

1 A bill to be entitled
2 An act relating to the Florida Hurricane
3 Catastrophe Fund; amending s. 215.555, F.S.;
4 redefining and defining terms; providing for
5 the State Board of Administration to specify
6 interest due on delinquent remittances;
7 revising conditions of, amounts of, and
8 procedures relating to reimbursement contracts;
9 revising maximum rates of, procedures relating
10 to, and types of insurance subject to emergency
11 assessments; revising provisions relating to
12 reinsurance; deleting expired provisions;
13 requiring insurers to make a rate filing or
14 certification for policies covered under the
15 act; providing transitional provisions;
16 providing application; providing criteria,
17 requirements, and limitations; providing
18 effective dates.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Paragraphs (c), (d), (e), and (k) of
23 subsection (2) and subsections (3), (4), (7), and (16) of
24 section 215.555, Florida Statutes, are amended, and paragraph
25 (n) is added to subsection (2) of that section, to read:

26 215.555 Florida Hurricane Catastrophe Fund.--

27 (2) DEFINITIONS.--As used in this section:

28 (c) "Covered policy" means any insurance policy
29 covering residential property in this state, including, but
30 not limited to, any homeowner's, mobile home owner's, farm
31 owner's, condominium association, condominium unit owner's,

1 tenant's, or apartment building policy, or any other policy
2 covering a residential structure or its contents issued by any
3 authorized insurer, including the Citizens Property Insurance
4 Corporation and any joint underwriting association or similar
5 entity created pursuant to law. The term "covered policy"
6 includes any collateral protection insurance policy covering
7 personal residences which protects both the borrower's and the
8 lender's financial interests, in an amount at least equal to
9 the coverage for the dwelling in place under the lapsed
10 homeowner's policy, if such policy can be accurately reported
11 as required in subsection (5). Additionally, covered policies
12 include policies covering the peril of wind removed from the
13 Florida Residential Property and Casualty Joint Underwriting
14 Association or from the Citizens Property Insurance
15 Corporation, created pursuant to s. 627.351(6), or from the
16 Florida Windstorm Underwriting Association, created pursuant
17 to s. 627.351(2), by an authorized insurer under the terms and
18 conditions of an executed assumption agreement between the
19 authorized insurer and such association or Citizens Property
20 Insurance Corporation. Each assumption agreement between the
21 association and such authorized insurer or Citizens Property
22 Insurance Corporation must be approved by ~~the Florida~~
23 ~~Department of Insurance or~~ the Office of Insurance Regulation
24 prior to the effective date of the assumption, and ~~the~~
25 ~~Department of Insurance or the~~ Office of Insurance Regulation
26 must provide written notification to the board within 15
27 working days after such approval. "Covered policy" does not
28 include any policy that excludes wind coverage or hurricane
29 coverage or any reinsurance agreement and does not include any
30 policy otherwise meeting this definition which is issued by a
31 surplus lines insurer or a reinsurer. All commercial

1 residential excess policies and all deductible buy-back
2 policies that, based on sound actuarial principles, require
3 individual ratemaking shall be excluded by rule if the
4 actuarial soundness of the fund is not jeopardized. For this
5 purpose, the term "excess policy" means a policy that provides
6 insurance protection for large commercial property risks and
7 that provides a layer of coverage above a primary layer
8 insured by another insurer.

9 (d) "Losses" means direct incurred losses under
10 covered policies, which shall include losses for additional
11 living expenses not to exceed 40 ~~20~~ percent of the insured
12 value of ~~a mobile homes or personal~~ residential structure or
13 its structures and ~~40 percent of the insured value of contents~~
14 ~~covered under a tenant's policy or a condominium unit owner's~~
15 ~~policy~~ and shall exclude loss adjustment expenses. "Losses"
16 does not include losses for fair rental value, loss of use,
17 ~~associated with personal and commercial residential exposures~~
18 or business interruption losses ~~associated with commercial~~
19 ~~residential exposures.~~

20 (e) "Retention" means the amount of losses below which
21 an insurer is not entitled to reimbursement from the fund. An
22 insurer's retention shall be calculated as follows:

23 1. The board shall calculate and report to each
24 insurer the retention multiples for that year. For the
25 contract year beginning June 1, 1995, the retention multiple
26 shall be equal to \$3 billion divided by the total estimated
27 reimbursement premium for the contract year; for subsequent
28 years, the retention multiple shall be equal to \$3 billion,
29 adjusted based upon the reported exposure from the prior
30 contract year to reflect the percentage growth in exposure to
31 the fund for covered policies since 1998, divided by the total

1 estimated reimbursement premium for the contract year. Total
 2 reimbursement premium for purposes of the calculation under
 3 this subparagraph shall be estimated using the assumption that
 4 all insurers have selected the 90-percent coverage level.

5 2. The retention multiple as determined under
 6 subparagraph 1. shall be adjusted to reflect the coverage
 7 level elected by the insurer. For insurers electing the
 8 90-percent coverage level, the adjusted retention multiple is
 9 100 percent of the amount determined under subparagraph 1.
 10 For insurers electing the 75-percent coverage level, the
 11 retention multiple is 120 percent of the amount determined
 12 under subparagraph 1. For insurers electing the 45-percent
 13 coverage level, the adjusted retention multiple is 200 percent
 14 of the amount determined under subparagraph 1.

15 3. An insurer shall determine its provisional
 16 retention by multiplying its provisional reimbursement premium
 17 by the applicable adjusted retention multiple and shall
 18 determine its actual retention by multiplying its actual
 19 reimbursement premium by the applicable adjusted retention
 20 multiple.

21 (k) "Pledged revenues" means all or any portion of
 22 revenues to be derived from reimbursement premiums under
 23 subsection (5) or from emergency assessments under paragraph
 24 ~~(6)(b) subparagraph (6)(a)3-~~, as determined by the board.

25 (n) "Corporation" means the Florida Hurricane
 26 Catastrophe Fund Finance Corporation created in paragraph
 27 (6)(d).

28 (3) FLORIDA HURRICANE CATASTROPHE FUND CREATED.--There
 29 is created the Florida Hurricane Catastrophe Fund to be
 30 administered by the State Board of Administration. Moneys in
 31 the fund may not be expended, loaned, or appropriated except

1 to pay obligations of the fund arising out of reimbursement
2 contracts entered into under subsection (4), payment of debt
3 service on revenue bonds issued under subsection (6), costs of
4 the mitigation program under subsection (7), costs of
5 procuring reinsurance, and costs of administration of the
6 fund. The board shall invest the moneys in the fund pursuant
7 to ss. 215.44-215.52. Except as otherwise provided in this
8 section, earnings from all investments shall be retained in
9 the fund. The board may employ or contract with such staff and
10 professionals as the board deems necessary for the
11 administration of the fund. The board may adopt such rules as
12 are reasonable and necessary to implement this section and
13 shall specify interest due on any delinquent remittances,
14 which interest may not exceed the fund's rate of return plus 5
15 percent. Such rules must conform to the Legislature's specific
16 intent in establishing the fund as expressed in subsection
17 (1), must enhance the fund's potential ability to respond to
18 claims for covered events, must contain general provisions so
19 that the rules can be applied with reasonable flexibility so
20 as to accommodate insurers in situations of an unusual nature
21 or where undue hardship may result, except that such
22 flexibility may not in any way impair, override, supersede, or
23 constrain the public purpose of the fund, and must be
24 consistent with sound insurance practices. The board may, by
25 rule, provide for the exemption from subsections (4) and (5)
26 of insurers writing covered policies with less than \$10
27 million~~\$500,000~~ in aggregate exposure for covered policies,
28 ~~which exposure results in a de minimis reimbursement premium,~~
29 if the exemption does not affect the actuarial soundness of
30 the fund.

31 (4) REIMBURSEMENT CONTRACTS.--

1 (a) The board shall enter into a contract with each
2 insurer writing covered policies in this state to provide to
3 the insurer the reimbursement described in paragraphs (b) and
4 (d), in exchange for the reimbursement premium paid into the
5 fund under subsection (5). As a condition of doing business in
6 this state, each such insurer shall enter into such a
7 contract.

8 (b)1. The contract shall contain a promise by the
9 board to reimburse the insurer for 45 percent, 75 percent, or
10 90 percent of its losses from each covered event in excess of
11 the insurer's retention, plus 5 percent of the reimbursed
12 losses to cover loss adjustment expenses.

13 2. The insurer must elect one of the percentage
14 coverage levels specified in this paragraph and may, upon
15 renewal of a reimbursement contract, elect a lower percentage
16 coverage level if no revenue bonds issued under subsection (6)
17 after a covered event are outstanding, or elect a higher
18 percentage coverage level, regardless of whether or not
19 revenue bonds are outstanding. All members of an insurer group
20 must elect the same percentage coverage level. Any joint
21 underwriting association, risk apportionment plan, or other
22 entity created under s. 627.351 must elect the 90-percent
23 coverage level.

24 3. The contract shall provide that reimbursement
25 amounts shall not be reduced by reinsurance paid or payable to
26 the insurer from other sources; ~~however, recoveries from such~~
27 ~~other sources, taken together with reimbursements under the~~
28 ~~contract, may not exceed 100 percent of the insurer's losses~~
29 ~~from covered events. If such recoveries and reimbursements~~
30 ~~exceed 100 percent of the insurer's losses from covered~~
31 ~~events, and if there is no agreement between the insurer and~~

1 ~~the reinsurer to the contrary, any amount in excess of 100~~
2 ~~percent of the insurer's losses shall be returned to the fund.~~

3 (c)1. The contract shall also provide that the
4 obligation of the board with respect to all contracts covering
5 a particular contract year shall not exceed the actual
6 claims-paying capacity of the fund up to a limit of \$11
7 billion for that contract year, unless the board determines
8 that there is sufficient estimated claims-paying capacity to
9 provide \$11 billion of capacity for the current contract year
10 and an additional \$11 billion of capacity for subsequent
11 contract years. Upon such determination being made, the
12 estimated claims-paying capacity for the current contract year
13 shall be determined by adding to the \$11 billion limit
14 one-half of the fund's estimated claims-paying capacity in
15 excess of \$22 billion.

16 2. In May before the start of the upcoming contract
17 year and in October during the contract year, the board shall
18 publish in the Florida Administrative Weekly a statement of
19 the fund's estimated borrowing capacity and the projected
20 balance of the fund as of December 31. After the end of each
21 calendar year, the board shall notify insurers of the
22 estimated borrowing capacity and the balance of the fund as of
23 December 31 to provide insurers with data necessary to assist
24 them in determining their retention and projected payout from
25 the fund for loss reimbursement purposes. In conjunction with
26 the development of the premium formula, as provided for in
27 subsection (5), the board shall publish factors or multiples
28 that assist insurers in determining their retention and
29 projected payout for the next contract year. For all
30 regulatory and reinsurance purposes, an insurer may calculate
31 its projected payout from the fund as its share of the total

1 fund premium for the current contract year multiplied by the
2 sum of the projected balance of the fund as of December 31 and
3 the estimated borrowing capacity for that contract year as
4 reported under this subparagraph. ~~The contract shall require~~
5 ~~the board to annually notify insurers of the fund's estimated~~
6 ~~borrowing capacity for the next contract year, the projected~~
7 ~~year end balance of the fund, and the insurer's estimated~~
8 ~~share of total reimbursement premium to be paid to the fund.~~
9 ~~For all regulatory and reinsurance purposes, an insurer may~~
10 ~~calculate its projected payout from the fund as its share of~~
11 ~~the total fund premium for the current contract year~~
12 ~~multiplied by the sum of the projected year end fund balance~~
13 ~~and the estimated borrowing capacity for that contract year as~~
14 ~~reported under this paragraph. In May and October of each~~
15 ~~year, the board shall publish in the Florida Administrative~~
16 ~~Weekly a statement of the fund's estimated borrowing capacity~~
17 ~~and the projected year end balance of the fund for the current~~
18 ~~contract year.~~

19 (d)1. For purposes of determining potential liability
20 and to aid in the sound administration of the fund, the
21 contract shall require each insurer to report such insurer's
22 losses from each covered event on an interim basis, as
23 directed by the board. The contract shall require the insurer
24 to report to the board no later than December 31 of each year,
25 and quarterly thereafter, its reimbursable losses from covered
26 events for the year. The contract shall require the board to
27 determine and pay, as soon as practicable after receiving
28 these reports of reimbursable losses, the initial amount of
29 reimbursement due and adjustments to this amount based on
30 later loss information. The adjustments to reimbursement
31 amounts shall require the board to pay, or the insurer to

1 return, amounts reflecting the most recent calculation of
2 losses.

3 2. In determining reimbursements pursuant to this
4 subsection, the contract shall provide that the board shall:

5 a. First reimburse insurers writing covered policies,
6 which insurers are in full compliance with this section and
7 have petitioned the Office of Insurance Regulation and
8 qualified as limited apportionment companies under s.

9 627.351(2)(b)3. The amount of such reimbursement shall be the
10 lesser of \$10 million or an amount equal to 10 times the
11 insurer's reimbursement premium for the current year. The
12 amount of reimbursement paid under this sub-subparagraph may
13 not exceed the full amount of reimbursement promised in the
14 reimbursement contract. This sub-subparagraph does not apply
15 with respect to any contract year in which the year-end
16 projected cash balance of the fund, exclusive of any bonding
17 capacity of the fund, exceeds \$2 billion. Only one member of
18 any insurer group may receive reimbursement under this
19 sub-subparagraph.

20 b. Next pay to each insurer such insurer's projected
21 payout, which is the amount of reimbursement it is owed, up to
22 an amount equal to the insurer's share of the actual premium
23 paid for that contract year, multiplied by the actual
24 claims-paying capacity available for that contract year;
25 provided, entities created pursuant to s. 627.351 shall be
26 further reimbursed in accordance with sub-subparagraph c.

27 c. Thereafter, establish, ~~based on reimbursable~~
28 ~~losses~~, the prorated reimbursement level at the highest level
29 for which any remaining fund balance or bond proceeds are
30 sufficient to reimburse entities created pursuant to s.
31 627.351 based on reimbursable ~~for~~ losses exceeding the amounts

1 payable pursuant to sub-subparagraph b. for the current
2 contract year.

3 (e)1. Except as provided in subparagraphs 2. and 3.,
4 the contract shall provide that if an insurer demonstrates to
5 the board that it is likely to qualify for reimbursement under
6 the contract, and demonstrates to the board that the immediate
7 receipt of moneys from the board is likely to prevent the
8 insurer from becoming insolvent, the board shall advance the
9 insurer, at market interest rates, the amounts necessary to
10 maintain the solvency of the insurer, up to 50 percent of the
11 board's estimate of the reimbursement due the insurer. The
12 insurer's reimbursement shall be reduced by an amount equal to
13 the amount of the advance and interest thereon.

14 2. With respect only to an entity created under s.
15 627.351, the contract shall also provide that the board may,
16 upon application by such entity, advance to such entity, at
17 market interest rates, up to 90 percent of the lesser of:

18 a. The board's estimate of the amount of reimbursement
19 due to such entity; or

20 b. The entity's share of the actual reimbursement
21 premium paid for that contract year, multiplied by the
22 currently available liquid assets of the fund. In order for
23 the entity to qualify for an advance under this subparagraph,
24 the entity must demonstrate to the board that the advance is
25 essential to allow the entity to pay claims for a covered
26 event and the board must determine that the fund's assets are
27 sufficient and are sufficiently liquid to allow the board to
28 make an advance to the entity and still fulfill the board's
29 reimbursement obligations to other insurers. The entity's
30 final reimbursement for any contract year in which an advance
31 has been made under this subparagraph must be reduced by an

1 amount equal to the amount of the advance and any interest on
2 such advance. In order to determine what amounts, if any, are
3 due the entity, the board may require the entity to report its
4 exposure and its losses at any time to determine retention
5 levels and reimbursements payable.

6 3. The contract shall also provide specifically and
7 solely with respect to any limited apportionment company under
8 s. 627.351(2)(b)3. that the board may, upon application by
9 such company, advance to such company the amount of the
10 estimated reimbursement payable to such company as calculated
11 pursuant to paragraph (d), at market interest rates, if the
12 board determines that the fund's assets are sufficient and are
13 sufficiently liquid to permit the board to make an advance to
14 such company and at the same time fulfill its reimbursement
15 obligations to the insurers that are participants in the fund.
16 Such company's final reimbursement for any contract year in
17 which an advance pursuant to this subparagraph has been made
18 shall be reduced by an amount equal to the amount of the
19 advance and interest thereon. In order to determine what
20 amounts, if any, are due to such company, the board may
21 require such company to report its exposure and its losses at
22 such times as may be required to determine retention levels
23 and loss reimbursements payable.

24 (f) In order to ensure that insurers have properly
25 reported the insured values on which the reimbursement premium
26 is based and to ensure that insurers have properly reported
27 the losses for which reimbursements have been made, the board
28 shall inspect, examine, and verify ~~audit~~ the records of each
29 insurer's covered policies at such times as the board deems
30 appropriate and according to standards established by rule for
31 the specific purpose of validating the accuracy of exposures

1 and losses required to be reported under the terms and
2 conditions of the reimbursement contract in such manner as is
3 ~~consistent with generally accepted auditing standards.~~ The
4 costs of the examinations ~~audits~~ shall be borne by the board.
5 However, in order to remove any incentive for an insurer to
6 delay preparations for an examination ~~audit~~, the board shall
7 be reimbursed by the insurer for any examination ~~audit~~
8 expenses incurred in addition to the usual and customary costs
9 of the examination ~~audit~~, which additional expenses were
10 incurred as a result of an insurer's failure, despite proper
11 notice, to be prepared for the examination ~~audit~~ or as a
12 result of an insurer's failure to provide requested
13 information while the examination ~~audit~~ is in progress. If the
14 board finds any insurer's records or other necessary
15 information to be inadequate or inadequately posted, recorded,
16 or maintained, the board may employ experts to reconstruct,
17 rewrite, record, post, or maintain such records or
18 information, at the expense of the insurer being examined
19 ~~audited~~, if such insurer has failed to maintain, complete, or
20 correct such records or deficiencies after the board has given
21 the insurer notice and a reasonable opportunity to do so. Any
22 information contained in an examination ~~audit~~ report, which
23 information is described in s. 215.557, is confidential and
24 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
25 I of the State Constitution, as provided in s. 215.557.
26 Nothing in this paragraph expands the exemption in s. 215.557.

27 (g) The contract shall provide that in the event of
28 the insolvency of an insurer, the fund shall pay directly to
29 the Florida Insurance Guaranty Association for the benefit of
30 Florida policyholders of the insurer the net amount of all
31 reimbursement moneys owed to the insurer. As used in this

1 paragraph, the term "net amount of all reimbursement moneys"
2 means that amount which remains after reimbursement for:

3 1. Preliminary or duplicate payments owed to private
4 reinsurers or other inuring reinsurance payments to private
5 reinsurers that satisfy statutory or contractual obligations
6 of the insolvent insurer attributable to covered events to
7 such reinsurers; or

8 2. Funds owed to a bank or other financial institution
9 to cover obligations of the insolvent insurer under a credit
10 agreement that assists the insolvent insurer in paying claims
11 attributable to covered events.

12
13 ~~The Such~~ private reinsurers, banks, or other financial
14 institutions shall be reimbursed or otherwise paid prior to
15 payment to the Florida Insurance Guaranty Association,
16 notwithstanding any law to the contrary. The guaranty
17 association shall pay all claims up to the maximum amount
18 permitted by chapter 631; thereafter, any remaining moneys
19 shall be paid pro rata to claims not fully satisfied. This
20 paragraph does not apply to a joint underwriting association,
21 risk apportionment plan, or other entity created under s.
22 627.351.

23 (7) ADDITIONAL POWERS AND DUTIES.--

24 (a) The board may procure reinsurance from reinsurers
25 acceptable to the Office of Insurance Regulation approved
26 ~~under s. 624.610~~ for the purpose of maximizing the capacity of
27 the fund.

28 (b) In addition to borrowing under subsection (6), the
29 board may also borrow from, or enter into other financing
30 arrangements with, any market sources at prevailing interest
31 rates.

1 (c) Each fiscal year, the Legislature shall
2 appropriate from the investment income of the Florida
3 Hurricane Catastrophe Fund an amount no less than \$10 million
4 and no more than 35 percent of the investment income based
5 upon the most recent fiscal year-end audited financial
6 statements from the prior fiscal year for the purpose of
7 providing funding for local governments, state agencies,
8 public and private educational institutions, and nonprofit
9 organizations to support programs intended to improve
10 hurricane preparedness, reduce potential losses in the event
11 of a hurricane, provide research into means to reduce such
12 losses, educate or inform the public as to means to reduce
13 hurricane losses, assist the public in determining the
14 appropriateness of particular upgrades to structures or in the
15 financing of such upgrades, or protect local infrastructure
16 from potential damage from a hurricane. Moneys shall first be
17 available for appropriation under this paragraph in fiscal
18 year 1997-1998. Moneys in excess of the \$10 million specified
19 in this paragraph shall not be available for appropriation
20 under this paragraph if the State Board of Administration
21 finds that an appropriation of investment income from the fund
22 would jeopardize the actuarial soundness of the fund.

23 (d) The board may allow insurers to comply with
24 reporting requirements and reporting format requirements by
25 using alternative methods of reporting if the proper
26 administration of the fund is not thereby impaired and if the
27 alternative methods produce data which is consistent with the
28 purposes of this section.

29 (e) In order to assure the equitable operation of the
30 fund, the board may impose a reasonable fee on an insurer to
31

1 recover costs involved in reprocessing inaccurate, incomplete,
2 or untimely exposure data submitted by the insurer.

3 ~~(16) For the 2002-2003 fiscal year only, the State~~
4 ~~Board of Administration shall disburse funds, by nonoperating~~
5 ~~transfer, from the Florida Hurricane Catastrophe Fund to the~~
6 ~~Ecosystem Management and Restoration Trust Fund of the~~
7 ~~Department of Environmental Protection in an amount equal to~~
8 ~~8.47 percent of the appropriation made from the Ecosystem~~
9 ~~Management and Restoration Trust Fund for "Grants and Aids to~~
10 ~~Local Governments and Non State Entities — Fixed Capital~~
11 ~~Outlay, Statewide Restoration Projects" in the 2002-2003~~
12 ~~General Appropriations Act. This subsection expires July 1,~~
13 ~~2003.~~

14 Section 2. Effective June 1, 2004, paragraph (e) of
15 subsection (2), paragraph (c) of subsection (4), and
16 subsection (6) of section 215.555, Florida Statutes, as
17 amended by this act, are amended to read:

18 215.555 Florida Hurricane Catastrophe Fund.--

19 (2) DEFINITIONS.--As used in this section:

20 (e) "Retention" means the amount of losses below which
21 an insurer is not entitled to reimbursement from the fund. An
22 insurer's retention shall be calculated as follows:

23 1. The board shall calculate and report to each
24 insurer the retention multiples for that year. For the
25 contract year beginning June 1, 2004 ~~1995~~, the retention
26 multiple shall be equal to \$4.5\$3 billion divided by the
27 total estimated reimbursement premium for the contract year;
28 for subsequent years, the retention multiple shall be equal to
29 \$4.5\$3 billion, adjusted based upon the reported exposure
30 from the prior contract year to reflect the percentage growth
31 in exposure to the fund for covered policies since 2003 ~~1998~~,

1 divided by the total estimated reimbursement premium for the
2 contract year. Total reimbursement premium for purposes of the
3 calculation under this subparagraph shall be estimated using
4 the assumption that all insurers have selected the 90-percent
5 coverage level.

6 2. The retention multiple as determined under
7 subparagraph 1. shall be adjusted to reflect the coverage
8 level elected by the insurer. For insurers electing the
9 90-percent coverage level, the adjusted retention multiple is
10 100 percent of the amount determined under subparagraph
11 1. For insurers electing the 75-percent coverage level, the
12 retention multiple is 120 percent of the amount determined
13 under subparagraph 1. For insurers electing the 45-percent
14 coverage level, the adjusted retention multiple is 200 percent
15 of the amount determined under subparagraph 1.

16 3. An insurer shall determine its provisional
17 retention by multiplying its provisional reimbursement premium
18 by the applicable adjusted retention multiple and shall
19 determine its actual retention by multiplying its actual
20 reimbursement premium by the applicable adjusted retention
21 multiple.

22 (4) REIMBURSEMENT CONTRACTS.--

23 (c)1. The contract shall also provide that the
24 obligation of the board with respect to all contracts covering
25 a particular contract year shall not exceed the actual
26 claims-paying capacity of the fund up to a limit of ~~\$15\$11~~
27 billion for that contract year adjusted based upon the
28 reported exposure from the prior contract year to reflect the
29 percentage growth in exposure to the fund for covered policies
30 since 2003, provided the dollar growth in the limit may not
31 increase in any year by an amount greater than the dollar

1 growth of the cash balance which occurred over the prior
2 calendar year, unless the board determines that there is
3 ~~sufficient estimated claims paying capacity to provide \$11~~
4 ~~billion of capacity for the current contract year and an~~
5 ~~additional \$11 billion of capacity for subsequent contract~~
6 ~~years. Upon such determination being made, the estimated~~
7 ~~claims paying capacity for the current contract year shall be~~
8 ~~determined by adding to the \$11 billion limit one half of the~~
9 ~~fund's estimated claims paying capacity in excess of \$22~~
10 ~~billion.~~

11 2. In May before the start of the upcoming contract
12 year and in October during the contract year, the board shall
13 publish in the Florida Administrative Weekly a statement of
14 the fund's estimated borrowing capacity and the projected
15 balance of the fund as of December 31. After the end of each
16 calendar year, the board shall notify insurers of the
17 estimated borrowing capacity and the balance of the fund as of
18 December 31 to provide insurers with data necessary to assist
19 them in determining their retention and projected payout from
20 the fund for loss reimbursement purposes. In conjunction with
21 the development of the premium formula, as provided for in
22 subsection (5), the board shall publish factors or multiples
23 that assist insurers in determining their retention and
24 projected payout for the next contract year. For all
25 regulatory and reinsurance purposes, an insurer may calculate
26 its projected payout from the fund as its share of the total
27 fund premium for the current contract year multiplied by the
28 sum of the projected balance of the fund as of December 31 and
29 the estimated borrowing capacity for that contract year as
30 reported under this subparagraph.

31 (6) REVENUE BONDS.--

1 (a) General provisions.--
2 1. Upon the occurrence of a hurricane and a
3 determination that the moneys in the fund are or will be
4 insufficient to pay reimbursement at the levels promised in
5 the reimbursement contracts, the board may take the necessary
6 steps under paragraph(c)~~(b)~~ or paragraph(d)~~(e)~~ for the
7 issuance of revenue bonds for the benefit of the fund. The
8 proceeds of such revenue bonds may be used to make
9 reimbursement payments under reimbursement contracts; to
10 refinance or replace previously existing borrowings or
11 financial arrangements; to pay interest on bonds; to fund
12 reserves for the bonds; to pay expenses incident to the
13 issuance or sale of any bond issued under this section,
14 including costs of validating, printing, and delivering the
15 bonds, costs of printing the official statement, costs of
16 publishing notices of sale of the bonds, and related
17 administrative expenses; or for such other purposes related to
18 the financial obligations of the fund as the board may
19 determine. The term of the bonds may not exceed 30 years. The
20 board may pledge or authorize the corporation to pledge all or
21 a portion of all revenues under subsection (5) and under
22 paragraph (b) ~~subparagraph 3~~. to secure such revenue bonds and
23 the board may execute such agreements between the board and
24 the issuer of any revenue bonds and providers of other
25 financing arrangements under paragraph (7)(b) as the board
26 deems necessary to evidence, secure, preserve, and protect
27 such pledge. If reimbursement premiums received under
28 subsection (5) or earnings on such premiums are used to pay
29 debt service on revenue bonds, such premiums and earnings
30 shall be used only after the use of the moneys derived from
31 assessments under paragraph (b) ~~subparagraph 3~~. The funds,

1 credit, property, or taxing power of the state or political
2 subdivisions of the state shall not be pledged for the payment
3 of such bonds. The board may also enter into agreements under
4 paragraph~~(c)~~~~(b)~~ or paragraph~~(d)~~~~(e)~~ for the purpose of
5 issuing revenue bonds in the absence of a hurricane upon a
6 determination that such action would maximize the ability of
7 the fund to meet future obligations.

8 2. The Legislature finds and declares that the
9 issuance of bonds under this subsection is for the public
10 purpose of paying the proceeds of the bonds to insurers,
11 thereby enabling insurers to pay the claims of policyholders
12 to assure that policyholders are able to pay the cost of
13 construction, reconstruction, repair, restoration, and other
14 costs associated with damage to property of policyholders of
15 covered policies after the occurrence of a hurricane. Revenue
16 bonds may not be issued under this subsection until validated
17 under chapter 75. The validation of at least the first
18 obligations incurred pursuant to this subsection shall be
19 appealed to the Supreme Court, to be handled on an expedited
20 basis.

21 **(b) Emergency assessments.--**

22 **1. If the board determines that the amount of revenue**
23 **produced under subsection (5) is insufficient to fund the**
24 **obligations, costs, and expenses of the fund and the**
25 **corporation, including repayment of revenue bonds and that**
26 **portion of the debt service coverage not met by reimbursement**
27 **premiums, the board shall direct the Office of Insurance**
28 **Regulation to levy, by order, an emergency assessment on**
29 **direct premiums for all property and casualty lines of**
30 **business in this state, including property and casualty**
31 **business of surplus lines insurers regulated under part VIII**

1 of chapter 626, but not including any workers' compensation
2 premiums or medical malpractice premiums. As used in this
3 subsection, the term "property and casualty business" includes
4 all lines of business identified on Form 2, Exhibit of
5 Premiums and Losses, in the annual statement required of
6 authorized insurers by s. 624.424 and any rule adopted under
7 this section, except for those lines identified as accident
8 and health insurance and except for policies written under the
9 National Flood Insurance Program. The assessment shall be
10 specified as a percentage of future premium collections and is
11 subject to annual adjustments by the board to reflect changes
12 in premiums subject to assessments collected under this
13 subparagraph in order to meet debt obligations. The same
14 percentage shall apply to all policies in lines of business
15 subject to the assessment issued or renewed during the
16 12-month period beginning on the effective date of the
17 assessment.

18 2. A premium is not subject to an annual assessment
19 under this paragraph in excess of 6 percent of premium with
20 respect to obligations arising out of losses attributable to
21 any one contract year and a premium is not subject to an
22 aggregate annual assessment under this paragraph in excess of
23 10 percent of premium. An annual assessment under this
24 paragraph shall continue until the revenue bonds issued with
25 respect to which the assessment was imposed are outstanding,
26 including any bonds the proceeds of which were used to refund
27 the revenue bonds, unless adequate provision has been made for
28 the payment of the bonds under the documents authorizing
29 issuance of the bonds.

30 3. With respect to each insurer collecting premiums
31 that are subject to the assessment, the insurer shall collect

1 the assessment at the same time as it collects the premium
2 payment for each policy and shall remit the assessment
3 collected to the fund or corporation as provided in the order
4 issued by the Office of Insurance Regulation. The office shall
5 verify the accurate and timely collection and remittance of
6 emergency assessments and shall report the information to the
7 board in a form and at a time specified by the board. Each
8 insurer collecting assessments shall provide the information
9 with respect to premiums and collections as may be required by
10 the office to enable the office to monitor and verify
11 compliance with this paragraph.

12 4. With respect to assessments of surplus lines
13 premiums, each surplus lines agent shall collect the
14 assessment at the same time as the agent collects the surplus
15 lines tax required by s. 626.932, and the surplus lines agent
16 shall remit the assessment to the Florida Surplus Lines
17 Service Office created by s. 626.921 at the same time as the
18 agent remits the surplus lines tax to the Florida Surplus
19 Lines Service Office. The emergency assessment on each insured
20 procuring coverage and filing under s. 626.938 shall be
21 remitted by the insured to the Florida Surplus Lines Service
22 Office at the time the insured pays the surplus lines tax to
23 the Florida Surplus Lines Service Office. The Florida Surplus
24 Lines Office shall remit the collected assessments to the fund
25 or corporation as provided in the order levied by the Office
26 of Insurance Regulation. The Florida Surplus Lines Service
27 Office shall verify the proper application of such emergency
28 assessments and shall assist the board in ensuring the
29 accurate and timely collection and remittance of assessments
30 as required by the board. The Florida Surplus Lines Service
31 Office shall annually calculate the aggregate written premium

1 on property and casualty business, other than workers'
2 compensation and medical malpractice, procured through surplus
3 lines agents and insureds procuring coverage and filing under
4 s. 626.938 and shall report the information to the board in a
5 form and at a time specified by the board.

6 5. Any assessment authority not used for a particular
7 contract year may be used for a subsequent contract year. If,
8 for a subsequent contract year, the board determines that the
9 amount of revenue produced under subsection (5) is
10 insufficient to fund the obligations, costs, and expenses of
11 the fund and the corporation, including repayment of revenue
12 bonds and that portion of the debt service coverage not met by
13 reimbursement premiums, the board shall direct the Office of
14 Insurance Regulation to levy an emergency assessment up to an
15 amount not exceeding the amount of unused assessment authority
16 from a previous contract year or years, plus an additional 4
17 percent provided that the assessments in the aggregate do not
18 exceed the limits specified in subparagraph 2.

19 6. The assessments otherwise payable to the
20 corporation under this paragraph shall be paid to the fund
21 unless and until the Office of Insurance Regulation and the
22 Florida Surplus Lines Service Office have received from the
23 corporation and the fund a notice, which shall be conclusive
24 and upon which they may rely without further inquiry, that the
25 corporation has issued bonds and the fund has no agreements in
26 effect with local governments under paragraph (c). On or after
27 the date of the notice and until the date the corporation has
28 no bonds outstanding, the fund shall have no right, title, or
29 interest in or to the assessments, except as provided in the
30 fund's agreement with the corporation.

31

1 7. Emergency assessments are not premium and are not
2 subject to the premium tax, to the surplus lines tax, to any
3 fees, or to any commissions. An insurer is liable for all
4 assessments that it collects and must treat the failure of an
5 insured to pay an assessment as a failure to pay the premium.
6 An insurer is not liable for uncollectible assessments.

7 8. When an insurer is required to return an unearned
8 premium, it shall also return any collected assessment
9 attributable to the unearned premium. A credit adjustment to
10 the collected assessment may be made by the insurer with
11 regard to future remittances that are payable to the fund or
12 corporation, but the insurer is not entitled to a refund.

13 9. When a surplus lines insured or an insured who has
14 procured coverage and filed under s. 626.938 is entitled to
15 the return of an unearned premium, the Florida Surplus Lines
16 Service Office shall provide a credit or refund to the agent
17 or such insured for the collected assessment attributable to
18 the unearned premium prior to remitting the emergency
19 assessment collected to the fund or corporation.

20 10. The exemption of medical malpractice insurance
21 premiums from emergency assessments under this paragraph is
22 repealed May 31, 2007, and medical malpractice insurance
23 premiums shall be subject to emergency assessments
24 attributable to loss events occurring in the contract years
25 commencing on June 1, 2007.

26 ~~3. If the board determines that the amount of revenue~~
27 ~~produced under subsection (5) is insufficient to fund the~~
28 ~~obligations, costs, and expenses of the fund and the~~
29 ~~corporation, including repayment of revenue bonds, the board~~
30 ~~shall direct the Office of Insurance Regulation to levy an~~
31 ~~emergency assessment on each insurer writing property and~~

1 ~~casualty business in this state. Pursuant to the emergency~~
2 ~~assessment, each such insurer shall pay to the corporation by~~
3 ~~July 1 of each year an amount set by the board not exceeding 2~~
4 ~~percent of its gross direct written premium for the prior year~~
5 ~~from all property and casualty business in this state except~~
6 ~~for workers' compensation, except that, if the Governor has~~
7 ~~declared a state of emergency under s. 252.36 due to the~~
8 ~~occurrence of a covered event, the amount of the assessment~~
9 ~~for the contract year may be increased to an amount not~~
10 ~~exceeding 4 percent of such premium. Any assessment authority~~
11 ~~not used for the contract year may be used for a subsequent~~
12 ~~contract year. If, for a subsequent contract year, the board~~
13 ~~determines that the amount of revenue produced under~~
14 ~~subsection (5) is insufficient to fund the obligations, costs,~~
15 ~~and expenses of the fund and the corporation, including~~
16 ~~repayment of revenue bonds for that contract year, the board~~
17 ~~shall direct the Office of Insurance Regulation to levy an~~
18 ~~emergency assessment up to an amount not exceeding the amount~~
19 ~~of unused assessment authority from a previous contract year~~
20 ~~or years, plus an additional 2 percent if the Governor has~~
21 ~~declared a state of emergency under s. 252.36 due to the~~
22 ~~occurrence of a covered event. Any assessment authority not~~
23 ~~used for the contract year may be used for a subsequent~~
24 ~~contract year. As used in this subsection, the term "property~~
25 ~~and casualty business" includes all lines of business~~
26 ~~identified on Form 2, Exhibit of Premiums and Losses, in the~~
27 ~~annual statement required by s. 624.424 and any rules adopted~~
28 ~~under such section, except for those lines identified as~~
29 ~~accident and health insurance. The annual assessments under~~
30 ~~this subparagraph shall continue as long as the revenue bonds~~
31 ~~issued with respect to which the assessment was imposed are~~

1 ~~outstanding, unless adequate provision has been made for the~~
2 ~~payment of such bonds pursuant to the documents authorizing~~
3 ~~issuance of the bonds. An insurer shall not at any time be~~
4 ~~subject to aggregate annual assessments under this~~
5 ~~subparagraph of more than 2 percent of premium, except that in~~
6 ~~the case of a declared emergency, an insurer shall not at any~~
7 ~~time be subject to aggregate annual assessments under this~~
8 ~~subparagraph of more than 6 percent of premium; provided, no~~
9 ~~more than 4 percent may be assessed for any one contract year.~~
10 ~~Any rate filing or portion of a rate filing reflecting a rate~~
11 ~~change attributable entirely to the assessment levied under~~
12 ~~this subparagraph shall be deemed approved when made, subject~~
13 ~~to the authority of the Office of Insurance Regulation to~~
14 ~~require actuarial justification as to the adequacy of any rate~~
15 ~~at any time. If the rate filing reflects only a rate change~~
16 ~~attributable to the assessment under this paragraph, the~~
17 ~~filing may consist of a certification so stating. The~~
18 ~~assessments otherwise payable to the corporation pursuant to~~
19 ~~this subparagraph shall be paid instead to the fund unless and~~
20 ~~until the Office of Insurance Regulation has received from the~~
21 ~~corporation and the fund a notice, which shall be conclusive~~
22 ~~and upon which the Office of Insurance Regulation may rely~~
23 ~~without further inquiry, that the corporation has issued bonds~~
24 ~~and the fund has no agreements in effect with local~~
25 ~~governments pursuant to paragraph (b). On or after the date~~
26 ~~of such notice and until such date as the corporation has no~~
27 ~~bonds outstanding, the fund shall have no right, title, or~~
28 ~~interest in or to the assessments, except as provided in the~~
29 ~~fund's agreements with the corporation.~~
30 (c)(b) Revenue bond issuance through counties or
31 municipalities.--

1 1. If the board elects to enter into agreements with
2 local governments for the issuance of revenue bonds for the
3 benefit of the fund, the board shall enter into such contracts
4 with one or more local governments, including agreements
5 providing for the pledge of revenues, as are necessary to
6 effect such issuance. The governing body of a county or
7 municipality is authorized to issue bonds as defined in s.
8 125.013 or s. 166.101 from time to time to fund an assistance
9 program, in conjunction with the Florida Hurricane Catastrophe
10 Fund, for the purposes set forth in this section or for the
11 purpose of paying the costs of construction, reconstruction,
12 repair, restoration, and other costs associated with damage to
13 properties of policyholders of covered policies due to the
14 occurrence of a hurricane by assuring that policyholders
15 located in this state are able to recover claims under
16 property insurance policies after a covered event.

17 2. In order to avoid needless and indiscriminate
18 proliferation, duplication, and fragmentation of such
19 assistance programs, any local government may provide for the
20 payment of fund reimbursements, regardless of whether or not
21 the losses for which reimbursement is made occurred within or
22 outside of the territorial jurisdiction of the local
23 government.

24 3. The state hereby covenants with holders of bonds
25 issued under this paragraph that the state will not repeal or
26 abrogate the power of the board to direct the Office of
27 Insurance Regulation to levy the assessments and to collect
28 the proceeds of the revenues pledged to the payment of such
29 bonds as long as any such bonds remain outstanding unless
30 adequate provision has been made for the payment of such bonds
31

1 pursuant to the documents authorizing the issuance of such
2 bonds.

3 4. There shall be no liability on the part of, and no
4 cause of action shall arise against any members or employees
5 of the governing body of a local government for any actions
6 taken by them in the performance of their duties under this
7 paragraph.

8 (d)~~(e)~~ Florida Hurricane Catastrophe Fund Finance
9 Corporation.--

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

12 a. The public benefits corporation created under this
13 paragraph will provide a mechanism necessary for the
14 cost-effective and efficient issuance of bonds. This mechanism
15 will eliminate unnecessary costs in the bond issuance process,
16 thereby increasing the amounts available to pay reimbursement
17 for losses to property sustained as a result of hurricane
18 damage.

19 b. The purpose of such bonds is to fund reimbursements
20 through the Florida Hurricane Catastrophe Fund to pay for the
21 costs of construction, reconstruction, repair, restoration,
22 and other costs associated with damage to properties of
23 policyholders of covered policies due to the occurrence of a
24 hurricane.

25 c. The efficacy of the financing mechanism will be
26 enhanced by the corporation's ownership of the assessments, by
27 the insulation of the assessments from possible bankruptcy
28 proceedings, and by covenants of the state with the
29 corporation's bondholders.

30

31

1 2.a. There is created a public benefits corporation,
2 which is an instrumentality of the state, to be known as the
3 Florida Hurricane Catastrophe Fund Finance Corporation.

4 b. The corporation shall operate under a five-member
5 board of directors consisting of the Governor or a designee,
6 the Chief Financial Officer or a designee, the Attorney
7 General or a designee, the director of the Division of Bond
8 Finance of the State Board of Administration, and the senior
9 employee of the State Board of Administration responsible for
10 operations of the Florida Hurricane Catastrophe Fund.

11 c. The corporation has all of the powers of
12 corporations under chapter 607 and under chapter 617, subject
13 only to the provisions of this subsection.

14 d. The corporation may issue bonds and engage in such
15 other financial transactions as are necessary to provide
16 sufficient funds to achieve the purposes of this section.

17 e. The corporation may invest in any of the
18 investments authorized under s. 215.47.

19 f. There shall be no liability on the part of, and no
20 cause of action shall arise against, any board members or
21 employees of the corporation for any actions taken by them in
22 the performance of their duties under this paragraph.

23 3.a. In actions under chapter 75 to validate any bonds
24 issued by the corporation, the notice required by s. 75.06
25 shall be published only in Leon County and in two newspapers
26 of general circulation in the state, and the complaint and
27 order of the court shall be served only on the State Attorney
28 of the Second Judicial Circuit.

29 b. The state hereby covenants with holders of bonds of
30 the corporation that the state will not repeal or abrogate the
31 power of the board to direct the Office of Insurance

1 Regulation to levy the assessments and to collect the proceeds
2 of the revenues pledged to the payment of such bonds as long
3 as any such bonds remain outstanding unless adequate provision
4 has been made for the payment of such bonds pursuant to the
5 documents authorizing the issuance of such bonds.

6 4. The bonds of the corporation are not a debt of the
7 state or of any political subdivision, and neither the state
8 nor any political subdivision is liable on such bonds. The
9 corporation does not have the power to pledge the credit, the
10 revenues, or the taxing power of the state or of any political
11 subdivision. The credit, revenues, or taxing power of the
12 state or of any political subdivision shall not be deemed to
13 be pledged to the payment of any bonds of the corporation.

14 5.a. The property, revenues, and other assets of the
15 corporation; the transactions and operations of the
16 corporation and the income from such transactions and
17 operations; and all bonds issued under this paragraph and
18 interest on such bonds are exempt from taxation by the state
19 and any political subdivision, including the intangibles tax
20 under chapter 199 and the income tax under chapter 220. This
21 exemption does not apply to any tax imposed by chapter 220 on
22 interest, income, or profits on debt obligations owned by
23 corporations other than the Florida Hurricane Catastrophe Fund
24 Finance Corporation.

25 b. All bonds of the corporation shall be and
26 constitute legal investments without limitation for all public
27 bodies of this state; for all banks, trust companies, savings
28 banks, savings associations, savings and loan associations,
29 and investment companies; for all administrators, executors,
30 trustees, and other fiduciaries; for all insurance companies
31 and associations and other persons carrying on an insurance

1 business; and for all other persons who are now or may
2 hereafter be authorized to invest in bonds or other
3 obligations of the state and shall be and constitute eligible
4 securities to be deposited as collateral for the security of
5 any state, county, municipal, or other public funds. This
6 sub-subparagraph shall be considered as additional and
7 supplemental authority and shall not be limited without
8 specific reference to this sub-subparagraph.

9 6. The corporation and its corporate existence shall
10 continue until terminated by law; however, no such law shall
11 take effect as long as the corporation has bonds outstanding
12 unless adequate provision has been made for the payment of
13 such bonds pursuant to the documents authorizing the issuance
14 of such bonds. Upon termination of the existence of the
15 corporation, all of its rights and properties in excess of its
16 obligations shall pass to and be vested in the state.

17 ~~(e)~~(d) Protection of bondholders.--

18 1. As long as the corporation has any bonds
19 outstanding, neither the fund nor the corporation shall have
20 the authority to file a voluntary petition under chapter 9 of
21 the federal Bankruptcy Code or such corresponding chapter or
22 sections as may be in effect, from time to time, and neither
23 any public officer nor any organization, entity, or other
24 person shall authorize the fund or the corporation to be or
25 become a debtor under chapter 9 of the federal Bankruptcy Code
26 or such corresponding chapter or sections as may be in effect,
27 from time to time, during any such period.

28 2. The state hereby covenants with holders of bonds of
29 the corporation that the state will not limit or alter the
30 denial of authority under this paragraph or the rights under
31 this section vested in the fund or the corporation to fulfill

1 the terms of any agreements made with such bondholders or in
2 any way impair the rights and remedies of such bondholders as
3 long as any such bonds remain outstanding unless adequate
4 provision has been made for the payment of such bonds pursuant
5 to the documents authorizing the issuance of such bonds.

6 3. Notwithstanding any other provision of law, any
7 pledge of or other security interest in revenue, money,
8 accounts, contract rights, general intangibles, or other
9 personal property made or created by the fund or the
10 corporation shall be valid, binding, and perfected from the
11 time such pledge is made or other security interest attaches
12 without any physical delivery of the collateral or further act
13 and the lien of any such pledge or other security interest
14 shall be valid, binding, and perfected against all parties
15 having claims of any kind in tort, contract, or otherwise
16 against the fund or the corporation irrespective of whether or
17 not such parties have notice of such claims. No instrument by
18 which such a pledge or security interest is created nor any
19 financing statement need be recorded or filed.

20 Section 3. Each insurer writing a covered policy as
21 defined in section 215.555(2)(c), Florida Statutes, shall
22 include an appropriate adjustment, if any, to reflect the
23 provisions of this act not later than its next annual rate
24 filing or a certification as provided in section 627.0645,
25 Florida Statutes, for each line of insurance that includes
26 covered policies under section 215.555, Florida Statutes. No
27 adjustment is necessary if the rates are in compliance with
28 the requirements of section 627.062, Florida Statutes.

29 Section 4. Transitional provisions.--

30 (1) This section applies only to the Florida Hurricane
31 Catastrophe Fund's 2004-2005 contract year, and the option

1 provided in this section is available only if the selection is
2 made no later than June 1, 2004. The definitions in section
3 215.555, Florida Statutes, apply to the terms used in this
4 section.

5 (2) Subject to the provisions of subsection (1), a
6 participating insurer writing covered policies shall have the
7 option, as specified in rules adopted by the board, of
8 selecting an alternative contract provision that will operate
9 in lieu of the provision in section 215.555(4)(c), Florida
10 Statutes, as amended by this act. Under the alternative
11 contract provision, the obligation of the board to such
12 insurer shall not exceed the insurer's share of actual
13 claims-paying capacity of the fund, subject to the limitation
14 that for purposes of this section the "claims-paying capacity
15 of the fund" as to insurers selecting the alternative contract
16 provision is limited to an aggregate limit of \$11 billion.
17 This option is not available to any entity created under
18 section 627.351, Florida Statutes.

19 (3) Nothing in this section shall be construed to
20 provide for additional claims paying capacity beyond the
21 claims paying capacity specified in section 215.555(4)(c),
22 Florida Statutes, as amended by this act. The capacity of the
23 fund is limited up to the actual claims paying capacity
24 provided in section 215.555(4)(c), Florida Statutes, and is
25 not additive as a result of participating insurers ability to
26 select this option.

27 (4) Each insurer's projected payout shall be equal to
28 the insurer's share of the estimated premium which would have
29 been paid assuming all insurers selected this option,
30 multiplied by the claims-paying capacity limit as set forth in
31

1 this section subject to true-up provisions as set forth in the
2 reimbursement contract.

3 (5) As to each insurer choosing the alternative
4 contract provision option, the board shall calculate the
5 retention multiple for such insurer in an amount equal to
6 \$4.866 billion divided by the total estimated reimbursement
7 premium for the contract year, in lieu of the calculation
8 provided for in section 215.555(2)(e)1., Florida Statutes.
9 Total reimbursement premium for the purposes of this
10 calculation shall be estimated using the assumption that all
11 insurers have selected the option provided herein and have
12 selected the 90-percent coverage level. The existence of this
13 option shall not affect the estimation of total reimbursement
14 premiums as provided for in section 215.555(2)(e)1., Florida
15 Statutes.

16 (6) For those insurers that do not select this
17 alternative contract provision, each insurer's projected
18 payout shall be equal to the insurer's share of the estimated
19 premium which would have been paid assuming no insurers
20 selected this option, multiplied by the claims-paying capacity
21 limit as set forth in section 215.555(4)(c)1., Florida
22 Statutes, as amended by this act, subject to true-up
23 provisions as set forth in the reimbursement contract.

24 (7) As to each insurer not choosing the alternative
25 contract provision option, the board shall calculate the
26 retention multiple for such insurer in accordance with section
27 215.555(2)(e)1., Florida Statutes, as amended by this act,
28 divided by the total estimated reimbursement premium for the
29 contract year. Total reimbursement premium for the purposes of
30 this calculation shall be estimated using the assumption that
31 no insurers have selected the option provided herein and have

1 selected the 90-percent coverage level. This calculation shall
2 not affect the estimation of total reimbursement premiums as
3 provided for in section 215.555(2)(e)1., Florida Statutes, as
4 amended under this act.

5 Section 5. Except as otherwise provided herein, this
6 act shall take effect upon becoming a law.

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