

By the Committee on Banking and Insurance

597-04192-08

20082156\_\_

1 A bill to be entitled

2 An act relating to the Florida Hurricane Catastrophe Fund;  
3 amending s. 215.555, F.S.; creating the Division of the  
4 Florida Hurricane Catastrophe Fund as a division of the  
5 State Board of Administration; providing for a board of  
6 the division; revising legislative findings; revising the  
7 definition of "retention," "covered policy," and  
8 "estimated claims-paying capacity" to account for the  
9 creation of the division; defining the terms "division,"  
10 "director," "FHCF," "fund," and "board"; clarifying  
11 provisions requiring the State Board of Administration to  
12 invest certain funds; requiring that the board of the  
13 division appoint a director; providing duties of the  
14 director; providing that the appointment of a director is  
15 subject to the approval of the board by a majority vote;  
16 authorizing the division to employ or contract with such  
17 staff as the division deems necessary to administer the  
18 fund; requiring that the division enter into a contract  
19 with each insurer writing covered policies in this state  
20 to provide to the insurer reimbursement as prescribed by  
21 state law; requiring that such contracts contain certain  
22 elements or provisions and provide the division with  
23 certain obligations; requiring that the division publish  
24 certain information in the Florida Administrative Weekly  
25 at specified times; authorizing the payment of  
26 advancements of reimbursements or reimbursement premiums  
27 to certain entities under certain conditions; requiring  
28 that the division inspect, examine, and verify the records  
29 of each insurer's covered policies at such times as the

597-04192-08

20082156\_\_

30 | division deems appropriate and according to standards  
31 | established by rule for the specific purpose of validating  
32 | the accuracy of exposures and losses required to be  
33 | reported under the terms and conditions of the  
34 | reimbursement contract; providing for the payments of  
35 | expenses associated with such inspection, examination, or  
36 | verification; providing for the reimbursement of the  
37 | division for such expenses by an insurer under certain  
38 | circumstances; authorizing the division to take certain  
39 | action if it finds any insurer's records or other  
40 | necessary information to be inadequate or inadequately  
41 | posted, recorded, or maintained; requiring that the  
42 | division select an independent consultant to develop a  
43 | formula for determining the actuarially indicated premium  
44 | to be paid to the fund; requiring that the division  
45 | consider certain factors when establishing a reimbursement  
46 | premium; providing for the calculation of such premium by  
47 | the division; providing for the payment of reimbursement  
48 | premium; providing for the collection of interest on  
49 | certain late reimbursement premium payments; providing  
50 | responsibilities of the division if Citizens Property  
51 | Insurance Corporation assumes or otherwise provides  
52 | coverage for policies of an insurer placed in liquidation;  
53 | authorizing the division to execute agreements regarding  
54 | revenue bonds or other financing arrangements for the  
55 | purpose of evidencing, securing, preserving, or protecting  
56 | a pledge of revenue by the corporation; requiring that the  
57 | Florida Surplus Lines Service Office assist the division  
58 | in ensuring the accurate and timely collection and

597-04192-08

20082156\_\_

59 remittance of assessments of surplus lines premiums;  
60 requiring that the office report certain information to  
61 the division at a time and in a manner prescribed by the  
62 division; providing for the issuance of revenue bonds  
63 through counties or municipalities; revising the  
64 membership of the Florida Hurricane Catastrophe Fund  
65 Finance Corporation; providing that there is no liability  
66 on the part of any member of the board of directors or  
67 employees of the corporation for any actions taken by them  
68 in the performance of their duties; providing additional  
69 powers and duties of the board of the division and the  
70 division; requiring that the board of the division appoint  
71 an advisory council; providing for membership of the  
72 council; providing duties of the council; authorizing the  
73 division to take any action necessary to enforce certain  
74 rules and provisions of a reimbursement contract;  
75 requiring that the division make certain recommendations  
76 to the Legislature upon the creation of a federal or  
77 multistate catastrophic insurance or reinsurance program  
78 intended to serve purposes similar to the purposes of the  
79 fund; providing for the reversion of fund assets upon  
80 termination of the fund; providing for optional coverages  
81 of the fund; revising the temporary increases in coverage  
82 limits (TICL); requiring that a TICL addendum contain a  
83 promise by the division to make certain reimbursements to  
84 the TICL insurer; including the level of TICL coverage  
85 specified by the board among the factors that must be  
86 considered when determining the amount of increase in the  
87 claims-paying capacity of the fund; amending s. 215.557,

597-04192-08

20082156\_\_

88 F.S.; conforming provisions to changes made by the act;  
89 amending s. 215.5586, F.S.; requiring that the director of  
90 the division serve on the advisory council of the My Safe  
91 Florida Home Program; amending s. 215.559, F.S., relating  
92 to the Hurricane Loss Mitigation Program; conforming a  
93 cross-reference; amending s. 215.5595, F.S., relating to  
94 the Insurance Capital Build-up Incentive Program;  
95 conforming provisions to changes made by the act; revising  
96 the definition of "board" to conform to changes made by  
97 the act; amending s. 627.0628, F.S.; revising legislative  
98 intent; assigning the Florida Commission on Hurricane Loss  
99 Projection Methodology to the division; requiring that the  
100 director of the fund serve on the commission; requiring  
101 that the board of the division annually appoint one of the  
102 members of the commission to serve as chair; requiring  
103 that the division provide for travel, expenses, and staff  
104 support for the commission; indemnifying members and  
105 employees of the division from liability for action taken  
106 with respect to the commission or its activities;  
107 requiring that the division employ certain methods,  
108 principles, standards, models, or output ranges when  
109 establishing reimbursement premiums for the fund;  
110 providing an effective date.

111  
112 Be It Enacted by the Legislature of the State of Florida:

113  
114 Section 1. Section 215.555, Florida Statutes, is amended to  
115 read:

116 215.555 Florida Hurricane Catastrophe Fund.--

597-04192-08

20082156\_\_

117 (1) FINDINGS AND PURPOSE.--The Legislature finds and  
118 declares as follows:

119 (a) There is a compelling state interest in maintaining a  
120 viable and orderly private sector market for property insurance  
121 in this state. To the extent that the private sector is unable to  
122 maintain a viable and orderly market for property insurance in  
123 this state, state actions to maintain such a viable and orderly  
124 market are valid and necessary exercises of the police power.

125 (b) As a result of unprecedented levels of catastrophic  
126 insured losses in recent years, and especially as a result of  
127 Hurricane Andrew, numerous insurers have determined that in order  
128 to protect their solvency, it is necessary for them to reduce  
129 their exposure to hurricane losses. Also as a result of these  
130 events, world reinsurance capacity has significantly contracted,  
131 increasing the pressure on insurers to reduce their catastrophic  
132 exposures.

133 (c) Mortgages require reliable property insurance, and the  
134 unavailability of reliable property insurance would therefore  
135 make most real estate transactions impossible. In addition, the  
136 public health, safety, and welfare demand that structures damaged  
137 or destroyed in a catastrophe be repaired or reconstructed as  
138 soon as possible. Therefore, the inability of the private sector  
139 insurance and reinsurance markets to maintain sufficient capacity  
140 to enable residents of this state to obtain property insurance  
141 coverage in the private sector endangers the economy of the state  
142 and endangers the public health, safety, and welfare.  
143 Accordingly, state action to correct for this inability of the  
144 private sector constitutes a valid and necessary public and  
145 governmental purpose.

597-04192-08

20082156\_\_

146 (d) The insolvencies and financial impairments resulting  
147 from Hurricane Andrew demonstrate that many property insurers are  
148 unable or unwilling to maintain reserves, surplus, and  
149 reinsurance sufficient to enable the insurers to pay all claims  
150 in full in the event of a catastrophe. State action is therefore  
151 necessary to protect the public from an insurer's unwillingness  
152 or inability to maintain sufficient reserves, surplus, and  
153 reinsurance.

154 (e) A state program to provide a stable and ongoing source  
155 of reimbursement to insurers for a portion of their catastrophic  
156 hurricane losses will create additional insurance capacity  
157 sufficient to ameliorate the current dangers to the state's  
158 economy and to the public health, safety, and welfare.

159 (f) It is essential to the functioning of a state program  
160 to increase insurance capacity that revenues received be exempt  
161 from federal taxation. It is therefore the intent of the  
162 Legislature that this program be structured as a state trust fund  
163 under the direction and control of the Division of the Florida  
164 Hurricane Catastrophe Fund within the State Board of  
165 Administration and operate exclusively for the purpose of  
166 protecting and advancing the state's interest in maintaining  
167 insurance capacity in this state.

168 (g) Hurricane Andrew, which caused insured and uninsured  
169 losses in excess of \$20 billion, will likely not be the last  
170 major windstorm to strike Florida. Recognizing that a future wind  
171 catastrophe could cause damages in excess of \$60 billion,  
172 especially if a major urban area or series of urban areas were  
173 hit, it is the intent of the Legislature to balance equitably its  
174 concerns about mitigation of hurricane impact, insurance

597-04192-08

20082156\_\_

175 | affordability and availability, and the risk of insurer and joint  
176 | underwriting association insolvency, as well as assessment and  
177 | bonding limitations.

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

179 |       (a) "Actuarially indicated" means, with respect to premiums  
180 | paid by insurers for reimbursement provided by the fund, an  
181 | amount determined according to principles of actuarial science to  
182 | be adequate, but not excessive, in the aggregate, to pay current  
183 | and future obligations and expenses of the fund, including  
184 | additional amounts if needed to pay debt service on revenue bonds  
185 | issued under this section and to provide required debt service  
186 | coverage in excess of the amounts required to pay actual debt  
187 | service on revenue bonds issued under subsection (7) ~~(6)~~, and  
188 | determined according to principles of actuarial science to  
189 | reflect each insurer's relative exposure to hurricane losses.

190 |       (b) "Covered event" means any one storm declared to be a  
191 | hurricane by the National Hurricane Center, which storm causes  
192 | insured losses in this state.

193 |       (c) "Covered policy" means any insurance policy covering  
194 | residential property in this state, including, but not limited  
195 | to, any homeowner's, mobile home owner's, farm owner's,  
196 | condominium association, condominium unit owner's, tenant's, or  
197 | apartment building policy, or any other policy covering a  
198 | residential structure or its contents issued by any authorized  
199 | insurer, including a commercial self-insurance fund holding a  
200 | certificate of authority issued by the Office of Insurance  
201 | Regulation under s. 624.462, the Citizens Property Insurance  
202 | Corporation, and any joint underwriting association or similar  
203 | entity created under law. The term "covered policy" includes any

597-04192-08

20082156\_\_

204 collateral protection insurance policy covering personal  
205 residences which protects both the borrower's and the lender's  
206 financial interests, in an amount at least equal to the coverage  
207 for the dwelling in place under the lapsed homeowner's policy, if  
208 such policy can be accurately reported as required in subsection  
209 (6) ~~(5)~~. Additionally, covered policies include policies covering  
210 the peril of wind removed from the Florida Residential Property  
211 and Casualty Joint Underwriting Association or from the Citizens  
212 Property Insurance Corporation, created under s. 627.351(6), or  
213 from the Florida Windstorm Underwriting Association, created  
214 under s. 627.351(2), by an authorized insurer under the terms and  
215 conditions of an executed assumption agreement between the  
216 authorized insurer and such association or Citizens Property  
217 Insurance Corporation. Each assumption agreement between the  
218 association and such authorized insurer or Citizens Property  
219 Insurance Corporation must be approved by the Office of Insurance  
220 Regulation before the effective date of the assumption, and the  
221 Office of Insurance Regulation must provide written notification  
222 to the division ~~board~~ within 15 working days after such approval.  
223 "Covered policy" does not include any policy that excludes wind  
224 coverage or hurricane coverage or any reinsurance agreement and  
225 does not include any policy otherwise meeting this definition  
226 which is issued by a surplus lines insurer or a reinsurer. All  
227 commercial residential excess policies and all deductible buy-  
228 back policies that, based on sound actuarial principles, require  
229 individual ratemaking shall be excluded by rule if the actuarial  
230 soundness of the fund is not jeopardized. For this purpose, the  
231 term "excess policy" means a policy that provides insurance  
232 protection for large commercial property risks and that provides



597-04192-08

20082156\_\_

233 a layer of coverage above a primary layer insured by another  
234 insurer.

235 (d) "Losses" means direct incurred losses under covered  
236 policies, which shall include losses for additional living  
237 expenses not to exceed 40 percent of the insured value of a  
238 residential structure or its contents and shall exclude loss  
239 adjustment expenses. "Losses" does not include losses for fair  
240 rental value, loss of rent or rental income, or business  
241 interruption losses.

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

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

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

597-04192-08

20082156\_\_

262 | determined under subparagraph 1. For insurers electing the 75-  
263 | percent coverage level, the retention multiple is 120 percent of  
264 | the amount determined under subparagraph 1. For insurers electing  
265 | the 45-percent coverage level, the adjusted retention multiple is  
266 | 200 percent of the amount determined under subparagraph 1.

267 |       3. An insurer shall determine its provisional retention by  
268 | multiplying its provisional reimbursement premium by the  
269 | applicable adjusted retention multiple and shall determine its  
270 | actual retention by multiplying its actual reimbursement premium  
271 | by the applicable adjusted retention multiple.

272 |       4. For insurers who experience multiple covered events  
273 | causing loss during the contract year, beginning June 1, 2005,  
274 | each insurer's full retention shall be applied to each of the  
275 | covered events causing the two largest losses for that insurer.  
276 | For each other covered event resulting in losses, the insurer's  
277 | retention shall be reduced to one-third of the full retention.  
278 | The reimbursement contract shall provide for the reimbursement of  
279 | losses for each covered event based on the full retention with  
280 | adjustments made to reflect the reduced retentions after January  
281 | 1 of the contract year provided the insurer reports its losses as  
282 | specified in the reimbursement contract.

283 |       (f) "Workers' compensation" includes both workers'  
284 | compensation and excess workers' compensation insurance.

285 |       (g) "Bond" means any bond, debenture, note, or other  
286 | evidence of financial indebtedness issued under this section.

287 |       (h) "Debt service" means the amount required in any fiscal  
288 | year to pay the principal of, redemption premium, if any, and  
289 | interest on revenue bonds and any amounts required by the terms  
290 | of documents authorizing, securing, or providing liquidity for

597-04192-08

20082156\_\_

291 revenue bonds necessary to maintain in effect any such liquidity  
292 or security arrangements.

293 (i) "Debt service coverage" means the amount, if any,  
294 required by the documents under which revenue bonds are issued,  
295 which amount is to be received in any fiscal year in excess of  
296 the amount required to pay debt service for such fiscal year.

297 (j) "Local government" means a unit of general purpose  
298 local government as defined in s. 218.31(2).

299 (k) "Pledged revenues" means all or any portion of revenues  
300 to be derived from reimbursement premiums under subsection (6)  
301 ~~(5)~~ or from emergency assessments under paragraph (7)(b) ~~(6)(b)~~,  
302 as determined by the board.

303 (l) "Estimated claims-paying capacity" means the sum of the  
304 projected year-end balance of the fund as of December 31 of a  
305 contract year, plus any reinsurance purchased by the fund, plus  
306 the division's ~~board's~~ estimate of the board's borrowing  
307 capacity.

308 (m) "Actual claims-paying capacity" means the sum of the  
309 balance of the fund as of December 31 of a contract year, plus  
310 any reinsurance purchased by the fund, plus the amount the board  
311 is able to raise through the issuance of revenue bonds under  
312 subsection (7) ~~(6)~~.

313 (n) "Corporation" means the Florida Hurricane Catastrophe  
314 Fund Finance Corporation created in paragraph (7)(d) ~~(6)(d)~~.

315 (o) "Division" means the Division of the Florida Hurricane  
316 Catastrophe Fund.

317 (p) "Director" means the chief administrator of the  
318 division, who shall act on behalf of the division as authorized  
319 by the board.

597-04192-08

20082156\_\_

320 (q) "FHCF" or "fund" means the Florida Hurricane  
321 Catastrophe Fund.

322 (r) "Board" means the governing board of the division,  
323 which shall be composed of the Governor and the Cabinet. The  
324 Governor shall serve as chair of the board, the Attorney General  
325 shall serve as secretary of the board, and the Chief Financial  
326 Officer shall serve as treasurer of the board.

327 (3) DIVISION OF THE FLORIDA HURRICANE CATASTROPHE FUND  
328 CREATED.--There is created a division of the State Board of  
329 Administration known as the Division of the Florida Hurricane  
330 Catastrophe Fund, which shall administer the Florida Hurricane  
331 Catastrophe Fund. For purposes of this section, the board of the  
332 division shall consist of the Governor and the Cabinet.

333 (4) ~~(3)~~ FLORIDA HURRICANE CATASTROPHE FUND CREATED.--There  
334 is created the Florida Hurricane Catastrophe Fund within to be  
335 ~~administered by~~ the State Board of Administration. Moneys in the  
336 fund may not be expended, loaned, or appropriated except to pay  
337 obligations of the fund arising out of reimbursement contracts  
338 entered into under subsection (5) ~~(4)~~, payment of debt service on  
339 revenue bonds issued under subsection (7) ~~(6)~~, costs of the  
340 mitigation program under subsection (8) ~~(7)~~, costs of procuring  
341 reinsurance, and costs of administration of the fund. The State  
342 Board of Administration ~~board~~ shall invest the moneys in the fund  
343 pursuant to ss. 215.44-215.52. Except as otherwise provided in  
344 this section, earnings from all investments shall be retained in  
345 the fund. The board shall appoint a director who shall be  
346 responsible for the administration of the fund. The appointment  
347 of the director of the Division of the Florida Hurricane  
348 Catastrophe Fund shall be subject to the approval by a majority

597-04192-08

20082156\_\_

349 vote of the board. The division ~~board~~ may employ or contract with  
350 such staff and professionals as the division ~~board~~ deems  
351 necessary for the administration of the fund. The board may adopt  
352 such rules as are reasonable and necessary to implement this  
353 section and shall specify interest due on any delinquent  
354 remittances, which interest may not exceed the fund's rate of  
355 return plus 5 percent. Such rules must conform to the  
356 Legislature's specific intent in establishing the fund as  
357 expressed in subsection (1), must enhance the fund's potential  
358 ability to respond to claims for covered events, must contain  
359 general provisions so that the rules can be applied with  
360 reasonable flexibility so as to accommodate insurers in  
361 situations of an unusual nature or where undue hardship may  
362 result, except that such flexibility may not in any way impair,  
363 override, supersede, or constrain the public purpose of the fund,  
364 and must be consistent with sound insurance practices. The board  
365 may, by rule, provide for the exemption from subsections (5) ~~(4)~~  
366 and (6) ~~(5)~~ of insurers writing covered policies with less than  
367 \$10 million in aggregate exposure for covered policies if the  
368 exemption does not affect the actuarial soundness of the fund.  
369 The division shall have the power to sue and be sued in the name  
370 of the division.

371 (5) ~~(4)~~ REIMBURSEMENT CONTRACTS.--

372 (a) The division ~~board~~ shall enter into a contract with  
373 each insurer writing covered policies in this state to provide to  
374 the insurer the reimbursement described in paragraphs (b) and  
375 (d), in exchange for the reimbursement premium paid into the fund  
376 under subsection (6) ~~(5)~~. As a condition of doing business in  
377 this state, each such insurer shall enter into such a contract.

597-04192-08

20082156\_\_

378 (b)1. The contract shall contain a promise by the division  
379 ~~board~~ to reimburse the insurer for 45 percent, 75 percent, or 90  
380 percent of its losses from each covered event in excess of the  
381 insurer's retention, plus 5 percent of the reimbursed losses to  
382 cover loss adjustment expenses.

383 2. The insurer must elect one of the percentage coverage  
384 levels specified in this paragraph and may, upon renewal of a  
385 reimbursement contract, elect a lower percentage coverage level  
386 if no revenue bonds issued under subsection (7) ~~(6)~~ after a  
387 covered event are outstanding, or elect a higher percentage  
388 coverage level, regardless of whether or not revenue bonds are  
389 outstanding. All members of an insurer group must elect the same  
390 percentage coverage level. Any joint underwriting association,  
391 risk apportionment plan, or other entity created under s. 627.351  
392 must elect the 90-percent coverage level.

393 3. The contract shall provide that reimbursement amounts  
394 shall not be reduced by reinsurance paid or payable to the  
395 insurer from other sources.

396 4. Notwithstanding any other provision contained in this  
397 section, the board shall make available to insurers that  
398 purchased coverage provided by this subparagraph in 2006,  
399 insurers qualifying as limited apportionment companies under s.  
400 627.351(6)(c), and insurers that were approved to participate in  
401 2006 or that are approved in 2007 for the Insurance Capital  
402 Build-Up Incentive Program pursuant to s. 215.5595, a contract or  
403 contract addendum that provides an additional amount of  
404 reimbursement coverage of up to \$10 million. The premium to be  
405 charged for this additional reimbursement coverage shall be 50  
406 percent of the additional reimbursement coverage provided, which

597-04192-08

20082156\_\_

407 shall include one prepaid reinstatement. The minimum retention  
408 level that an eligible participating insurer must retain  
409 associated with this additional coverage layer is 30 percent of  
410 the insurer's surplus as of December 31, 2006. This coverage  
411 shall be in addition to all other coverage that may be provided  
412 under this section. The coverage provided by the fund under this  
413 subparagraph shall be in addition to the claims-paying capacity  
414 as defined in subparagraph (c)1., but only with respect to those  
415 insurers that select the additional coverage option and meet the  
416 requirements of this subparagraph. The claims-paying capacity  
417 with respect to all other participating insurers and limited  
418 apportionment companies that do not select the additional  
419 coverage option shall be limited to their reimbursement premium's  
420 proportionate share of the actual claims-paying capacity  
421 otherwise defined in subparagraph (c)1. and as provided for under  
422 the terms of the reimbursement contract. Coverage provided in the  
423 reimbursement contract will not be affected by the additional  
424 premiums paid by participating insurers exercising the additional  
425 coverage option allowed in this subparagraph. This subparagraph  
426 expires on May 31, 2008.

427 (c)1. The contract shall also provide that the obligation  
428 of the division board ~~board~~ with respect to all contracts covering a  
429 particular contract year shall not exceed the actual claims-  
430 paying capacity of the fund up to a limit of \$15 billion for that  
431 contract year adjusted based upon the reported exposure from the  
432 prior contract year to reflect the percentage growth in exposure  
433 to the fund for covered policies since 2003, provided the dollar  
434 growth in the limit may not increase in any year by an amount  
435 greater than the dollar growth of the balance of the fund as of

597-04192-08

20082156\_\_

436 December 31, less any premiums or interest attributable to  
437 optional coverage, as defined by rule which occurred over the  
438 prior calendar year.

439 2. In May before the start of the upcoming contract year  
440 and in October during the contract year, the division board shall  
441 publish in the Florida Administrative Weekly a statement of the  
442 fund's estimated borrowing capacity and the projected balance of  
443 the fund as of December 31. After the end of each calendar year,  
444 the division board shall notify insurers of the estimated  
445 borrowing capacity and the balance of the fund as of December 31  
446 to provide insurers with data necessary to assist them in  
447 determining their retention and projected payout from the fund  
448 for loss reimbursement purposes. In conjunction with the  
449 development of the premium formula, as provided for in subsection  
450 (6) (5), the division board shall publish factors or multiples  
451 that assist insurers in determining their retention and projected  
452 payout for the next contract year. For all regulatory and  
453 reinsurance purposes, an insurer may calculate its projected  
454 payout from the fund as its share of the total fund premium for  
455 the current contract year multiplied by the sum of the projected  
456 balance of the fund as of December 31 and the estimated borrowing  
457 capacity for that contract year as reported under this  
458 subparagraph.

459 (d)1. For purposes of determining potential liability and  
460 to aid in the sound administration of the fund, the contract  
461 shall require each insurer to report such insurer's losses from  
462 each covered event on an interim basis, as directed by the  
463 division board. The contract shall require the insurer to report  
464 to the division board no later than December 31 of each year, and



597-04192-08

20082156\_\_

465 quarterly thereafter, its reimbursable losses from covered events  
466 for the year. The contract shall require the division board to  
467 determine and pay, as soon as practicable after receiving these  
468 reports of reimbursable losses, the initial amount of  
469 reimbursement due and adjustments to this amount based on later  
470 loss information. The adjustments to reimbursement amounts shall  
471 require the division board to pay, or the insurer to return,  
472 amounts reflecting the most recent calculation of losses.

473 2. In determining reimbursements pursuant to this  
474 subsection, the contract shall provide that the division board  
475 shall pay to each insurer such insurer's projected payout, which  
476 is the amount of reimbursement it is owed, up to an amount equal  
477 to the insurer's share of the actual premium paid for that  
478 contract year, multiplied by the actual claims-paying capacity  
479 available for that contract year.

480 (e)1. Except as provided in subparagraphs 2. and 3., the  
481 contract shall provide that if an insurer demonstrates to the  
482 division board that it is likely to qualify for reimbursement  
483 under the contract, and demonstrates to the division board that  
484 the immediate receipt of moneys from the division board is likely  
485 to prevent the insurer from becoming insolvent, the division  
486 ~~board~~ shall advance the insurer, at market interest rates, the  
487 amounts necessary to maintain the solvency of the insurer, up to  
488 50 percent of the division's board's estimate of the  
489 reimbursement due the insurer. The insurer's reimbursement shall  
490 be reduced by an amount equal to the amount of the advance and  
491 interest thereon.

492 2. With respect only to an entity created under s. 627.351,  
493 the contract shall also provide that the division board may, upon

597-04192-08

20082156\_\_

494 application by such entity, advance to such entity, at market  
495 interest rates, up to 90 percent of the lesser of:

496 a. The division's ~~board's~~ estimate of the amount of  
497 reimbursement due to such entity; or

498 b. The entity's share of the actual reimbursement premium  
499 paid for that contract year, multiplied by the currently  
500 available liquid assets of the fund. In order for the entity to  
501 qualify for an advance under this subparagraph, the entity must  
502 demonstrate to the division ~~board~~ that the advance is essential  
503 to allow the entity to pay claims for a covered event and the  
504 division ~~board~~ must determine that the fund's assets are  
505 sufficient and are sufficiently liquid to allow the division  
506 ~~board~~ to make an advance to the entity and still fulfill the  
507 board's reimbursement obligations to other insurers. The entity's  
508 final reimbursement for any contract year in which an advance has  
509 been made under this subparagraph must be reduced by an amount  
510 equal to the amount of the advance and any interest on such  
511 advance. In order to determine what amounts, if any, are due the  
512 entity, the division ~~board~~ may require the entity to report its  
513 exposure and its losses at any time to determine retention levels  
514 and reimbursements payable.

515 3. The contract shall also provide specifically and solely  
516 with respect to any limited apportionment company under s.  
517 627.351(2)(b)3. that the division ~~board~~ may, upon application by  
518 such company, advance to such company the amount of the estimated  
519 reimbursement payable to such company as calculated pursuant to  
520 paragraph (d), at market interest rates, if the division ~~board~~  
521 determines that the fund's assets are sufficient and are  
522 sufficiently liquid to permit the division ~~board~~ to make an

597-04192-08

20082156\_\_

523 advance to such company and at the same time fulfill its  
524 reimbursement obligations to the insurers that are participants  
525 in the fund. Such company's final reimbursement for any contract  
526 year in which an advance pursuant to this subparagraph has been  
527 made shall be reduced by an amount equal to the amount of the  
528 advance and interest thereon. In order to determine what amounts,  
529 if any, are due to such company, the division board may require  
530 such company to report its exposure and its losses at such times  
531 as may be required to determine retention levels and loss  
532 reimbursements payable.

533 (f) In order to ensure that insurers have properly reported  
534 the insured values on which the reimbursement premium is based  
535 and to ensure that insurers have properly reported the losses for  
536 which reimbursements have been made, the division board shall  
537 inspect, examine, and verify the records of each insurer's  
538 covered policies at such times as the division board deems  
539 appropriate and according to standards established by rule for  
540 the specific purpose of validating the accuracy of exposures and  
541 losses required to be reported under the terms and conditions of  
542 the reimbursement contract. The costs of the examinations shall  
543 be borne by the division board. However, in order to remove any  
544 incentive for an insurer to delay preparations for an  
545 examination, the division board shall be reimbursed by the  
546 insurer for any examination expenses incurred in addition to the  
547 usual and customary costs of the examination, which additional  
548 expenses were incurred as a result of an insurer's failure,  
549 despite proper notice, to be prepared for the examination or as a  
550 result of an insurer's failure to provide requested information  
551 while the examination is in progress. If the division board finds

597-04192-08

20082156\_\_

552 any insurer's records or other necessary information to be  
553 inadequate or inadequately posted, recorded, or maintained, the  
554 division board ~~board~~ may employ experts to reconstruct, rewrite,  
555 record, post, or maintain such records or information, at the  
556 expense of the insurer being examined, if such insurer has failed  
557 to maintain, complete, or correct such records or deficiencies  
558 after the division board ~~board~~ has given the insurer notice and a  
559 reasonable opportunity to do so. Any information contained in an  
560 examination report, which information is described in s. 215.557,  
561 is confidential and exempt from the provisions of s. 119.07(1)  
562 and s. 24(a), Art. I of the State Constitution, as provided in s.  
563 215.557. Nothing in this paragraph expands the exemption in s.  
564 215.557.

565 (g) The contract shall provide that in the event of the  
566 insolvency of an insurer, the fund shall pay directly to the  
567 Florida Insurance Guaranty Association for the benefit of Florida  
568 policyholders of the insurer the net amount of all reimbursement  
569 moneys owed to the insurer. As used in this paragraph, the term  
570 "net amount of all reimbursement moneys" means that amount which  
571 remains after reimbursement for:

572 1. Preliminary or duplicate payments owed to private  
573 reinsurers or other inuring reinsurance payments to private  
574 reinsurers that satisfy statutory or contractual obligations of  
575 the insolvent insurer attributable to covered events to such  
576 reinsurers; or

577 2. Funds owed to a bank or other financial institution to  
578 cover obligations of the insolvent insurer under a credit  
579 agreement that assists the insolvent insurer in paying claims  
580 attributable to covered events.

597-04192-08

20082156\_\_

581  
582 The private reinsurers, banks, or other financial institutions  
583 shall be reimbursed or otherwise paid prior to payment to the  
584 Florida Insurance Guaranty Association, notwithstanding any law  
585 to the contrary. The guaranty association shall pay all claims up  
586 to the maximum amount permitted by chapter 631; thereafter, any  
587 remaining moneys shall be paid pro rata to claims not fully  
588 satisfied. This paragraph does not apply to a joint underwriting  
589 association, risk apportionment plan, or other entity created  
590 under s. 627.351.

591 (6)~~(5)~~ REIMBURSEMENT PREMIUMS.--

592 (a) Each reimbursement contract shall require the insurer  
593 to annually pay to the fund an actuarially indicated premium for  
594 the reimbursement.

595 (b) The division ~~State Board of Administration~~ shall select  
596 an independent consultant to develop a formula for determining  
597 the actuarially indicated premium to be paid to the fund. The  
598 formula shall specify, for each zip code or other limited  
599 geographical area, the amount of premium to be paid by an insurer  
600 for each \$1,000 of insured value under covered policies in that  
601 zip code or other area. In establishing premiums, the division  
602 ~~board~~ shall consider the coverage elected under paragraph (5) (b)  
603 ~~(4) (b)~~ and any factors that tend to enhance the actuarial  
604 sophistication of ratemaking for the fund, including deductibles,  
605 type of construction, type of coverage provided, relative  
606 concentration of risks, and other such factors deemed by the  
607 division ~~board~~ to be appropriate. The formula may provide for a  
608 procedure to determine the premiums to be paid by new insurers  
609 that begin writing covered policies after the beginning of a

597-04192-08

20082156\_\_

610 contract year, taking into consideration when the insurer starts  
611 writing covered policies, the potential exposure of the insurer,  
612 the potential exposure of the fund, the administrative costs to  
613 the insurer and to the fund, and any other factors deemed  
614 appropriate by the board. The formula must be approved by  
615 unanimous vote of the board. The board may, at any time, revise  
616 the formula pursuant to the procedure provided in this paragraph.

617 (c) No later than September 1 of each year, each insurer  
618 shall notify the division ~~board~~ of its insured values under  
619 covered policies by zip code, as of June 30 of that year. On the  
620 basis of these reports, the division ~~board~~ shall calculate the  
621 premium due from the insurer, based on the formula adopted under  
622 paragraph (b). The insurer shall pay the required annual premium  
623 pursuant to a periodic payment plan specified in the contract.  
624 The division ~~board~~ shall provide for payment of reimbursement  
625 premium in periodic installments and for the adjustment of  
626 provisional premium installments collected prior to submission of  
627 the exposure report to reflect data in the exposure report. The  
628 division ~~board~~ shall collect interest on late reimbursement  
629 premium payments consistent with the assumptions made in  
630 developing the premium formula in accordance with paragraph (b).

631 (d) All premiums paid to the fund under reimbursement  
632 contracts shall be treated as premium for approved reinsurance  
633 for all accounting and regulatory purposes.

634 (e) If Citizens Property Insurance Corporation assumes or  
635 otherwise provides coverage for policies of an insurer placed in  
636 liquidation under chapter 631 pursuant to s. 627.351(6), the  
637 corporation may, pursuant to conditions mutually agreed to  
638 between the corporation and the division ~~State Board of~~

597-04192-08

20082156\_\_

639 ~~Administration~~, obtain coverage for such policies under its  
640 contract with the fund or accept an assignment of the liquidated  
641 insurer's contract with the fund. If Citizens Property Insurance  
642 Corporation elects to cover these policies under the  
643 corporation's contract with the division fund, it shall notify  
644 the division board of its insured values with respect to such  
645 policies within a specified time mutually agreed to between the  
646 corporation and the division board, after such assumption or  
647 other coverage transaction, and the division fund shall treat  
648 such policies as having been in effect as of June 30 of that  
649 year. In the event of an assignment, the fund shall apply that  
650 contract to such policies and treat Citizens Property Insurance  
651 Corporation as if the corporation were the liquidated insurer for  
652 the remaining term of the contract, and the corporation shall  
653 have all rights and duties of the liquidated insurer beginning on  
654 the date it provides coverage for such policies, but the  
655 corporation is not subject to any preexisting rights,  
656 liabilities, or duties of the liquidated insurer. The assignment,  
657 including any unresolved issues between the liquidated insurer  
658 and Citizens Property Insurance Corporation under the contract,  
659 shall be provided for in the liquidation order or otherwise  
660 determined by the court. However, if a covered event occurs  
661 before the effective date of the assignment, the corporation may  
662 not obtain coverage for such policies under its contract with the  
663 fund and shall accept an assignment of the liquidated insurer's  
664 contract as provided in this paragraph.

665 (7) ~~(6)~~ REVENUE BONDS.--

666 (a) General provisions.--

597-04192-08

20082156\_\_

667           1. Upon the occurrence of a hurricane and a determination  
668 that the moneys in the fund are or will be insufficient to pay  
669 reimbursement at the levels promised in the reimbursement  
670 contracts, the board may take the necessary steps under paragraph  
671 (c) or paragraph (d) for the issuance of revenue bonds for the  
672 benefit of the fund. The proceeds of such revenue bonds may be  
673 used to make reimbursement payments under reimbursement  
674 contracts; to refinance or replace previously existing borrowings  
675 or financial arrangements; to pay interest on bonds; to fund  
676 reserves for the bonds; to pay expenses incident to the issuance  
677 or sale of any bond issued under this section, including costs of  
678 validating, printing, and delivering the bonds, costs of printing  
679 the official statement, costs of publishing notices of sale of  
680 the bonds, and related administrative expenses; or for such other  
681 purposes related to the financial obligations of the fund as the  
682 board may determine. The term of the bonds may not exceed 30  
683 years. The board may pledge or authorize the corporation to  
684 pledge all or a portion of all revenues under subsection (6) ~~(5)~~  
685 and under paragraph (b) to secure such revenue bonds and the  
686 division board ~~board~~ may execute such agreements between the division  
687 ~~board~~ and the issuer of any revenue bonds and providers of other  
688 financing arrangements under paragraph (8) (b) ~~(7) (b)~~ as the  
689 division board ~~board~~ deems necessary to evidence, secure, preserve, and  
690 protect such pledge. If reimbursement premiums received under  
691 subsection (6) ~~(5)~~ or earnings on such premiums are used to pay  
692 debt service on revenue bonds, such premiums and earnings shall  
693 be used only after the use of the moneys derived from assessments  
694 under paragraph (b). The funds, credit, property, or taxing power  
695 of the state or political subdivisions of the state shall not be



597-04192-08

20082156\_\_

696 pledged for the payment of such bonds. The division ~~board~~ may  
697 also enter into agreements under paragraph (c) or paragraph (d)  
698 for the purpose of issuing revenue bonds in the absence of a  
699 hurricane upon a determination that such action would maximize  
700 the ability of the fund to meet future obligations.

701 2. The Legislature finds and declares that the issuance of  
702 bonds under this subsection is for the public purpose of paying  
703 the proceeds of the bonds to insurers, thereby enabling insurers  
704 to pay the claims of policyholders to assure that policyholders  
705 are able to pay the cost of construction, reconstruction, repair,  
706 restoration, and other costs associated with damage to property  
707 of policyholders of covered policies after the occurrence of a  
708 hurricane.

709 (b) Emergency assessments.--

710 1. If the board determines that the amount of revenue  
711 produced under subsection (6) ~~(5)~~ is insufficient to fund the  
712 obligations, costs, and expenses of the fund and the corporation,  
713 including repayment of revenue bonds and that portion of the debt  
714 service coverage not met by reimbursement premiums, the board  
715 shall direct the Office of Insurance Regulation to levy, by  
716 order, an emergency assessment on direct premiums for all  
717 property and casualty lines of business in this state, including  
718 property and casualty business of surplus lines insurers  
719 regulated under part VIII of chapter 626, but not including any  
720 workers' compensation premiums or medical malpractice premiums.  
721 As used in this subsection, the term "property and casualty  
722 business" includes all lines of business identified on Form 2,  
723 Exhibit of Premiums and Losses, in the annual statement required  
724 of authorized insurers by s. 624.424 and any rule adopted under

597-04192-08

20082156\_\_

725 | this section, except for those lines identified as accident and  
726 | health insurance and except for policies written under the  
727 | National Flood Insurance Program. The assessment shall be  
728 | specified as a percentage of direct written premium and is  
729 | subject to annual adjustments by the board in order to meet debt  
730 | obligations. The same percentage shall apply to all policies in  
731 | lines of business subject to the assessment issued or renewed  
732 | during the 12-month period beginning on the effective date of the  
733 | assessment.

734 |         2. A premium is not subject to an annual assessment under  
735 | this paragraph in excess of 6 percent of premium with respect to  
736 | obligations arising out of losses attributable to any one  
737 | contract year, and a premium is not subject to an aggregate  
738 | annual assessment under this paragraph in excess of 10 percent of  
739 | premium. An annual assessment under this paragraph shall continue  
740 | as long as the revenue bonds issued with respect to which the  
741 | assessment was imposed are outstanding, including any bonds the  
742 | proceeds of which were used to refund the revenue bonds, unless  
743 | adequate provision has been made for the payment of the bonds  
744 | under the documents authorizing issuance of the bonds.

745 |         3. Emergency assessments shall be collected from  
746 | policyholders. Emergency assessments shall be remitted by  
747 | insurers as a percentage of direct written premium for the  
748 | preceding calendar quarter as specified in the order from the  
749 | Office of Insurance Regulation. The office shall verify the  
750 | accurate and timely collection and remittance of emergency  
751 | assessments and shall report the information to the division  
752 | ~~board~~ in a form and at a time specified by the division ~~board~~.  
753 | Each insurer collecting assessments shall provide the information

597-04192-08

20082156\_\_

754 | with respect to premiums and collections as may be required by  
755 | the office to enable the office to monitor and verify compliance  
756 | with this paragraph.

757 |         4. With respect to assessments of surplus lines premiums,  
758 | each surplus lines agent shall collect the assessment at the same  
759 | time as the agent collects the surplus lines tax required by s.  
760 | 626.932, and the surplus lines agent shall remit the assessment  
761 | to the Florida Surplus Lines Service Office created by s. 626.921  
762 | at the same time as the agent remits the surplus lines tax to the  
763 | Florida Surplus Lines Service Office. The emergency assessment on  
764 | each insured procuring coverage and filing under s. 626.938 shall  
765 | be remitted by the insured to the Florida Surplus Lines Service  
766 | Office at the time the insured pays the surplus lines tax to the  
767 | Florida Surplus Lines Service Office. The Florida Surplus Lines  
768 | Service Office shall remit the collected assessments to the fund  
769 | or corporation as provided in the order levied by the Office of  
770 | Insurance Regulation. The Florida Surplus Lines Service Office  
771 | shall verify the proper application of such emergency assessments  
772 | and shall assist the division board in ensuring the accurate and  
773 | timely collection and remittance of assessments as required by  
774 | the board. The Florida Surplus Lines Service Office shall  
775 | annually calculate the aggregate written premium on property and  
776 | casualty business, other than workers' compensation and medical  
777 | malpractice, procured through surplus lines agents and insureds  
778 | procuring coverage and filing under s. 626.938 and shall report  
779 | the information to the division board in a form and at a time  
780 | specified by the division board.

781 |         5. Any assessment authority not used for a particular  
782 | contract year may be used for a subsequent contract year. If, for

597-04192-08

20082156\_\_

783 a subsequent contract year, the board determines that the amount  
784 of revenue produced under subsection (6) ~~(5)~~ is insufficient to  
785 fund the obligations, costs, and expenses of the fund and the  
786 corporation, including repayment of revenue bonds and that  
787 portion of the debt service coverage not met by reimbursement  
788 premiums, the board shall direct the Office of Insurance  
789 Regulation to levy an emergency assessment up to an amount not  
790 exceeding the amount of unused assessment authority from a  
791 previous contract year or years, plus an additional 4 percent  
792 provided that the assessments in the aggregate do not exceed the  
793 limits specified in subparagraph 2.

794 6. The assessments otherwise payable to the corporation  
795 under this paragraph shall be paid to the fund unless and until  
796 the Office of Insurance Regulation and the Florida Surplus Lines  
797 Service Office have received from the corporation and the fund a  
798 notice, which shall be conclusive and upon which they may rely  
799 without further inquiry, that the corporation has issued bonds  
800 and the fund has no agreements in effect with local governments  
801 under paragraph (c). On or after the date of the notice and until  
802 the date the corporation has no bonds outstanding, the fund shall  
803 have no right, title, or interest in or to the assessments,  
804 except as provided in the fund's agreement with the corporation.

805 7. Emergency assessments are not premium and are not  
806 subject to the premium tax, to the surplus lines tax, to any  
807 fees, or to any commissions. An insurer is liable for all  
808 assessments that it collects and must treat the failure of an  
809 insured to pay an assessment as a failure to pay the premium. An  
810 insurer is not liable for uncollectible assessments.

597-04192-08

20082156\_\_

811           8. When an insurer is required to return an unearned  
812 premium, it shall also return any collected assessment  
813 attributable to the unearned premium. A credit adjustment to the  
814 collected assessment may be made by the insurer with regard to  
815 future remittances that are payable to the fund or corporation,  
816 but the insurer is not entitled to a refund.

817           9. When a surplus lines insured or an insured who has  
818 procured coverage and filed under s. 626.938 is entitled to the  
819 return of an unearned premium, the Florida Surplus Lines Service  
820 Office shall provide a credit or refund to the agent or such  
821 insured for the collected assessment attributable to the unearned  
822 premium prior to remitting the emergency assessment collected to  
823 the fund or corporation.

824           10. The exemption of medical malpractice insurance premiums  
825 from emergency assessments under this paragraph is repealed May  
826 31, 2010, and medical malpractice insurance premiums shall be  
827 subject to emergency assessments attributable to loss events  
828 occurring in the contract years commencing on June 1, 2010.

829           (c) Revenue bond issuance through counties or  
830 municipalities.--

831           1. If the board elects to enter into agreements with local  
832 governments for the issuance of revenue bonds for the benefit of  
833 the fund, the division ~~board~~ shall enter into such contracts with  
834 one or more local governments, including agreements providing for  
835 the pledge of revenues, as are necessary to effect such issuance.  
836 The governing body of a county or municipality is authorized to  
837 issue bonds as defined in s. 125.013 or s. 166.101 from time to  
838 time to fund an assistance program, in conjunction with the  
839 Florida Hurricane Catastrophe Fund, for the purposes set forth in

597-04192-08

20082156\_\_

840 | this section or for the purpose of paying the costs of  
841 | construction, reconstruction, repair, restoration, and other  
842 | costs associated with damage to properties of policyholders of  
843 | covered policies due to the occurrence of a hurricane by assuring  
844 | that policyholders located in this state are able to recover  
845 | claims under property insurance policies after a covered event.

846 |       2. In order to avoid needless and indiscriminate  
847 | proliferation, duplication, and fragmentation of such assistance  
848 | programs, any local government may provide for the payment of  
849 | fund reimbursements, regardless of whether or not the losses for  
850 | which reimbursement is made occurred within or outside of the  
851 | territorial jurisdiction of the local government.

852 |       3. The state hereby covenants with holders of bonds issued  
853 | under this paragraph that the state will not repeal or abrogate  
854 | the power of the board to direct the Office of Insurance  
855 | Regulation to levy the assessments and to collect the proceeds of  
856 | the revenues pledged to the payment of such bonds as long as any  
857 | such bonds remain outstanding unless adequate provision has been  
858 | made for the payment of such bonds pursuant to the documents  
859 | authorizing the issuance of such bonds.

860 |       4. There shall be no liability on the part of, and no cause  
861 | of action shall arise against any members or employees of the  
862 | governing body of a local government for any actions taken by  
863 | them in the performance of their duties under this paragraph.

864 |       (d) Florida Hurricane Catastrophe Fund Finance  
865 | Corporation.--

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

597-04192-08

20082156\_\_

868 a. The public benefits corporation created under this  
869 paragraph will provide a mechanism necessary for the cost-  
870 effective and efficient issuance of bonds. This mechanism will  
871 eliminate unnecessary costs in the bond issuance process, thereby  
872 increasing the amounts available to pay reimbursement for losses  
873 to property sustained as a result of hurricane damage.

874 b. The purpose of such bonds is to fund reimbursements  
875 through the Florida Hurricane Catastrophe Fund to pay for the  
876 costs of construction, reconstruction, repair, restoration, and  
877 other costs associated with damage to properties of policyholders  
878 of covered policies due to the occurrence of a hurricane.

879 c. The efficacy of the financing mechanism will be enhanced  
880 by the corporation's ownership of the assessments, by the  
881 insulation of the assessments from possible bankruptcy  
882 proceedings, and by covenants of the state with the corporation's  
883 bondholders.

884 2.a. There is created a public benefits corporation, which  
885 is an instrumentality of the state, to be known as the Florida  
886 Hurricane Catastrophe Fund Finance Corporation.

887 b. The corporation shall operate under a six-member ~~five-~~  
888 ~~member~~ board of directors consisting of the Governor or a  
889 designee, the Chief Financial Officer or a designee, the Attorney  
890 General or a designee, the Commissioner of the Department of  
891 Agriculture and Consumer Services or a designee, the director of  
892 the Division of Bond Finance of the State Board of  
893 Administration, and the director of the division ~~senior employee~~  
894 ~~of the State Board of Administration responsible for operations~~  
895 of the Florida Hurricane Catastrophe Fund of the State Board of  
896 Administration.

597-04192-08

20082156\_\_

897 c. The corporation has all of the powers of corporations  
898 under chapter 607 and under chapter 617, subject only to the  
899 provisions of this subsection.

900 d. The corporation may issue bonds and engage in such other  
901 financial transactions as are necessary to provide sufficient  
902 funds to achieve the purposes of this section.

903 e. The corporation may invest in any of the investments  
904 authorized under s. 215.47.

905 f. There shall be no liability on the part of, and no cause  
906 of action shall arise against, any member of the board of  
907 directors ~~members~~ or employees of the corporation for any actions  
908 taken by them in the performance of their duties under this  
909 paragraph.

910 3.a. In actions under chapter 75 to validate any bonds  
911 issued by the corporation, the notice required by s. 75.06 shall  
912 be published only in Leon County and in two newspapers of general  
913 circulation in the state, and the complaint and order of the  
914 court shall be served only on the State Attorney of the Second  
915 Judicial Circuit.

916 b. The state hereby covenants with holders of bonds of the  
917 corporation that the state will not repeal or abrogate the power  
918 of the board to direct the Office of Insurance Regulation to levy  
919 the assessments and to collect the proceeds of the revenues  
920 pledged to the payment of such bonds as long as any such bonds  
921 remain outstanding unless adequate provision has been made for  
922 the payment of such bonds pursuant to the documents authorizing  
923 the issuance of such bonds.

924 4. The bonds of the corporation are not a debt of the state  
925 or of any political subdivision, and neither the state nor any



597-04192-08

20082156\_\_

926 political subdivision is liable on such bonds. The corporation  
927 does not have the power to pledge the credit, the revenues, or  
928 the taxing power of the state or of any political subdivision.  
929 The credit, revenues, or taxing power of the state or of any  
930 political subdivision shall not be deemed to be pledged to the  
931 payment of any bonds of the corporation.

932 5.a. The property, revenues, and other assets of the  
933 corporation; the transactions and operations of the corporation  
934 and the income from such transactions and operations; and all  
935 bonds issued under this paragraph and interest on such bonds are  
936 exempt from taxation by the state and any political subdivision,  
937 including the intangibles tax under chapter 199 and the income  
938 tax under chapter 220. This exemption does not apply to any tax  
939 imposed by chapter 220 on interest, income, or profits on debt  
940 obligations owned by corporations other than the Florida  
941 Hurricane Catastrophe Fund Finance Corporation.

942 b. All bonds of the corporation shall be and constitute  
943 legal investments without limitation for all public bodies of  
944 this state; for all banks, trust companies, savings banks,  
945 savings associations, savings and loan associations, and  
946 investment companies; for all administrators, executors,  
947 trustees, and other fiduciaries; for all insurance companies and  
948 associations and other persons carrying on an insurance business;  
949 and for all other persons who are now or may hereafter be  
950 authorized to invest in bonds or other obligations of the state  
951 and shall be and constitute eligible securities to be deposited  
952 as collateral for the security of any state, county, municipal,  
953 or other public funds. This sub-subparagraph shall be considered

597-04192-08

20082156\_\_

954 as additional and supplemental authority and shall not be limited  
955 without specific reference to this sub-subparagraph.

956 6. The corporation and its corporate existence shall  
957 continue until terminated by law; however, no such law shall take  
958 effect as long as the corporation has bonds outstanding unless  
959 adequate provision has been made for the payment of such bonds  
960 pursuant to the documents authorizing the issuance of such bonds.  
961 Upon termination of the existence of the corporation, all of its  
962 rights and properties in excess of its obligations shall pass to  
963 and be vested in the state.

964 (e) Protection of bondholders.--

965 1. As long as the corporation has any bonds outstanding,  
966 neither the fund nor the corporation shall have the authority to  
967 file a voluntary petition under chapter 9 of the federal  
968 Bankruptcy Code or such corresponding chapter or sections as may  
969 be in effect, from time to time, and neither any public officer  
970 nor any organization, entity, or other person shall authorize the  
971 fund or the corporation to be or become a debtor under chapter 9  
972 of the federal Bankruptcy Code or such corresponding chapter or  
973 sections as may be in effect, from time to time, during any such  
974 period.

975 2. The state hereby covenants with holders of bonds of the  
976 corporation that the state will not limit or alter the denial of  
977 authority under this paragraph or the rights under this section  
978 vested in the fund or the corporation to fulfill the terms of any  
979 agreements made with such bondholders or in any way impair the  
980 rights and remedies of such bondholders as long as any such bonds  
981 remain outstanding unless adequate provision has been made for

597-04192-08

20082156\_\_

982 the payment of such bonds pursuant to the documents authorizing  
983 the issuance of such bonds.

984 3. Notwithstanding any other provision of law, any pledge  
985 of or other security interest in revenue, money, accounts,  
986 contract rights, general intangibles, or other personal property  
987 made or created by the fund or the corporation shall be valid,  
988 binding, and perfected from the time such pledge is made or other  
989 security interest attaches without any physical delivery of the  
990 collateral or further act and the lien of any such pledge or  
991 other security interest shall be valid, binding, and perfected  
992 against all parties having claims of any kind in tort, contract,  
993 or otherwise against the fund or the corporation irrespective of  
994 whether or not such parties have notice of such claims. No  
995 instrument by which such a pledge or security interest is created  
996 nor any financing statement need be recorded or filed.

997 (8) ~~(7)~~ ADDITIONAL POWERS AND DUTIES.--

998 (a) The board may authorize the division's procurement of  
999 ~~procure~~ reinsurance from reinsurers acceptable to the Office of  
1000 Insurance Regulation for the purpose of maximizing the capacity  
1001 of the fund and may enter into capital market transactions,  
1002 including, but not limited to, industry loss warranties,  
1003 catastrophe bonds, side-car arrangements, or financial contracts  
1004 permissible for the State Board of Administration's ~~board's~~ usage  
1005 under s. 215.47(10) and (11), consistent with prudent management  
1006 of the fund.

1007 (b) In addition to borrowing under subsection (7) ~~(6)~~, the  
1008 board may also authorize the division to borrow from, or enter  
1009 into other financing arrangements with, any market sources at  
1010 prevailing interest rates.

597-04192-08

20082156\_\_

1011 (c) Each fiscal year, the Legislature shall appropriate  
1012 from the investment income of the Florida Hurricane Catastrophe  
1013 Fund an amount no less than \$10 million and no more than 35  
1014 percent of the investment income based upon the most recent  
1015 fiscal year-end audited financial statements for the purpose of  
1016 providing funding for local governments, state agencies, public  
1017 and private educational institutions, and nonprofit organizations  
1018 to support programs intended to improve hurricane preparedness,  
1019 reduce potential losses in the event of a hurricane, provide  
1020 research into means to reduce such losses, educate or inform the  
1021 public as to means to reduce hurricane losses, assist the public  
1022 in determining the appropriateness of particular upgrades to  
1023 structures or in the financing of such upgrades, or protect local  
1024 infrastructure from potential damage from a hurricane. Moneys  
1025 shall first be available for appropriation under this paragraph  
1026 in fiscal year 1997-1998. Moneys in excess of the \$10 million  
1027 specified in this paragraph shall not be available for  
1028 appropriation under this paragraph if the board ~~State Board of~~  
1029 ~~Administration~~ finds that an appropriation of investment income  
1030 from the fund would jeopardize the actuarial soundness of the  
1031 fund.

1032 (d) The division ~~board~~ may allow insurers to comply with  
1033 reporting requirements and reporting format requirements by using  
1034 alternative methods of reporting if the proper administration of  
1035 the fund is not thereby impaired and if the alternative methods  
1036 produce data which is consistent with the purposes of this  
1037 section.

1038 (e) In order to assure the equitable operation of the fund,  
1039 the division ~~board~~ may impose a reasonable fee on an insurer to

597-04192-08

20082156\_\_

1040 recover costs involved in reprocessing inaccurate, incomplete, or  
1041 untimely exposure data submitted by the insurer.

1042 (9)~~(8)~~ ADVISORY COUNCIL.--The division ~~State Board of~~  
1043 ~~Administration~~ shall appoint a nine-member advisory council that  
1044 consists of an actuary, a meteorologist, an engineer, a  
1045 representative of insurers, a representative of insurance agents,  
1046 a representative of reinsurers, and three consumers who shall  
1047 also be representatives of other affected professions and  
1048 industries, to provide the division ~~board~~ with information and  
1049 advice in connection with its duties under this section. Members  
1050 of the advisory council shall serve at the pleasure of the board  
1051 and are eligible for per diem and travel expenses under s.  
1052 112.061.

1053 (10)~~(9)~~ APPLICABILITY OF S. 19, ART. III OF THE STATE  
1054 CONSTITUTION.--The Legislature finds that the Florida Hurricane  
1055 Catastrophe Fund created by this section is a trust fund  
1056 established for bond covenants, indentures, or resolutions within  
1057 the meaning of s. 19(f)(3), Art. III of the State Constitution.

1058 (11)~~(10)~~ VIOLATIONS.--Any violation of this section or of  
1059 rules adopted under this section constitutes a violation of the  
1060 insurance code.

1061 (12)~~(11)~~ LEGAL PROCEEDINGS.--The division ~~board~~ is  
1062 authorized to take any action necessary to enforce the rules, and  
1063 the provisions and requirements of the reimbursement contract,  
1064 required by and adopted pursuant to this section.

1065 (13)~~(12)~~ FEDERAL OR MULTISTATE CATASTROPHIC FUNDS.--Upon  
1066 the creation of a federal or multistate catastrophic insurance or  
1067 reinsurance program intended to serve purposes similar to the  
1068 purposes of the fund created by this section, the division, upon

597-04192-08

20082156\_\_

1069 approval by the board, ~~State Board of Administration~~ shall  
1070 promptly make recommendations to the Legislature for coordination  
1071 with the federal or multistate program, for termination of the  
1072 fund, or for such other actions as the board finds appropriate in  
1073 the circumstances.

1074 (14)~~(13)~~ REVERSION OF FUND ASSETS UPON TERMINATION.--The  
1075 fund, the division, and the duties of the board under this  
1076 section may be terminated only by law. Upon termination of the  
1077 fund, all assets of the fund shall revert to the General Revenue  
1078 Fund.

1079 (15)~~(14)~~ SEVERABILITY.--If any provision of this section or  
1080 its application to any person or circumstance is held invalid,  
1081 the invalidity does not affect other provisions or applications  
1082 of the section which can be given effect without the invalid  
1083 provision or application, and to this end the provisions of this  
1084 section are declared severable.

1085 (16)~~(15)~~ COLLATERAL PROTECTION INSURANCE.--As used in this  
1086 section and ss. 627.311 and 627.351, the term "collateral  
1087 protection insurance" means commercial property insurance of  
1088 which a creditor is the primary beneficiary and policyholder and  
1089 which protects or covers an interest of the creditor arising out  
1090 of a credit transaction secured by real or personal property.  
1091 Initiation of such coverage is triggered by the mortgagor's  
1092 failure to maintain insurance coverage as required by the  
1093 mortgage or other lending document. Collateral protection  
1094 insurance is not residential coverage.

1095 (17)~~(16)~~ TEMPORARY EMERGENCY ~~OPTIONS FOR~~ ADDITIONAL  
1096 COVERAGE OPTIONS.--

1097 (a) Findings and intent.--

597-04192-08

20082156\_\_

- 1098 1. The Legislature finds that:
- 1099 a. Because of temporary disruptions in the market for
- 1100 catastrophic reinsurance, many property insurers were unable to
- 1101 procure reinsurance for the 2006 hurricane season with an
- 1102 attachment point below the insurers' respective Florida Hurricane
- 1103 Catastrophe Fund attachment points, were unable to procure
- 1104 sufficient amounts of such reinsurance, or were able to procure
- 1105 such reinsurance only by incurring substantially higher costs
- 1106 than in prior years.
- 1107 b. The reinsurance market problems were responsible, at
- 1108 least in part, for substantial premium increases to many
- 1109 consumers and increases in the number of policies issued by the
- 1110 Citizens Property Insurance Corporation.
- 1111 c. It is likely that the reinsurance market disruptions
- 1112 will not significantly abate prior to the 2007 hurricane season.
- 1113 2. It is the intent of the Legislature to create a
- 1114 temporary emergency program, applicable to the 2007, 2008, and
- 1115 2009 hurricane seasons, to address these market disruptions and
- 1116 enable insurers, at their option, to procure additional coverage
- 1117 from the Florida Hurricane Catastrophe Fund.
- 1118 (b) Applicability of other provisions of this section.--All
- 1119 provisions of this section and the rules adopted under this
- 1120 section apply to the program created by this subsection unless
- 1121 specifically superseded by this subsection.
- 1122 (c) Optional coverage.--For the contract year commencing
- 1123 June 1, 2007, and ending May 31, 2008, the contract year
- 1124 commencing June 1, 2008, and ending May 31, 2009, and the
- 1125 contract year commencing June 1, 2009, and ending May 31, 2010,

597-04192-08

20082156\_\_

1126 | the board shall offer for each of such years the optional  
1127 | coverage as provided in this subsection.

1128 |         (d) Additional definitions.--As used in this subsection,  
1129 | the term:

1130 |             1. "TEACO options" means the temporary emergency additional  
1131 | coverage options created under this subsection.

1132 |             2. "TEACO insurer" means an insurer that has opted to  
1133 | obtain coverage under the TEACO options in addition to the  
1134 | coverage provided to the insurer under its reimbursement  
1135 | contract.

1136 |             3. "TEACO reimbursement premium" means the premium charged  
1137 | by the fund for coverage provided under the TEACO options.

1138 |             4. "TEACO retention" means the amount of losses below which  
1139 | a TEACO insurer is not entitled to reimbursement from the fund  
1140 | under the TEACO option selected. A TEACO insurer's retention  
1141 | options shall be calculated as follows:

1142 |             a. The division ~~board~~ shall calculate and report to each  
1143 | TEACO insurer the TEACO retention multiples. There shall be three  
1144 | TEACO retention multiples for defining coverage. Each multiple  
1145 | shall be calculated by dividing \$3 billion, \$4 billion, or \$5  
1146 | billion by the total estimated mandatory FHCF reimbursement  
1147 | premium assuming all insurers selected the 90-percent coverage  
1148 | level.

1149 |             b. The TEACO retention multiples as determined under sub-  
1150 | subparagraph a. shall be adjusted to reflect the coverage level  
1151 | elected by the insurer. For insurers electing the 90-percent  
1152 | coverage level, the adjusted retention multiple is 100 percent of  
1153 | the amount determined under sub-subparagraph a. For insurers  
1154 | electing the 75-percent coverage level, the retention multiple is



597-04192-08

20082156\_\_

1155 120 percent of the amount determined under sub-subparagraph a.  
1156 For insurers electing the 45-percent coverage level, the adjusted  
1157 retention multiple is 200 percent of the amount determined under  
1158 sub-subparagraph a.

1159 c. An insurer shall determine its provisional TEACO  
1160 retention by multiplying its estimated mandatory FHCF  
1161 reimbursement premium by the applicable adjusted TEACO retention  
1162 multiple and shall determine its actual TEACO retention by  
1163 multiplying its actual mandatory FHCF reimbursement premium by  
1164 the applicable adjusted TEACO retention multiple.

1165 d. For TEACO insurers who experience multiple covered  
1166 events causing loss during the contract year, the insurer's full  
1167 TEACO retention shall be applied to each of the covered events  
1168 causing the two largest losses for that insurer. For other  
1169 covered events resulting in losses, the TEACO option does not  
1170 apply and the insurer's retention shall be one-third of the full  
1171 retention as calculated under paragraph (2) (e).

1172 5. "TEACO addendum" means an addendum to the reimbursement  
1173 contract reflecting the obligations of the fund and TEACO  
1174 insurers under the program created by this subsection.

1175 6. "FHCF" means the Florida Hurricane Catastrophe Fund.

1176 (e) TEACO addendum.--

1177 1. The TEACO addendum shall provide for reimbursement of  
1178 TEACO insurers for covered events occurring during the contract  
1179 year, in exchange for the TEACO reimbursement premium paid into  
1180 the fund under paragraph (f). Any insurer writing covered  
1181 policies has the option of choosing to accept the TEACO addendum  
1182 for any of the 3 contract years that the coverage is offered.

597-04192-08

20082156\_\_

1183           2. The TEACO addendum shall contain a promise by the  
1184 division board ~~board~~ to reimburse the TEACO insurer for 45 percent, 75  
1185 percent, or 90 percent of its losses from each covered event in  
1186 excess of the insurer's TEACO retention, plus 5 percent of the  
1187 reimbursed losses to cover loss adjustment expenses. The  
1188 percentage shall be the same as the coverage level selected by  
1189 the insurer under paragraph (5) (b) ~~(4) (b)~~.

1190           3. The TEACO addendum shall provide that reimbursement  
1191 amounts shall not be reduced by reinsurance paid or payable to  
1192 the insurer from other sources.

1193           4. The TEACO addendum shall also provide that the  
1194 obligation of the division board ~~board~~ with respect to all TEACO  
1195 addenda shall not exceed an amount equal to two times the  
1196 difference between the industry retention level calculated under  
1197 paragraph (2) (e) and the \$3 billion, \$4 billion, or \$5 billion  
1198 industry TEACO retention level options actually selected, but in  
1199 no event may the division's board's ~~board's~~ obligation exceed the actual  
1200 claims-paying capacity of the fund plus the additional capacity  
1201 created in paragraph (g). If the actual claims-paying capacity  
1202 and the additional capacity created under paragraph (g) fall  
1203 short of the division's board's ~~board's~~ obligations under the  
1204 reimbursement contract, each insurer's share of the fund's  
1205 capacity shall be prorated based on the premium an insurer pays  
1206 for its mandatory reimbursement coverage and the premium paid for  
1207 its optional TEACO coverage as each such premium bears to the  
1208 total premiums paid to the fund times the available capacity.

1209           5. The priorities, schedule, and method of reimbursements  
1210 under the TEACO addendum shall be the same as provided under  
1211 subsection (5) ~~(4)~~.

597-04192-08

20082156\_\_

1212           6. A TEACO insurer's maximum reimbursement for a single  
1213 event shall be equal to the product of multiplying its mandatory  
1214 FHCF premium by the difference between its FHCF retention  
1215 multiple and its TEACO retention multiple under the TEACO option  
1216 selected and by the coverage selected under paragraph (5) (b)  
1217 ~~(4) (b)~~, plus an additional 5 percent for loss adjustment  
1218 expenses. A TEACO insurer's maximum reimbursement under the TEACO  
1219 option selected for a TEACO insurer's two largest events shall be  
1220 twice its maximum reimbursement for a single event.

1221           (f) TEACO reimbursement premiums.--

1222           1. Each TEACO insurer shall pay to the fund, in the manner  
1223 and at the time provided in the reimbursement contract for  
1224 payment of reimbursement premiums, a TEACO reimbursement premium  
1225 calculated as specified in this paragraph.

1226           2. The insurer's TEACO reimbursement premium associated  
1227 with the \$3 billion retention option shall be equal to 85 percent  
1228 of a TEACO insurer's maximum reimbursement for a single event as  
1229 calculated under subparagraph (e)6. The TEACO reimbursement  
1230 premium associated with the \$4 billion retention option shall be  
1231 equal to 80 percent of a TEACO insurer's maximum reimbursement  
1232 for a single event as calculated under subparagraph (e)6. The  
1233 TEACO premium associated with the \$5 billion retention option  
1234 shall be equal to 75 percent of a TEACO insurer's maximum  
1235 reimbursement for a single event as calculated under subparagraph  
1236 (e)6.

1237           (g) Effect on claims-paying capacity of the fund.--For the  
1238 contract term commencing June 1, 2007, the contract year  
1239 commencing June 1, 2008, and the contract term beginning June 1,  
1240 2009, the program created by this subsection shall increase the

597-04192-08

20082156\_\_

1241 claims-paying capacity of the fund as provided in subparagraph  
1242 (5) (c) 1. ~~(4) (e) 1.~~ by an amount equal to two times the difference  
1243 between the industry retention level calculated under paragraph  
1244 (2) (e) and the \$3 billion industry TEACO retention level  
1245 specified in sub-subparagraph (d) 4.a. The additional capacity  
1246 shall apply only to the additional coverage provided by the TEACO  
1247 option and shall not otherwise affect any insurer's reimbursement  
1248 from the fund.

1249 (18) (17) TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.--

1250 (a) Findings and intent.--

1251 1. The Legislature finds that:

1252 a. Because of temporary disruptions in the market for  
1253 catastrophic reinsurance, many property insurers were unable to  
1254 procure sufficient amounts of reinsurance for the 2006 hurricane  
1255 season or were able to procure such reinsurance only by incurring  
1256 substantially higher costs than in prior years.

1257 b. The reinsurance market problems were responsible, at  
1258 least in part, for substantial premium increases to many  
1259 consumers and increases in the number of policies issued by  
1260 Citizens Property Insurance Corporation.

1261 c. It is likely that the reinsurance market disruptions  
1262 will not significantly abate prior to the 2008 ~~2007~~ hurricane  
1263 season.

1264 2. It is the intent of the Legislature to create options  
1265 for insurers to purchase a temporary increased coverage limit  
1266 above the statutorily determined limit in subparagraph (4) (c) 1.,  
1267 applicable for the ~~2007~~, 2008~~7~~, and 2009 hurricane seasons, to  
1268 address market disruptions and enable insurers, at their option,

597-04192-08

20082156\_\_

1269 to procure additional coverage from the Florida Hurricane  
1270 Catastrophe Fund.

1271 (b) Applicability of other provisions of this section.--All  
1272 provisions of this section and the rules adopted under this  
1273 section apply to the coverage created by this subsection unless  
1274 specifically superseded by provisions in this subsection.

1275 (c) Optional coverage.--For the contract year commencing  
1276 ~~June 1, 2007, and ending May 31, 2008, the contract year~~  
1277 ~~commencing~~ June 1, 2008, and ending May 31, 2009, and the  
1278 contract year commencing June 1, 2009, and ending May 31, 2010,  
1279 the board shall offer, for each of such years, the optional  
1280 coverage as provided in this subsection.

1281 (d) Additional definitions.--As used in this subsection,  
1282 the term:

1283 1. "FHCF" means Florida Hurricane Catastrophe Fund.

1284 2. "FHCF reimbursement premium" means the premium paid by  
1285 an insurer for its coverage as a mandatory participant in the  
1286 FHCF, but does not include additional premiums for optional  
1287 coverages.

1288 3. "Payout multiple" means the number or multiple created  
1289 by dividing the statutorily defined claims-paying capacity as  
1290 determined in subparagraph (5)(c)1. ~~(4)(e)1.~~ by the aggregate  
1291 reimbursement premiums paid by all insurers estimated or  
1292 projected as of calendar year-end.

1293 4. "TICL" means the temporary increase in coverage limit.

1294 5. "TICL options" means the temporary increase in coverage  
1295 options created under this subsection.

1296 6. "TICL insurer" means an insurer that has opted to obtain  
1297 coverage under the TICL options addendum in addition to the

597-04192-08

20082156\_\_

1298 coverage provided to the insurer under its FHCF reimbursement  
1299 contract.

1300 7. "TICL reimbursement premium" means the premium charged  
1301 by the fund for coverage provided under the TICL option.

1302 8. "TICL coverage multiple" means the coverage multiple  
1303 when multiplied by an insurer's FHCF's reimbursement premium that  
1304 defines the temporary increase in coverage limit.

1305 9. "TICL coverage" means the coverage for an insurer's  
1306 losses above the insurer's statutorily determined claims-paying  
1307 capacity based on the claims-paying limit in subparagraph  
1308 (5)(c)1. ~~(4)(e)1.~~, which an insurer selects as its temporary  
1309 increase in coverage from the fund under the TICL options  
1310 selected. A TICL insurer's increased coverage limit options shall  
1311 be calculated as follows:

1312 a. The division board ~~board~~ shall calculate and report to each  
1313 TICL insurer the TICL coverage multiples based on 9 ~~12~~ options  
1314 for increasing the insurer's FHCF coverage limit. Each TICL  
1315 coverage multiple shall be calculated by dividing \$1 billion, \$2  
1316 billion, \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7  
1317 billion, \$8 billion, and \$9 billion, ~~\$10 billion, \$11 billion, or~~  
1318 ~~\$12 billion~~ by the total estimated aggregate FHCF reimbursement  
1319 premiums for ~~the 2007-2008 contract year,~~ the 2008-2009 contract  
1320 year, and the 2009-2010 contract year.

1321 b. The TICL insurer's increased coverage shall be the FHCF  
1322 reimbursement premium multiplied by the TICL coverage multiple  
1323 for the TICL option selected. In order to determine an insurer's  
1324 total limit of coverage, an insurer shall add its TICL coverage  
1325 multiple to its payout multiple. The total shall represent a  
1326 number that, when multiplied by an insurer's FHCF reimbursement

597-04192-08

20082156\_\_

1327 premium for a given reimbursement contract year, defines an  
1328 insurer's total limit of FHCF reimbursement coverage for that  
1329 reimbursement contract year.

1330 10. "TICL options addendum" means an addendum to the  
1331 reimbursement contract reflecting the obligations of the fund and  
1332 insurers selecting an option to increase an insurer's FHCF  
1333 coverage limit.

1334 (e) TICL options addendum.--

1335 1. The TICL options addendum shall provide for  
1336 reimbursement of TICL insurers for covered events occurring  
1337 between June 1, 2007, and May 31, 2008, and between June 1, 2008,  
1338 and May 31, 2009, or between June 1, 2009, and May 31, 2010, in  
1339 exchange for the TICL reimbursement premium paid into the fund  
1340 under paragraph (f). Any insurer writing covered policies has the  
1341 option of selecting an increased limit of coverage under the TICL  
1342 options addendum and shall select such coverage at the time that  
1343 it executes the FHCF reimbursement contract.

1344 2. The TICL addendum shall contain a promise by the board  
1345 to reimburse the TICL insurer for 70 percent of the TICL coverage  
1346 for the TICL option selected for the insurer's ~~45 percent, 75~~  
1347 ~~percent, or 90 percent of its~~ losses from each covered event in  
1348 excess of the insurer's retention, plus 5 percent of the  
1349 reimbursed losses to cover loss adjustment expenses. ~~The~~  
1350 ~~percentage shall be the same as the coverage level selected by~~  
1351 ~~the insurer under paragraph (4) (b).~~

1352 3. The TICL addendum shall provide that reimbursement  
1353 amounts shall not be reduced by reinsurance paid or payable to  
1354 the insurer from other sources.

597-04192-08

20082156\_\_

1355 4. The priorities, schedule, and method of reimbursements  
1356 under the TICL addendum shall be the same as provided under  
1357 subsection (5) ~~(4)~~.

1358 (f) TICL reimbursement premiums.--Each TICL insurer shall  
1359 pay to the fund, in the manner and at the time provided in the  
1360 reimbursement contract for payment of reimbursement premiums, a  
1361 TICL reimbursement premium determined as specified in subsection  
1362 (5).

1363 (g) Effect on claims-paying capacity of the fund.--For the  
1364 contract terms commencing ~~June 1, 2007,~~ June 1, 2008, and June 1,  
1365 2009, the program created by this subsection shall increase the  
1366 claims-paying capacity of the fund as provided in subparagraph  
1367 (5) (c) 1. ~~(4) (e) 1.~~ by an amount not to exceed \$9 ~~\$12~~ billion and  
1368 shall depend on the TICL coverage options selected and the number  
1369 of insurers that select the TICL optional coverage. The  
1370 additional capacity shall apply only to the additional coverage  
1371 provided under the TICL options and shall not otherwise affect  
1372 any insurer's reimbursement from the fund if the insurer chooses  
1373 not to select the temporary option to increase its limit of  
1374 coverage under the FHCF.

1375 (h) Increasing the claims-paying capacity of the fund.--For  
1376 the contract years commencing ~~June 1, 2007,~~ June 1, 2008, and  
1377 June 1, 2009, the board may increase the claims-paying capacity  
1378 of the fund as provided in paragraph (g) by an amount not to  
1379 exceed \$4 billion in four \$1 billion options and shall depend on  
1380 the TICL coverage options selected and the number of insurers  
1381 that select the TICL optional coverage. Each insurer's TICL  
1382 premium shall be calculated based upon the additional limit of  
1383 increased coverage that the insurer selects. Such limit is



597-04192-08

20082156\_\_

1384 determined by multiplying the TICL multiple associated with one  
1385 of the four options times the insurer's FHCF reimbursement  
1386 premium. The reimbursement premium associated with the additional  
1387 coverage provided in this paragraph shall be determined as  
1388 specified in subsection (6) ~~(5)~~.

1389 Section 2. Section 215.557, Florida Statutes, is amended to  
1390 read:

1391 215.557 Reports of insured values.--The reports of insured  
1392 values under covered policies by zip code submitted to the  
1393 Division of the Florida Hurricane Catastrophe Fund State Board of  
1394 ~~Administration~~ pursuant to s. 215.555, as created by s. 1, ch.  
1395 93-409, Laws of Florida, or similar legislation, are confidential  
1396 and exempt from the provisions of s. 119.07(1) and s. 24(a), Art.  
1397 I of the State Constitution.

1398 Section 3. Paragraph (h) of subsection (4) of section  
1399 215.5586, Florida Statutes, is amended to read:

1400 215.5586 My Safe Florida Home Program.--There is  
1401 established within the Department of Financial Services the My  
1402 Safe Florida Home Program. The department shall provide fiscal  
1403 accountability, contract management, and strategic leadership for  
1404 the program, consistent with this section. This section does not  
1405 create an entitlement for property owners or obligate the state  
1406 in any way to fund the inspection or retrofitting of residential  
1407 property in this state. Implementation of this program is subject  
1408 to annual legislative appropriations. It is the intent of the  
1409 Legislature that the My Safe Florida Home Program provide  
1410 inspections for at least 400,000 site-built, single-family,  
1411 residential properties and provide grants to at least 35,000  
1412 applicants before June 30, 2009. The program shall develop and

597-04192-08

20082156\_\_

1413 | implement a comprehensive and coordinated approach for hurricane  
1414 | damage mitigation that shall include the following:

1415 |       (4) ADVISORY COUNCIL.--There is created an advisory council  
1416 | to provide advice and assistance to the department regarding  
1417 | administration of the program. The advisory council shall consist  
1418 | of:

1419 |       (h) The director ~~senior officer~~ of the Division of the  
1420 | Florida Hurricane Catastrophe Fund.

1421

1422 | Members appointed under paragraphs (a)-(d) shall serve at the  
1423 | pleasure of the Financial Services Commission. Members appointed  
1424 | under paragraphs (e) and (f) shall serve at the pleasure of the  
1425 | appointing officer. All other members shall serve voting ex  
1426 | officio. Members of the advisory council shall serve without  
1427 | compensation but may receive reimbursement as provided in s.  
1428 | 112.061 for per diem and travel expenses incurred in the  
1429 | performance of their official duties.

1430 |       Section 4. Subsection (1) of section 215.559, Florida  
1431 | Statutes, is amended to read:

1432 |       215.559 Hurricane Loss Mitigation Program.--

1433 |       (1) There is created a Hurricane Loss Mitigation Program.  
1434 | The Legislature shall annually appropriate \$10 million of the  
1435 | moneys authorized for appropriation under s. 215.555(8) ~~s.~~  
1436 | ~~215.555(7)(e)~~ from the Florida Hurricane Catastrophe Fund to the  
1437 | Department of Community Affairs for the purposes set forth in  
1438 | this section.

1439 |       Section 5. Subsection (2) and paragraph (a) of subsection  
1440 | (3) of section 215.5595, Florida Statutes, are amended to read:

1441 |       215.5595 Insurance Capital Build-Up Incentive Program.--

597-04192-08

20082156\_\_

1442 (2) The purpose of this section is to provide surplus notes  
1443 to new or existing authorized residential property insurers under  
1444 the Insurance Capital Build-Up Incentive Program administered by  
1445 the Division of the Florida Hurricane Catastrophe Fund of the  
1446 State Board of Administration, under the following conditions:

1447 (a) The amount of the surplus note for any insurer or  
1448 insurer group, other than an insurer writing only manufactured  
1449 housing policies, may not exceed \$25 million or 20 percent of the  
1450 total amount of funds available under the program, whichever is  
1451 greater. The amount of the surplus note for any insurer or  
1452 insurer group writing residential property insurance covering  
1453 only manufactured housing may not exceed \$7 million.

1454 (b) The insurer must contribute an amount of new capital to  
1455 its surplus which is at least equal to the amount of the surplus  
1456 note and must apply to the board by July 1, 2006. If an insurer  
1457 applies after July 1, 2006, but before June 1, 2007, the amount  
1458 of the surplus note is limited to one-half of the new capital  
1459 that the insurer contributes to its surplus, except that an  
1460 insurer writing only manufactured housing policies is eligible to  
1461 receive a surplus note of up to \$7 million. For purposes of this  
1462 section, new capital must be in the form of cash or cash  
1463 equivalents as specified in s. 625.012(1).

1464 (c) The insurer's surplus, new capital, and the surplus  
1465 note must total at least \$50 million, except for insurers writing  
1466 residential property insurance covering only manufactured  
1467 housing. The insurer's surplus, new capital, and the surplus note  
1468 must total at least \$14 million for insurers writing only  
1469 residential property insurance covering manufactured housing  
1470 policies as provided in paragraph (a).

597-04192-08

20082156\_\_

1471 (d) The insurer must commit to meeting a minimum writing  
1472 ratio of net written premium to surplus of at least 2:1 for the  
1473 term of the surplus note, which shall be determined by the Office  
1474 of Insurance Regulation and certified quarterly to the board. For  
1475 this purpose, the term "net written premium" means net written  
1476 premium for residential property insurance in Florida, including  
1477 the peril of wind, and "surplus" refers to the entire surplus of  
1478 the insurer. If the required ratio is not maintained during the  
1479 term of the surplus note, the board may increase the interest  
1480 rate, accelerate the repayment of interest and principal, or  
1481 shorten the term of the surplus note, subject to approval by the  
1482 Commissioner of Insurance of payments by the insurer of principal  
1483 and interest as provided in paragraph (f).

1484 (e) If the requirements of this section are met, the board  
1485 may approve an application by an insurer for a surplus note,  
1486 unless the board determines that the financial condition of the  
1487 insurer and its business plan for writing residential property  
1488 insurance in Florida places an unreasonably high level of  
1489 financial risk to the state of nonpayment in full of the interest  
1490 and principal. The board shall consult with the Office of  
1491 Insurance Regulation and may contract with independent financial  
1492 and insurance consultants in making this determination.

1493 (f) The surplus note must be repayable to the state with a  
1494 term of 20 years. The surplus note shall accrue interest on the  
1495 unpaid principal balance at a rate equivalent to the 10-year U.S.  
1496 Treasury Bond rate, require the payment only of interest during  
1497 the first 3 years, and include such other terms as approved by  
1498 the board. Payment of principal or interest by the insurer on the  
1499 surplus note must be approved by the Commissioner of Insurance,

597-04192-08

20082156\_\_

1500 | who shall approve such payment unless the commissioner determines  
1501 | that such payment will substantially impair the financial  
1502 | condition of the insurer. If such a determination is made, the  
1503 | commissioner shall approve such payment that will not  
1504 | substantially impair the financial condition of the insurer.

1505 |       (g) The total amount of funds available for the program is  
1506 | limited to the amount appropriated by the Legislature for this  
1507 | purpose. If the amount of surplus notes requested by insurers  
1508 | exceeds the amount of funds available, the board may prioritize  
1509 | insurers that are eligible and approved, with priority for  
1510 | funding given to insurers writing only manufactured housing  
1511 | policies, regardless of the date of application, based on the  
1512 | financial strength of the insurer, the viability of its proposed  
1513 | business plan for writing additional residential property  
1514 | insurance in the state, and the effect on competition in the  
1515 | residential property insurance market. Between insurers writing  
1516 | residential property insurance covering manufactured housing,  
1517 | priority shall be given to the insurer writing the highest  
1518 | percentage of its policies covering manufactured housing.

1519 |       (h) The board may allocate portions of the funds available  
1520 | for the program and establish dates for insurers to apply for  
1521 | surplus notes from such allocation which are earlier than the  
1522 | dates established in paragraph (b).

1523 |       (i) Notwithstanding paragraph (d), a newly formed  
1524 | manufactured housing insurer that is eligible for a surplus note  
1525 | under this section shall meet the premium to surplus ratio  
1526 | provisions of s. 624.4095.

1527 |       (j) As used in this section, "an insurer writing only  
1528 | manufactured housing policies" includes:

597-04192-08

20082156\_\_

1529 | 1. A Florida domiciled insurer that begins writing personal  
1530 | lines residential manufactured housing policies in Florida after  
1531 | March 1, 2007, and that removes a minimum of 50,000 policies from  
1532 | Citizens Property Insurance Corporation without accepting a  
1533 | bonus, provided at least 25 percent of its policies cover  
1534 | manufactured housing. Such an insurer may count any funds above  
1535 | the minimum capital and surplus requirement that were contributed  
1536 | into the insurer after March 1, 2007, as new capital under this  
1537 | section.

1538 | 2. A Florida domiciled insurer that writes at least 40  
1539 | percent of its policies covering manufactured housing in Florida.

1540 | (3) As used in this section, the term:

1541 | (a) "Board" means the Division of the Florida Hurricane  
1542 | Catastrophe Fund of the State Board of Administration.

1543 | Section 6. Paragraph (c) of subsection (1), paragraphs (a),  
1544 | (b), (d), (f), and (g) of subsection (2), and paragraph (b) of  
1545 | subsection (3) of section 627.0628, Florida Statutes, are amended  
1546 | to read:

1547 | 627.0628 Florida Commission on Hurricane Loss Projection  
1548 | Methodology; public records exemption; public meetings  
1549 | exemption.--

1550 | (1) LEGISLATIVE FINDINGS AND INTENT.--

1551 | (c) It is the intent of the Legislature to create the  
1552 | Florida Commission on Hurricane Loss Projection Methodology as a  
1553 | panel of experts to provide the most actuarially sophisticated  
1554 | guidelines and standards for projection of hurricane losses  
1555 | possible, given the current state of actuarial science. It is the  
1556 | further intent of the Legislature that such standards and  
1557 | guidelines must be used by the Division of the Florida Hurricane

597-04192-08

20082156\_\_

1558 Catastrophe Fund of the State Board of Administration in  
1559 developing reimbursement premium rates for the Florida Hurricane  
1560 Catastrophe Fund, and, subject to paragraph (3)(c), may be used  
1561 by insurers in rate filings under s. 627.062 unless the way in  
1562 which such standards and guidelines were applied by the insurer  
1563 was erroneous, as shown by a preponderance of the evidence.

1564 (2) COMMISSION CREATED.--

1565 (a) There is created the Florida Commission on Hurricane  
1566 Loss Projection Methodology, which is assigned to the Division of  
1567 the Florida Hurricane Catastrophe Fund of the State Board of  
1568 Administration. For the purposes of this section, the term  
1569 "commission" means the Florida Commission on Hurricane Loss  
1570 Projection Methodology. The commission shall be administratively  
1571 housed within the State Board of Administration, but it shall  
1572 independently exercise the powers and duties specified in this  
1573 section.

1574 (b) The commission shall consist of the following 11  
1575 members:

- 1576 1. The insurance consumer advocate.
- 1577 2. The director of the Division of the Florida Hurricane  
1578 Catastrophe Fund ~~senior employee~~ of the State Board of  
1579 Administration ~~responsible for operations of the Florida~~  
1580 ~~Hurricane Catastrophe Fund.~~
- 1581 3. The Executive Director of the Citizens Property  
1582 Insurance Corporation.
- 1583 4. The Director of the Division of Emergency Management of  
1584 the Department of Community Affairs.
- 1585 5. The actuary member of the Florida Hurricane Catastrophe  
1586 Fund Advisory Council.

597-04192-08

20082156\_\_

1587           6. An employee of the office who is an actuary responsible  
1588 for property insurance rate filings and who is appointed by the  
1589 director of the office.

1590           7. Five members appointed by the Chief Financial Officer,  
1591 as follows:

1592           a. An actuary who is employed full time by a property and  
1593 casualty insurer which was responsible for at least 1 percent of  
1594 the aggregate statewide direct written premium for homeowner's  
1595 insurance in the calendar year preceding the member's appointment  
1596 to the commission.

1597           b. An expert in insurance finance who is a full-time member  
1598 of the faculty of the State University System and who has a  
1599 background in actuarial science.

1600           c. An expert in statistics who is a full-time member of the  
1601 faculty of the State University System and who has a background  
1602 in insurance.

1603           d. An expert in computer system design who is a full-time  
1604 member of the faculty of the State University System.

1605           e. An expert in meteorology who is a full-time member of  
1606 the faculty of the State University System and who specializes in  
1607 hurricanes.

1608           (d) The board of the Division of the Florida Hurricane  
1609 Catastrophe Fund of the State Board of Administration shall  
1610 annually appoint one of the members of the commission to serve as  
1611 chair.

1612           (f) The Division of the Florida Hurricane Catastrophe Fund  
1613 of the State Board of Administration shall, as a cost of  
1614 administration of the Florida Hurricane Catastrophe Fund, provide  
1615 for travel, expenses, and staff support for the commission.



597-04192-08

20082156\_\_

1616 (g) There shall be no liability on the part of, and no  
1617 cause of action of any nature shall arise against, any member of  
1618 the commission, any member ~~of the State Board of Administration,~~  
1619 or ~~any~~ employee of the Division of the Florida Hurricane  
1620 Catastrophe Fund of the State Board of Administration for any  
1621 action taken in the performance of their duties under this  
1622 section. In addition, the commission may, in writing, waive any  
1623 potential cause of action for negligence of a consultant,  
1624 contractor, or contract employee engaged to assist the  
1625 commission.

1626 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

1627 (b) In establishing reimbursement premiums for the Florida  
1628 Hurricane Catastrophe Fund, the Division of the Florida Hurricane  
1629 Catastrophe Fund ~~State Board of Administration~~ must, to the  
1630 extent feasible, employ actuarial methods, principles, standards,  
1631 models, or output ranges found by the commission to be accurate  
1632 or reliable.

1633 Section 7. This act shall take effect June 1, 2008.