

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the General Government Appropriations Committee

BILL: PCS/SB1594

INTRODUCER: General Government Appropriations Committee and Senator Baker

SUBJECT: The Florida Hurricane Catastrophe Fund

DATE: March 16, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Frederick	DeLoach	GA	Pre-meeting
2.			WPSC	
3.			RS	
4.				
5.				
6.				

I. Summary:

This bill extends the exemption of medical malpractice insurance premiums from Florida Hurricane Catastrophe Fund emergency assessments from May 31, 2010, to May 31, 2013.

This bill substantially amends section 215.555, Florida Statutes.

II. Present Situation:

The Florida Hurricane Catastrophe Fund (FHCF) is a tax-exempt 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. The fund is administered by the State Board of Administration (SBA) 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).

If the cash balance of the FHCF is not sufficient to cover losses, s. 215.555(6)(b)1., F. S., 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 all property and casualty insurance premiums paid by policyholders, including surplus lines policyholders, when reimbursed premiums and other fund resources are insufficient to cover the fund's obligations. Workers' compensation, accident and health insurance, federal flood insurance and, until May 31, 2010, medical malpractice insurance are exempt from these assessments. As a result of the 2005 hurricanes, the fund incurred a deficit that resulted in a one percent assessment, which will remain in effect until approximately 2014 on all assessable lines

of business. The FHCF assessment base was \$34.9 billion as of December 31, 2008, and has declined by 2.42 percent in 2006 and -4.49 percent in 2007. The 2009 year-end assessments are not finalized, but according to FHCF officials, it is anticipated that the base will decline further.

Medical malpractice insurance is a historically unstable line of insurance. The current exemption for medical malpractice insurance premiums from emergency assessments was authorized by the 2007 Legislature. At that time, malpractice premiums in Florida were the highest in the nation. While the malpractice market has begun to stabilize and rates have declined in recent years, premiums have yet to significantly decrease in Florida. According to the Medical Liability Monitor's Annual Rate Survey October 2009 Issue, of the ten largest states (by population), Florida has the highest or second highest malpractice premium rates in the country in most major specialties. Many doctors and hospital advocates are currently concerned about the ability to recruit and retain physicians, as Florida's rates are higher by a significant margin than all nearby southern states.

Section 215.555, F.S, requires that medical malpractice insurance premiums be subject to emergency assessments attributable to loss events occurring in the contract years beginning on June 1, 2010. It is estimated that approximately \$597 million of direct medical malpractice premium is currently written in Florida. If these premiums were included in the FHCF assessment base, they would constitute approximately 1.7 percent of the base.

III. Effect of Proposed Changes:

The bill amends s. 215.555, F.S., to extend the exemption of medical malpractice insurance premiums from the FHCF emergency assessments for three years, from May 31, 2010, to May 31, 2013.

According to the FHCF staff, Moody's Investor Services' bond ratings of the FHCF's assessment base reaffirms the FHCF's Aa3 rating and indicates a stable outlook. However, Moody's reports three factors that could result in a downward change to the rating. These are: a rapid increase in debt issued, along with a decline in population; a levelling or decline in the assessment base; and legislative changes that limit the FHCF's ability to levy assessments or collect premiums. According to FHCF staff, a one percent decline in the assessment base is equivalent to a reduction of \$349 million in assessable premiums. FHCF staff indicates that, if premiums for medical malpractice are in the \$500-\$600 million range as estimated, their inclusion in the FHCF's assessment base could be viewed as positive and help to avoid a downgrade, thereby eliminating the need for higher assessments on the current base.

According to medical malpractice insurance representatives, extending the exemption from the Florida Hurricane Catastrophe Fund emergency assessment from May 31, 2010, to May 31, 2013, will allow for the continued stabilization of the medical malpractice insurance market and avoid the need for additional costs on premiums that are among the highest in the nation. They indicate that the extended exemption will also help to reduce the difficulty of recruiting and retaining physicians to staff hospital emergency rooms in Florida due to the high cost of insurance.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

FHCF staff indicates that the inclusion of premiums for medical malpractice in the assessment base could help to avoid a downgrade in the FHCF bond rating, thereby eliminating the need for higher assessments on the current base.

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C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
