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LEGISLATIVE ACTION

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraphs (d) and (e) of subsection (2), paragraphs (c) and (d) of subsection (4), and paragraph (b) of subsection (5) of section 215.555, Florida Statutes, are amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

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

(d) "Losses" means all incurred losses under covered policies, including additional living expenses of up to ~~not to~~

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~~exceed~~ 40 percent of the insured value of a residential structure or its contents, loss adjustment expenses, and amounts paid as fees on behalf of or inuring to the benefit of a policyholder. The term does not include:

1. Losses for fair rental value, loss of rent or rental income, or business interruption losses;

2. Losses under liability coverages;

3. Property losses that are proximately caused by any peril other than a covered event, including, but not limited to, fire, theft, flood or rising water, or windstorm that does not constitute a covered event;

4. Amounts paid as the result of a voluntary expansion of coverage by the insurer, including, but not limited to, a waiver of an applicable deductible; or

5. ~~Amounts paid to reimburse a policyholder for condominium association or homeowners' association loss assessments or under similar coverages for contractual liabilities;~~

~~6. Amounts paid as bad faith awards, punitive damage awards, or other court-imposed fines, sanctions, or penalties;~~

~~7. Amounts in excess of the coverage limits under the covered policy; or~~

~~8. Allocated or~~ Unallocated loss adjustment expenses.

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

1. The board shall calculate and report to each insurer the retention multiples for each ~~that year. For the~~ contract year. The ~~beginning June 1, 2005, the retention multiple shall be equal to $4.5 billion divided by the total estimated~~

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~~reimbursement premium for the contract year; for subsequent years, the~~ retention multiple shall be equal to $4.5 billion, adjusted based upon the reported exposure for the contract year occurring 2 years before the particular contract year to reflect the percentage growth in exposure to the fund for covered policies since 2004, divided by the total estimated reimbursement premium for the contract year. Total reimbursement premium ~~for purposes of the calculation under this subparagraph~~ shall be estimated using the assumption that all insurers have selected the 90-percent coverage level. Effective June 1, 2014, the aggregate retention level may not exceed $5 billion.

2. The retention multiple as determined under subparagraph 1. shall be adjusted to reflect the coverage level elected by the insurer. For insurers electing the 90-percent coverage level, the adjusted retention multiple is 100 percent of the amount determined under subparagraph 1. For insurers electing the 75-percent coverage level, the retention multiple is 120 percent of the amount determined under subparagraph 1. For insurers electing the 45-percent coverage level, the adjusted retention multiple is 200 percent of the amount determined under subparagraph 1.

3. An insurer shall determine its provisional retention by multiplying its provisional reimbursement premium by the applicable adjusted retention multiple and ~~shall~~ determine its actual retention by multiplying its actual reimbursement premium by the applicable adjusted retention multiple.

4. For insurers who experience multiple covered events causing loss during the contract year, ~~beginning June 1, 2005,~~ each insurer’s full retention shall be applied to each of the

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covered events causing the two largest losses for that insurer. For each other covered event resulting in losses, the insurer's retention shall be reduced to one-third of the full retention. The reimbursement contract shall provide for the reimbursement of losses for each covered event based on the full retention with adjustments made to reflect the reduced retentions on or after January 1 of the contract year provided the insurer reports its losses as specified in the reimbursement contract.

(4) REIMBURSEMENT CONTRACTS.—

(c)1. The contract must ~~shall~~ also provide that the obligation of the board with respect to all contracts covering a particular contract year be ~~shall not exceed the actual claims-paying capacity of the fund up to a limit of~~ $17 billion ~~for that contract year, unless the board determines that there is sufficient estimated claims-paying capacity to provide $17 billion of capacity for the current contract year and an additional $17 billion of capacity for subsequent contract years~~. ~~If the board makes such a determination, the estimated claims-paying capacity for the particular contract year shall be determined by adding to the $17 billion limit one-half of the fund's estimated claims-paying capacity in excess of $34 billion. However, the dollar growth in the limit may not increase in any year by an amount greater than the dollar growth of the balance of the fund as of December 31, less any premiums or interest attributable to optional coverage, as defined by rule which occurred over the prior calendar year.~~

2. Each January ~~In May and October of the contract year~~, the board shall publish in the Florida Administrative Register ~~Weekly~~ a statement of the fund's estimated borrowing capacity

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and~~, the fund's~~ estimated claims-paying capacity~~, and the projected balance of the fund as of December 31~~. Upon completing the estimation of the fund's claims-paying capacity ~~After the end of each calendar year~~, the board shall notify insurers of the estimated borrowing capacity, estimated claims-paying capacity, and the balance of the fund as of December 31 to provide insurers with data necessary to assist them in determining their retention and projected payout from the fund for loss reimbursement purposes. In conjunction with the development of the premium formula, as provided ~~for~~ in subsection (5), the board shall publish factors or multiples that assist insurers in determining their retention and projected payout for the next contract year. For all regulatory and reinsurance purposes, an insurer may calculate its projected payout from the fund as its share of the total fund premium for the current contract year multiplied by the sum of the projected balance of the fund as of December 31 and the estimated borrowing capacity for that contract year as reported under this subparagraph. The statement must include an estimate for a minimum of 3 years of bonding capacity.

(d)1. For purposes of determining potential liability and to aid in the sound administration of the fund, the contract must ~~shall~~ require each insurer to report such insurer's losses from each covered event on an interim basis, as directed by the board. The contract must ~~shall~~ require the insurer to report to the board by ~~no later than~~ December 31 of each year, and quarterly thereafter, its reimbursable losses from covered events for the year. The contract shall require the board to determine and pay, as soon as practicable after receiving these

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reports of reimbursable losses, the initial amount of reimbursement due and adjustments to this amount based on later loss information. The adjustments to reimbursement amounts shall require the board to pay, or the insurer to return, amounts reflecting the most recent calculation of losses.

2. In determining reimbursements pursuant to this subsection, the contract must ~~shall~~ provide that the board ~~shall~~ pay to each insurer the ~~such~~ insurer's projected payout, which is the amount of reimbursement it is owed, up to an amount equal to the insurer's share of the actual premium paid for that contract year, multiplied by the insurer's share of the limit specified in subparagraph(c)1. ~~actual claims-paying capacity available for that contract year.~~

3. The board may reimburse insurers for amounts up to the published factors or multiples for determining each participating insurer's retention and projected payout derived as a result of the development of the premium formula in those situations in which the total reimbursement of losses to such insurers would not exceed the estimated claims-paying capacity of the fund. Otherwise, the projected payout factors or multiples shall be reduced uniformly among all insurers to reflect the estimated claims-paying capacity.

4. The board shall negotiate a line of credit to reimburse insurers if payments exceed available assets and bonding receipts. The line of credit must be sufficient to cover projected receipts from a minimum of 3 years' bonding and for second-event catastrophes. The line of credit must be closed by July 1, 2014.

(5) REIMBURSEMENT PREMIUMS.—

(b) The State Board of Administration shall select an independent consultant to develop a formula for determining the actuarially indicated premium to be paid to the fund. The formula shall specify, for each zip code or other limited geographical area, the amount of premium to be paid by an insurer for each $1,000 of insured value under covered policies in that zip code or other area. In establishing premiums, the board shall consider the coverage elected under paragraph (4)(b) and any factors that tend to enhance the actuarial sophistication of ratemaking for the fund, including deductibles, type of construction, type of coverage provided, relative concentration of risks, and other ~~such~~ factors deemed by the board to be appropriate. ~~The formula must provide for a cash build-up factor. For the 2009-2010 contract year, the factor is 5 percent. For the 2010-2011 contract year, the factor is 10 percent. For the 2011-2012 contract year, the factor is 15 percent. For the 2012-2013 contract year, the factor is 20 percent. For the 2013-2014 contract year and thereafter, the factor is 25 percent.~~ The formula may provide ~~for~~ a procedure <u>for determining</u> ~~to determine~~ the premiums to be paid by new insurers that begin writing covered policies after the beginning of a contract year, taking into consideration when the insurer starts writing covered policies, the potential exposure of the insurer, the potential exposure of the fund, the administrative costs to the insurer and to the fund, and any other factors deemed appropriate by the board. The formula must be approved by unanimous vote of the board. The board may, at any time, revise the formula pursuant to the procedure provided in this paragraph.

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Section 2. This act shall take effect July 1, 2013.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to the Florida Hurricane Catastrophe Fund; amending s. 215.555, F.S.; revising definitions for the terms “losses” and “retention”; revising requirements for reimbursement contracts; revising provisions relating to times and circumstances wherein the State Board of Administration publishes certain statements and notices relating to the fund; requiring the board to negotiate a line of credit to reimburse insurers under certain circumstances; deleting a requirement that the formula for determining premiums to be paid to the fund include a cash build-up factor; deleting obsolete provisions; providing an effective date.