

1 A bill to be entitled
2 An act relating to hurricane deductibles; providing
3 legislative findings and intent; providing a definition;
4 providing for the Department of Financial Services to
5 reimburse policyholders of residential property insurance
6 for multiple deductibles applied by insurers for two or
7 more hurricanes; establishing criteria for policyholders
8 to be eligible for reimbursements; requiring applications
9 to be submitted to the department, including certain
10 information; limiting the maximum amount of
11 reimbursements; limiting total reimbursements to the
12 amount appropriated for this purpose; providing
13 reimbursement criteria for the department under certain
14 circumstances; requiring insurers to provide certain
15 information to the department relating to claims for
16 reimbursement, subject to policyholders' authorization;
17 authorizing the department to contract with third parties
18 for investigation or adjustment of claims for
19 reimbursement; requiring insurers to mail notices to
20 certain policyholders of the reimbursement procedures;
21 authorizing the department to adopt certain rules;
22 providing legislative intent; providing that applications
23 for reimbursements shall be insurance claims for purposes
24 of determining insurance fraud; amending s. 627.701, F.S.;
25 requiring that hurricane deductibles of residential
26 property insurance policies be applied on an annual basis
27 to all hurricane losses that occur during the calendar
28 year; allowing insurers to apply an alternative deductible

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29 to subsequent hurricane losses after the annual deductible
30 is met; providing for calculations of hurricane
31 deductibles for new or renewed policies; allowing insurers
32 to require policyholders to report hurricane losses or to
33 maintain receipts or records in order to apply hurricane
34 losses to subsequent hurricane claims; providing
35 applicability; providing an appropriation; providing an
36 effective date.

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

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40 Section 1. Legislative findings and intent.--The
41 Legislature finds that the four hurricanes striking Florida in
42 2004 resulted in at least 30,000 residential property insurance
43 policyholders experiencing damage from two or more hurricanes
44 for which insurers have applied the hurricane deductible to each
45 hurricane claim. The fact that policyholders have separate
46 hurricane deductibles can result in significant out-of-pocket
47 expense and financial hardship to policyholders. Although
48 insurers are required by law to notify policyholders that the
49 hurricane deductible can result in a large out-of-pocket
50 expense, it was not anticipated that the citizens of Florida
51 would experience hurricanes with such frequency and severity and
52 that some policyholders would have such extensive damage from
53 two or more hurricanes in the same year and be forced to meet
54 two or more deductibles in this circumstance. The Legislature
55 further finds that the public health, safety, and welfare demand
56 that residential structures damaged or destroyed in a

57 catastrophe be repaired or reconstructed as soon as possible and
58 that application of multiple deductibles delays or prevents such
59 reconstruction, hinders the economic recovery of the state and
60 its citizens, and endangers the public health, safety, and
61 welfare. Therefore, state action to establish a program to
62 reimburse policyholders for the financial loss suffered due to
63 the application of multiple hurricane deductibles constitutes a
64 valid and necessary public and governmental purpose. The
65 Legislature intends to establish a program to reimburse
66 policyholders for such losses, up to specified limits.

67 Section 2. Reimbursement for multiple hurricane
68 deductibles.--

69 (1) For the purposes of this section, "residential
70 property insurance" means residential coverage as described in
71 s. 627.4025(1), Florida Statutes.

72 (2) The Department of Financial Services shall reimburse
73 policyholders of residential property insurance whose property
74 was damaged by two or more hurricanes in 2004 and whose insurer
75 applied more than one hurricane deductible to the insurance
76 claims.

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

79 (a) Have filed a claim for the damage with the insurer by
80 December 1, 2004, and apply to the department by March 1, 2005,
81 on a form provided by the department. The form shall identify
82 the amount of the claims paid by the insurer, per hurricane, the
83 amount of the deductible that was applied to each claim, and
84 such additional information as the department may require to

85 verify the claim for reimbursement, including documentation from
 86 the insurer.

87 (b) Have incurred damages in excess of the full amount of
 88 a single hurricane deductible from one hurricane or from a
 89 combination or two or more hurricanes.

90 (c) Provide written authorization for the department to
 91 obtain information from the policyholder's insurer related to
 92 the claim for reimbursement.

93 (4)(a) Reimbursement may be provided only for damages that
 94 would have been paid under the policy but for application of the
 95 deductible. For those policyholders who have met one full
 96 hurricane deductible as applied by the insurer, the amount of
 97 reimbursement shall be the amount of the hurricane claim that
 98 was not paid or was reduced due to application of a second or
 99 subsequent deductible. For those policyholders who were denied
 100 payment by their insurer for not meeting the hurricane
 101 deductible from any hurricane but who have met one full
 102 hurricane deductible from the combination of two or more
 103 hurricanes, the amount of reimbursement shall be the amount in
 104 excess of one full hurricane deductible. The maximum
 105 reimbursement shall be limited to the amount of the
 106 policyholder's loss in excess of one full deductible, but not
 107 more than \$10,000 per policy for damage caused by two
 108 hurricanes, not more than \$20,000 per policy for damage caused
 109 by three hurricanes, and not more than \$30,000 per policy for
 110 damage caused by four hurricanes, except as otherwise provided
 111 in this subsection.

112 (b) For a policy issued to a condominium association, the

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113 maximum reimbursement shall be limited to an amount equal to
114 \$3,000 multiplied by the number of condominium units, or the
115 maximum amount specified in paragraph (a) or paragraph (c),
116 whichever is greater.

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

122 (d) Reimbursement may not be paid for loss amounts for
123 which the policyholder has received a grant from the Federal
124 Emergency Management Agency.

125 (5) The total amount of funds paid to policyholders
126 pursuant to this section is limited to the amount appropriated
127 for this purpose.

128 (a) The department shall reimburse policyholders who met
129 at least two full hurricane deductibles for two or more
130 hurricanes for which each payment was reduced by the full amount
131 of the deductible for each hurricane.

132 (b) The department shall reimburse policyholders who met
133 one full hurricane deductible as a result of one hurricane and
134 were not paid for a different claim by the application of a
135 hurricane deductible.

136 (c) After reimbursing all policyholders who meet the
137 criteria of paragraph (a) or paragraph (b), the department shall
138 reimburse all other eligible policyholders. If the amount
139 appropriated for this purpose is not adequate to pay all other
140 eligible policyholders up to the maximum reimbursement amounts,

141 the department shall provide reimbursement on a pro rata basis
142 so that each policyholder receives an equal percentage of the
143 funds available.

144 (6) The insurer issuing the policy to the applicant for
145 reimbursement shall provide to the department, upon request,
146 such information in the applicant's claim file that would assist
147 the department in determining the validity and reasonableness of
148 the claim, subject to the policyholder's authorization to
149 release such information. The department may further investigate
150 or adjust the claim as the department determines is necessary
151 and may contract with third parties for this purpose.

152 (7) Insurers shall mail notice to those residential
153 property insurance policyholders who filed claims with the
154 insurer for two or more hurricanes in 2004 and to whom the
155 insurer applied more than one hurricane deductible, whether
156 there was a claims payment or not. The notice shall be on a form
157 provided by the department informing the policyholder of the
158 reimbursement program established by this section and the
159 procedures for seeking reimbursement, including the application
160 form provided by the department. The notice shall be mailed in
161 such manner and within such time as specified by the department.
162 For subsequent claims, the insurer shall provide the notice at
163 the time that the insurer notifies the policyholder of the
164 application of the second deductible.

165 (8) The department may adopt rules to implement this
166 section. It is the Legislature's intent that the department
167 implement this section as soon as possible in order to provide
168 immediate relief to affected policyholders. Therefore, the

169 department may adopt such rules pursuant to the emergency rule
 170 procedures of s. 120.54(4), Florida Statutes.

171 (9) Applications for reimbursement shall be considered
 172 submitting an insurance claim for purposes of determining
 173 whether a person has committed insurance fraud pursuant to s.
 174 817.234, Florida Statutes. The Department of Financial Services
 175 and the department's Division of Insurance Fraud shall have such
 176 powers to investigate and enforce such actions as provided in s.
 177 626.989, Florida Statutes.

178 Section 3. Subsections (5), (6), (7), and (8) of section
 179 627.701, Florida Statutes, are renumbered as subsections (6),
 180 (7), (8), and (9), respectively, and a new subsection (5) is
 181 added to said section to read:

182 627.701 Liability of insureds; coinsurance; deductibles.--

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

185 (a) The hurricane deductible shall apply on an annual
 186 basis to all covered hurricane losses that occur during the
 187 calendar year for losses that are covered under one or more
 188 policies issued by the same insurer or an insurer in the same
 189 insurer group.

190 (b) If a hurricane deductible applies separately to each
 191 of one or more structures insured under a single policy, the
 192 requirements of this subsection apply with respect to the
 193 deductible for each structure.

194 (c) If there was a hurricane loss for a prior hurricane or
 195 hurricanes during the calendar year, the insurer may apply a
 196 deductible to a subsequent hurricane that is the greater of the

197 remaining amount of the hurricane deductible or the amount of
 198 the deductible that applies to perils other than a hurricane.
 199 Insurers may require policyholders to report hurricane losses
 200 that are below the hurricane deductible or to maintain receipts
 201 or other records of such hurricane losses in order to apply such
 202 losses to subsequent hurricane claims.

203 (d) If there are hurricane losses in a calendar year on
 204 more than one policy issued by the same insurer or an insurer in
 205 the same insurer group, the hurricane deductible shall be the
 206 highest amount stated in any one of the policies. If a
 207 policyholder who had a hurricane loss under the prior policy is
 208 provided or offered a lower hurricane deductible under the new
 209 or renewal policy, the insurer must notify the policyholder, in
 210 writing, at the time the lower hurricane deductible is provided
 211 or offered, that the lower hurricane deductible will not apply
 212 until January 1 of the following calendar year.

213 Section 4. The amendment of s. 627.701, Florida Statutes,
 214 by section 3 applies only to policies issued or renewed on or
 215 after May 1, 2005.

216 Section 5. The sum of \$100 million is appropriated from
 217 the General Revenue Fund in special appropriation category
 218 "Hurricane Multiple Deductible Relief" to the Department of
 219 Financial Services for reimbursement to residential property
 220 insurance policyholders for the expense of multiple hurricane
 221 deductibles, as provided in sections 1 and 2. Up to 1 percent of
 222 this appropriation may be used by the department for the
 223 administration of payments to such policyholders.

224 Section 6. This act shall take effect upon becoming a law.