

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 for purposes of
5 reimbursement from the Florida Hurricane Catastrophe Fund;
6 amending s. 627.4133, F.S.; prohibiting insurers from
7 canceling or nonrenewing residential property insurance
8 policies under certain emergency circumstances; providing
9 exceptions; providing notice requirements; providing
10 application to personal residential and commercial
11 residential policies covering certain damaged property;
12 extending the effective date of certain policies under
13 certain hurricane circumstances; authorizing the insurer
14 to collect premium for the extended period; providing
15 nonapplication; amending s. 627.4143, F.S.; requiring
16 private passenger motor vehicle insurance policies to
17 contain an outline of coverage; prohibiting delivery or
18 issuance of basic homeowner's, mobile home owner's,
19 condominium unit owner's, and dwelling policies without a
20 comprehensive checklist and outline of coverage;
21 specifying checklist and outline of coverage contents;
22 requiring the checklist and outline of coverage to be sent
23 with each renewal of personal lines residential insurance
24 policies; specifying application of the checklist and
25 outline of coverage to basic homeowner's, mobile home
26 owner's, condominium unit owner's, and dwelling policies;
27 amending s. 627.701, F.S.; revising a limitation on a
28 deductible amount attributable to hurricane or wind

29 | losses; providing for computation and display of the
 30 | dollar value of hurricane deductibles; requiring insurers
 31 | to compute and display actual dollar values of certain
 32 | riders for certain policies; providing additional notice
 33 | requirements for certain deductible amounts; requiring
 34 | insurers to notify applicants or policyholders of the
 35 | availability and amounts of certain discounts, credits,
 36 | rate differentials, or reductions in deductibles for
 37 | properties on which certain fixtures have been installed
 38 | or construction techniques have been implemented;
 39 | requiring insurers to provide qualifying information;
 40 | authorizing the Financial Services Commission to adopt
 41 | rules; providing for application of hurricane deductibles
 42 | for certain personal lines residential property insurance
 43 | policies; requiring insurers to offer commercial
 44 | residential property insurance policyholders certain
 45 | alternative hurricane deductibles; providing effective
 46 | dates.

47 |

48 | Be It Enacted by the Legislature of the State of Florida:

49 |

50 | Section 1. Paragraph (e) of subsection (2) of section
 51 | 215.555, Florida Statutes, is amended to read:

52 | 215.555 Florida Hurricane Catastrophe Fund.--

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

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

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

70 | 2. The retention multiple as determined under subparagraph
71 | 1. shall be adjusted to reflect the coverage level elected by
72 | the insurer. For insurers electing the 90-percent coverage
73 | level, the adjusted retention multiple is 100 percent of the
74 | amount determined under subparagraph 1. For insurers electing
75 | the 75-percent coverage level, the retention multiple is 120
76 | percent of the amount determined under subparagraph 1. For
77 | insurers electing the 45-percent coverage level, the adjusted
78 | retention multiple is 200 percent of the amount determined under
79 | subparagraph 1.

80 | 3. An insurer shall determine its provisional retention by
81 | multiplying its provisional reimbursement premium by the
82 | applicable adjusted retention multiple and shall determine its
83 | actual retention by multiplying its actual reimbursement premium
84 | by the applicable adjusted retention multiple.

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

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

98 627.4133 Notice of cancellation, nonrenewal, or renewal
 99 premium.--

100 (2) With respect to any personal lines or commercial
 101 residential property insurance policy, including, but not
 102 limited to, any homeowner's, mobile home owner's, farmowner's,
 103 condominium association, condominium unit owner's, apartment
 104 building, or other policy covering a residential structure or
 105 its contents:

106 (d)1. Upon a declaration of an emergency pursuant to s.
 107 252.36 and the filing of an order by the Commissioner of
 108 Insurance Regulation, an insurer may not cancel or nonrenew a
 109 personal residential or commercial residential property
 110 insurance policy covering a dwelling or residential property
 111 located in this state that has been damaged as a result of a
 112 hurricane or wind loss that is the subject of the declaration of

113 emergency for a period of 90 days after the dwelling or
114 residential property has been repaired. A structure is deemed to
115 be repaired when substantially completed and restored to the
116 extent that it is insurable by another authorized insurer that
117 is writing policies in this state.

118 2. However, an insurer or agent may cancel or nonrenew
119 such a policy prior to the repair of the dwelling or residential
120 property:

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

122 b. Upon 45 days' notice:

123 (I) For a material misstatement or fraud related to the
124 claim;

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

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

128 3. If the insurer elects to nonrenew a policy covering a
129 property that has been damaged, the insurer shall provide at
130 least 90 days' notice to the insured that the insurer intends to
131 nonrenew the policy 90 days after the dwelling or residential
132 property has been repaired. Nothing in this paragraph shall
133 prevent the insurer from canceling or nonrenewing the policy 90
134 days after the repairs are complete for the same reasons the
135 insurer would otherwise have canceled or nonrenewed the policy
136 but for the limitations of subparagraph 1. The Financial
137 Services Commission may adopt rules, and the Commissioner of
138 Insurance Regulation may issue orders, necessary to implement
139 this paragraph.

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

144 (e) If any cancellation or nonrenewal of a policy subject
145 to this subsection is to take effect during the duration of a
146 hurricane as defined in s. 627.4025(2)(c), the effective date of
147 such cancellation or nonrenewal is extended until the end of the
148 duration of such hurricane. The insurer may collect premium at
149 the prior rates or the rates then in effect for the period of
150 time for which coverage is extended. This paragraph does not
151 apply to any property with respect to which replacement coverage
152 has been obtained and which is in effect for a claim occurring
153 during the duration of the hurricane.

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

156 627.4143 Outline of coverage.--

157 (1) No private passenger automobile or basic homeowner's
158 policy shall be delivered or issued for delivery in this state
159 unless an appropriate outline of coverage has been delivered
160 prior to issuance of the policy or accompanies the policy when
161 issued.

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

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

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

172 (c) A summary statement of any renewal or cancellation
173 provisions.

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

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

184 (f) ~~For a private passenger motor vehicle insurance~~
185 ~~policy,~~ The extent of coverage provided to the insured in the
186 event of collision damage to a rental vehicle rented by the
187 insured. The proof-of-insurance card required by s. 316.646 must
188 also specify whether rental car coverage is provided, and may
189 refer to the outline of coverage as to the details or extent of
190 coverage.

191 (3) A basic homeowner's, mobile home owner's, condominium
192 unit owner's, or dwelling policy may not be delivered or issued
193 for delivery in this state unless a comprehensive checklist of
194 coverage, on a form adopted by the commission, and an
195 appropriate outline of coverage have been delivered prior to

196 issuance of the policy or accompanies the policy when issued.
 197 The commission shall, by rule, adopt a form for the checklist
 198 for each type of policy to which this subsection applies. Each
 199 form shall indicate that it was adopted by the commission.

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

212 1. Property coverage for the principal premises shown in
 213 the declarations.

214 2. Property coverage for other structures on the residence
 215 premises.

216 3. Whether the principal premises and other structures are
 217 insured against the following perils:

218 a. Fire.

219 b. Lightning.

220 c. Explosion.

221 d. Hurricane loss.

222 e. Nonhurricane wind loss.

223 f. Collapse.

- 224 g. Mold.
- 225 h. Sinkhole loss.
- 226 i. Vandalism.
- 227 4. Personal property coverage.
- 228 5. Whether personal property is insured against the
- 229 following perils:
- 230 a. Fire.
- 231 b. Lightning.
- 232 c. Hurricane loss.
- 233 d. Nonhurricane wind loss.
- 234 e. Collapse.
- 235 f. Mold.
- 236 g. Sinkhole loss.
- 237 h. Theft.
- 238 6. The following additional coverages:
- 239 a. Debris removal.
- 240 b. Loss assessment.
- 241 c. Additional living expenses.
- 242 7. Personal liability coverage.
- 243 8. Medical payments coverage.
- 244 9. Discounts applied to the premium.
- 245 10. Deductibles for loss due to hurricane and loss to
- 246 other perils.
- 247 11. Building ordinance or law coverage.
- 248 12. Replacement cost coverage.
- 249 13. Actual cash value coverage.

250 (b) The forms shall allow insurers to place other
 251 coverages on the checklists which may or may not be included in
 252 the insurer's policies.

253 (c) The outline of coverage must contain:

254 1. A brief description of the principal benefits and
 255 coverage provided in the policy, itemized by each class or type
 256 of coverage provided under the policy for which a premium is
 257 charged, and itemization of the applicable premium.

258 2. A summary statement of the principal exclusions and
 259 limitations or reductions contained in the policy by class or
 260 type, including, but not limited to, deductibles, coinsurance,
 261 and any other limitations or reductions.

262 3. A summary statement of any renewal or cancellation
 263 provisions.

264 4. A description of the credit or surcharge plan that is
 265 being applied. The description may display numerical or
 266 alphabetical codes on the declarations page or premium notice to
 267 enable the insured to determine the reason or reasons why her or
 268 his policy is being surcharged or is receiving a credit.

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

271 (4)-(3) The outline of coverage for a private passenger
 272 motor vehicle policy is required only on the initial policy
 273 issued by an insurer. The outline of coverage and the checklist
 274 for a basic homeowner's, mobile home owner's, condominium unit
 275 owner's, or dwelling policy are required on the initial policy
 276 and each renewal thereof issued by an insurer.

277 | ~~(5)~~(4) An insurer must insert the following language on
 278 | the outline of coverage:

279 |
 280 | "The following outline of coverage or checklist is for
 281 | informational purposes only. Florida law prohibits this outline
 282 | or checklist from changing any of the provisions of the
 283 | insurance contract which is the subject of this outline. Any
 284 | endorsement regarding changes in types of coverage, exclusions,
 285 | limitations, reductions, deductibles, coinsurance, renewal
 286 | provisions, cancellation provisions, surcharges, or credits will
 287 | be sent separately."
 288 |

289 | ~~(7)~~(5) Neither this section nor the outline of coverage or
 290 | checklist mandated by this section alters or modifies the terms
 291 | of the insurance contract, creates a cause of action, or is
 292 | admissible in any civil action.

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

295 | 627.701 Liability of insureds; coinsurance; deductibles.--

296 | (3)(a) A policy of residential property insurance shall
 297 | include a deductible amount applicable to hurricane or wind
 298 | losses no lower than \$500 and no higher than 2 percent of the
 299 | policy dwelling limits with respect to personal lines
 300 | residential risks, and no higher than 3 percent of the policy
 301 | limits with respect to commercial lines residential risks;
 302 | however, if a risk was covered on August 24, 1992, under a
 303 | policy having a higher deductible than the deductibles allowed
 304 | by this paragraph, a policy covering such risk may include a

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

324 (4) (a) Any policy that contains a separate hurricane
 325 deductible must on its face include in boldfaced type no smaller
 326 than 18 points the following statement: "THIS POLICY CONTAINS A
 327 SEPARATE DEDUCTIBLE FOR HURRICANE LOSSES, WHICH MAY RESULT IN
 328 HIGH OUT-OF-POCKET EXPENSES TO YOU." A policy containing a
 329 coinsurance provision applicable to hurricane losses must on its
 330 face include in boldfaced type no smaller than 18 points the
 331 following statement: "THIS POLICY CONTAINS A CO-PAY PROVISION
 332 THAT MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU."

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

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

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

357 627.701 Liability of insureds; coinsurance; deductibles.--

358 (10) Using a form prescribed by the Office of Insurance
359 Regulation, the insurer shall clearly notify the applicant or
360 policyholder of any personal lines residential property

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

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

381 627.701 Liability of insureds; coinsurance; deductibles.--

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

385 1.(a) The hurricane deductible shall apply on an annual
 386 basis to all covered hurricane losses that occur during the
 387 calendar year for losses that are covered under one or more

388 policies issued by the same insurer or an insurer in the same
389 insurer group.

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

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

403 4.~~(d)~~ If there are hurricane losses in a calendar year on
404 more than one policy issued by the same insurer or an insurer in
405 the same insurer group, the hurricane deductible shall be the
406 highest amount stated in any one of the policies. If a
407 policyholder who had a hurricane loss under the prior policy is
408 provided or offered a lower hurricane deductible under the new
409 or renewal policy, the insurer must notify the policyholder, in
410 writing, at the time the lower hurricane deductible is provided
411 or offered, that the lower hurricane deductible will not apply
412 until January 1 of the following calendar year.

413 (b) For any commercial residential property insurance
414 policy issued or renewed on or after January 1, 2006, the

415 insurer must offer the policyholder one of the following
416 alternative hurricane deductibles:

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

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

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