

1 A bill to be entitled
2 An act relating to residential property insurance;
3 amending s. 215.555, F.S.; revising provisions relating to
4 calculation of an insurer's retention; amending s.
5 627.4133, F.S.; prohibiting insurers from canceling or
6 nonrenewing residential property insurance policies under
7 certain emergency circumstances; providing exceptions;
8 providing notice requirements; providing application to
9 personal residential and commercial residential policies
10 covering certain damaged property; amending s. 627.4143,
11 F.S.; limiting certain outline of coverage requirements to
12 private passenger motor vehicle insurance policies;
13 providing legislative findings and intent; requiring
14 personal lines property insurance policies to contain an
15 outline of coverage and a checklist for disclosure of
16 coverage information contained in the policies; specifying
17 checklist and outline of coverage contents; requiring the
18 checklist and outline of coverage to be sent with each
19 renewal of personal lines residential insurance policies;
20 specifying application of the checklist and outline of
21 coverage to basic homeowners', mobile homeowners',
22 condominium unit owners', and dwelling policies;
23 authorizing the Financial Services Commission to adopt
24 rules; amending s. 627.701, F.S.; providing for
25 computation and display of the dollar value of hurricane
26 deductibles; requiring insurers to notify applicants or
27 policyholders of the availability and amounts of certain
28 discounts, credits, rate differentials, or reductions in

29 deductibles for properties on which certain fixtures have
 30 been installed or construction techniques have been
 31 implemented; requiring insurers to provide qualifying
 32 information; authorizing the Financial Services Commission
 33 to adopt rules; providing for approval of certain
 34 disclosure materials by the Office of Insurance
 35 Regulation; providing for application of hurricane
 36 deductibles for certain personal lines residential
 37 property insurance policies; requiring insurers to offer
 38 commercial residential property insurance policyholders
 39 certain alternative hurricane deductibles; providing
 40 effective dates.

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

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44 Section 1. Paragraph (e) of subsection (2) of section
 45 215.555, Florida Statutes, is amended to read:

46 215.555 Florida Hurricane Catastrophe Fund.--

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

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

51 1. The board shall calculate and report to each insurer
 52 the retention multiples for that year. For the contract year
 53 beginning June 1, 2005 ~~2004~~, the retention multiple shall be
 54 equal to \$4 ~~\$4.5~~ billion divided by the total estimated
 55 reimbursement premium for the contract year; for subsequent
 56 years, the retention multiple shall be equal to \$4 ~~\$4.5~~ billion,

57 | adjusted based upon the reported exposure from the prior
58 | contract year to reflect the percentage growth in exposure to
59 | the fund for covered policies since 2004 ~~2003~~, divided by the
60 | total estimated reimbursement premium for the contract year.
61 | Total reimbursement premium for purposes of the calculation
62 | under this subparagraph shall be estimated using the assumption
63 | that all insurers have selected the 90-percent coverage level.

64 | 2. The retention multiple as determined under subparagraph
65 | 1. shall be adjusted to reflect the coverage level elected by
66 | the insurer. For insurers electing the 90-percent coverage
67 | level, the adjusted retention multiple is 100 percent of the
68 | amount determined under subparagraph 1. For insurers electing
69 | the 75-percent coverage level, the retention multiple is 120
70 | percent of the amount determined under subparagraph 1. For
71 | insurers electing the 45-percent coverage level, the adjusted
72 | retention multiple is 200 percent of the amount determined under
73 | subparagraph 1.

74 | 3. An insurer shall determine its provisional retention by
75 | multiplying its provisional reimbursement premium by the
76 | applicable adjusted retention multiple and shall determine its
77 | actual retention by multiplying its actual reimbursement premium
78 | by the applicable adjusted retention multiple.

79 | 4. For insurers who experience multiple covered events
80 | causing loss during the contract year, beginning June 1, 2005,
81 | each insurer's full retention shall be applied to the two
82 | largest losses from the covered events for that insurer. For all
83 | other covered events resulting in losses, the insurer's
84 | retention shall be reduced to one-third of the full retention.

85 The reimbursement contract shall provide for the reimbursement
 86 of losses for each covered event based on the full retention
 87 with adjustments made to reflect the reduced retentions after
 88 January 1 of the contract year provided the insurer reports its
 89 losses as specified in the reimbursement contract.

90 Section 2. Paragraph (d) is added to subsection (2) of
 91 section 627.4133, Florida Statutes, to read:

92 627.4133 Notice of cancellation, nonrenewal, or renewal
 93 premium.--

94 (2) With respect to any personal lines or commercial
 95 residential property insurance policy, including, but not
 96 limited to, any homeowner's, mobile home owner's, farmowner's,
 97 condominium association, condominium unit owner's, apartment
 98 building, or other policy covering a residential structure or
 99 its contents:

100 (d)1. Upon a declaration of an emergency pursuant to s.
 101 252.36 and the filing of an order by the Commissioner of
 102 Insurance Regulation, an insurer may not cancel or nonrenew a
 103 personal residential or commercial residential property
 104 insurance policy covering a dwelling or residential property
 105 located in this state that has been damaged as a result of a
 106 hurricane or wind loss that is the subject of the declaration of
 107 emergency for a period of 60 days after the dwelling or
 108 residential property has been repaired. A structure is deemed to
 109 be repaired when substantially completed and restored to the
 110 extent that it is insurable by another authorized insurer that
 111 is writing policies in this state.

112 2. However, an insurer or agent may cancel or nonrenew

113 such a policy prior to the repair of the dwelling or residential
 114 property:

115 a. Upon 10 days' notice for nonpayment of premium; or

116 b. Upon 45 days' notice:

117 (I) For a material misstatement or fraud related to the
 118 claim;

119 (II) If the insurer can demonstrate that the insured has
 120 unreasonably caused a delay in the repair of the dwelling; or

121 (III) If the insurer has paid policy limits, provided the
 122 insurer has offered the insured a builder's risk or similar
 123 policy that would cover the property until completion of
 124 repairs.

125 3. If the insurer elects to nonrenew a policy covering a
 126 property that has been damaged, the insurer shall provide at
 127 least 60 days' notice to the insured that the insurer intends to
 128 nonrenew the policy 60 days after the dwelling or residential
 129 property has been repaired. Nothing in this paragraph shall
 130 prevent the insurer from canceling or nonrenewing the policy 60
 131 days after the repairs are complete for the same reasons the
 132 insurer would otherwise have canceled or nonrenewed the policy
 133 but for the limitations of subparagraph 1. The Financial
 134 Services Commission may adopt rules, and the Commissioner of
 135 Insurance Regulation may issue orders, necessary to implement
 136 this paragraph.

137 4. This paragraph shall also apply to personal residential
 138 and commercial residential policies covering property that was
 139 damaged as the result of Tropical Storm Bonnie, Hurricane
 140 Charley, Hurricane Frances, Hurricane Ivan, or Hurricane Jeanne.

141 Section 3. Effective October 1, 2005, section 627.4143,
 142 Florida Statutes, is amended to read:

143 627.4143 Outline of coverage.--

144 (1) No private passenger motor vehicle ~~automobile or basic~~
 145 ~~homeowner's~~ policy shall be delivered or issued for delivery in
 146 this state unless an appropriate outline of coverage has been
 147 delivered prior to issuance of the policy or accompanies the
 148 policy when issued.

149 (2) The outline of coverage for a private passenger motor
 150 vehicle insurance policy shall contain all of the following:

151 (a) A brief description of the principal benefits and
 152 coverage provided in the policy, broken down by each class or
 153 type of coverage provided under the policy for which a premium
 154 is charged, and itemization of the applicable premium.

155 (b) A summary statement of the principal exclusions and
 156 limitations or reductions contained in the policy by class or
 157 type, including, but not limited to, deductibles, coinsurance,
 158 and any other limitations or reductions.

159 (c) A summary statement of any renewal or cancellation
 160 provisions.

161 (d) A description of the credit or surcharge plan that is
 162 being applied. The description may display numerical or
 163 alphabetical codes on the declarations page or premium notice to
 164 enable the insured to determine the reason or reasons why her or
 165 his policy is being surcharged or is receiving a credit.

166 (e) A list of any additional coverage provided through any
 167 rider or endorsement which accompanies the policy. The list
 168 shall contain a descriptive reference to each additional

169 coverage, rather than solely a reference to a form or code
 170 number.

171 ~~(f) For a private passenger motor vehicle insurance~~
 172 ~~policy,~~ The extent of coverage provided to the insured in the
 173 event of collision damage to a rental vehicle rented by the
 174 insured. The proof-of-insurance card required by s. 316.646 must
 175 also specify whether rental car coverage is provided, and may
 176 refer to the outline of coverage as to the details or extent of
 177 coverage.

178 (3) It is the intent of the Legislature to assist
 179 policyholders in understanding policy coverage, costs, and
 180 property replacement options in order to enable a policyholder
 181 to be better prepared in case of loss. The Legislature finds
 182 that the implementation of a checklist for disclosure of
 183 coverage information for homeowners', mobile homeowners',
 184 condominium unit owners', or dwelling residential property
 185 insurance written in clear and unambiguous language will aid
 186 policyholders in understanding their policy coverages, limits,
 187 and exclusions.

188 (4) No basic homeowners', mobile homeowners', condominium
 189 unit owners', or dwelling policy shall be delivered or issued
 190 for delivery in this state unless a checklist of coverage and an
 191 appropriate outline of coverage have been delivered to the
 192 policyholder prior to issuance of the policy or accompany the
 193 policy when issued.

194 (a) The checklist shall contain a list of the standard
 195 provisions and elements that may typically be included in such
 196 policies, regardless of whether they are included in the

197 particular policy being issued, in a format that allows the
198 insurer to place a check mark next to the provision's elements
199 that are included so the consumer may see what is included and
200 what is not included in the policy. Limits of liability shall be
201 listed for each item. The checklist shall include, but is not
202 limited to, the following:

203 1. Covered real property. Items for this category shall be
204 broader than simply listing "dwelling." The category shall
205 include references to specific property in the category of
206 attached and unattached structures that may be covered in a
207 typical policy. The category shall include references to whether
208 coverage for damaged property is based on replacement cost
209 coverage or actual cash value coverage. Primary exclusions from
210 real property coverage shall be listed after the real property
211 coverage items.

212 2. Personal property coverage. Primary exclusions from
213 personal property coverage shall be listed after the items
214 covered by personal property coverage.

215 3. Personal liability coverage. Primary exclusions from
216 personal liability coverage shall be listed after the items
217 covered by personal liability coverage.

218 4. Medical payments coverage.

219 5. Primary discounts that are available.

220 6. Hurricane deductibles that are available. The notice to
221 consumers set forth in s. 627.701(4)(a) shall be set forth
222 immediately following the list of deductibles.

223 7. References to specific additional property coverage
224 that may be provided through any rider or endorsement. This

225 shall include building ordinance or law coverage; personal
 226 injury endorsements; motor vehicle endorsements; jewelry, fur,
 227 and communication property endorsements; home business
 228 endorsements; and replacement cost endorsement for contents.

229 8. Covered perils.

230 9. Excluded perils.

231 (b) The outline of coverage shall contain:

232 1. A brief description of the principal benefits and
 233 coverage provided in the policy, itemized by each class or type
 234 of coverage provided under the policy for which a premium is
 235 charged, and itemization of the applicable premium.

236 2. A summary statement of the principal exclusions and
 237 limitations or reductions contained in the policy by class or
 238 type, including, but not limited to, deductibles, coinsurance,
 239 and any other limitations or reductions.

240 3. A summary statement of any renewal or cancellation
 241 provisions.

242 4. A description of the credit or surcharge plan that is
 243 being applied. The description may display numerical or
 244 alphabetical codes on the declarations page or premium notice to
 245 enable the insured to determine the reason or reasons that her
 246 or his policy is being surcharged or is receiving a credit.

247 5. A summary of any additional coverage provided through
 248 any rider or endorsement that accompanies the policy.

249 (5)(3) The outline of coverage for a private passenger
 250 motor vehicle policy is required only on the initial policy
 251 issued by an insurer. The outline of coverage and the checklist
 252 for a basic homeowners', mobile homeowners', condominium unit

253 owners', or dwelling policy are required on the initial policy
 254 and each renewal thereof issued by an insurer.

255 ~~(6)(4)~~ An insurer must insert the following language on
 256 the outline of coverage and the checklist:

257
 258 "The following outline of coverage or checklist is for
 259 informational purposes only. Florida law prohibits this outline
 260 or checklist from changing any of the provisions of the
 261 insurance contract which is the subject of this outline. Any
 262 endorsement regarding changes in types of coverage, exclusions,
 263 limitations, reductions, deductibles, coinsurance, renewal
 264 provisions, cancellation provisions, surcharges, or credits will
 265 be sent separately."

266
 267 ~~(7)(5)~~ Neither this section nor the outline of coverage or
 268 checklist mandated by this section alters or modifies the terms
 269 of the insurance contract, creates a cause of action, or is
 270 admissible in any civil action.

271 (8) The Financial Services Commission may adopt rules to
 272 implement subsection (4) and the provisions of subsection (5)
 273 relating to a basic homeowners', mobile homeowners', condominium
 274 unit owners', or dwelling policy.

275 Section 4. Effective October 1, 2005, subsection (4) of
 276 section 627.701, Florida Statutes, is amended, and subsection
 277 (10) is added to said section, to read:

278 627.701 Liability of insureds; coinsurance; deductibles.--

279 (4)(a) Any policy that contains a separate hurricane
 280 deductible must on its face include in boldfaced type no smaller

281 than 18 points the following statement: "THIS POLICY CONTAINS A
 282 SEPARATE DEDUCTIBLE FOR HURRICANE LOSSES, WHICH MAY RESULT IN
 283 HIGH OUT-OF-POCKET EXPENSES TO YOU." A policy containing a
 284 coinsurance provision applicable to hurricane losses must on its
 285 face include in boldfaced type no smaller than 18 points the
 286 following statement: "THIS POLICY CONTAINS A CO-PAY PROVISION
 287 THAT MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU."

288 (b) For any personal lines residential property insurance
 289 policy containing a separate hurricane deductible, the insurer
 290 shall compute and prominently display the actual dollar value of
 291 the hurricane deductible on the declarations page of the policy
 292 and on the premium renewal notice.

293 (10) For any personal lines residential property insurance
 294 policy, the insurer shall clearly notify the applicant or
 295 policyholder at the time of the initial quote for the policy and
 296 at the time of each renewal of the policy of the availability
 297 and amount of the premium discounts, credits, other rate
 298 differentials, or reductions in deductibles for properties on
 299 which fixtures have been installed or construction techniques
 300 have been implemented that have been demonstrated to reduce the
 301 amount of loss in a windstorm. For properties on which fixtures
 302 can or have been installed or construction techniques can or
 303 have been implemented that have been demonstrated to reduce the
 304 amount of loss in a windstorm, the insurer shall provide to the
 305 applicant or policyholder an explanation as to the actions that
 306 qualify for the premium discounts, credits, other rate
 307 differentials, or reductions in deductibles. The Financial
 308 Services Commission may adopt rules to implement this

309 subsection. The Office of Insurance Regulation shall approve the
 310 disclosure materials required by this subsection to be provided
 311 by insurers to applicants or policyholders.

312 Section 5. Subsection (5) of section 627.701, Florida
 313 Statutes, as created by section 4 of chapter 2004-480, Laws of
 314 Florida, is amended to read:

315 627.701 Liability of insureds; coinsurance; deductibles.--

316 (5)(a) The hurricane deductible of any personal lines
 317 residential property insurance policy issued or renewed on or
 318 after May 1, 2005, shall be applied as follows:

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

324 2.(b) If a hurricane deductible applies separately to each
 325 of one or more structures insured under a single policy, the
 326 requirements of this paragraph ~~subsection~~ apply with respect to
 327 the deductible for each structure.

328 3.(e) If there was a hurricane loss for a prior hurricane
 329 or hurricanes during the calendar year, the insurer may apply a
 330 deductible to a subsequent hurricane which deductible ~~that~~ is
 331 the greater of the remaining amount of the hurricane deductible
 332 or the amount of the deductible that applies to perils other
 333 than a hurricane. Insurers may require policyholders to report
 334 hurricane losses that are below the hurricane deductible or to
 335 maintain receipts or other records of such hurricane losses in
 336 order to apply such losses to subsequent hurricane claims.

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337 ~~4.(d)~~ If there are hurricane losses in a calendar year on
338 more than one policy issued by the same insurer or an insurer in
339 the same insurer group, the hurricane deductible shall be the
340 highest amount stated in any one of the policies. If a
341 policyholder who had a hurricane loss under the prior policy is
342 provided or offered a lower hurricane deductible under the new
343 or renewal policy, the insurer must notify the policyholder, in
344 writing, at the time the lower hurricane deductible is provided
345 or offered, that the lower hurricane deductible will not apply
346 until January 1 of the following calendar year.

347 (b) For any commercial residential property insurance
348 policy issued or renewed on or after January 1, 2006, the
349 insurer must offer the policyholder the following alternative
350 hurricane deductibles:

351 1. A hurricane deductible that applies on an annual basis
352 as provided in paragraph (a).

353 2. A hurricane deductible that applies to each hurricane.

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