

1 Office of Insurance Regulation to collect data
2 from insurers regarding the application of
3 multiple deductibles; providing legislative
4 intent that reimbursements made to
5 policyholders be considered disaster-relief
6 assistance for purposes of the Internal Revenue
7 Code; amending s. 627.701, F.S.; requiring that
8 hurricane deductibles of residential property
9 insurance policies be applied on an annual
10 basis to all hurricane losses that occur during
11 a calendar year; allowing insurers to apply an
12 alternative deductible to subsequent hurricane
13 losses after the annual deductible is met;
14 providing the method by which the hurricane
15 deductible is to be calculated if a hurricane
16 deductible is changed for a new or renewal
17 policy; allowing insurers to require
18 policyholders to report hurricane losses or to
19 maintain receipts or records in order to apply
20 hurricane losses to a subsequent hurricane
21 claim; providing appropriations; requiring the
22 State Board of Administration to increase
23 future premiums to the Florida Hurricane
24 Catastrophe Fund; providing an effective date.

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

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28 Section 1. Legislative findings and intent.--The
29 Legislature finds that the four hurricanes striking Florida in
30 2004 resulted in at least 30,000 residential property
31 insurance policyholders experiencing damage from two or more

1 hurricanes for which insurers have applied the hurricane
2 deductible to each hurricane claim. The fact that
3 policyholders have separate hurricane deductibles can result
4 in significant out-of-pocket expense and financial hardship to
5 policyholders. Although insurers are required by law to notify
6 policyholders that the hurricane deductible can result in a
7 large out-of-pocket expense, it was not anticipated that a
8 policyholder would have damage from two or more hurricanes in
9 the same year and be forced to meet two or more deductibles in
10 this circumstance. The Legislature further finds that the
11 public health, safety, and welfare demand that residential
12 structures damaged or destroyed in a catastrophe be repaired
13 or reconstructed as soon as possible and that application of
14 multiple deductibles delays or prevents such reconstruction,
15 hinders the economic recovery of the state and its residents,
16 and endangers the public health, safety, and welfare.
17 Therefore, state action to establish a program to reimburse
18 policyholders for the financial loss suffered due to the
19 application of multiple hurricane deductibles constitutes a
20 valid and necessary public and governmental purpose. The
21 Legislature intends to establish a program to reimburse
22 policyholders for such losses, up to specified limits.

23 Section 2. Reimbursement for multiple hurricane
24 deductibles.--

25 (1) As used in this section, the term "residential
26 property insurance" means residential coverage as described in
27 section 627.4025(1), Florida Statutes.

28 (2) The Department of Financial Services shall
29 reimburse policyholders of residential property insurance
30 whose property was damaged by two or more hurricanes in 2004
31 and whose insurer applied more than one hurricane deductible

1 to the insurance claims. The reimbursement shall be the amount
2 of the claim that was not paid due to application of the
3 second or subsequent deductible, as further limited by this
4 section.

5 (3) To be eligible for reimbursement, a policyholder
6 must meet the criteria of subsection (2) and must:

7 (a) Apply to the department by March 1, 2005, on a
8 form provided by the department. The form must identify the
9 amount of the claims paid by the insurer, per hurricane, the
10 amount of the deductible which was applied to each claim; and
11 such additional information as the department requires to
12 verify the claim for reimbursement, including documentation
13 from the insurer. The applicant must submit documentation from
14 the insurer that the insurance claim was not paid, either in
15 full or in part, due to application of the deductible.

16 (b) Have incurred damage in excess of the full amount
17 of a single hurricane deductible.

18 (c) Meet a \$100 deductible for a second and each
19 subsequent hurricane claim in addition to the amount of the
20 deductible which must be met under paragraph (b).

21 (d) Provide written authorization for the department
22 to obtain from the policyholder's insurer information related
23 to the claim for reimbursement.

24 (4)(a) Reimbursement may be provided only for damages
25 that would have been paid under the policy but for application
26 of the deductible. The maximum reimbursement shall be limited
27 to the amount of the policyholder's loss in excess of one full
28 deductible, but not more than \$10,000 per policy for damage
29 caused by two hurricanes and not more than \$20,000 per policy
30 for damage caused by three or more hurricanes, except as
31 otherwise provided in this subsection.

1 (b) For a policy issued to a condominium association,
2 the maximum reimbursement shall be limited to an amount equal
3 to \$3,000 multiplied by the number of condominium units or the
4 maximum amount specified in paragraph (a) or paragraph (c),
5 whichever is greater. Reimbursement may not be paid to a
6 condominium association for loss amounts for which the
7 condominium association has assessed unit owners and for which
8 the unit owners have insurance coverage for the assessment.

9 (c) If more than one residential structure is insured
10 under the policy and a separate hurricane deductible applies
11 to each, the maximum reimbursement shall be limited to \$10,000
12 per structure for multiple hurricane claims for that
13 structure.

14 (d) Reimbursement may not be paid for loss amounts for
15 which the policyholder has received a grant from the Federal
16 Emergency Management Agency, or any other federal, state,
17 county, or municipal agency or program.

18 (5) The total amount of funds paid to policyholders
19 pursuant to this section is limited to the amount appropriated
20 for this purpose. Payments shall be made to eligible
21 applicants in the following order of priority:

22 (a) The department shall first reimburse policyholders
23 who received claims payments from their insurer for two or
24 more hurricanes for which each payment was reduced by the full
25 amount of the deductible.

26 (b) After reimbursing all policyholders who meet the
27 criterion of paragraph (a), the department shall reimburse all
28 other eligible policyholders. If the amount appropriated for
29 this purpose is not adequate to pay all other eligible
30 policyholders up to the maximum reimbursement amounts, the
31 department shall provide reimbursement pro rata so that each

1 policyholder receives an equal percentage of the amount of the
2 reimbursement claim that is approved.

3 (6) The insurer issuing the policy to the applicant
4 for reimbursement shall provide to the department, upon
5 request, such information in the applicant's claim file as
6 will assist the department in determining the validity and
7 reasonableness of the claim, subject to the policyholder's
8 authorization to release such information. The department may
9 further investigate or adjust the claim as it determines is
10 necessary and may contract with third parties for this
11 purpose.

12 (7) Insurers shall mail notice to those residential
13 property insurance policyholders who filed claims with the
14 insurer for two or more hurricanes in 2004 and to whom the
15 insurer applied more than one hurricane deductible, whether
16 there was a claims payment or not. The notice shall be on a
17 form provided by the department which informs the policyholder
18 of the reimbursement program established by this section and
19 the procedures for seeking reimbursement, including the
20 application form provided by the department. The notice shall
21 be mailed in such manner and within such time as specified by
22 the department. For subsequent claims, the insurer shall
23 provide the notice at the time that the insurer notifies the
24 policyholder of the application of the second deductible.

25 (8) The department may adopt rules to implement this
26 section. It is the Legislature's intent that the department
27 implement this section as soon as possible in order to provide
28 immediate relief to affected policyholders. Therefore, the
29 department may adopt such rules pursuant to the emergency rule
30 procedures of section 120.54(4), Florida Statutes.

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1 (9) An application for reimbursement shall be
2 considered an insurance claim for purposes of determining
3 whether a person has committed insurance fraud pursuant to
4 section 817.234, Florida Statutes. The Department of Financial
5 Services and the department's Division of Insurance Fraud
6 shall have the powers to investigate and enforce such actions
7 provided in section 626.989, Florida Statutes.

8 (10) It is a violation of the Florida Insurance Code
9 for an insurer to change its method of determining whether to
10 waive or apply multiple hurricane deductibles to multiple
11 claims due to the provisions of this section.

12 (11) The Office of Insurance Regulation shall collect
13 data from residential property insurers regarding the number
14 of claims that were filed by policyholders for two or more
15 hurricanes for the 2004 hurricane season, and the number of
16 those claims for which the insurer applied two or more
17 deductibles, including the dollar amount of those claims, and
18 such additional related information as the department may
19 require.

20 (12) It is the intent of the Legislature that
21 reimbursements made to policyholders under this section shall
22 be considered disaster-relief assistance within the meaning of
23 section 139 of the Internal Revenue Code.

24 Section 3. Present subsections (5) through (8) of
25 section 627.701, Florida Statutes, are renumbered subsections
26 (6) through (9), respectively, and a new subsection (5) is
27 added to that section to read:

28 627.701 Liability of insureds; coinsurance;
29 deductibles.--

30 (5) The hurricane deductible of any residential
31 property insurance policy shall be applied as follows:

1 (a) The hurricane deductible shall apply on an annual
2 basis to all covered hurricane losses that occur during a
3 calendar year for losses that are covered under one or more
4 policies issued by the same insurer or an insurer in the same
5 insurer group.

6 (b) If a hurricane deductible applies separately to
7 any structure insured under a single policy, the requirements
8 of this subsection apply with respect to the deductible for
9 such structure.

10 (c) If there was a hurricane loss for a prior
11 hurricane or hurricanes during the calendar year, the insurer
12 may apply a deductible to a subsequent hurricane which is the
13 greater of the remaining amount of the hurricane deductible or
14 the amount of the deductible which applies to perils other
15 than a hurricane. Insurers may require policyholders to report
16 hurricane losses that are below the hurricane deductible or to
17 maintain receipts or other records of such hurricane losses in
18 order to apply such losses to subsequent hurricane claims.

19 (d) If there are hurricane losses in a calendar year
20 on more than one policy issued by the same insurer or an
21 insurer in the same insurer group, the hurricane deductible
22 shall be the highest amount stated in any one of the policies.
23 If a policyholder who had a hurricane loss under a prior
24 policy is provided or offered a lower hurricane deductible
25 under a new or renewal policy, the insurer must notify the
26 policyholder, in writing, at the time the lower hurricane
27 deductible is provided or offered that the lower hurricane
28 deductible will not apply until January 1 of the following
29 calendar year.

1 This subsection applies to policies issued or renewed on or
2 after May 1, 2005.

3 Section 4. (1) Notwithstanding section 215.555,
4 Florida Statutes, the State Board of Administration is
5 directed to transfer, no later than January 15, 2005, \$20
6 million from the Florida Hurricane Catastrophe Fund cash
7 balance to the Insurance Regulatory Trust Fund within the
8 Department of Financial Services to provide funding for the
9 reimbursements authorized in subsection (3).

10 (2) Notwithstanding section 215.555, Florida Statutes,
11 the State Board of Administration is directed to transfer up
12 to \$130 million from the Florida Hurricane Catastrophe Fund
13 cash balance to the Insurance Regulatory Trust Fund in the
14 Department of Financial Services to provide funding for the
15 reimbursements authorized in subsection (3). The Chief
16 Financial Officer shall periodically certify to the State
17 Board of Administration an amount to be transferred from the
18 funds appropriated in this subsection based on the documented
19 expenditure need for reimbursement payments submitted to the
20 Department of Financial Services. The amount of each transfer
21 may not exceed the documented need. The Chief Financial
22 Officer shall provide a copy of each certification to the
23 Executive Office of the Governor and the chair and vice chair
24 of the Legislative Budget Commission. The State Board of
25 Administration shall provide notice of each transfer to the
26 Executive Office of the Governor and the chair and vice chair
27 of the Legislative Budget Commission at least 3 working days
28 before such transfer.

29 (3) The sum of \$150 million is appropriated for the
30 period from the effective date of this act through September
31 30, 2005, from the Insurance Regulatory Trust Fund in the

1 Department of Financial Services in a special appropriation
2 category "Hurricane Multiple Deductible Reimbursements" for
3 reimbursement to residential property insurance policyholders
4 for the expense of multiple hurricane deductibles, as provided
5 in sections 1 and 2. Up to 1 percent of this appropriation may
6 be used by the department for the administration of payments
7 to such policyholders.

8 (4) All Florida Hurricane Catastrophe Fund moneys
9 transferred to the Insurance Regulatory Trust Fund under this
10 act which remain unexpended on December 31, 2005, shall revert
11 to the Florida Hurricane Catastrophe Fund.

12 (5) Beginning January 15, 2005, and monthly
13 thereafter, the Chief Financial Officer shall provide a report
14 to the Executive Office of the Governor and the chair and vice
15 chair of the Legislative Budget Commission containing
16 information regarding the reimbursement for multiple hurricane
17 deductibles. The report shall include, but is not limited to,
18 cumulative and monthly information on the number of
19 reimbursement claims submitted, the total amount requested for
20 reimbursement, the number of claims paid, and the amount paid
21 for reimbursement.

22 (6) In order to maintain actuarially indicated
23 premiums as required by section 215.555, Florida Statutes, the
24 State Board of Administration shall increase future premiums
25 by the amount appropriated and transferred from the Florida
26 Hurricane Catastrophe Fund under this section, plus additional
27 amounts necessary to recover lost investment income, less any
28 refunds of unused cash to the Florida Hurricane Catastrophe
29 Fund. The increase in future premiums shall be divided over 5
30 years, in equal or approximately equal amounts, beginning with
31 the June 1, 2006, contract year.

1 (7) All appropriations authorized by this act are
2 nonrecurring and are intended to address needs caused by
3 Hurricanes Charley, Frances, Ivan, and Jeanne.

4 Section 5. This act shall take effect upon becoming a
5 law.

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7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
8 COMMITTEE SUBSTITUTE FOR
9 Senate Bill 10-A

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11 - Requires the applicant for reimbursement to submit
12 documentation from the insurer to the department that the
13 insurance claim was not paid, in full or in part, due to
14 application of the deductible.
15
16 - Clarifies that a condominium association is not eligible
17 to be reimbursed for loss amounts for which the
18 condominium association has accessed unit owners and for
19 which the unit owners have insurance coverage for the
20 assessment.
21
22 - Clarifies that reimbursement payments may not be paid for
23 amounts for which the policyholder has received a grant
24 from any federal, state, county, or municipal agency or
25 program.
26
27 - Clarifies that after "full deductible" claimants are paid
28 in full, the pro-rata share of reimbursement funds
29 available to other qualified applicants in the event that
30 the appropriation is not sufficient to pay all claims in
31 full is an equal percentage of the amount of the
reimbursement claim that is approved.
- Clarifies it is a violation of the Insurance Code for an
insurer to change its method of determining whether to
waive or apply multiple hurricane deductibles to multiple
claims due to the provisions of this bill. Requires the
Office of Insurance Regulation to collect data from
residential property insurers regarding the number of
claims filed by policyholders for two or more claims for
the 2004 hurricane season.
- Changes the date from September 30, 2005, to December 31,
2005 for unexpended funds to revert to the Florida
Hurricane Catastrophe Fund.
- Changes the date from June 1, 2005 to June 1, 2006 for
when the five-year increase in premiums for the Florida
Hurricane Catastrophe Fund begins.
- Clarifies reimbursements made to policyholders are to be
considered disaster-relief assistance within the meaning
of section 139 of the Internal Revenue Code.