

CHAMBER ACTION

1 The Commerce Council recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to residential property insurance;  
7 amending s. 215.555, F.S.; revising provisions relating to  
8 calculation of an insurer's retention for purposes of  
9 reimbursement from the Florida Hurricane Catastrophe Fund;  
10 amending s. 627.4133, F.S.; prohibiting insurers from  
11 canceling or nonrenewing residential property insurance  
12 policies under certain emergency circumstances; providing  
13 exceptions; providing notice requirements; providing  
14 application to personal residential and commercial  
15 residential policies covering certain damaged property;  
16 prohibiting an insurer from canceling or nonrenewing  
17 certain property insurance policies covering certain  
18 property; providing an exception; amending s. 627.4143,  
19 F.S.; requiring private passenger motor vehicle insurance  
20 policies to contain an outline of coverage; prohibiting  
21 delivery or issuance of basic homeowner's, mobile home  
22 owner's, condominium unit owner's, and dwelling policies  
23 without a comprehensive checklist and outline of coverage;

24 specifying checklist and outline of coverage contents;  
 25 requiring the checklist and outline of coverage to be sent  
 26 with each renewal of personal lines residential insurance  
 27 policies; specifying application of the checklist and  
 28 outline of coverage to basic homeowner's, mobile home  
 29 owner's, condominium unit owner's, and dwelling policies;  
 30 amending s. 627.701, F.S.; revising a limitation on a  
 31 deductible amount attributable to hurricane or wind  
 32 losses; providing for computation and display of the  
 33 dollar value of hurricane deductibles; requiring insurers  
 34 to compute and display actual dollar values of certain  
 35 riders for certain policies; providing additional notice  
 36 requirements for certain deductible amounts; requiring  
 37 insurers to notify applicants or policyholders of the  
 38 availability and amounts of certain discounts, credits,  
 39 rate differentials, or reductions in deductibles for  
 40 properties on which certain fixtures have been installed  
 41 or construction techniques have been implemented;  
 42 requiring insurers to provide qualifying information;  
 43 authorizing the Financial Services Commission to adopt  
 44 rules; providing for application of hurricane deductibles  
 45 for certain personal lines residential property insurance  
 46 policies; requiring insurers to offer commercial  
 47 residential property insurance policyholders certain  
 48 alternative hurricane deductibles; providing effective  
 49 dates.

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

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

215.555 Florida Hurricane Catastrophe Fund.--

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

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

1. The board shall calculate and report to each insurer the retention multiples for that year. For the contract year beginning June 1, 2005 ~~2004~~, the retention multiple shall be equal to \$4 ~~\$4.5~~ billion divided by the total estimated reimbursement premium for the contract year; for subsequent years, the retention multiple shall be equal to \$4 ~~\$4.5~~ billion, adjusted based upon the reported exposure from the prior contract year to reflect the percentage growth in exposure to the fund for covered policies since 2004 ~~2003~~, divided by the total estimated reimbursement premium for the contract year. Total reimbursement premium for purposes of the calculation under this subparagraph shall be estimated using the assumption that all insurers have selected the 90-percent coverage level.

2. The retention multiple as determined under subparagraph 1. shall be adjusted to reflect the coverage level elected by the insurer. For insurers electing the 90-percent coverage level, the adjusted retention multiple is 100 percent of the amount determined under subparagraph 1. For insurers electing the 75-percent coverage level, the retention multiple is 120 percent of the amount determined under subparagraph 1. For

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80 insurers electing the 45-percent coverage level, the adjusted  
81 retention multiple is 200 percent of the amount determined under  
82 subparagraph 1.

83 3. An insurer shall determine its provisional retention by  
84 multiplying its provisional reimbursement premium by the  
85 applicable adjusted retention multiple and shall determine its  
86 actual retention by multiplying its actual reimbursement premium  
87 by the applicable adjusted retention multiple.

88 4. For insurers who experience multiple covered events  
89 causing loss during the contract year, beginning June 1, 2005,  
90 each insurer's full retention shall be applied to the two  
91 largest losses from the covered events for that insurer. For all  
92 other covered events resulting in losses, the insurer's  
93 retention shall be reduced to one-third of the full retention.  
94 The reimbursement contract shall provide for the reimbursement  
95 of losses for each covered event based on the full retention  
96 with adjustments made to reflect the reduced retentions after  
97 January 1 of the contract year provided the insurer reports its  
98 losses as specified in the reimbursement contract.

99 Section 2. Paragraphs (d) and (e) are added to subsection  
100 (2) of section 627.4133, Florida Statutes, to read:

101 627.4133 Notice of cancellation, nonrenewal, or renewal  
102 premium.--

103 (2) With respect to any personal lines or commercial  
104 residential property insurance policy, including, but not  
105 limited to, any homeowner's, mobile home owner's, farmowner's,  
106 condominium association, condominium unit owner's, apartment

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107 building, or other policy covering a residential structure or  
108 its contents:

109 (d)1. Upon a declaration of an emergency pursuant to s.  
110 252.36 and the filing of an order by the Commissioner of  
111 Insurance Regulation, an insurer may not cancel or nonrenew a  
112 personal residential or commercial residential property  
113 insurance policy covering a dwelling or residential property  
114 located in this state that has been damaged as a result of a  
115 hurricane or wind loss that is the subject of the declaration of  
116 emergency for a period of 90 days after the dwelling or  
117 residential property has been repaired. A structure is deemed to  
118 be repaired when substantially completed and restored to the  
119 extent that it is insurable by another authorized insurer that  
120 is writing policies in this state.

121 2. However, an insurer or agent may cancel or nonrenew  
122 such a policy prior to the repair of the dwelling or residential  
123 property:

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

125 b. Upon 45 days' notice:

126 (I) For a material misstatement or fraud related to the  
127 claim;

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

130 (III) If the insurer has paid policy limits.

131 3. If the insurer elects to nonrenew a policy covering a  
132 property that has been damaged, the insurer shall provide at  
133 least 90 days' notice to the insured that the insurer intends to  
134 nonrenew the policy 90 days after the dwelling or residential

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135 property has been repaired. Nothing in this paragraph shall  
 136 prevent the insurer from canceling or nonrenewing the policy 90  
 137 days after the repairs are complete for the same reasons the  
 138 insurer would otherwise have canceled or nonrenewed the policy  
 139 but for the limitations of subparagraph 1. The Financial  
 140 Services Commission may adopt rules, and the Commissioner of  
 141 Insurance Regulation may issue orders, necessary to implement  
 142 this paragraph.

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

147 (e) Upon declaration of a hurricane by the National  
 148 Hurricane Center of the National Weather Service for the time  
 149 period specified in s. 627.4025(2)(c), an insurer may not cancel  
 150 or nonrenew a personal residential or commercial residential  
 151 property insurance policy covering a dwelling or residential  
 152 property located in this state except that an insurer or agent  
 153 may cancel or nonrenew such a policy upon 10 days' notice, as  
 154 evidenced by certified restricted delivery, for nonpayment of  
 155 premium.

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

158 627.4143 Outline of coverage.--

159 (1) No private passenger automobile or basic homeowner's  
 160 policy shall be delivered or issued for delivery in this state  
 161 unless an appropriate outline of coverage has been delivered

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162 prior to issuance of the policy or accompanies the policy when  
163 issued.

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

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

170 (b) A summary statement of the principal exclusions and  
171 limitations or reductions contained in the policy by class or  
172 type, including, but not limited to, deductibles, coinsurance,  
173 and any other limitations or reductions.

174 (c) A summary statement of any renewal or cancellation  
175 provisions.

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

181 (e) A list of any additional coverage provided through any  
182 rider or endorsement which accompanies the policy. The list  
183 shall contain a descriptive reference to each additional  
184 coverage, rather than solely a reference to a form or code  
185 number.

186 (f) ~~For a private passenger motor vehicle insurance~~  
187 ~~policy,~~ The extent of coverage provided to the insured in the  
188 event of collision damage to a rental vehicle rented by the  
189 insured. The proof-of-insurance card required by s. 316.646 must

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190 also specify whether rental car coverage is provided, and may  
191 refer to the outline of coverage as to the details or extent of  
192 coverage.

193 (3) A basic homeowner's, mobile home owner's, condominium  
194 unit owner's, or dwelling policy may not be delivered or issued  
195 for delivery in this state unless a comprehensive checklist of  
196 coverage, on a form adopted by the commission, and an  
197 appropriate outline of coverage have been delivered prior to  
198 issuance of the policy or accompanies the policy when issued.  
199 The commission shall, by rule, adopt a form for the checklist  
200 for each type of policy to which this subsection applies. Each  
201 form shall indicate that it was adopted by the commission.

202 (a) The checklist must contain a list of the standard  
203 provisions and elements that may typically be included in such  
204 policies, whether or not they are included in the particular  
205 policy being issued, in a format that allows the insurer to  
206 place a check mark next to the provision's elements that are  
207 included so the consumer can see what is included and what is  
208 not included in the policy. As an alternative to checking the  
209 boxes on the checklist, an insurer may delete the check boxes  
210 from the form and replace them with text indicating whether the  
211 provision's elements are included or not. Limits of liability  
212 shall be listed for each item. The checklist must include, but  
213 is not limited to, the following:

214 1. Property coverage for the principal premises shown in  
215 the declarations.

216 2. Property coverage for other structures on the residence  
217 premises.



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218 |       3. Whether the principal premises and other structures are  
219 | insured against the following perils:

- 220 |       a. Fire.
- 221 |       b. Lightning.
- 222 |       c. Explosion.
- 223 |       d. Hurricane loss.
- 224 |       e. Nonhurricane wind loss.
- 225 |       f. Collapse.
- 226 |       g. Mold.
- 227 |       h. Sinkhole loss.
- 228 |       i. Vandalism.

229 |       4. Personal property coverage.  
230 |       5. Whether personal property is insured against the  
231 | following perils:

- 232 |       a. Fire.
- 233 |       b. Lightning.
- 234 |       c. Hurricane loss.
- 235 |       d. Nonhurricane wind loss.
- 236 |       e. Collapse.
- 237 |       f. Mold.
- 238 |       g. Sinkhole loss.
- 239 |       h. Theft.

240 |       6. The following additional coverages:

- 241 |       a. Debris removal.
- 242 |       b. Loss assessment.
- 243 |       c. Additional living expenses.
- 244 |       7. Personal liability coverage.
- 245 |       8. Medical payments coverage.

- 246        9. Discounts applied to the premium.
- 247        10. Deductibles for loss due to hurricane and loss to  
 248 other perils.
- 249        11. Building ordinance or law coverage.
- 250        12. Replacement cost coverage.
- 251        13. Actual cash value coverage.
- 252        (b) The forms shall allow insurers to place other  
 253 coverages on the checklists which may or may not be included in  
 254 the insurer's policies.
- 255        (c) The outline of coverage must contain:
- 256        1. A brief description of the principal benefits and  
 257 coverage provided in the policy, itemized by each class or type  
 258 of coverage provided under the policy for which a premium is  
 259 charged, and itemization of the applicable premium.
- 260        2. A summary statement of the principal exclusions and  
 261 limitations or reductions contained in the policy by class or  
 262 type, including, but not limited to, deductibles, coinsurance,  
 263 and any other limitations or reductions.
- 264        3. A summary statement of any renewal or cancellation  
 265 provisions.
- 266        4. A description of the credit or surcharge plan that is  
 267 being applied. The description may display numerical or  
 268 alphabetical codes on the declarations page or premium notice to  
 269 enable the insured to determine the reason or reasons why her or  
 270 his policy is being surcharged or is receiving a credit.
- 271        5. A summary of any additional coverage provided through  
 272 any rider or endorsement that accompanies the policy.

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273        ~~(4)(3)~~ The outline of coverage for a private passenger  
 274 motor vehicle policy is required only on the initial policy  
 275 issued by an insurer. The outline of coverage and the checklist  
 276 for a basic homeowner's, mobile home owner's, condominium unit  
 277 owner's, or dwelling policy are required on the initial policy  
 278 and each renewal thereof issued by an insurer.

279        ~~(5)(4)~~ An insurer must insert the following language on  
 280 the outline of coverage:

281  
 282 "The following outline of coverage or checklist is for  
 283 informational purposes only. Florida law prohibits this outline  
 284 or checklist from changing any of the provisions of the  
 285 insurance contract which is the subject of this outline. Any  
 286 endorsement regarding changes in types of coverage, exclusions,  
 287 limitations, reductions, deductibles, coinsurance, renewal  
 288 provisions, cancellation provisions, surcharges, or credits will  
 289 be sent separately."  
 290

291        ~~(7)(5)~~ Neither this section nor the outline of coverage or  
 292 checklist mandated by this section alters or modifies the terms  
 293 of the insurance contract, creates a cause of action, or is  
 294 admissible in any civil action.

295        Section 4. Paragraph (a) of subsection (3) and subsection  
 296 (4) of section 627.701, Florida Statutes, are amended to read:

297        627.701 Liability of insureds; coinsurance; deductibles.--

298        (3)(a) A policy of residential property insurance shall  
 299 include a deductible amount applicable to hurricane or wind  
 300 losses no lower than \$500 and no higher than 2 percent of the

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301 policy dwelling limits with respect to personal lines  
 302 residential risks, and no higher than 3 percent of the policy  
 303 limits with respect to commercial lines residential risks;  
 304 however, if a risk was covered on August 24, 1992, under a  
 305 policy having a higher deductible than the deductibles allowed  
 306 by this paragraph, a policy covering such risk may include a  
 307 deductible no higher than the deductible in effect on August 24,  
 308 1992. Notwithstanding the other provisions of this paragraph, a  
 309 personal lines residential policy covering a risk valued at  
 310 \$50,000 or less may include a deductible amount attributable to  
 311 hurricane or wind losses no lower than \$250, and a personal  
 312 lines residential policy covering a risk valued at \$100,000 or  
 313 more may include a deductible amount attributable to hurricane  
 314 or wind losses no higher than 10 ~~5~~ percent of the policy limits  
 315 unless subject to a higher deductible on August 24, 1992;  
 316 however, no maximum deductible is required with respect to a  
 317 personal lines residential policy covering a risk valued at more  
 318 than \$500,000. An insurer may require a higher deductible,  
 319 provided such deductible is the same as or similar to a  
 320 deductible program lawfully in effect on June 14, 1995. In  
 321 addition to the deductible amounts authorized by this paragraph,  
 322 an insurer may also offer policies with a copayment provision  
 323 under which, after exhaustion of the deductible, the  
 324 policyholder is responsible for 10 percent of the next \$10,000  
 325 of insured hurricane or wind losses.

326 (4)(a) Any policy that contains a separate hurricane  
 327 deductible must on its face include in boldfaced type no smaller  
 328 than 18 points the following statement: "THIS POLICY CONTAINS A

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

335 (b) Beginning October 1, 2005, for any personal lines  
 336 residential property insurance policy containing a separate  
 337 hurricane deductible, the insurer shall compute and prominently  
 338 display the actual dollar value of the hurricane deductible on  
 339 the declarations page of the policy at issuance and, for  
 340 renewal, on the renewal declarations page of the policy or on  
 341 the premium renewal notice.

342 (c) Beginning October 1, 2005, for any personal lines  
 343 residential property insurance policy containing an inflation  
 344 guard rider, the insurer shall compute and prominently display  
 345 the actual dollar value of the hurricane deductible on the  
 346 declarations page of the policy at issuance and, for renewal, on  
 347 the renewal declarations page of the policy or on the premium  
 348 renewal notice. In addition, beginning October 1, 2005, for any  
 349 personal lines residential property insurance policy containing  
 350 an inflation guard rider, the insurer shall notify the  
 351 policyholder of the possibility that the hurricane deductible  
 352 may be higher than indicated when loss occurs due to application  
 353 of the inflation guard rider. Such notification shall be made on  
 354 the declarations page of the policy at issuance and, for  
 355 renewal, on the renewal declarations page of the policy or on  
 356 the premium renewal notice.

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357 Section 5. Effective October 1, 2005, subsection (10) is  
358 added to section 627.701, Florida Statutes, to read:

359 627.701 Liability of insureds; coinsurance; deductibles.--

360 (10) Using a form prescribed by the Office of Insurance  
361 Regulation, the insurer shall clearly notify the applicant or  
362 policyholder of any personal lines residential property  
363 insurance policy, at the time of the issuance of the policy and  
364 at each renewal, of the availability and the range of each  
365 premium discount, credit, other rate differential, or reduction  
366 in deductibles for properties on which fixtures or construction  
367 techniques demonstrated to reduce the amount of loss in a  
368 windstorm can or have been installed or implemented. The  
369 prescribed form shall describe generally what actions the  
370 policyholders may be able to take to reduce their windstorm  
371 premium. The prescribed form and a list of such ranges approved  
372 by the office for each insurer licensed in the state and  
373 providing such discounts, credits, other rate differentials, or  
374 reductions in deductibles for properties described in this  
375 subsection shall be available for electronic viewing and  
376 download from the Department of Financial Services' or the  
377 Office of Insurance Regulation's Internet website. The Financial  
378 Services Commission may adopt rules to implement this  
379 subsection.

380 Section 6. Subsection (5) of section 627.701, Florida  
381 Statutes, as created by section 4 of chapter 2004-480, Laws of  
382 Florida, is amended to read:

383 627.701 Liability of insureds; coinsurance; deductibles.--

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

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

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

396           3.(c) If there was a hurricane loss for a prior hurricane  
 397 or hurricanes during the calendar year, the insurer may apply a  
 398 deductible to a subsequent hurricane which deductible ~~that~~ is  
 399 the greater of the remaining amount of the hurricane deductible  
 400 or the amount of the deductible that applies to perils other  
 401 than a hurricane. Insurers may require policyholders to report  
 402 hurricane losses that are below the hurricane deductible or to  
 403 maintain receipts or other records of such hurricane losses in  
 404 order to apply such losses to subsequent hurricane claims.

405           4.(d) If there are hurricane losses in a calendar year on  
 406 more than one policy issued by the same insurer or an insurer in  
 407 the same insurer group, the hurricane deductible shall be the  
 408 highest amount stated in any one of the policies. If a  
 409 policyholder who had a hurricane loss under the prior policy is  
 410 provided or offered a lower hurricane deductible under the new  
 411 or renewal policy, the insurer must notify the policyholder, in

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412 writing, at the time the lower hurricane deductible is provided  
413 or offered, that the lower hurricane deductible will not apply  
414 until January 1 of the following calendar year.

415 (b) For any commercial residential property insurance  
416 policy issued or renewed on or after January 1, 2006, the  
417 insurer must offer the policyholder the following alternative  
418 hurricane deductibles:

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

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

422 Section 7. Except as otherwise provided herein, this act  
423 shall take effect upon becoming a law.