

CHAPTER 2022-132

Senate Bill No. 1058

An act relating to property insurer reimbursements; amending s. 215.555, F.S.; defining the term “unsound insurer”; revising requirements for coverage under the Florida Hurricane Catastrophe Fund of certain policies assumed by authorized insurers or the Citizens Property Insurance Corporation; providing construction; amending s. 215.555, F.S.; revising the definition of the term “covered policy”; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (e) of subsection (5) of section 215.555, Florida Statutes, is amended, and paragraph (p) is added to subsection (2) of that section, to read:

215.555 Florida Hurricane Catastrophe Fund.—

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

(p) “Unsound insurer” means an insurer determined by the Office of Insurance Regulation to be in unsound condition as defined in s. 624.80(2) or an insurer placed in receivership under chapter 631.

(5) REIMBURSEMENT PREMIUMS.—

(e)1. If an authorized insurer or the Citizens Property Insurance Corporation assumes or otherwise provides coverage for policies of an unsound insurer an insurer placed in liquidation under chapter 631 pursuant to s. 627.351(6), the authorized insurer or the Citizens Property Insurance Corporation may, pursuant to conditions mutually agreed to between the authorized insurer or the Citizens Property Insurance Corporation and the State Board of Administration, seek to obtain coverage for such policies under its contract with the fund or accept an assignment of the unsound liquidated insurer’s contract with the fund. However, if a covered event has occurred before the effective date of the transfer of the policies, the authorized insurer or the Citizens Property Insurance Corporation may only obtain coverage for such policies through an assignment as provided in subparagraph 3.

2. If an authorized insurer or the Citizens Property Insurance Corporation assumes policies from an unsound insurer and elects to cover these policies under its the corporation’s contract with the fund, it shall notify the board of its insured values with respect to such policies within a specified time mutually agreed to between the authorized insurer or the Citizens Property Insurance Corporation and the board, after such assumption or other coverage transaction, and the fund shall treat such policies as having been in effect as of June 30 of that year.

~~3. If an authorized insurer or the Citizens Property Insurance Corporation accepts In the event of an assignment of an unsound insurer's contract, the fund shall apply the unsound insurer's that contract to such policies and treat the authorized insurer or the Citizens Property Insurance Corporation as if ~~it~~ the corporation were the unsound liquidated insurer for the remaining term of the contract, with and ~~the corporation~~ shall have all rights and duties of the unsound liquidated insurer beginning on the date it provides coverage for such policies. This subparagraph may not be construed to limit the fund's right to receive the premium due under the unsound insurer's contract, but the corporation is not subject to any preexisting rights, liabilities, or duties of the liquidated insurer. The assignment, including any unresolved issues between the liquidated insurer and Citizens Property Insurance Corporation under the contract, shall be provided for in the liquidation order or otherwise determined by the court. However, if a covered event occurs before the effective date of the assignment, the corporation may not obtain coverage for such policies under its contract with the fund and shall accept an assignment of the liquidated insurer's contract as provided in this paragraph.~~

Section 2. Effective June 1, 2023, paragraph (c) of subsection (2) of section 215.555, Florida Statutes, is amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

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

(c) “Covered policy” means any insurance policy covering residential property in this state, including, but not limited to, any homeowner, mobile home owner, farm owner, condominium association, condominium unit owner, tenant, or apartment building policy, or any other policy covering a residential structure or its contents issued by any authorized insurer, including a commercial self-insurance fund holding a certificate of authority issued by the Office of Insurance Regulation under s. 624.462, the Citizens Property Insurance Corporation, and any joint underwriting association or similar entity created under law. The term “covered policy” includes any collateral protection insurance policy covering personal residences which protects both the borrower's and the lender's financial interests, in an amount at least equal to the coverage amount for the dwelling in place under the lapsed homeowner's policy, the coverage amount that the homeowner has been notified of by the collateral protection insurer, or the coverage amount that the homeowner requests from the collateral protection insurer, if such collateral protection insurance policy can be accurately reported as required in subsection (5). Additionally, covered policies include policies covering the peril of wind removed from the Florida Residential Property and Casualty Joint Underwriting Association or from the Citizens Property Insurance Corporation, created under s. 627.351(6), or from the Florida Windstorm Underwriting Association, created under s. 627.351(2), by an authorized insurer under the terms and conditions of an executed assumption agreement between the authorized insurer and such association or Citizens Property Insurance Corporation. Each assumption agreement

between the association and such authorized insurer or Citizens Property Insurance Corporation must be approved by the Office of Insurance Regulation before the effective date of the assumption, and the Office of Insurance Regulation must provide written notification to the board within 15 working days after such approval. “Covered policy” does not include any policy that excludes wind coverage or hurricane coverage or any reinsurance agreement and does not include any policy otherwise meeting this definition which is issued by a surplus lines insurer or a reinsurer. All commercial residential excess policies and all deductible buy-back policies that, based on sound actuarial principles, require individual ratemaking shall be excluded by rule if the actuarial soundness of the fund is not jeopardized. For this purpose, the term “excess policy” means a policy that provides insurance protection for large commercial property risks and that provides a layer of coverage above a primary layer insured by another insurer.

Section 3. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2022.

Approved by the Governor May 20, 2022.

Filed in Office Secretary of State May 20, 2022.