



OFFICE OF INSURANCE REGULATION

KEVIN M. MCCARTY  
COMMISSIONER

**FILED**

**APR 27 2010**

OFFICE OF  
INSURANCE REGULATION  
Dictated by: AGS

**IN THE MATTER OF:**

**Emergency Assessments on Premiums; Percentages,  
Timing, Procedures for Remitting and Reporting.**

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**CASE NO.: 109022-10**

**ORDER**

**TO: The Florida Surplus Lines Service Office and all entities subject to Part VIII of Chapter 626, Florida Statutes**

**THIS CAUSE** came on for consideration upon the determination by the State Board of Administration ("**BOARD**"), pursuant to the provisions of Section 215.555(6)(b), Florida Statutes, that the amount of revenue produced under Section 215.555(5), Florida Statutes, is insufficient to fund the obligations, costs, and expenses of the Florida Hurricane Catastrophe Fund ("**FUND**") and the Florida Hurricane Catastrophe Fund Finance Corporation ("**CORPORATION**"), including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premium. Pursuant to the provisions of Section 215.555(6)(b), Florida Statutes, the **BOARD** has directed the Office of Insurance Regulation ("**OFFICE**") to levy, by order, an emergency assessment, and the Commissioner being fully informed in the premises,

**NOW THEREFORE**, the Commissioner hereby **FINDS** as follows:

## **JURISDICTION AND FINDINGS OF FACT**

1. The **OFFICE** has the requisite authority and duty, pursuant to Section 215.555, Florida Statutes (the "Act"), and the Florida Insurance Code, Section 624.307, Florida Statutes, to issue and enforce this Order.

2. Hurricanes Dennis, Katrina, Rita and Wilma, caused substantial property damage in Florida during the 2005 hurricane season; and

3. Certain of the hurricanes causing property damage in the 2005 hurricane season caused insured losses covered by the **FUND**.

4. The **BOARD**, pursuant to the Act, has determined that the amount of revenue produced from reimbursement premiums is insufficient to fund the obligations, costs and expenses of the **FUND** and the **CORPORATION**, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums. Therefore, pursuant to Section 215.555(6)(b), Florida Statutes, the **BOARD** has adopted the Resolution (the "Resolution" attached as Exhibit "A", hereto), directing the **OFFICE** to levy the emergency assessment.

5. The Resolution directs the **OFFICE** to levy the emergency assessment on the premiums for property and casualty lines of business in this state, including surplus lines property and casualty business regulated under part VIII of Chapter 626, Florida Statutes, and on each insured procuring property and casualty coverage and filing under Section 626.938, Florida Statutes, with the exception of premiums for workers' compensation policies, premiums for

accident and health insurance policies, premiums of medical malpractice insurance policies and premiums for policies written under the National Flood Insurance Program and the Federal Crop Insurance Act.

**WHEREFORE**, pursuant to the Act and the Resolution, the **OFFICE** issues this Order.

**Accordingly, IT IS HEREBY ORDERED:**

(1) Commencing January 1, 2011, an emergency assessment is hereby levied upon the premiums for property and casualty lines written through surplus lines regulated under part VIII of Chapter 626, Florida Statutes, and on each insured procuring property and casualty coverage and filing under Section 626.938, Florida Statutes.

(2) The term "property and casualty lines of business" includes those lines of business identified on the Exhibit of Premiums and Losses in the annual statement required of Authorized Insurers by Section 624.424, Florida Statutes. The term "property and casualty lines of business" for purposes of this Order includes all those lines of business except workers' compensation policies, accident and health policies, medical malpractice policies, or policies written under the National Flood Insurance Program and the Federal Crop Insurance Act.

(3) The Florida Surplus Lines Service Office ("**FSLSO**") shall instruct each surplus lines agent to collect the assessment at the same time as the agent collects the surplus lines tax required by Section 626.932, Florida Statutes, and shall instruct the agent to remit the assessment as directed by the **FSLSO** at the same time as the agent remits the surplus lines tax to the **FSLSO** (on or before the end of the month next following each calendar quarter). The **FSLSO** shall instruct each insured procuring coverage and filing under Section 626.938, Florida Statutes,

to remit the emergency assessment as directed by the **FSLSO** at the time the insured pays the surplus lines tax to the **FSLSO**. Emergency assessments shall be collected from each property and casualty policyholder with a policy that is issued or renewed during an Assessment Period. An "Assessment Period" begins on each January 1 and continues for twelve-months. The emergency assessment shall be assessed in each successive Assessment Period until further Order of the **OFFICE**.

(4) The emergency assessment is 1.30% of premium on each policy and the same percentage shall apply to all transactions "related" to each policy. A transaction that is "related" to a policy subject to the emergency assessment includes, but is not limited to, endorsements on that policy, policy cancellations, and audit premiums.

(5) Emergency assessment remittances are due on the full annual premium attributable to policies issued or renewed within an Assessment Period.

(6) The **FSLSO** shall remit emergency assessments to the **BOARD** in such manner as is subsequently directed by the **BOARD**. When a surplus lines insured or an insured who has procured coverage and filed under Section 626.938, Florida Statutes, is entitled to the return of an unearned premium, the **FSLSO** shall provide a credit where applicable to agents or the Fund shall refund to the agent or such insured for the collected assessment attributable to the unearned premium.

(7) The payment of emergency assessments is subject to interest on delinquent remittances at a rate determined by the Board and invoiced by the **FSLSO**.

(8) Emergency assessments are not premiums and are not subject to the surplus lines premium tax, to the **FSLSO** fee, or to any other statutorily imposed assessment or surcharge. Each surplus lines agent shall diligently attempt to collect all assessments owed by an insured and must treat the failure of an insured to pay an assessment as failure to pay the premium.

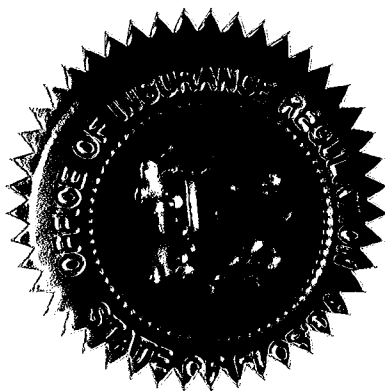
(9) Each surplus lines agent and insured procuring coverage and filing under Section 626.938, Florida Statutes, shall report such information relating to emergency assessments and premiums as is required by the **FSLSO**.

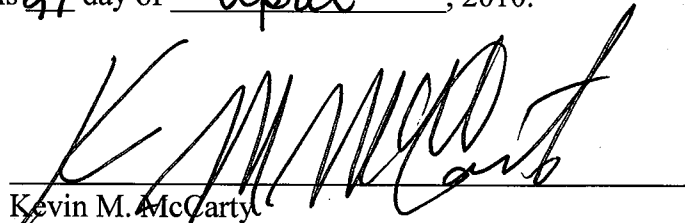
(10) The **FSLSO** shall verify the proper application of emergency assessments and shall assist the **BOARD** in ensuring the accurate and timely collection and remittance of assessments as required by the **BOARD**. The **FSLSO** shall annually calculate the aggregate written premium on property and casualty business procured through surplus lines agents and for insureds procuring coverage and filing under Section 626.938, Florida Statutes, other than premiums relating to workers' compensation policies, accident and health policies, medical malpractice policies, or policies written under the National Flood Insurance Program and the Federal Crop Insurance Act, and shall report the information to the **BOARD**, in a form and at a time specified by the **BOARD**.

(11) Pursuant to Section 215.555(10), Florida Statutes, the failure to timely remit emergency assessments, to file any report required by this Order or by the **OFFICE**, or to otherwise fail to abide by this Order shall be deemed to be a violation of the Florida Insurance Code. The **OFFICE** shall take all action authorized by law to enforce this Order and to assure that emergency assessments (including any interest thereon) are properly collected and remitted.

(12) The Order to the FSLSO, Case Number 86443-06, issued on June 12, 2006, shall stay in force and effect until 12:00 p.m., Eastern Time, midnight on December 31, 2010. Commencing at 12:01 a.m., Eastern Time, on January 1, 2011, this Order shall become effective and shall supersede the Order for Case Number 86443-06.

**DONE AND ORDERED** this 27<sup>th</sup> day of April, 2010.



  
Kevin M. McCarty  
Commissioner  
Office of Insurance Regulation

## NOTICE OF RIGHTS

Pursuant to Sections 120.569 and 120.57, Florida Statutes, and Rule Chapters 28-106 and 28-107, Florida Administrative Code (F.A.C.), you have a right to request a proceeding to contest this action by the Office of Insurance Regulation (hereinafter the "Office"). You may request a proceeding by filing a Petition. Your Petition for a proceeding must be in writing and must be filed with the General Counsel acting as the Agency Clerk, Office of Insurance Regulation. If served by U.S. Mail the Petition should be addressed to the Florida Office of Insurance Regulation at 612 Larson Building, Tallahassee, Florida 32399-4206. If Express Mail or hand-delivery is utilized, the Petition should be delivered to 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0300. The written Petition must be received by, and filed in the Office no later than 5:00 p.m. on the twenty-first (21) day after your receipt of this notice. Unless your Petition challenging this action is received by the Office within twenty-one (21) days from the date of the receipt of this notice, the right to a proceeding shall be deemed waived. Mailing the response on the twenty-first day will not preserve your right to a hearing.

If a proceeding is requested and there is no dispute of material fact the provisions of Section 120.57(2), Florida Statutes would apply. In this regard you may submit oral or written evidence in opposition to the action taken by this agency or a written statement challenging the grounds upon which the agency has relied. While a hearing is normally not required in the absence of a dispute of fact, if you feel that a hearing is necessary one will be conducted in Tallahassee, Florida or by telephonic conference call upon your request.

If you dispute material facts, which are the basis for this agency's action, you may request a formal adversarial proceeding pursuant to Sections 120.569 and 120.57(1), Florida Statutes. If you request this type of proceeding, the request must comply with all of the requirements of Rule Chapter 28-106.201, F.A.C., must demonstrate that your substantial interests have been affected by this agency's action, and contain:

- a) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;**
- b) A concise statement of the ultimate facts alleged, including the specific facts the Petitioner contends warrant reversal or modification of the agency's proposed action;
- c) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and
- d) A statement of the relief sought by the petitioner, stating precisely the action Petitioner wishes the agency to take with respect to the agency's proposed action.

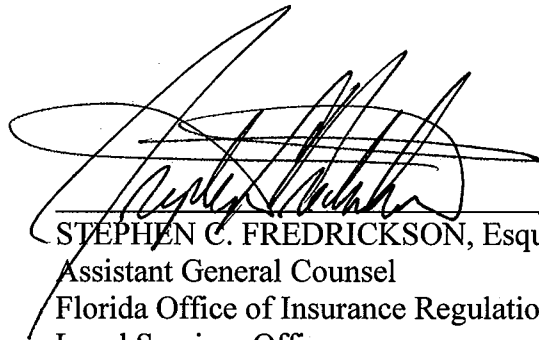
These proceedings are held before a State hearing officer of the Division of Administrative Hearings. Unless the majority of witnesses are located elsewhere, the Office will request that the hearing be conducted in Tallahassee.

In some instances you may have additional statutory rights than the ones described herein.

Failure to follow the procedure outlined with regard to your response to this notice may result in the request being denied. Any request for administrative proceeding received prior to the date of this notice shall be deemed abandoned unless timely renewed in compliance with the guidelines as set out above.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of this Order was sent by Electronic Email and Facsimile this 28<sup>th</sup> day of April, 2010.



STEPHEN C. FREDRICKSON, Esquire  
Assistant General Counsel  
Florida Office of Insurance Regulation  
Legal Services Office  
645A Larson Building  
200 East Gaines Street  
Tallahassee, Florida 32399-4206

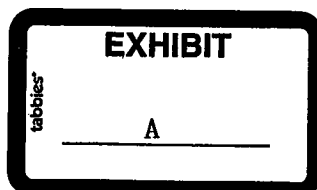


**A RESOLUTION OF THE STATE BOARD OF ADMINISTRATION OF THE STATE OF FLORIDA, ACTING AS THE GOVERNING BODY OF THE FLORIDA HURRICANE CATASTROPHE FUND, A TRUST FUND OF THE STATE OF FLORIDA CREATED BY SECTION 215.555, FLORIDA STATUTES; MAKING CERTAIN DETERMINATIONS; DIRECTING THE OFFICE OF INSURANCE REGULATION TO LEVY, BY ORDER, EMERGENCY ASSESSMENTS; AND DIRECTING THE OFFICE OF INSURANCE REGULATION REGARDING THE ASSESSMENT AMOUNT, TIMING, REPORTING, COLLECTION, REMITTANCE VERIFICATION AND ENFORCEMENT OF THE COLLECTION OF EMERGENCY ASSESSMENTS, AND ANY INTEREST THEREON.**

WHEREAS, Section 215.555, Florida Statutes, (the "Act"), created the Florida Hurricane Catastrophe Fund (the "Fund"), a trust fund administered by the State Board of Administration (the "Board") of the State of Florida (the "State"), for the purpose of establishing a program to provide insurers who write covered policies, as defined in Section 215.555(2)(c), Florida Statutes (the "Covered Policies"), with reimbursement for a portion of their catastrophic hurricane losses;

WHEREAS, pursuant to the Act, the Fund is authorized to collect reimbursement premiums from insurers writing Covered Policies in this State which have entered into a reimbursement contract with the Board, pursuant to Section 215.555(4)(a), Florida Statutes (the "Participating Insurers");

WHEREAS, the Act created the Florida Hurricane Catastrophe Fund Finance Corporation (the "Corporation") with the authority to issue revenue bonds and pay the



proceeds of the bonds, through the Fund, to Participating Insurers, thereby enabling Participating Insurers to pay the claims of policyholders for hurricane damage to properties;

**WHEREAS**, the Board is authorized pursuant to Section 215.555(6)(b), Florida Statutes, to direct the Office of Insurance Regulation (the "Office") to levy emergency assessments on the premiums on certain property and casualty lines of business in the State;

**WHEREAS**, Hurricanes Dennis, Katrina, Rita and Wilma caused substantial property damage in Florida during the 2005 hurricane season (the "2005 Hurricanes");

**WHEREAS**, the Office shall verify the accurate and timely collection and remittance of emergency assessments and shall report the information to the Board in a form and at a time specified by the Board.

**NOW, THEREFORE, BE IT RESOLVED** by the Board, as the governing body of the Fund, as follows:

1. Pursuant to Section 215.555(6)(b)l., Florida Statutes, and Rule 19-8.013(4)(c)l., Florida Administrative Code, the Board hereby determines that the amount of revenue produced from reimbursement premiums is insufficient to fund the obligations, costs, and expenses of the Fund and the Corporation, including repayment of revenue bonds and that portion of debt service coverage not met by reimbursement

premiums. In making this determination the Board has considered, pursuant to Rule 19-8.013(4)(c)l., Florida Administrative Code, the projected balance of the fund; anticipated additional Fund revenues; the meteorological severity and geographical area impacted by each covered event; and estimates of losses from the insurance industry, from individual insurers, from federal, state, and local emergency response entities, from loss reports submitted to the Board by Participating Insurers, from reviews of loss reports by the Fund's administrator, from information provided by modeling companies, from claims development patterns derived from known historical events, including the 2005 Hurricanes, and from an analysis of market shares of Participating Insurers in the impacted area. In addition, pursuant to Rule 19-8.013(4)(e), Florida Administrative Code, the Board hereby determines that legally available moneys in the Fund will be insufficient to pay reimbursement at the levels promised in the reimbursement contracts, has determined the projected reimbursable losses of Participating Insurers, has determined that the Fund will not have sufficient legally available funds to reimburse Participating Insurers for their reimbursable losses, and has determined the estimated shortfall which will be covered by the issuance of revenue bonds.

2. Subject to Section 5 hereof, the Board hereby directs the Office to levy, by Order, a 1.30% emergency assessment on the direct written premiums for property and casualty lines of business in the State, including all lines of business identified on the Exhibit of Premiums and Losses, in the National Association of Insurance Commissioners (the "NAIC") annual statement required of authorized insurers by Section

624.424, Florida Statutes, except those lines identified as accident and health insurance, workers' compensation insurance, medical malpractice insurance and policies written under the National Flood Insurance Program and the Federal Crop Insurance Act. The Office is also directed to levy by Order a 1.30% emergency assessment on the same property and casualty lines of business of surplus lines regulated under Part VIII of Chapter 626, Florida Statutes, and on each insured procuring property and casualty coverage and filing under Section 626.938, Florida Statutes, which assessments will be collected by the Florida Surplus Lines Service Office (the "FSLSO"). In determining the rate of emergency assessment, pursuant to Rule 19-8.013(4)(e)2., Florida Administrative Code, the Board reviewed available information from the Office of Insurance Regulation, the FSLSO and the NAIC, regarding direct written premiums, and has reviewed and assessed existing market conditions regarding the issuance and sale of bonds to determine the amount of revenues which will be required to pay debt service on any bonds issued. Based upon this review, the Board hereby determines, pursuant to Rule 19-8.013(4)(e)2.c, Florida Administrative Code, that the rate of emergency assessment established herein is necessary to fund the obligations, costs and expenses of the Fund and the Corporation, including repayment of revenue bonds and that portion of debt service coverage not met by reimbursement premiums.

3. The Order to be issued by the Office which is directed at authorized insurers regulated by the Office and other "Insurers" is included herein as Appendix A. "Insurer" shall have the meaning that it is given in the Order in Appendix A. The Order

to be issued by the Office, which is directed to the FSLSO and to insureds independently procuring property and casualty coverage and filing under Section 626.938, Florida Statutes, is included herein as Appendix B.

4. The Orders provide that the emergency assessment shall be collected and remitted with respect to all policies issued or renewed on or after the effective date designated in the Orders. The emergency assessments levied under the Orders shall continue until the Office is directed by the Board to issue an Order superseding or terminating an Order levying emergency assessments, and the Office issues such Order.

5. The Orders each dated June 12, 2006 for Case Number 86203-06, which was directed to Authorized Insurers and Case No. 86443-06, which was directed to the Florida Surplus Lines Service Office, shall each stay in effect until December 31, 2010. Commencing on January 1, 2011, the Orders provided in Appendices A and B hereto shall become effective and shall supersede the Orders for Case Numbers 86203-06 and 86443-06, respectively.

6. The emergency assessments collected on policies, other than surplus lines policies, must be collected by Insurers from each policyholder at the same time the policyholder makes a premium payment. Emergency assessments, and any interest collected on delinquent remittance of emergency assessments pursuant to Section 215.555(3), Florida Statutes, and Rule 19-8.013(4)(e)3., Florida Administrative Code, must be remitted by Insurers in the manner directed by the Office.

7. The emergency assessments collected on surplus lines policies must be collected by each surplus lines agent at the same time as the agent collects the surplus lines tax required by Section 626.932, Florida Statutes, and the agent must remit the emergency assessment together with any interest collected on delinquent remittance of emergency assessments pursuant to Section 215.555(3), Florida Statutes, and Rule 19-8.013(4)(e)3., Florida Administrative Code, as directed by the FSLSO, at the same time as the agent remits the surplus lines tax to the FSLSO. Insureds procuring coverage and filing under Section 626.938, Florida Statutes, must remit the emergency assessment as directed by the FSLSO, at the time the insured pays the surplus lines tax.

8. The Orders shall be issued by the Office no later than 15 days following the adoption of this resolution. Executed copies of the Orders and any other information distributed therewith, shall be provided to the Board immediately after issuance.

9. In order to facilitate compliance with the Act, the Office shall:

a. Verify the accurate and timely collection and remittance of emergency assessments pursuant to Section 215.555(6)(b), Florida Statutes.

b. Report this information to the Board in a form and at a time specified by the Board. The type of information shall include, but not be limited to, reported assessment base (direct written premium) by company and aggregate, assessments reported, assessments remitted, date of the remittance, number of days late, date of reporting to the Office, late filers, non filers, company contacts, non-compliance, and any

issues, actions or, comments. The Office shall also provide annually a calendar year-end report reconciling, by Insurer, the amount remitted to the Board to the Exhibit of Premiums and Losses on their NAIC annual statement filing if the Insurer is required to file such.

c. On or before each April 15th and September 15th, provide the Board, if requested, by line of business and by company, the most recent prior year end aggregate direct written premium on such property and casualty lines of business as are subject to the levy of emergency assessments pursuant to Section 215.555, Florida Statutes.

d. Provide in the manner and time specified by the Board, any other information requested which is available to the Office and which is relevant to the levy, collection and verification of the emergency assessments.

10. In order to facilitate compliance with the Act, the Fund shall:

a. Provide to the Office remittance reports from the assessment collection agent selected by the Fund. Such reports shall be remitted on a daily basis fifteen days before and fifteen days after the assessment due dates, and on a monthly basis for all other periods.

b. Based on reports obtained from the Office, the Fund shall submit bills for interest on delinquent emergency assessments to Insurers as directed by the Board.

11. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED this 13<sup>th</sup> day of April, 2010.

**STATE OF FLORIDA**

**COUNTY OF LEON**

Ashbel C. Williams of the State Board of Administration of the State of Florida, in and for the County and State aforesaid, do hereby certify that the above and foregoing is a true and correct copy of the resolution passed and adopted by the State Board of Administration of the State of Florida on 13<sup>th</sup> day of April, 2010.

IN WITNESS WHEREOF, I hereunto set my hand and official seal of the State Board of Administration of the State of Florida this 14<sup>th</sup> day of April, 2010.

  
\_\_\_\_\_  
Title: Executive Director & CIO

(SEAL)



**APPENDIX A**

**FORM OF ORDER FOR INSURERS**

**OFFICE OF INSURANCE REGULATION**

**Kevin M. McCarty  
COMMISSIONER**

**IN THE MATTER OF:**

**Emergency Assessments, Percentages, Timing,  
Procedures for Remitting and Reporting.**

**CASE NO.:** \_\_\_\_\_

**ORDER**

**TO: All "Insurers" as defined herein, which write property and casualty lines of business in this state.**

**THIS CAUSE** came on for consideration upon the determination by the State Board of Administration (the "Board"), pursuant to the provisions of Section 215.555(6)(b), Florida Statutes, that the amount of revenue produced under Section 215.555(5), Florida Statutes, is insufficient to fund the obligations, costs, and expenses of the Florida Hurricane Catastrophe Fund (the "Fund") and the Florida Hurricane Catastrophe Fund Finance Corporation (the "Corporation"), including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums. Pursuant to the provisions of S. 215.555(6)(b), Florida Statutes, the Board has directed the Office of Insurance Regulation (the "Office") to levy, by order, an emergency assessment on direct premiums for all property and casualty lines of business

in this state. The Office, having considered the statutory direction of the Board and being otherwise fully advised in the premises, hereby finds as follows:

## **JURISDICTION AND FINDINGS OF FACT**

1. The Office has the requisite authority and duty, pursuant to Section 215.555, Florida Statutes (the "Act"), and the Florida Insurance Code, Section 624.307, Florida Statutes, to issue and enforce this Order.

2. Hurricanes Dennis, Katrina, Rita and Wilma, caused substantial property damage in Florida during the 2005 hurricane season; and

3. Certain of the hurricanes causing property damage in the 2005 hurricane season caused insured losses covered by the Fund.

4. The Board, pursuant to the Act, has determined that the amount of revenue produced from reimbursement premiums is insufficient to fund the obligations, costs and expenses of the Fund and the Corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums. Therefore, pursuant to Section 215.555(6)(b), Florida Statutes, the Board has adopted the Resolution (the "Resolution" attached as Exhibit "A" hereto), directing the Office to levy emergency assessments.

5. The Resolution directs the Office to levy the emergency assessment on the direct written premiums for property and casualty lines of business in this state, with the exception of premiums for workers' compensation policies, premiums for accident and

health insurance policies, premiums of medical malpractice insurance policies and premiums for policies written under the National Flood Insurance Program and the Federal Crop Insurance Act.

**WHEREFORE**, pursuant to the Act and the Resolution, the Office issues this Order.

**Accordingly, IT IS HEREBY ORDERED:**

(1) Commencing on January 1, 2011, an emergency assessment is hereby levied upon the direct written premiums for property and casualty lines of business (as defined in paragraph 2 below) of Insurers as defined herein. Insurers shall include those authorized insurers as defined in Section 624.09(1), Florida Statutes, any residual market entity created pursuant to Section 627.351, Florida Statutes, and any other entity writing or procuring property or casualty lines of business in this State, other than those subject to part VIII of Chapter 626, Florida Statutes, unless specifically exempt by law (the "Insurers"). Insurers includes all property and casualty insurers holding a valid Certificate of Authority regardless of whether the Certificate of Authority was issued prior to or during an effective Assessment Period (as hereafter defined).

(2) The term "property and casualty lines of business" includes those lines of business identified on the Exhibit of Premiums and Losses for the State of Florida in the National Association of Insurance Commissioners annual statement required of Authorized Insurers by Section 624.424, Florida Statutes. This definition of "property

and casualty lines of business" is applicable whether or not an Insurer, as defined herein, is required to file such annual statement. The term "property and casualty lines of business" for purposes of this Order does not include workers' compensation policies, accident and health policies, medical malpractice policies, or policies written under the National Flood Insurance Program and the Federal Crop Insurance Act. The lines of business currently subject to emergency assessment under this Order are:

- a. Fire.
- b. Allied Lines.
- c. Multiple Peril Crop.
- d. Farmowners Multiple Peril.
- e. Homeowners Multiple Peril.
- f. Commercial Multiple Peril (non-liability).
- g. Commercial Multiple Peril (liability).
- h. Mortgage Guaranty.
- i. Ocean Marine.
- j. Inland Marine.
- k. Financial Guaranty.
- l. Earthquake.
- m. Other Liability.
- n. Products Liability.
- o. Private Passenger Auto No-Fault.
- p. Other Private Passenger Auto Liability.
- q. Commercial Auto No-Fault.
- r. Other Commercial Auto Liability.
- s. Private Passenger Auto Physical Damage.
- t. Commercial Auto Physical Damage.
- u. Aircraft (all perils).
- v. Fidelity.
- w. Surety.
- x. Burglary and Theft.
- y. Boiler and Machinery.
- z. Credit.
- aa. Warranty.
- bb. Aggregate Write Ins For Other Lines of Insurance.

(3) Insurers shall collect the emergency assessment from each property and casualty policyholder with a policy that is issued or renewed during an Assessment Period. An "Assessment Period" begins on each January 1 and continues for twelve-months. The emergency assessment shall be assessed in each successive Assessment Period until further Order of the Office. Each Insurer shall collect the emergency assessment at the same time it collects a premium payment. When an Insurer is required to return an unearned premium, it shall also return any collected emergency assessment attributable to the unearned premium.

(4) The emergency assessment is 1.30% of direct written premium on each policy and the same percentage shall apply to all transactions "related" to each policy. A transaction that is "related" to a policy subject to the emergency assessment includes, but is not limited to, endorsements on that policy, and audit premiums.

(5) Emergency assessment remittances are due from Insurers on the full amount of the direct written premiums attributable to policies issued or renewed within an Assessment Period, even if the Insurer collects premium through installment billing plans or other similar mechanisms.

(6) Each Insurer shall remit emergency assessments, quarterly by wire transfer or ACH.

- (a) If remitting by wire transfer, the wire shall be submitted to:

Bank of America, Tallahassee, Florida  
ABA #026009593  
Account #5566388313  
Account Name: SBA Florida Hurricane Catastrophe Fund  
Emergency Assessment

- (b) If remitting by ACH:

Bank of America, Tallahassee, Florida  
ABA #063100277  
Account #5566388313  
Account Name: SBA Florida Hurricane Catastrophe Fund  
Emergency Assessment

For ACH transactions, payment is considered paid on date of receipt not date of payment.

- (c) Assessments shall be remitted in an amount equal to 1.30% of the direct written premium, for the first calendar quarter no later than May 15, for the second quarter no later than August 15, for the third quarter no later than November 15, and for the fourth quarter no later than March 1 of the following year. If the applicable due date is Saturday, Sunday, or a legal holiday, then the actual due date will be the first business day immediately following the applicable due date.

- (7) Adjustments to direct written premium shall be performed in the normal course of business and resulting impact reflected in the quarterly assessment remittances. The direct written premium reported for the fourth quarter shall be reconciled with the Exhibit of Premiums and Losses in the annual statement required of authorized insurers by Section 624.424, Florida Statutes, for the applicable year. The Insurer is required to

provide the Office an explanation of any differences between the direct written premium reported to the Office and the direct written premium reported on such annual statement. No refunds of payments by Insurers are permitted.

(8) The payment of emergency assessments by the Insurer is subject to interest on delinquent remittances at a rate determined by the Board and invoiced by the Fund.

(9) Emergency assessments are not premiums and are not subject to the premium tax, to any fees, or to any commissions. An Insurer shall diligently attempt to collect all assessments owed by an insured. An Insurer must treat the failure of an insured to pay an assessment as failure to pay the premium.

(10) Insurers shall report such information relating to emergency assessments and direct written premiums as is required by the Office.

(11) Pursuant to Section 215.555(10), Florida Statutes, the failure to timely remit emergency assessments, to file any report required by this Order, or by the Office, or to otherwise fail to abide by this Order shall be deemed to be a violation of the Florida Insurance Code. The Office shall take all actions authorized by law or rule to enforce this Order and to assure that the emergency assessments (including any interest thereon) are properly collected and remitted.

(12) The Order to Authorized Insurers, Case Number 86203-06, issued on June 12, 2006, shall stay in force and effect until 12:00 p.m. midnight, Eastern Time, on



December 31, 2010. Commencing at 12:01 a.m., Eastern Time on January 1, 2011, this Order shall become effective and shall supersede the Order for Case Number 86203-06.

**DONE AND ORDERED** this \_\_\_\_ day of \_\_\_\_\_, 2010.

---

Kevin M. McCarty  
Commissioner  
Office of Insurance Regulation

## NOTICE OF RIGHTS

Pursuant to Sections 120.569 and 120.57, Florida Statutes, and Rule Chapters 28-106 and 28-107, Florida Administrative Code (F.A.C.), you have a right to request a proceeding to contest this action by the Office of Insurance Regulation (hereinafter the "Office"). You may request a proceeding by filing a Petition. Your Petition for a proceeding must be in writing and must be filed with the General Counsel acting as the Agency Clerk, Office of Insurance Regulation. If served by U.S. Mail the Petition should be addressed to the Florida Office of Insurance Regulation at 612 Larson Building, Tallahassee, Florida 32399-4206. If Express Mail or hand-delivery is utilized, the Petition should be delivered to 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0300. The written Petition must be received by, and filed in the Office no later than 5:00 p.m. on the twenty-first (21) day after your receipt of this notice. Unless your Petition challenging this action is received by the Office within twenty-one (21) days from the date of the receipt of this notice, the right to a proceeding shall be deemed waived. Mailing the response on the twenty-first day will not preserve your right to a hearing.

If a proceeding is requested and there is no dispute of material fact the provisions of Section 120.57(2), Florida Statutes would apply. In this regard you may submit oral or written evidence in opposition to the action taken by this agency or a written statement challenging the grounds upon which the agency has relied. While a hearing is normally not required in the absence of a dispute of fact, if you feel that a hearing is necessary one will be conducted in Tallahassee, Florida or by telephonic conference call upon your request.

If you dispute material facts, which are the basis for this agency's action, you may request a formal adversarial proceeding pursuant to Sections 120.569 and 120.57(1), Florida Statutes. If you request this type of proceeding, the request must comply with all of the requirements of Rule Chapter 28-106.201, F.A.C., must demonstrate that your substantial interests have been affected by this agency's action, and contain:

- a) **A statement of all disputed issues of material fact. If there are none, the petition must so indicate;**
- b) A concise statement of the ultimate facts alleged, including the specific facts the Petitioner contends warrant reversal or modification of the agency's proposed action;
- c) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and
- d) A statement of the relief sought by the petitioner, stating precisely the action Petitioner wishes the agency to take with respect to the agency's proposed action.

These proceedings are held before a State hearing officer of the Division of Administrative Hearings. Unless the majority of witnesses are located elsewhere, the Office will request that the hearing be conducted in Tallahassee.

In some instances you may have additional statutory rights than the ones described herein.

Failure to follow the procedure outlined with regard to your response to this notice may result in the request being denied. Any request for administrative proceeding received prior to the date of this notice shall be deemed abandoned unless timely renewed in compliance with the guidelines as set out above.

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of this Order was sent by Electronic Email and Facsimile, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

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Assistant General Counsel  
Florida Office of Insurance Regulation  
Legal Service Office  
200 East Gaines Street  
Tallahassee, Florida 32399-4206

**APPENDIX B**

**FORM OF ORDER FOR FLORIDA SURPLUS LINES SERVICE OFFICE  
AND ALL ENTITIES SUBJECT TO PART VIII OF  
CHAPTER 626, FLORIDA STATUTES**

**OFFICE OF INSURANCE REGULATION**

**Kevin M. McCarty  
COMMISSIONER**

**IN THE MATTER OF:**

**Emergency Assessments on Premiums; Percentages,  
Timing, Procedures for Remitting and Reporting.**

**CASE NO.:** \_\_\_\_\_

**ORDER**

**TO: The Florida Surplus Lines Service Office and all entities subject to Part VIII  
of Chapter 626, Florida Statutes**

**THIS CAUSE** came on for consideration upon the determination by the State Board of Administration (the "Board"), pursuant to the provisions of Section 215.555(6)(b), Florida Statutes, that the amount of revenue produced under Section 215.555(5), Florida Statutes, is insufficient to fund the obligations, costs, and expenses of the Florida Hurricane Catastrophe Fund (the "Fund") and the Florida Hurricane Catastrophe Fund Finance Corporation (the "Corporation"), including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums. Pursuant to the provisions of Section 215.555(6)(b), Florida Statutes, the Board has directed the Office of Insurance Regulation (the "Office") to levy, by order, an emergency assessment, and the Commissioner being fully informed in the premises,

**NOW THEREFORE**, the Commissioner hereby finds as follows:

## **JURISDICTION AND FINDINGS OF FACT**

1. The Office has the requisite authority and duty, pursuant to Section 215.555, Florida Statutes (the "Act"), and the Florida Insurance Code, Section 624.307, Florida Statutes, to issue and enforce this Order.

2. Hurricanes Dennis, Katrina, Rita and Wilma, caused substantial property damage in Florida during the 2005 hurricane season; and

3. Certain of the hurricanes causing property damage in the 2005 hurricane season caused insured losses covered by the Fund.

4. The Board, pursuant to the Act, has determined that the amount of revenue produced from reimbursement premiums is insufficient to fund the obligations, costs and expenses of the Fund and the Corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums. Therefore, pursuant to Section 215.555(6)(b), Florida Statutes, the Board has adopted the Resolution (the "Resolution" attached as Exhibit "A", hereto), directing the Office to levy the emergency assessment.

5. The Resolution directs the Office to levy the emergency assessment on the premiums for property and casualty lines of business in this state, including surplus lines property and casualty business regulated under part VIII of Chapter 626, Florida Statutes, and on each insured procuring property and casualty coverage and filing under Section 626.938, Florida Statutes, with the exception of premiums for workers' compensation

policies, premiums for accident and health insurance policies, premiums of medical malpractice insurance policies and premiums for policies written under the National Flood Insurance Program and the Federal Crop Insurance Act.

**WHEREFORE**, pursuant to the Act and the Resolution, the Office issues this Order.

**Accordingly, IT IS HEREBY ORDERED:**

(1) Commencing January 1, 2011, an emergency assessment is hereby levied upon the premiums for property and casualty lines written through surplus lines regulated under part VIII of Chapter 626, Florida Statutes, and on each insured procuring property and casualty coverage and filing under Section 626.938, Florida Statutes.

(2) The term "property and casualty lines of business" includes those lines of business identified on the Exhibit of Premiums and Losses in the annual statement required of Authorized Insurers by Section 624.424, Florida Statutes. The term "property and casualty lines of business" for purposes of this Order includes all those lines of business except workers' compensation policies, accident and health policies, medical malpractice policies, or policies written under the National Flood Insurance Program and the Federal Crop Insurance Act.

(3) The Florida Surplus Lines Service Office (the "FSLSO") shall instruct each surplus lines agent to collect the assessment at the same time as the agent collects the

surplus lines tax required by Section 626.932, Florida Statutes, and shall instruct the agent to remit the assessment as directed by the FSLSO at the same time as the agent remits the surplus lines tax to the FSLSO (on or before the end of the month next following each calendar quarter). The FSLSO shall instruct each insured procuring coverage and filing under Section 626.938, Florida Statutes, to remit the emergency assessment as directed by the FSLSO at the time the insured pays the surplus lines tax to the FSLSO (within 30 days after the insurance is procured, continued or renewed). Emergency assessments shall be collected from each property and casualty policyholder with a policy that is issued or renewed during an Assessment Period. An "Assessment Period" begins on each January 1 and continues for twelve-months. The emergency assessment shall be assessed in each successive Assessment Period until further Order of the Office.

(4) The emergency assessment is 1.30% of premium on each policy and the same percentage shall apply to all transactions "related" to each policy. A transaction that is "related" to a policy subject to the emergency assessment includes, but is not limited to, endorsements on that policy, policy cancellations, and audit premiums.

(5) Emergency assessment remittances are due on the full annual premium attributable to policies issued or renewed within an Assessment Period.

(6) The FSLSO shall remit emergency assessments to the Board in such manner as is subsequently directed by the Board. When a surplus lines insured or an



insured who has procured coverage and filed under Section 626.938, Florida Statutes, is entitled to the return of an unearned premium, the FSLSO shall provide a credit where applicable to agents or the Fund shall refund to the agent or such insured for the collected assessment attributable to the unearned premium.

(7) The payment of emergency assessments is subject to interest on delinquent remittances at a rate determined by the Board and invoiced by the FSLSO.

(8) Emergency assessments are not premiums and are not subject to the surplus lines premium tax, to the FSLSO fee, or to any other statutorily imposed assessment or surcharge. Each surplus lines agent shall diligently attempt to collect all assessments owed by an insured and must treat the failure of an insured to pay an assessment as failure to pay the premium.

(9) Each surplus lines agent and insured procuring coverage and filing under Section 626.938, Florida Statutes, shall report such information relating to emergency assessments and premiums as is required by the FSLSO.

(10) The FSLSO shall verify the proper application of emergency assessments and shall assist the Board in ensuring the accurate and timely collection and remittance of assessments as required by the Board. The FSLSO shall annually calculate the aggregate written premium on property and casualty business procured through surplus lines agents and for insureds procuring coverage and filing under Section 626.938, Florida Statutes, other than premiums relating to workers' compensation policies, accident and health

policies, medical malpractice policies, or policies written under the National Flood Insurance Program and the Federal Crop Insurance Act, and shall report the information to the Board, in a form and at a time specified by the Board.

(11) Pursuant to Section 215.555(10), Florida Statutes, the failure to timely remit emergency assessments, to file any report required by this Order or by the Office, or to otherwise fail to abide by this Order shall be deemed to be a violation of the Florida Insurance Code. The Office shall take all action authorized by law to enforce this Order and to assure that emergency assessments (including any interest thereon) are properly collected and remitted.

(12) The Order to the FSLSO, Case Number 86443-06, issued on June 12, 2006, shall stay in force and effect until 12:00 p.m., Eastern Time, midnight on December 31, 2010. Commencing at 12:01 a.m., Eastern Time, on January 1, 2011, this Order shall become effective and shall supersede the Order for Case Number 86443-06.

**DONE AND ORDERED** this \_\_\_\_ day of \_\_\_\_\_, 2010.

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Kevin M. McCarty  
Commissioner  
Office of Insurance Regulation

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Assistant General Counsel  
Florida Office of Insurance Regulation  
Legal Services Office  
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Tallahassee, Florida 32399-4206