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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:

1 **Senate Substitute for Amendment (548468) (with title**
2 **amendment)**

3
4 Delete lines 28 - 1017
5 and insert:

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

10 215.555 Florida Hurricane Catastrophe Fund.—

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

12 (n) "Corporation" means the State Board of Administration



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13 ~~Florida Hurricane Catastrophe Fund~~ Finance Corporation created
14 in paragraph (6) (d).

15 (4) REIMBURSEMENT CONTRACTS.—

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

21 1. Fund limits are as follow:

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

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

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

40 3.2. In May and October of the contract year, the board
41 shall publish in the Florida Administrative Register ~~Weekly~~ a



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

60 (6) REVENUE BONDS.—

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

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

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



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71 hurricane damage.

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

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

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

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

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



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100 ~~c.d.~~ The corporation may issue bonds and engage in such
101 other financial transactions as are necessary to provide
102 sufficient funds to achieve the purposes of this section.

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

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

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

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

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



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129 the state or of any political subdivision may ~~shall~~ not be
130 deemed to be pledged to the payment of any bonds of the
131 corporation.

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

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



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158 ~~4.6.~~ The corporation and its corporate existence shall
159 continue until terminated by law; however, no such law shall
160 take effect as long as the corporation has bonds outstanding
161 unless adequate provision has been made for the payment of such
162 bonds pursuant to the documents authorizing the issuance of such
163 bonds. Upon termination of the existence of the corporation, all
164 of its rights and properties in excess of its obligations shall
165 pass to and be vested in the state.

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

168

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

170 And the title is amended as follows:

171 Delete lines 2 - 24

172 and insert:

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.