Chief Financial Officer or a designee, the Attorney General or a  
92 designee, the director of the Division of Bond Finance of the  
93 State Board of Administration, and the Chief Operating Officer  
94 ~~senior employee of the State Board of Administration responsible~~  
95 ~~for operations~~ of the Florida Hurricane Catastrophe Fund.

96           ~~b.e.~~ The corporation has all of the powers of corporations  
97 under chapter 607 and under chapter 617, subject only to ~~the~~  
98 ~~provisions of~~ this subsection.

99           ~~c.d.~~ The corporation may issue bonds and engage in such



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100 other financial transactions as are necessary to provide  
101 sufficient funds to achieve the purposes of this section.

102 ~~d.e.~~ The corporation may invest in any of the investments  
103 authorized under s. 215.47.

104 ~~e.f.~~ There is ~~shall be~~ no liability on the part of, and no  
105 cause of action shall arise against, any board members or  
106 employees of the corporation for any actions taken by them in  
107 the performance of their duties under this paragraph.

108 3.a. In actions under chapter 75 to validate any bonds  
109 issued by the corporation, the notice required by s. 75.06 must  
110 ~~shall~~ be published in two newspapers of general circulation in  
111 the state, and the complaint and order of the court shall be  
112 served only on the State Attorney of the Second Judicial  
113 Circuit.

114 b. The state hereby covenants with holders of bonds of the  
115 corporation that the state will not repeal or abrogate the power  
116 of the board to direct the Office of Insurance Regulation to  
117 levy the assessments and to collect the proceeds of the revenues  
118 pledged to the payment of such bonds as long as ~~any~~ such bonds  
119 remain outstanding unless adequate provision has been made for  
120 the payment of such bonds pursuant to the documents authorizing  
121 the issuance of the ~~such~~ bonds.

122 ~~c.4.~~ The bonds of the corporation are not a debt of the  
123 state or of any political subdivision, and neither the state nor  
124 any political subdivision is liable on such bonds. The  
125 corporation may not ~~does not have the power to~~ pledge the  
126 credit, the revenues, or the taxing power of the state or of any  
127 political subdivision. The credit, revenues, or taxing power of  
128 the state or of any political subdivision may ~~shall~~ not be



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129 deemed to be pledged to the payment of any bonds of the  
130 corporation.

131 ~~d.5.a.~~ The property, revenues, and other assets of the  
132 corporation; the transactions and operations of the corporation  
133 and the income from such transactions and operations; and all  
134 bonds issued under this paragraph and interest on such bonds are  
135 exempt from taxation by the state and any political subdivision,  
136 including the intangibles tax under chapter 199 and the income  
137 tax under chapter 220. This exemption does not apply to any tax  
138 imposed by chapter 220 on interest, income, or profits on debt  
139 obligations owned by corporations other than the State Board of  
140 Administration Florida Hurricane Catastrophe Fund Finance  
141 Corporation.

142 ~~e.b.~~ All bonds of the corporation are ~~shall be and~~  
143 ~~constitute~~ legal investments without limitation for all public  
144 bodies of this state; for all banks, trust companies, savings  
145 banks, savings associations, savings and loan associations, and  
146 investment companies; for all administrators, executors,  
147 trustees, and other fiduciaries; for all insurance companies and  
148 associations and other persons carrying on an insurance  
149 business; and for all other persons who are now or may hereafter  
150 be authorized to invest in bonds or other obligations of the  
151 state and are ~~shall be and constitute~~ eligible securities to be  
152 deposited as collateral for the security of any state, county,  
153 municipal, or other public funds. This sub-subparagraph shall be  
154 considered ~~as~~ additional and supplemental authority and may  
155 ~~shall~~ not be limited without specific reference to this sub-  
156 subparagraph.

157 ~~4.6.~~ The corporation and its corporate existence shall



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158 continue until terminated by law; however, no such law shall  
159 take effect as long as the corporation has bonds outstanding  
160 unless adequate provision has been made for the payment of such  
161 bonds pursuant to the documents authorizing the issuance of such  
162 bonds. Upon termination of the existence of the corporation, all  
163 of its rights and properties in excess of its obligations shall  
164 pass to and be vested in the state.

165 Section 2. Except as otherwise expressly provided in this  
166 act, this act shall take effect upon becoming a law.

167  
168 ===== T I T L E A M E N D M E N T =====

169 And the title is amended as follows:

170 Delete everything before the enacting clause  
171 and insert:

172 A bill to be entitled  
173 An act relating to the Florida Hurricane Catastrophe  
174 Fund; amending s. 215.555, F.S.; changing the name of  
175 the Florida Hurricane Catastrophe Fund Finance  
176 Corporation to the State Board of Administration  
177 Finance Corporation; providing for the phase-in of  
178 changes to the claims-paying capacity limits of the  
179 fund; providing effective dates.