19-8.013 Revenue Bonds Issued Pursuant to Section 215.555(6), F.S.

(1) Purpose. This rule establishes the Board's policy regarding the issuance of revenue bonds pursuant to Section 215.555(6), F.S. The rule provides definitions; interprets certain terms in Section 215.555, F.S.; establishes factors for determining when to issue revenue bonds, the amount of any such revenue bonds, and the source for repayment of any such revenue bonds; and establishes procedures for levying Emergency Assessments pursuant to Section 215.555(6)(b), F.S.

(2) Definitions. The terms defined below will be capitalized in this rule.

(a) Assessable Insurer means Authorized Insurers writing property and casualty business in this state and any entity created pursuant to Section 627.351, F.S. Surplus lines insurers are not Assessable Insurers. Reinsurers are not Assessable Insurers.

(b) Assessable Insured means each insured procuring property and casualty coverage from surplus lines insurers regulated under Part VIII of Chapter 626, F.S.

(c) Assessable Lines are those lines of property and casualty business subject to assessment under Section 215.555(6)(b)1., F.S., and as more fully described in subsection (5), below.

(d) Authorized Insurer means an insurer as defined in Section 624.09(1), F.S. For purposes of this rule, Authorized Insurer includes Citizens Property Insurance Corporation and any joint underwriting association or similar entity created pursuant to Section 627.351, F.S.

(e) Balance of the Fund and Fund Balance have the same meaning given to Balance of the Fund as of December 31 in Article V of the Reimbursement Contract adopted and incorporated by reference into Rule 19-8.010, F.A.C.

(f) Board means the State Board of Administration of Florida.

(g) Contract Year means the time period which begins at 12:00:01 Eastern Time on June 1 of each calendar year and ends at 12:00 p.m. midnight on May 31 of the following calendar year.

(h) Corporation means the State Board of Administration Finance Corporation created by Section 215.555(6)(d), F.S.

(i) Covered Event means a hurricane as defined in Section 215.555(2)(b), F.S., and in Article V of the Reimbursement Contract adopted and incorporated by reference in Rule 19-8.010, F.A.C.

(j) Covered Policies means an insurance policy covering residential property, as defined in Section 215.555(2)(c), F.S., and in Article V of the Reimbursement Contract adopted and incorporated by reference in Rule 19-8.010, F.A.C.

(k) Department means the Florida Department of Financial Services, which was created pursuant to Section 20.121, F.S., and which is charged with regulating the Florida insurance market and administering the Florida Insurance Code.

(l) Emergency Assessment means the assessment levied by the Office of Insurance Regulation at the direction of the Board on direct written premiums for all Assessable Lines pursuant to and subject to the exceptions in Section 215.555(6)(b), F.S., and as more fully described in subsection (5) of this rule.

(m) FHCF or Fund means the Florida Hurricane Catastrophe Fund.

(n) Office of Insurance Regulation means that office within the Department which was created in Section 20.121(3), F.S.

(o) Participating Insurer means an insurer which writes Covered Policies in this state and which has entered into a Reimbursement Contract with the Board, pursuant to Section 215.555(4)(a), F.S.

(p) Reimbursement Contract means the annual contract required pursuant to Section 215.555(4)(a), F.S., which provides coverage to Participating Insurers for losses to covered property during a Covered Event.

(q) Reimbursement Premium means the premium determined by multiplying each $1,000 of insured value reported by the Participating Insurer in accordance with Section 215.555(5), F.S., by the rate as derived from the premium formula as described in Rule 19-8.028, F.A.C.

(3) Limitations on the Fund's Liability. The Fund's liability under the Reimbursement Contracts for Covered Events in a Contract Year is determined pursuant to Section 215.555(4)(c)1., F.S.

(4) Determinations Regarding Bond Issuance.

(a) General Factors for Use in Determining Whether to Issue Bonds. Based on the requirements of Section 215.555, F.S., on all rules adopted pursuant thereto, and on the foregoing interpretations, the Board determines that the Legislature intended the Fund to be a sustainable, permanent, and continuing trust fund established within the meaning of Article III, s. 19 of the Florida Constitution which is available to pay reimbursable losses for Covered Events in more than one year. The Board further determines that the Legislature deliberately and purposefully limited the Fund's liability as to Covered Events in any one Contract Year in order to provide for an on-going Fund. The Board determines that in its fiduciary capacity regarding the Fund, it is prudent to adopt the interpretations set out in this rule and to conform all its other policies, rules, and methods of operation to those fiduciary responsibilities and interpretations.

(b) Quality of Bonds to be Issued. The Board finds that in order to fulfill its fiduciary responsibilities to maintain and enhance the on-going viability and credibility of the Fund and to operate in the most cost-efficient manner, all revenue bonds issued to pay reimbursable losses shall be investment grade bonds, except to the extent that revenue bonds other than investment grade are needed to pay a small amount of legitimate but unexpected reimbursable losses. Upon the occurrence of such an exception, any revenue bonds issued will be issued only after a determination by the Board that the issuance of such bonds is fiscally responsible, in light of the Board's fiduciary responsibilities.

(c) Emergency Assessments.

1. If the Board determines that the amount of revenue produced under Section 215.555(5), F.S., 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, the Board shall direct the Office of Insurance Regulation to levy an Emergency Assessment on direct written premiums for all Assessable Lines. In making this determination, the Board may consider the projected Balance of the Fund; anticipated additional Fund revenues; the meteorological severity and geographical area impacted by each Covered Event; 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, from an analysis of market shares of Participating Insurers in the impacted area, and any other credible sources of loss information; and any other information determined by the Board to be relevant.

2. Except as required by Section 215.555(7)(c), F.S., or as described in the following sentence, Reimbursement Premiums, together with earnings thereon, received in a given Contract Year will be used only to pay for losses attributable to Covered Events occurring in that Contract Year or for losses attributable to Covered Events in subsequent Contract Years and will not be used to pay for past losses or for debt service on tax-exempt post-event revenue bonds. Pursuant to Section 215.555(6)(a)1., F.S., Reimbursement Premiums, and earnings thereon may be used for payments relating to tax-exempt post-event revenue bonds in the event Emergency Assessments are insufficient. If Reimbursement Premiums are used for debt service on tax-exempt post-event revenue bonds, then the amount of the Reimbursement Premiums, or earnings thereon so used shall be returned, without interest, to the Fund when Emergency Assessments or other legally available funds remain available after making payments relating to such revenue bonds and any other purposes for which Emergency Assessments were levied.

(d) Specific Procedures Regarding Issuance of Bonds, Notes, Debentures or Other Evidences of Financial Indebtedness on a Pre-Event Basis. In making a determination to authorize the issuance of revenue bonds on a Pre-event basis ("in the absence of a hurricane"), pursuant to Section 215.555(6)(a), F.S., the Board shall consider the following factors: the projected Fund Balance; reserves for mitigation appropriations; estimated amounts needed for administration of the Fund; projected amounts of future Reimbursement Premiums; projected amounts of earnings on collected Reimbursement Premiums; the projected frequency and magnitude of future Covered Events; current and projected interest rates on revenue bonds; current and projected market conditions for the sale of revenue bonds; projected credit ratings for the Fund and for revenue bonds issued on behalf of the Fund; current and projected availability of bond insurance or other credit enhancement for revenue bonds; the costs of issuance of revenue bonds; the debt service requirements of the revenue bonds; the estimated value, both monetary and non-monetary, of the issuance of Pre-event bonds on the costs of Post-event bonds in terms of benchmark pricing, secondary market trading, investor education, confidence of insurers and reinsurers in the Fund's ability to issue revenue bonds Post-event, market education, and document preparation; and any other factors relevant to the determination at the time such determination is made.

(e) Specific Procedures for Issuance of Revenue Bonds on a Post-Covered Event Basis. Upon the occurrence of a Covered Event for which the Board determines that moneys in the Fund are or will be insufficient to pay reimbursement at the levels promised in the Reimbursement Contracts:

1. The Board will determine the projected reimbursable losses of Participating Insurers, whether or not the Fund has or will have sufficient funds to reimburse Participating Insurers for their reimbursable losses, and the estimated shortfall which shall be covered by the issuance of revenue bonds or through incurrence of other indebtedness.

2. Based on the amount of the shortfall determined in accordance with subparagraph 1., above, the Board will determine the needed percentage of direct premium written for Assessable Lines. The Emergency Assessment percentage will be determined as follows:

a. The Board will review available information, from the Office of Insurance Regulation, the Florida Surplus Lines Service

Office and the National Association of Insurance Commissioners, regarding direct premiums written for Assessable Lines in Florida, reportable pursuant to Section 624.424, F.S., or pursuant to Part VIII of Chapter 626, F.S.

b. The Board will review and assess existing market conditions regarding the issuance and sale of bonds or the incurrence of other indebtedness to determine the amount of revenues which will be required to pay debt service on any bonds issued or other indebtedness incurred.

c. Based on the specific information described above and on any other information determined by the Board to be relevant, the Board will determine the Emergency Assessment percentage necessary 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, and shall adopt a resolution directing the Office of Insurance Regulation to levy the Emergency Assessment on all Assessable Lines.

3. The Emergency Assessment is subject to interest on delinquent remittances at the average rate earned by the Board for the FHCF for the first four months of the Contract Year for which such information is available plus 5%. The Emergency Assessment is also subject to annual adjustments by the Board in order to meet debt obligations.

(5) Procedures regarding Levying Emergency Assessments Pursuant to Section 215.555(6)(b), F.S.

(a) If the Board directs the Office of Insurance Regulation to levy Emergency Assessments, then the Office of Insurance Regulation shall issue Orders to the Florida Surplus Lines Service Office and to each Assessable Insurer levying an Emergency Assessment for the Assessable Lines set out in paragraph (d), below.

(b) Pursuant to the Order issued by the Office of Insurance Regulation levying the Emergency Assessment, each Assessable Insurer shall remit to the entity identified in the Order, an amount equal to the required percentage of its direct written premium for the preceding calendar quarter from all Assessable Lines, except those lines specifically exempted in Section 215.555, F.S. The required percentage will be determined in accordance with Section 215.555(6)(b), F.S., and the procedures set out in subsection (4) of this rule.

(c) Pursuant to the Order issued by the Office of Insurance Regulation levying the Emergency Assessment, each Assessable Insured shall remit and each surplus lines agent shall collect an amount equal to the required percentage of its direct written premium from all Assessable Lines. Surplus lines agents shall collect the Emergency Assessment at the same time as the surplus lines agent collects the surplus lines tax required by Section 626.932, F.S., and remit to the Florida Surplus Lines Service Office at the same time as the agent remits the surplus lines tax to that Office. The Emergency Assessment on each insured procuring coverage and filing under Section 626.938, F.S., shall be an amount equal to the required percentage of its direct written premium from all Assessable Lines and shall be remitted by the insured to the Florida Surplus Lines Service Office at the time the insured pays the surplus lines tax to that Office. The Florida Surplus Lines Service Office shall remit the Emergency Assessments received as directed by the Office of Insurance Regulation.

(d) The following lines of business are subject to the Emergency Assessment under Section 215.555(6)(b)1., F.S. For ease of reference, the lines of business are identified on the Exhibit of Premiums and Losses in the property and casualty annual statement of the National Association of Insurance Commissioners required to be filed by authorized insurers pursuant to Section 624.424, F.S., whether or not the insurer is required to file such exhibit. However, note that the numbers preceding the names of the lines of business do not correspond to the line numbers of the property and casualty annual statement.

1. Fire.
2. Allied Lines.
3. Multiple Peril Crop.
4. Farmowners Multiple Peril.
5. Homeowners Multiple Peril.
6. Commercial Multiple Peril (non-liability).
7. Commercial Multiple Peril (liability).
8. Mortgage Guaranty.
9. Ocean Marine.
10. Inland Marine.
11. Financial Guaranty.
12. Medical Malpractice (Medical Malpractice insurance premiums are subject to certain time limited exemptions, refer to Section 215.555, F.S., for those limitations).

13. Earthquake.
14. Other Liability.
15. Products Liability.
16. Private Passenger Auto No-Fault.
17. Other Private Passenger Auto Liability.
18. Commercial Auto No-Fault.
19. Other Commercial Auto Liability.
20. Private Passenger Auto Physical Damage.
21. Commercial Auto Physical Damage.
22. Aircraft (all perils).
23. Fidelity.
24. Surety.
25. Burglary and Theft.
26. Boiler and Machinery.
27. Credit.
28. Warranty.
29. Aggregate Write Ins for Other Lines of Business.

Rulemaking Authority 215.555(3) FS. Law Implemented 215.555(2), (3), (4), (5), (6), (7) FS. History–New 9-18-97, Amended 12-3-98, 9-12-00, 6-1-03, 5-19-04, 5-29-05, 5-10-06, 9-5-06, 6-8-08, 3-30-09, 3-29-10, 8-8-10, 4-24-14.