



FILED

JUL 21 2014

OFFICE OF
INSURANCE REGULATION
Docketed by: LDJ

OFFICE OF INSURANCE REGULATION

KEVIN M. MCCARTY
COMMISSIONER

IN THE MATTER OF:

Termination of Florida Hurricane Catastrophe Fund
Emergency Assessments.

CASE NO.: 156729-14

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 of Florida (the "**BOARD**"), pursuant to the provisions of Section 215.555(6)(b)2., Florida Statutes, that adequate provision has been made for the payment of the Revenue Bonds, Series 2010A (the "Series 2010A Bonds") issued by the State Board of Administration Finance Corporation, f/k/a the Florida Hurricane Catastrophe Fund Finance Corporation (the "**CORPORATION**") payable from the herein described emergency assessment. Pursuant to the provisions of Section 215.555(6)(b), Florida Statutes, the **BOARD** has directed the Office of Insurance Regulation (the "**OFFICE**") to issue an order terminating the emergency assessment on the premiums for property and casualty lines of business in this state 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 Sections 626.938,

Florida Statutes. 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. On April 27, 2010, the **OFFICE** issued an Order for Case Number 109022-10 levying an emergency assessment in the amount of 1.30% (the "Emergency Assessment") on the premiums for certain property and casualty lines of business 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 Sections 626.938, Florida Statutes, which Emergency Assessment applied to policies issued or renewed on or after January 1, 2011.

3. The **BOARD**, pursuant to the Act, has determined that adequate provision has been made for the payment of the Series 2010A Bonds payable from the Emergency Assessment under the documents authorizing the issuance of such revenue bonds. Therefore, pursuant to Section 215.555(6)(b)2., Florida Statutes, the **BOARD** has adopted the Resolution (the "Resolution" attached as Exhibit "A" hereto), directing the **OFFICE** to issue an Order terminating the levy of the Emergency Assessment with respect to all policies issued or renewed on or after January 1, 2015.

4. The Resolution directs the **OFFICE**, upon prior receipt of a Certificate of the President of the **CORPORATION** as more particularly described in the Resolution, to issue an Order terminating the levy of the Emergency Assessment on the premiums for property and casualty lines of business 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 Sections 626.938, Florida Statutes, with respect to all policies issued or renewed on or after January 1, 2015.

5. The **OFFICE** has received the Certificate of the President of the **CORPORATION** as described in the Resolution.

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

Accordingly, IT IS HEREBY ORDERED:

(1) With respect to all policies issued or renewed on or after January 1, 2015, the Emergency Assessment levied pursuant to the Order dated April 27, 2010 in Case Number 109022-10 upon the direct written premiums for property and casualty lines of business 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 Sections 626.938, Florida Statutes, is hereby terminated.

(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 the insurer 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 or the Federal Crop Insurance Act.

(3) With respect to all policies issued or renewed prior to January 1, 2015, the following continues to apply:

- (A) The Florida Surplus Lines Service Office (the "**FSLSO**") shall instruct each surplus lines agent to collect the Emergency 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 Emergency 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 45th day following each calendar quarter or in accordance with the payment schedule as outlined in the Non-Admitted Insurance Multi-State Association, Inc. agreement as it relates to the Surplus Lines Clearinghouse). 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 was issued or renewed before January 1, 2015.
- (B) The Emergency Assessment will continue to apply to the direct written premium for property and casualty lines of business at the applicable assessment percentage indicated in paragraph (6) herein, 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.

- (C) Emergency Assessment remittances are due on the full amount of the direct written premiums attributable to policies issued or renewed.
- (D) The **FSLSO** shall remit Emergency Assessments to the **BOARD** in such manner as 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 Emergency Assessment attributable to the unearned premium.
- (E) The payment of Emergency Assessments is subject to interest on delinquent remittances at a rate determined by the **BOARD** and invoiced by the **FSLSO**.
- (F) 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 Emergency Assessments owed by an insured and must treat the failure of an insured to pay an Emergency Assessment as failure to pay the premium.
- (G) 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**. All surplus lines agents and all insured procuring coverage under Section 626.938, Florida Statutes, with related transactions associated with policies issued or renewed prior to January 1, 2015, shall continue to collect and report Emergency Assessments and shall remit the Emergency Assessments, if any, in the same manner described herein.

(4) 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 Emergency 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 or the Federal Crop Insurance Act, and shall report the information to the **BOARD**, in a form and at a time specified by the **BOARD**.

(5) 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.

(6) Emergency Assessments will continue as follows:

(A) For policies issued or renewed on or after January 1, 2015, the Emergency Assessment is 0%,

(B) For policies issued or renewed January 1, 2011 through December 31, 2014, the Emergency Assessment is 1.3%,

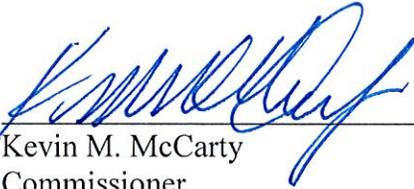
(C) For policies issued or renewed January 1, 2007 through December 31, 2010, the Emergency Assessment is 1%.

(7) The Order for Case Number 109022-10 to the Florida Surplus Lines Service Office and all entities subject to Part VIII of Chapter 626, Florida Statutes, issued on April 27,

2010, shall stay in force and effect until 12:00 a.m. midnight, Eastern Time, on December 31, 2014. Commencing at 12:01 a.m., Eastern Time on January 1, 2015, this Order shall become effective and shall supersede the Order for Case Number 109022-10.

DONE AND ORDERED this 21st day of July, 2014.





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.

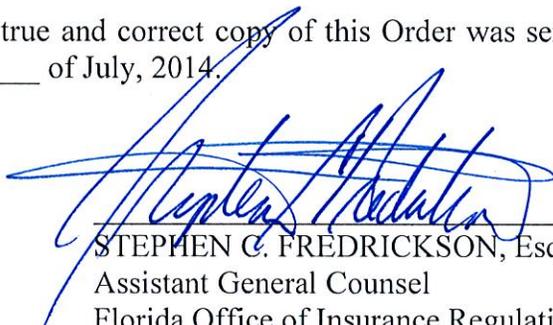
These proceedings are held before a State hearing officer of the Division of Administrative Hearings. Unless the majority of witnesses are located elsewhere, the Office will request that the hearing be conducted in Tallahassee.

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 or Facsimile, this ___ day of ___ of July, 2014.



STEPHEN C. FREDRICKSON, Esquire
Assistant General Counsel
Florida Office of Insurance Regulation
Legal Service Office
200 East Gaines Street
Tallahassee, Florida 32399-4206
850-413-4144

A RESOLUTION OF THE STATE BOARD OF ADMINISTRATION 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; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW DEPOSIT AGREEMENT AMONG THE BOARD, THE STATE BOARD OF ADMINISTRATION FINANCE CORPORATION AND WELLS FARGO BANK, N.A., AS ESCROW AGENT; DIRECTING THE OFFICE OF INSURANCE REGULATION TO ISSUE ORDERS TERMINATING THE LEVY OF CERTAIN EMERGENCY ASSESSMENTS UPON THE SATISFACTION OF CERTAIN CONDITIONS SET FORTH HEREIN; AND DIRECTING THE OFFICE OF INSURANCE REGULATION REGARDING THE TIMING OF THE TERMINATION OF THE LEVY OF EMERGENCY ASSESSMENTS.

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 of Florida (the "Board"), 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 the State of Florida (the "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 State Board of Administration Finance Corporation, f/k/a 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, Hurricanes Dennis, Katrina, Rita and Wilma caused substantial property damage in Florida during the 2005 hurricane season (the "2005 Hurricanes");

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 upon a determination by the Board 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;

WHEREAS, pursuant to a Resolution of the Board, adopted on April 13, 2010 (the "Resolution"), the Board made certain required findings and directed the Office to levy, by Order, emergency assessments in the amount of 1.30% (the "Emergency Assessments") on the direct written premiums for certain property and casualty lines of business in the State, as more particularly described in the Resolution, which Emergency Assessments were effective commencing January 1, 2011;

WHEREAS, on April 27, 2010, the Office issued two Orders levying the Emergency Assessments on the direct written premiums for the property and casualty lines of business in the State specified in the Resolution, effective January 1, 2011;

WHEREAS, the Fund has paid all Participating Insurers for their reimbursable losses resulting from the 2005 Hurricanes;

WHEREAS, after payment of such reimbursable losses, the Corporation has remaining post-event revenue bond proceeds, reserves and other funds legally available to repay its post-event Revenue Bonds, Series 2010A (the "Series 2010A Bonds") which are secured by and payable from the Trust Estate (as defined in the hereinafter described Master Trust Indenture), including the Emergency Assessments; and

WHEREAS, on the date hereof, the Corporation has adopted a Resolution (the "Corporation Resolution") authorizing the defeasance of such Series 2010A Bonds pursuant to the applicable provisions of the bond documents pursuant to which they were issued and an Escrow Deposit Agreement (the "Escrow Deposit Agreement") by and among the Corporation, Wells Fargo Bank, N.A., as escrow agent, and the Board;

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

1. The Board hereby authorizes the Executive Director and Chief Investment Officer of the Board to execute and deliver the Escrow Deposit Agreement, in substantially the form attached hereto as Appendix A. The Escrow Deposit Agreement

shall be subject to such changes, completion, insertions, or deletions as may be approved by the Executive Director and Chief Investment Officer of the Board, and the execution of such document by the Executive Director and Chief Investment Officer of the Board shall be conclusive evidence of any such approval. Wells Fargo Bank, N.A., in its capacity as Master Trustee under the Master Trust Indenture, dated as of June 1, 2006, between the Corporation and Wells Fargo Bank, N.A., is hereby appointed as Escrow Agent under the Escrow Deposit Agreement.

2. Pursuant to Section 215.555(6)(b)2., Florida Statutes, and Rule 19-8.013(4)(e)3., Florida Administrative Code, the Board hereby determines that upon the Office's receipt of the Certificate of the President of the Corporation described in Section 5 hereof, in substantially the form attached hereto as Appendix B, adequate provision will have been made for the payment and defeasance of the Series 2010A Bonds.

3. Subject to Sections 6 and 7 hereof, the Board hereby directs the Office to issue the Orders described below terminating the levy of certain of the Emergency Assessments on the direct written premiums for property and casualty lines of business in the State specified in the Resolution.

4. 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 C. "Insurer" shall have the meaning that it is given in the Order in Appendix C. The Order to be issued by the Office which is directed to the Florida Surplus Lines Service Office

(the "FSLSO") and to insureds independently procuring property and casualty coverage and filing under Section 626.938, Florida Statutes, is included herein as Appendix D. The Orders provided in Appendices C and D are herein defined as the "Orders."

5. The Orders shall provide for termination of the Emergency Assessments with respect to all policies issued or renewed on or after January 1, 2015.

6. The directions to issue the Orders set forth in Section 3 hereof is conditioned upon the prior receipt by the Office, with a copy to the Board, of a Certificate of the President of the Corporation substantially in the form attached as Appendix B hereto.

7. Subject to Section 6 hereof, the Order for Case Number 108945-10 to all insurers issued on April 27, 2010 shall stay in force and effect until 12:00 a.m. midnight, Eastern Time, on December 31, 2014. Commencing at 12:01 a.m., Eastern Time on January 1, 2015, the Order included as Appendix C hereof shall become effective and shall supersede the Order for Case Number 108945-10. Subject to Section 6 hereof, the Order for Case Number 109022-10 to the Florida Surplus Lines Service Office and all entities subject to Part VIII of Chapter 626, Florida Statutes, issued on April 27, 2010 shall stay in force and effect until 12:00 a.m. midnight, Eastern Time, on December 31, 2014. Commencing at 12:01 a.m., Eastern Time on January 1, 2015, the Order included as Appendix D hereof shall become effective and shall supersede the Order for Case Number 109022-10.

8. The Office shall issue the Orders no later than 15 days following the receipt of the Certificate referred to in Section 6 hereof. Issuance of the Orders also includes the provision of timely notice of the termination of the levy of Emergency Assessments to all insurers, as such term is defined for purposes of Case 108945-10, and the FLSO. Executed copies of the Orders and any other information distributed therewith, shall be provided to the Board immediately after issuance.

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

PASSED AND ADOPTED this 17th day of June, 2014.

STATE OF FLORIDA

COUNTY OF LEON

I, Ashbel C. Williams, of the State Board of Administration 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 Florida on 17th day of June, 2014.

IN WITNESS WHEREOF, I hereunto set my hand and official seal of the State Board of Administration of Florida this 11 day of July, 2014.


Title: Executive Director & CIO

(SEAL)

APPENDIX A

FORM OF ESCROW DEPOSIT AGREEMENT

APPENDIX B

FORM OF CORPORATION CERTIFICATE

APPENDIX C

FORM OF ORDER FOR INSURERS

APPENDIX D

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