A bill to be entitled

An act relating to hurricane preparedness and insurance; providing a short title; amending s. 215.555, F.S.; deleting a rapid cash buildup requirement from a reimbursement premium formula factor; expanding the State Board of Administration's reinsurance procurement powers and duties for certain purposes; providing for temporary emergency options for additional coverage; providing legislative findings and intent; providing for application of certain provisions; providing additional definitions; providing for a reimbursement contract addendum for certain insurers; providing requirements and procedures under the addendum; providing for certain reimbursement premiums for such insurers; providing for calculation of such premiums; providing for effect on claims-paying capacity of fund; authorizing the board to set retention and capacity levels of the fund; requiring approval by the Legislative Budget Commission; providing a temporary increase in coverage limit options; requiring insurers electing optional coverages offered by the Florida Hurricane Catastrophe Fund to make rate filings that reflect savings or reduction in loss exposure; requiring that the Office of Insurance Regulation specify, by order, the dates on which such filings must be made; requiring certain insurers to make additional rate filings; specifying rate filing requirements; authorizing the Financial Services Commission to grant certain waivers;

specifying duties of the office; providing an effective date.

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

Section 1. <u>This act may be cited as the "Homeowners Rate Reduction Act."</u>

Section 2. Paragraph (b) of subsection (5) and paragraph (a) of subsection (7) of section 215.555, Florida Statutes, are amended, and subsections (16) and (17) are added to that section, to read:

215.555 Florida Hurricane Catastrophe Fund.--

(5) REIMBURSEMENT PREMIUMS.--

(b) The State Board of Administration shall select an independent consultant to develop a formula for determining the actuarially indicated premium to be paid to the fund. The formula shall specify, for each zip code or other limited geographical area, the amount of premium to be paid by an insurer for each $1,000 of insured value under covered policies in that zip code or other area. In establishing premiums, the board shall consider the coverage elected under paragraph (4)(b) and any factors that tend to enhance the actuarial sophistication of ratemaking for the fund, including deductibles, type of construction, type of coverage provided, relative concentration of risks, and other such factors deemed by the board to be appropriate. The formula may provide for a procedure to determine the premiums to be paid by new insurers that begin writing covered policies after the beginning of a contract year, taking into consideration when the insurer starts writing covered policies, the potential exposure of the insurer, the potential exposure of the fund, the administrative costs to the insurer and to the fund, and any other factors deemed appropriate by the board. ~~The formula shall include a factor of 25 percent of the fund's actuarially indicated premium in order to provide for more rapid cash buildup in the fund.~~ The formula must be approved by unanimous vote of the board. The board may, at any time, revise the formula pursuant to the procedure provided in this paragraph.

(7) ADDITIONAL POWERS AND DUTIES.--

(a) The board may procure reinsurance from reinsurers acceptable to the Office of Insurance Regulation for the purpose of maximizing the capacity of the fund and may enter into capital market transactions, including, but not limited to, industry loss warranties, catastrophe bonds, side-car arrangements, or financial contracts permissible for the board's usage under s. 215.47(10) and (11), consistent with prudent management of the fund.

(16) TEMPORARY EMERGENCY OPTIONS FOR ADDITIONAL COVERAGE.--

(a) Findings and intent.--

1. The Legislature finds that:

a. Because of temporary disruptions in the market for catastrophic reinsurance, many property insurers were unable to procure reinsurance for the 2006 hurricane season with an attachment point below the insurers' respective Florida Hurricane Catastrophe Fund attachment points, were unable to procure sufficient amounts of such reinsurance, or were able to procure such reinsurance only by incurring substantially higher costs than in prior years.

b. The reinsurance market problems were responsible, at least in part, for substantial premium increases to many consumers and increases in the number of policies issued by the Citizens Property Insurance Corporation.

c. It is likely that the reinsurance market disruptions will not significantly abate prior to the 2007 hurricane season.

2. It is the intent of the Legislature to create a temporary emergency program, applicable to the 2007 and 2008 hurricane seasons, to address these market disruptions and enable insurers, at their option, to procure additional coverage from the Florida Hurricane Catastrophe Fund.

(b) Applicability of other provisions of this section.--All provisions of this section and the rules adopted under this section apply to the program created by this subsection unless specifically superseded by this subsection.

(c) Additional definitions.--As used in this subsection, the term:

1. "TEACO options" means the temporary emergency additional coverage options created under this subsection.

2. "TEACO insurer" means an insurer that has opted to obtain coverage under the TEACO options in addition to the coverage provided to the insurer under its reimbursement contract.

3. "TEACO reimbursement premium" means the premium charged by the fund for coverage provided under the TEACO options.

4. "TEACO retention" means the amount of losses below which a TEACO insurer is not entitled to reimbursement from the fund under the TEACO option selected. A TEACO insurer's retention options shall be calculated as follows:

a. The board shall calculate and report to each TEACO insurer the TEACO retention multiples. There shall be four TEACO retention multiples for defining coverage. Each multiple shall be calculated by dividing $2 billion, $3 billion, $4 billion, or $5 billion by the total estimated TEACO reimbursement premium assuming all insurers selected that option. Total estimated TEACO reimbursement premium for purposes of the calculation under this sub-subparagraph shall be calculated using the assumption that all insurers have selected a specific TEACO retention multiple option and have selected the 90-percent coverage level.

b. The TEACO retention multiples as determined under sub-subparagraph a. 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 sub-subparagraph a. For insurers electing the 75-percent coverage level, the retention multiple is 120 percent of the amount determined under sub-subparagraph a. For insurers electing the 45-percent coverage level, the adjusted retention multiple is 200 percent of the amount determined under sub-subparagraph a.

c. An insurer shall determine its provisional TEACO retention by multiplying its provisional TEACO reimbursement premium by the applicable adjusted TEACO retention multiple and shall determine its actual TEACO retention by multiplying its actual TEACO reimbursement premium by the applicable adjusted TEACO retention multiple.

d. For TEACO insurers who experience multiple covered events causing loss during the contract term beginning June 1, 2007, and ending March 31, 2008, or the contract year beginning June 1, 2008, the insurer's full TEACO retention shall be applied to each of the covered events causing the two largest losses for that insurer. For other covered events resulting in losses, the TEACO option does not apply and the insurer's retention shall be one-third of the full retention as calculated under paragraph (2)(e).

5. "TEACO addendum" means an addendum to the reimbursement contract reflecting the obligations of the fund and TEACO insurers under the program created by this subsection.

(d) TEACO addendum.--

1. The TEACO addendum shall provide for reimbursement of TEACO insurers for covered events occurring between June 1, 2007, and May 31, 2008, and between June 1, 2008, and May 31, 2009, in exchange for the TEACO reimbursement premium paid into the fund under paragraph (e). Any insurer writing covered policies has the option of choosing to accept the TEACO addendum.

2. The TEACO addendum shall contain a promise by the board to reimburse the TEACO insurer for 45 percent, 75 percent, or 90 percent of its losses from each covered event in excess of the insurer's TEACO retention, plus 5 percent of the reimbursed losses to cover loss adjustment expenses. The percentage shall

be the same as the coverage level selected by the insurer under paragraph (4)(b).

3. The TEACO addendum shall provide that reimbursement amounts shall not be reduced by reinsurance paid or payable to the insurer from other sources.

4. The TEACO addendum shall also provide that the obligation of the board with respect to all TEACO addenda shall not exceed an amount equal to two times the difference between the industry retention level calculated under paragraph (2)(e) and the $2 billion, $3 billion, $4 billion, or $5 billion industry TEACO retention level options actually selected, but in no event may the board's obligation exceed the actual claims-paying capacity of the fund plus the additional capacity created in paragraph (f). If the actual claims-paying capacity and the additional capacity created under paragraph (f) fall short of the board's obligations under the reimbursement contract, each insurer's share of the fund's capacity shall be pro rated based on the premium an insurer pays for its normal reimbursement coverage and the premium paid for its optional TEACO coverage as each such premium bears to the total premiums paid to the fund times the available capacity.

5. The priorities, schedule, and method of reimbursements under the TEACO addendum shall be the same as provided under subsection (4).

6. A TEACO insurer's maximum reimbursement under the TEACO addendum shall be calculated by multiplying the insurer's share of the estimated total TEACO reimbursement premium as calculated under sub-subparagraph (c)4.a. by an amount equal to two times

the difference between the industry retention level calculated under paragraph (2)(e) and the $2 billion, $3 billion, $4 billion, or $5 billion industry TEACO retention level specified in sub-subparagraph (c)4.a. as selected by the TEACO insurer.

(e) TEACO reimbursement premiums.--

1. Each TEACO insurer shall pay to the fund, in the manner and at the time provided in the reimbursement contract for payment of reimbursement premiums, a TEACO reimbursement premium calculated as specified in this paragraph.

2. The TEACO reimbursement premiums shall be calculated based on the assumption that, if all insurers entering into reimbursement contracts under subsection (4) also accepted the TEACO option:

a. The industry TEACO reimbursement premium associated with the $2 billion retention option would be equal to 50 percent of the difference between the industry retention level calculated under paragraph (2)(e) and the $2 billion industry TEACO retention level.

b. The industry TEACO reimbursement premium associated with the $3 billion retention option would be equal to 40 percent of the difference between the industry retention level calculated under paragraph (2)(e) and the $3 billion industry TEACO retention level.

c. The TEACO reimbursement premium associated with the $4 billion retention option would be equal to 35 percent of the difference between the industry retention level calculated under paragraph (2)(e) and the $4 billion industry TEACO retention level.

d. The TEACO premium associated with the $5 billion retention option would be equal to 30 percent of the difference between the industry retention level calculated under paragraph (2)(e) and the $5 billion industry TEACO retention level.

3. Each insurer's TEACO premium shall be calculated based on its share of the total TEACO reimbursement premiums based on its coverage selection under the TEACO addendum.

(f) Effect on claims-paying capacity of the fund.--For the contract term commencing June 1, 2007, and the contract year commencing June 1, 2008, the program created by this subsection shall increase the claims-paying capacity of the fund as provided in subparagraph (4)(c)1. by an amount equal to two times the difference between the industry retention level calculated under paragraph (2)(e) and the $2 billion industry TEACO retention level specified in sub-subparagraph (c)4.a. The additional capacity shall apply only to the additional coverage provided by the TEACO option and shall not otherwise affect any insurer's reimbursement from the fund.

(g) Setting of retention and capacity levels of the fund.--For the contract year commencing on April 1, 2009, and thereafter, the board may set the retention and capacity levels of the fund, consistent with prudent management of the fund and subject to the approval of the Legislative Budget Commission.

(17) TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.--

(a) Findings and intent.--

1. The Legislature finds that:

a. Because of temporary disruptions in the market for catastrophic reinsurance, many property insurers were unable to procure sufficient amounts of reinsurance for the 2006 hurricane season or were able to procure such reinsurance only by incurring substantially higher costs than in prior years.

b. The reinsurance market problems were responsible, at least in part, for substantial premium increases to many consumers and increases in the number of policies issued by Citizens Property Insurance Corporation.

c. It is likely that the reinsurance market disruptions will not significantly abate prior to the 2007 hurricane season.

2. It is the intent of the Legislature to create options for insurers to purchase a temporary increased coverage limit above the statutorily determined limit in subparagraph (4)(c)1., applicable for the 2007 and 2008 hurricane seasons, to address market disruptions and enable insurers, at their option, to procure additional coverage from the Florida Hurricane Catastrophe Fund. It is the further intent of the Legislature to structure this coverage in a manner that requires insurers to pay premiums that are comparable to the premiums the insurer would have paid for comparable reinsurance coverage but for the current emergency in the reinsurance market and also in a manner that minimizes subsidies from the general public over the long run by providing the optional increase in coverage limit for 2 years.

(b) Applicability of other provisions of this section.--All provisions of this section and the rules adopted under this section apply to the coverage created by this subsection unless specifically superseded by provisions in this subsection.

(c) Additional definitions.--As used in this subsection, the term:

1. "FHCF" means Florida Hurricane Catastrophe Fund.

2. "FHCF reimbursement premium" means the premium paid by an insurer for its coverage as a mandatory participant in the FHCF, but does not include additional premiums for optional coverages.

3. "Payout multiple" means defined as the number or multiple created by dividing the statutorily defined claims-paying capacity as determined in subparagraph (4)(c)1. by the aggregate reimbursement premiums paid by all insurers estimated or projected as of calendar year-end.

4. "TICL" means the temporary increase in coverage limit.

5. "TICL options" means the temporary increase in coverage options created under this subsection.

6. "TICL insurer" means an insurer that has opted to obtain coverage under the TICL options addendum in addition to the coverage provided to the insurer under its FHCF reimbursement contract.

7. "TICL reimbursement premium" means the premium charged by the fund for coverage provided under the TICL option.

8. "TICL coverage multiple" means the coverage multiple when multiplied by an insurer's reimbursement premium that defines the temporary increase in coverage limit.

9. "TICL coverage" means the coverage for an insurer's losses above the insurer's statutorily determined claims-paying capacity based on the claims-paying limit in subparagraph (4)(c)1., which an insurer selects as its temporary increase in

coverage from the fund under the TICL options selected. A TICL insurer's increased coverage limit options shall be calculated as follows:

a. The board shall calculate and report to each TICL insurer the TICL coverage multiples based on three options for increasing the insurer's FHCF coverage limit. Each TICL coverage multiple shall be calculated by dividing $1 billion, $2 billion, $3 billion, or $4 billion by the total estimated aggregate FHCF reimbursement premiums for the 2007-2008 reimbursement contract year and for the 2008-2009 reimbursement contract year.

b. The TICL insurer's increased coverage shall be the FHCF reimbursement premium multiplied by the TICL coverage multiple. In order to determine an insurer's total limit of coverage, an insurer shall add its TICL coverage multiple to its payout multiple. The total shall represent a number that, when multiplied by an insurer's FHCF reimbursement premium for a given reimbursement contract year, defines an insurer's total limit of FHCF reimbursement coverage for that reimbursement contract year.

10. "TICL options addendum" means an addendum to the reimbursement contract reflecting the obligations of the fund and insurers selecting an option to increase an insurer's FHCF coverage limit.

(d) TICL options addendum.--

1. The TICL options addendum shall provide for reimbursement of TICL insurers for covered events occurring between June 1, 2007, and May 31, 2008, and between June 1, 2008, and May 31, 2009, in exchange for the TICL reimbursement

premium paid into the fund under paragraph (e). Any insurer writing covered policies has the option of selecting an increased limit of coverage under the TICL options addendum and shall select such coverage at the time that it executes the FHCF reimbursement contract.

2. The TICL addendum shall contain a promise by the board to reimburse the TICL insurer for 45 percent, 75 percent, or 90 percent of its losses from each covered event in excess of the insurer's retention, plus 5 percent of the reimbursed losses to cover loss adjustment expenses. The percentage shall be the same as the coverage level selected by the insurer under paragraph (4)(b).

3. The TICL addendum shall provide that reimbursement amounts shall not be reduced by reinsurance paid or payable to the insurer from other sources.

4. The priorities, schedule, and method of reimbursements under the TICL addendum shall be the same as provided under subsection (4).

(e) TICL reimbursement premiums.--

1. Each TICL insurer shall pay to the fund, in the manner and at the time provided in the reimbursement contract for payment of reimbursement premiums, a TICL reimbursement premium calculated as specified in this paragraph.

2. Each insurer's TICL premium shall be calculated based on the additional limit of increased coverage that it selects. Such limit is determined by multiplying the TICL multiple associated with one of the four options times the insurer's FHCF reimbursement premium. For the amount of increased coverage

based on the option of using $1 billion to derive the TICL multiple, the rate-on-line for such coverage shall be 20 percent. For the option using $2 billion, the rate-on-line shall be 17.5 percent, for the option using $3 billion, the rate-on-line shall be 15 percent, and for the option using $4 billion, the rate-on line shall be 14 percent.

(f) Effect on claims-paying capacity of the fund.--For the contract terms commencing June 1, 2007, and June 1, 2008, the program created by this subsection shall increase the claims-paying capacity of the fund as provided in subparagraph (4)(c)1. by an amount not to exceed $4 billion dollars and shall depend on the TICL coverage options selected and the number of insurers that select the TICL optional coverage. The additional capacity shall apply only to the additional coverage provided under the TICL options and shall not otherwise affect any insurer's reimbursement from the fund if the insurer chooses not to select the temporary option to increase its limit of coverage under the FHCF.

Section 3. An insurer that elects the TEACO or TICL coverage option required to be offered by the Florida Hurricane Catastrophe Fund under s. 215.555(16) and (17), Florida Statutes, must make a rate filing with the Office of Insurance Regulation which reflects 100 percent of the savings or the reduction in loss exposure to the insurer. At a minimum, the insurer must provide a 25-percent reduction in premium based on the savings obtained under the TEACO or TICL coverage option. The Financial Services Commission may grant a waiver of the 25-percent reduction requirement for good cause and if the insurer has made best efforts to meet the 25 percent reduction requirement. The office shall specify, by order, the date or dates on which such filings must be made, in order to provide rate relief to policyholders as soon as practicable.

Section 4. This act shall take effect upon becoming a law.