

1 A bill to be entitled
 2 An act relating to the Florida Hurricane Catastrophe Fund;
 3 amending s. 215.555, F.S.; providing a definition;
 4 specifying the board of directors of the Florida Hurricane
 5 Catastrophe Fund Finance Corporation as the Rate Reduction
 6 Authority for certain purposes; providing for the
 7 authority to extend and expand a temporary emergency
 8 program applicable only to certain hurricane seasons;
 9 authorizing the authority to provide additional contract
 10 years for certain optional coverage; authorizing the Rate
 11 Reduction Authority to sell reinsurance to private
 12 insurance companies at discounted rates under certain
 13 circumstances; providing requirements; extending eligible
 14 contract years for purposes of certain temporary increase
 15 in coverage limit options; increasing the claims-paying
 16 capacity of the fund; increasing the reimbursement premium
 17 amount for certain additional coverage; limiting purchases
 18 of such additional insurance; specifying additional powers
 19 of the Rate Reduction Authority relating to contract
 20 refund requirements, antitrust actions, and selling
 21 reinsurance; providing an effective date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Paragraph (o) is added to subsection (2) of
 26 section 215.555, Florida Statutes, paragraph (d) of subsection
 27 (6), paragraphs (a) and (c) of subsection (16), and paragraphs
 28 (c) and (h) of subsection (17) of that section are amended, and

29 paragraph (h) is added to subsection (16) of that section, to
 30 read:

31 215.555 Florida Hurricane Catastrophe Fund.--

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

33 (o) "Board" means the board of directors of the
 34 corporation.

35 (6) REVENUE BONDS.--

36 (d) Florida Hurricane Catastrophe Fund Finance
 37 Corporation.--

38 1. In addition to the findings and declarations in
 39 subsection (1), the Legislature also finds and declares that:

40 a. The public benefits corporation created under this
 41 paragraph will provide a mechanism necessary for the cost-
 42 effective and efficient issuance of bonds. This mechanism will
 43 eliminate unnecessary costs in the bond issuance process,
 44 thereby increasing the amounts available to pay reimbursement
 45 for losses to property sustained as a result of hurricane
 46 damage.

47 b. The purpose of such bonds is to fund reimbursements
 48 through the Florida Hurricane Catastrophe Fund to pay for the
 49 costs of construction, reconstruction, repair, restoration, and
 50 other costs associated with damage to properties of
 51 policyholders of covered policies due to the occurrence of a
 52 hurricane.

53 c. The efficacy of the financing mechanism will be
 54 enhanced by the corporation's ownership of the assessments, by
 55 the insulation of the assessments from possible bankruptcy

56 | proceedings, and by covenants of the state with the
 57 | corporation's bondholders.

58 | 2.a. There is created a public benefits corporation, which
 59 | is an instrumentality of the state, to be known as the Florida
 60 | Hurricane Catastrophe Fund Finance Corporation.

61 | b. The corporation shall operate under a five-member board
 62 | of directors consisting of the Governor or a designee, the Chief
 63 | Financial Officer or a designee, the Attorney General or a
 64 | designee, the director of the Division of Bond Finance of the
 65 | State Board of Administration, and the senior employee of the
 66 | State Board of Administration responsible for operations of the
 67 | Florida Hurricane Catastrophe Fund. The board shall also operate
 68 | as the Rate Reduction Authority in its capacity as regulating
 69 | and controlling property insurance insurers and the rates of
 70 | such insurers.

71 | c. The corporation has all of the powers of corporations
 72 | under chapter 607 and under chapter 617, subject only to the
 73 | provisions of this subsection.

74 | d. The corporation may issue bonds and engage in such
 75 | other financial transactions as are necessary to provide
 76 | sufficient funds to achieve the purposes of this section.

77 | e. The corporation may invest in any of the investments
 78 | authorized under s. 215.47.

79 | f. There shall be no liability on the part of, and no
 80 | cause of action shall arise against, any board members or
 81 | employees of the corporation for any actions taken by them in
 82 | the performance of their duties under this paragraph.

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83 3.a. In actions under chapter 75 to validate any bonds
84 issued by the corporation, the notice required by s. 75.06 shall
85 be published only in Leon County and in two newspapers of
86 general circulation in the state, and the complaint and order of
87 the court shall be served only on the State Attorney of the
88 Second Judicial Circuit.

89 b. The state hereby covenants with holders of bonds of the
90 corporation that the state will not repeal or abrogate the power
91 of the board to direct the Office of Insurance Regulation to
92 levy the assessments and to collect the proceeds of the revenues
93 pledged to the payment of such bonds as long as any such bonds
94 remain outstanding unless adequate provision has been made for
95 the payment of such bonds pursuant to the documents authorizing
96 the issuance of such bonds.

97 4. The bonds of the corporation are not a debt of the
98 state or of any political subdivision, and neither the state nor
99 any political subdivision is liable on such bonds. The
100 corporation does not have the power to pledge the credit, the
101 revenues, or the taxing power of the state or of any political
102 subdivision. The credit, revenues, or taxing power of the state
103 or of any political subdivision shall not be deemed to be
104 pledged to the payment of any bonds of the corporation.

105 5.a. The property, revenues, and other assets of the
106 corporation; the transactions and operations of the corporation
107 and the income from such transactions and operations; and all
108 bonds issued under this paragraph and interest on such bonds are
109 exempt from taxation by the state and any political subdivision,
110 including the intangibles tax under chapter 199 and the income

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111 tax under chapter 220. This exemption does not apply to any tax
112 imposed by chapter 220 on interest, income, or profits on debt
113 obligations owned by corporations other than the Florida
114 Hurricane Catastrophe Fund Finance Corporation.

115 b. All bonds of the corporation shall be and constitute
116 legal investments without limitation for all public bodies of
117 this state; for all banks, trust companies, savings banks,
118 savings associations, savings and loan associations, and
119 investment companies; for all administrators, executors,
120 trustees, and other fiduciaries; for all insurance companies and
121 associations and other persons carrying on an insurance
122 business; and for all other persons who are now or may hereafter
123 be authorized to invest in bonds or other obligations of the
124 state and shall be and constitute eligible securities to be
125 deposited as collateral for the security of any state, county,
126 municipal, or other public funds. This sub-subparagraph shall be
127 considered as additional and supplemental authority and shall
128 not be limited without specific reference to this sub-
129 subparagraph.

130 6. The corporation and its corporate existence shall
131 continue until terminated by law; however, no such law shall
132 take effect as long as the corporation has bonds outstanding
133 unless adequate provision has been made for the payment of such
134 bonds pursuant to the documents authorizing the issuance of such
135 bonds. Upon termination of the existence of the corporation, all
136 of its rights and properties in excess of its obligations shall
137 pass to and be vested in the state.

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

140 (a) Findings and intent.--

141 1. The Legislature finds that:

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

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

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

156 2. It is the intent of the Legislature to create a
 157 temporary emergency program, applicable to the 2007, 2008, and
 158 2009 hurricane seasons, to address these market disruptions and
 159 enable insurers, at their option, to procure additional coverage
 160 from the Florida Hurricane Catastrophe Fund and to allow the
 161 Rate Reduction Authority to extend and expand the program.

162 (c) Optional coverage.--For the contract year commencing
 163 June 1, 2007, and ending May 31, 2008, the contract year
 164 commencing June 1, 2008, and ending May 31, 2009, and the
 165 contract year commencing June 1, 2009, and ending May 31, 2010,

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166 the board shall offer for each of such years the optional
167 coverage as provided in this subsection. Additional contract
168 years may be added by the Rate Reduction Authority.

169 (h)1. The Rate Reduction Authority may sell reinsurance
170 below the \$6 billion retention level in the Florida Hurricane
171 Catastrophe Fund within the range of 30 to 60 percent online to
172 private insurance companies that agree to take out of Citizens
173 Property Insurance Corporation a specified number of individual
174 policies held by Citizens Property Insurance Corporation, on a
175 geographically diverse basis.

176 2. Policyholders of Citizens Property Insurance
177 Corporation that are taken out pursuant to subparagraph 1. must
178 receive a discount no less than a rate specified by the Rate
179 Reduction Authority, which must be no less than 10 percent.

180 3. The Rate Reduction Authority may offer discounted
181 reinsurance rates to private insurance companies through offers
182 to negotiate via auction, individual negotiation, or any method
183 designed to achieve the best-discounted rate for policyholders
184 of Citizens Property Insurance Corporation.

185 4. The Rate Reduction Authority may determine how many
186 policies a private company must assume from Citizens Property
187 Insurance Corporation in order to purchase reinsurance from the
188 state at the discounted rate.

189 5. Private insurance companies shall assume 100 percent of
190 each policy taken from Citizens Property Insurance Corporation
191 in exchange for the discounted reinsurance rate.

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

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193 (c) Optional coverage.--For the contract year commencing
194 June 1, 2007, and ending May 31, 2008, the contract year
195 commencing June 1, 2008, and ending May 31, 2009, and the
196 contract year commencing June 1, 2009, and ending May 31, 2010,
197 the board shall offer, for each of such contract years and for
198 the 10 subsequent contract years, the optional coverage as
199 provided in this subsection, and may for those years extend the
200 coverage to cover additional amounts. Additional contract years
201 may be added by the Rate Reduction Authority.

202 (h) Increasing the claims-paying capacity of the
203 fund.--For the contract years commencing June 1, 2007, June 1,
204 2008, and years thereafter ~~June 1, 2009~~, the board may increase
205 the claims-paying capacity of the fund as provided in paragraph
206 (g) by an amount not to exceed \$15 ~~\$4~~ billion ~~in four \$1 billion~~
207 ~~options~~ and shall depend on the TICL coverage options selected
208 and the number of insurers that select the TICL optional
209 coverage. Each insurer's TICL premium shall be calculated based
210 upon the additional limit of increased coverage that the insurer
211 selects. Such limit is determined by multiplying the TICL
212 multiple associated with one of the four options times the
213 insurer's FHCF reimbursement premium. The reimbursement premium
214 associated with the additional coverage provided in this
215 paragraph shall be determined by the board but shall be no less
216 than 150 percent of the amount ~~as~~ specified in subsection (5).
217 This additional insurance may not be purchased from an
218 affiliated or parent company, as defined by the board.

219 Section 2. Additional powers of the Rate Reduction
220 Authority.--In addition to any other power granted to the State

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221 Board of Administration or the Rate Reduction Authority, the
222 Rate Reduction Authority may also:

223 (1) Require all property insurance contracts to contain a
224 provision entitling the insured to a refund if the insured is
225 canceled without good cause. The refund shall be established by
226 the authority but shall be no less than 50 percent of an annual
227 premium and no more than 200 percent of an annual premium. This
228 provision shall not apply if 2 years' notice of cancellation is
229 given.

230 (2) File a collusion or antitrust action against any
231 insurer or individual, notwithstanding any exemptions in law,
232 including s. 542.21, Florida Statutes.

233 (3) Devise a different manner of selling reinsurance to
234 Citizens Property Insurance Corporation or private insurers in
235 order to reduce rates.

236 Section 3. This act shall take effect July 1, 2008.