

CHAMBER ACTION

1 The Insurance Committee recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to hurricane deductibles; providing
7 legislative findings and intent; providing a definition;
8 providing for the Department of Financial Services to
9 reimburse policyholders of residential property insurance
10 for multiple deductibles applied by insurers for two or
11 more hurricanes; establishing criteria for policyholders
12 to be eligible for reimbursements; requiring applications
13 to be submitted to the department, including certain
14 information; limiting the maximum amount of
15 reimbursements; limiting total reimbursements to the
16 amount appropriated for this purpose; providing
17 reimbursement criteria for the department under certain
18 circumstances; requiring insurers to provide certain
19 information to the department relating to claims for
20 reimbursement, subject to policyholders' authorization;
21 authorizing the department to contract with third parties
22 for investigation or adjustment of claims for
23 reimbursement; requiring insurers to mail notices to

24 certain policyholders of the reimbursement procedures;
 25 authorizing the department to adopt certain rules;
 26 providing legislative intent; providing that applications
 27 for reimbursements shall be insurance claims for purposes
 28 of determining insurance fraud; amending s. 627.701, F.S.;
 29 requiring that hurricane deductibles of residential
 30 property insurance policies be applied on an annual basis
 31 to all hurricane losses that occur during the calendar
 32 year; allowing insurers to apply an alternative deductible
 33 to subsequent hurricane losses after the annual deductible
 34 is met; providing for calculations of hurricane
 35 deductibles for new or renewed policies; allowing insurers
 36 to require policyholders to report hurricane losses or to
 37 maintain receipts or records in order to apply hurricane
 38 losses to subsequent hurricane claims; providing
 39 applicability; providing an appropriation; providing an
 40 effective date.

41

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

43

44 Section 1. Legislative findings and intent.--The
 45 Legislature finds that the four hurricanes striking Florida in
 46 2004 resulted in at least 30,000 residential property insurance
 47 policyholders experiencing damage from two or more hurricanes
 48 for which insurers have applied the hurricane deductible to each
 49 hurricane claim. The fact that policyholders have separate
 50 hurricane deductibles can result in significant out-of-pocket
 51 expense and financial hardship to policyholders. Although

52 insurers are required by law to notify policyholders that the
 53 hurricane deductible can result in a large out-of-pocket
 54 expense, it was not anticipated that the citizens of Florida
 55 would experience hurricanes with such frequency and severity and
 56 that some policyholders would have such extensive damage from
 57 two or more hurricanes in the same year and be forced to meet
 58 two or more deductibles in this circumstance. The Legislature
 59 further finds that the public health, safety, and welfare demand
 60 that residential structures damaged or destroyed in a
 61 catastrophe be repaired or reconstructed as soon as possible and
 62 that application of multiple deductibles delays or prevents such
 63 reconstruction, hinders the economic recovery of the state and
 64 its citizens, and endangers the public health, safety, and
 65 welfare. Therefore, state action to establish a program to
 66 reimburse policyholders for the financial loss suffered due to
 67 the application of multiple hurricane deductibles constitutes a
 68 valid and necessary public and governmental purpose. The
 69 Legislature intends to establish a program to reimburse
 70 policyholders for such losses, up to specified limits.

71 Section 2. Reimbursement for multiple hurricane
 72 deductibles.--

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

76 (2) The Department of Financial Services shall reimburse
 77 policyholders of residential property insurance whose property
 78 was damaged by two or more hurricanes in 2004 and whose insurer

79 applied more than one hurricane deductible to the insurance
 80 claims.

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

83 (a) Have filed all claims for the damage with the insurer
 84 by December 1, 2004, and apply to the department by March 1,
 85 2005, on a form provided by the department. The form shall
 86 identify the amount of the claims paid by the insurer, per
 87 hurricane, the amount of the deductible that was applied to each
 88 claim, and such additional information as the department may
 89 require to verify the claim for reimbursement, including
 90 documentation from the insurer.

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

94 (c) Provide written authorization for the department to
 95 obtain information from the policyholder's insurer related to
 96 the claim for reimbursement.

97 (4)(a) Reimbursement may be provided only for damages that
 98 would have been paid under the policy but for application of the
 99 deductible. For those policyholders who have met one full
 100 hurricane deductible as applied by the insurer, the amount of
 101 reimbursement shall be the amount of the hurricane claim that
 102 was not paid or was reduced due to application of a second or
 103 subsequent deductible. For those policyholders who were denied
 104 payment by their insurer for not meeting the hurricane
 105 deductible from any hurricane but who have met one full
 106 hurricane deductible from the combination of two or more

107 hurricanes, the amount of reimbursement shall be the amount in
 108 excess of one full hurricane deductible. The maximum
 109 reimbursement shall be limited to the amount of the
 110 policyholder's loss in excess of one full deductible, but not
 111 more than \$10,000 per policy for damage caused by two
 112 hurricanes, not more than \$20,000 per policy for damage caused
 113 by three hurricanes, and not more than \$30,000 per policy for
 114 damage caused by four hurricanes, except as otherwise provided
 115 in this subsection.

116 (b) For a policy issued to a condominium association, the
 117 maximum reimbursement shall be limited to an amount equal to
 118 \$3,000 multiplied by the number of condominium units, or the
 119 maximum amount specified in paragraph (a) or paragraph (c),
 120 whichever is greater.

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

126 (d) Reimbursement may not be paid for loss amounts for
 127 which the policyholder has received, will receive, or has
 128 otherwise qualified for a grant from the Federal Emergency
 129 Management Agency or any other federal, state, county, or
 130 municipal agency or program. Reimbursement may not be paid to a
 131 condominium association for loss amounts for which the
 132 condominium association has assessed unit owners.

133 (5) The total amount of funds paid to policyholders
 134 pursuant to this section is limited to the amount appropriated
 135 for this purpose.

136 (a) The department shall reimburse policyholders who met
 137 at least two full hurricane deductibles for two or more
 138 hurricanes for which each payment was reduced by the full amount
 139 of the deductible for each hurricane.

140 (b) The department shall reimburse policyholders who met
 141 one full hurricane deductible as a result of one hurricane and
 142 were not paid for a different claim by the application of a
 143 hurricane deductible.

144 (c) After reimbursing all policyholders who meet the
 145 criteria of paragraph (a) or paragraph (b), the department shall
 146 reimburse all other eligible policyholders. If the amount
 147 appropriated for this purpose is not adequate to pay all other
 148 eligible policyholders up to the maximum reimbursement amounts,
 149 the department shall provide reimbursement on a pro rata basis
 150 so that each policyholder receives an equal percentage of their
 151 claim for reimbursement.

152 (6) The insurer issuing the policy to the applicant for
 153 reimbursement shall provide to the department, upon request,
 154 such information in the applicant's claim file that would assist
 155 the department in determining the validity and reasonableness of
 156 the claim, subject to the policyholder's authorization to
 157 release such information. The department may further investigate
 158 or adjust the claim as the department determines is necessary
 159 and may contract with third parties for this purpose.

HB 9A

2004
CS

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

173 (8) The department may adopt rules to implement this
174 section. It is the Legislature's intent that the department
175 implement this section as soon as possible in order to provide
176 immediate relief to affected policyholders. Therefore, the
177 department may adopt such rules pursuant to the emergency rule
178 procedures of s. 120.54(4), Florida Statutes.

179 (9) Applications for reimbursement shall be considered
180 submitting an insurance claim for purposes of determining
181 whether a person has committed insurance fraud pursuant to s.
182 817.234, Florida Statutes. The Department of Financial Services
183 and the department's Division of Insurance Fraud shall have such
184 powers to investigate and enforce such actions as provided in s.
185 626.989, Florida Statutes.

186 Section 3. Subsections (5), (6), (7), and (8) of section
187 627.701, Florida Statutes, are renumbered as subsections (6),

HB 9A

2004
CS

188 (7), (8), and (9), respectively, and a new subsection (5) is
189 added to said section to read:

190 627.701 Liability of insureds; coinsurance; deductibles.--

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

193 (a) The hurricane deductible shall apply on an annual
194 basis to all covered hurricane losses that occur during the
195 calendar year for losses that are covered under one or more
196 policies issued by the same insurer or an insurer in the same
197 insurer group.

198 (b) If a hurricane deductible applies separately to each
199 of one or more structures insured under a single policy, the
200 requirements of this subsection apply with respect to the
201 deductible for each structure.

202 (c) If there was a hurricane loss for a prior hurricane or
203 hurricanes during the calendar year, the insurer may apply a
204 deductible to a subsequent hurricane that is the greater of the
205 remaining amount of the hurricane deductible or the amount of
206 the deductible that applies to perils other than a hurricane.
207 Insurers may require policyholders to report hurricane losses
208 that are below the hurricane deductible or to maintain receipts
209 or other records of such hurricane losses in order to apply such
210 losses to subsequent hurricane claims.

211 (d) If there are hurricane losses in a calendar year on
212 more than one policy issued by the same insurer or an insurer in
213 the same insurer group, the hurricane deductible shall be the
214 highest amount stated in any one of the policies. If a
215 policyholder who had a hurricane loss under the prior policy is

HB 9A

2004
CS

216 provided or offered a lower hurricane deductible under the new
 217 or renewal policy, the insurer must notify the policyholder, in
 218 writing, at the time the lower hurricane deductible is provided
 219 or offered, that the lower hurricane deductible will not apply
 220 until January 1 of the following calendar year.

221 Section 4. The amendment of s. 627.701, Florida Statutes,
 222 by section 3 applies only to policies issued or renewed on or
 223 after June 1, 2005.

224 Section 5. The sum of \$100 million is appropriated from
 225 the General Revenue Fund in special appropriation category
 226 "Hurricane Multiple Deductible Relief" to the Department of
 227 Financial Services for reimbursement to residential property
 228 insurance policyholders for the expense of multiple hurricane
 229 deductibles, as provided in sections 1 and 2. Up to 1 percent of
 230 this appropriation may be used by the department for the
 231 administration of payments to such policyholders.

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