

By the Committees on Governmental Operations; Banking and Insurance; Banking and Insurance

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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; extending for an additional year the  
24 offer of reimbursement coverage of up to \$10 million for  
25 specified insurers; revising the qualifying criteria for  
26 such insurers; requiring that the division publish certain  
27 information in the Florida Administrative Weekly at  
28 specified times; authorizing the payment of advancements  
29 of reimbursements or reimbursement premiums to certain

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

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

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88 specified by the board among the factors that must be  
89 considered when determining the amount of increase in the  
90 claims-paying capacity of the fund; amending s. 215.557,  
91 F.S.; conforming provisions to changes made by the act;  
92 amending s. 215.5586, F.S.; requiring that the director of  
93 the division serve on the advisory council of the My Safe  
94 Florida Home Program; amending s. 215.559, F.S., relating  
95 to the Hurricane Loss Mitigation Program; conforming a  
96 cross-reference; amending s. 215.5595, F.S., relating to  
97 the Insurance Capital Build-up Incentive Program;  
98 conforming provisions to changes made by the act; revising  
99 the definition of "board" to conform to changes made by  
100 the act; amending s. 627.0628, F.S.; revising legislative  
101 intent; assigning the Florida Commission on Hurricane Loss  
102 Projection Methodology to the division; requiring that the  
103 director of the fund serve on the commission; requiring  
104 that the board of the division annually appoint one of the  
105 members of the commission to serve as chair; requiring  
106 that the division provide for travel, expenses, and staff  
107 support for the commission; indemnifying members and  
108 employees of the division from liability for action taken  
109 with respect to the commission or its activities;  
110 requiring that the division employ certain methods,  
111 principles, standards, models, or output ranges when  
112 establishing reimbursement premiums for the fund;  
113 providing an effective date.

114  
115 Be It Enacted by the Legislature of the State of Florida:  
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117 Section 1. Section 215.555, Florida Statutes, is amended to  
118 read:

119 215.555 Florida Hurricane Catastrophe Fund.--

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

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

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

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

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146 | Accordingly, state action to correct for this inability of the  
147 | private sector constitutes a valid and necessary public and  
148 | governmental purpose.

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

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

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

171 |       (g) Hurricane Andrew, which caused insured and uninsured  
172 | losses in excess of \$20 billion, will likely not be the last  
173 | major windstorm to strike Florida. Recognizing that a future wind  
174 | catastrophe could cause damages in excess of \$60 billion,

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175 especially if a major urban area or series of urban areas were  
176 hit, it is the intent of the Legislature to balance equitably its  
177 concerns about mitigation of hurricane impact, insurance  
178 affordability and availability, and the risk of insurer and joint  
179 underwriting association insolvency, as well as assessment and  
180 bonding limitations.

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

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

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

196 (c) "Covered policy" means any insurance policy covering  
197 residential property in this state, including, but not limited  
198 to, any homeowner's, mobile home owner's, farm owner's,  
199 condominium association, condominium unit owner's, tenant's, or  
200 apartment building policy, or any other policy covering a  
201 residential structure or its contents issued by any authorized  
202 insurer, including a commercial self-insurance fund holding a  
203 certificate of authority issued by the Office of Insurance

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204 Regulation under s. 624.462, the Citizens Property Insurance  
205 Corporation, and any joint underwriting association or similar  
206 entity created under law. The term "covered policy" includes any  
207 collateral protection insurance policy covering personal  
208 residences which protects both the borrower's and the lender's  
209 financial interests, in an amount at least equal to the coverage  
210 for the dwelling in place under the lapsed homeowner's policy, if  
211 such policy can be accurately reported as required in subsection  
212 (6) ~~(5)~~. Additionally, covered policies include policies covering  
213 the peril of wind removed from the Florida Residential Property  
214 and Casualty Joint Underwriting Association or from the Citizens  
215 Property Insurance Corporation, created under s. 627.351(6), or  
216 from the Florida Windstorm Underwriting Association, created  
217 under s. 627.351(2), by an authorized insurer under the terms and  
218 conditions of an executed assumption agreement between the  
219 authorized insurer and such association or Citizens Property  
220 Insurance Corporation. Each assumption agreement between the  
221 association and such authorized insurer or Citizens Property  
222 Insurance Corporation must be approved by the Office of Insurance  
223 Regulation before the effective date of the assumption, and the  
224 Office of Insurance Regulation must provide written notification  
225 to the division ~~board~~ within 15 working days after such approval.  
226 "Covered policy" does not include any policy that excludes wind  
227 coverage or hurricane coverage or any reinsurance agreement and  
228 does not include any policy otherwise meeting this definition  
229 which is issued by a surplus lines insurer or a reinsurer. All  
230 commercial residential excess policies and all deductible buy-  
231 back policies that, based on sound actuarial principles, require  
232 individual ratemaking shall be excluded by rule if the actuarial



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233 soundness of the fund is not jeopardized. For this purpose, the  
234 term "excess policy" means a policy that provides insurance  
235 protection for large commercial property risks and that provides  
236 a layer of coverage above a primary layer insured by another  
237 insurer.

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

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

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

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261           2. The retention multiple as determined under subparagraph  
262 1. shall be adjusted to reflect the coverage level elected by the  
263 insurer. For insurers electing the 90-percent coverage level, the  
264 adjusted retention multiple is 100 percent of the amount  
265 determined under subparagraph 1. For insurers electing the 75-  
266 percent coverage level, the retention multiple is 120 percent of  
267 the amount determined under subparagraph 1. For insurers electing  
268 the 45-percent coverage level, the adjusted retention multiple is  
269 200 percent of the amount determined under subparagraph 1.

270           3. An insurer shall determine its provisional retention by  
271 multiplying its provisional reimbursement premium by the  
272 applicable adjusted retention multiple and shall determine its  
273 actual retention by multiplying its actual reimbursement premium  
274 by the applicable adjusted retention multiple.

275           4. For insurers who experience multiple covered events  
276 causing loss during the contract year, beginning June 1, 2005,  
277 each insurer's full retention shall be applied to each of the  
278 covered events causing the two largest losses for that insurer.  
279 For each other covered event resulting in losses, the insurer's  
280 retention shall be reduced to one-third of the full retention.  
281 The reimbursement contract shall provide for the reimbursement of  
282 losses for each covered event based on the full retention with  
283 adjustments made to reflect the reduced retentions after January  
284 1 of the contract year provided the insurer reports its losses as  
285 specified in the reimbursement contract.

286           (f) "Workers' compensation" includes both workers'  
287 compensation and excess workers' compensation insurance.

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

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290 (h) "Debt service" means the amount required in any fiscal  
291 year to pay the principal of, redemption premium, if any, and  
292 interest on revenue bonds and any amounts required by the terms  
293 of documents authorizing, securing, or providing liquidity for  
294 revenue bonds necessary to maintain in effect any such liquidity  
295 or security arrangements.

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

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

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

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

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

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

318 (o) "Division" means the Division of the Florida Hurricane

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319 Catastrophe Fund.

320 (p) "Director" means the chief administrator of the  
321 division, who shall act on behalf of the division as authorized  
322 by the board.

323 (q) "FHCF" or "fund" means the Florida Hurricane  
324 Catastrophe Fund.

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

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

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

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

374 | (5) ~~(4)~~ REIMBURSEMENT CONTRACTS.--

375 | (a) The division board shall enter into a contract with  
376 | each insurer writing covered policies in this state to provide to

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377 the insurer the reimbursement described in paragraphs (b) and  
378 (d), in exchange for the reimbursement premium paid into the fund  
379 under subsection (6) ~~(5)~~. As a condition of doing business in  
380 this state, each such insurer shall enter into such a contract.

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

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

396 3. The contract shall provide that reimbursement amounts  
397 shall not be reduced by reinsurance paid or payable to the  
398 insurer from other sources.

399 4. Notwithstanding any other provision ~~contained~~ in this  
400 section, the board shall make available to insurers that  
401 purchased coverage provided by this subparagraph in 2007  
402 ~~2006~~, insurers qualifying as limited apportionment companies under  
403 s. 627.351(6)(c), and insurers that have been ~~were~~ approved to  
404 participate in ~~2006 or that are approved in 2007~~ for the  
405 Insurance Capital Build-Up Incentive Program pursuant to s.

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406 215.5595~~7~~ a contract or contract addendum that provides an  
407 additional amount of reimbursement coverage of up to \$10 million.  
408 The premium to be charged for this additional reimbursement  
409 coverage shall be 50 percent of the additional reimbursement  
410 coverage provided, which shall include one prepaid reinstatement.  
411 The minimum retention level that an eligible participating  
412 insurer must retain associated with this additional coverage  
413 layer is 30 percent of the insurer's surplus as of December 31,  
414 2007 ~~2006~~. This coverage is ~~shall be~~ in addition to all other  
415 coverage that may be provided under this section. The coverage  
416 provided by the fund under this subparagraph shall be in addition  
417 to the claims-paying capacity as defined in subparagraph (c)1.,  
418 but only with respect to those insurers that select the  
419 additional coverage option and meet the requirements of this  
420 subparagraph. The claims-paying capacity with respect to all  
421 other participating insurers and limited apportionment companies  
422 that do not select the additional coverage option shall be  
423 limited to their reimbursement premium's proportionate share of  
424 the actual claims-paying capacity otherwise defined in  
425 subparagraph (c)1. and as provided for under the terms of the  
426 reimbursement contract. Coverage provided in the reimbursement  
427 contract is ~~will not be~~ affected by the additional premiums paid  
428 by participating insurers exercising the additional coverage  
429 option allowed in this subparagraph. This subparagraph expires on  
430 May 31, 2009 ~~2008~~.

431 (c)1. The contract shall also provide that the obligation  
432 of the division ~~board~~ with respect to all contracts covering a  
433 particular contract year shall not exceed the actual claims-  
434 paying capacity of the fund up to a limit of \$15 billion for that

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435 contract year adjusted based upon the reported exposure from the  
436 prior contract year to reflect the percentage growth in exposure  
437 to the fund for covered policies since 2003, provided the dollar  
438 growth in the limit may not increase in any year by an amount  
439 greater than the dollar growth of the balance of the fund as of  
440 December 31, less any premiums or interest attributable to  
441 optional coverage, as defined by rule which occurred over the  
442 prior calendar year.

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



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463 (d)1. For purposes of determining potential liability and  
464 to aid in the sound administration of the fund, the contract  
465 shall require each insurer to report such insurer's losses from  
466 each covered event on an interim basis, as directed by the  
467 division board. The contract shall require the insurer to report  
468 to the division board no later than December 31 of each year, and  
469 quarterly thereafter, its reimbursable losses from covered events  
470 for the year. The contract shall require the division board to  
471 determine and pay, as soon as practicable after receiving these  
472 reports of reimbursable losses, the initial amount of  
473 reimbursement due and adjustments to this amount based on later  
474 loss information. The adjustments to reimbursement amounts shall  
475 require the division board to pay, or the insurer to return,  
476 amounts reflecting the most recent calculation of losses.

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

484 (e)1. Except as provided in subparagraphs 2. and 3., the  
485 contract shall provide that if an insurer demonstrates to the  
486 division board that it is likely to qualify for reimbursement  
487 under the contract, and demonstrates to the division board that  
488 the immediate receipt of moneys from the division board is likely  
489 to prevent the insurer from becoming insolvent, the division  
490 board shall advance the insurer, at market interest rates, the  
491 amounts necessary to maintain the solvency of the insurer, up to

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492 | 50 percent of the division's ~~board's~~ estimate of the  
493 | reimbursement due the insurer. The insurer's reimbursement shall  
494 | be reduced by an amount equal to the amount of the advance and  
495 | interest thereon.

496 |       2. With respect only to an entity created under s. 627.351,  
497 | the contract shall also provide that the division ~~board~~ may, upon  
498 | application by such entity, advance to such entity, at market  
499 | interest rates, up to 90 percent of the lesser of:

500 |       a. The division's ~~board's~~ estimate of the amount of  
501 | reimbursement due to such entity; or

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

519 |       3. The contract shall also provide specifically and solely  
520 | with respect to any limited apportionment company under s.

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521 | 627.351(2)(b)3. that the division board ~~board~~ may, upon application by  
522 | such company, advance to such company the amount of the estimated  
523 | reimbursement payable to such company as calculated pursuant to  
524 | paragraph (d), at market interest rates, if the division board ~~board~~  
525 | determines that the fund's assets are sufficient and are  
526 | sufficiently liquid to permit the division board ~~board~~ to make an  
527 | advance to such company and at the same time fulfill its  
528 | reimbursement obligations to the insurers that are participants  
529 | in the fund. Such company's final reimbursement for any contract  
530 | year in which an advance pursuant to this subparagraph has been  
531 | made shall be reduced by an amount equal to the amount of the  
532 | advance and interest thereon. In order to determine what amounts,  
533 | if any, are due to such company, the division board ~~board~~ may require  
534 | such company to report its exposure and its losses at such times  
535 | as may be required to determine retention levels and loss  
536 | reimbursements payable.

537 | (f) In order to ensure that insurers have properly reported  
538 | the insured values on which the reimbursement premium is based  
539 | and to ensure that insurers have properly reported the losses for  
540 | which reimbursements have been made, the division board ~~board~~ shall  
541 | inspect, examine, and verify the records of each insurer's  
542 | covered policies at such times as the division board ~~board~~ deems  
543 | appropriate and according to standards established by rule for  
544 | the specific purpose of validating the accuracy of exposures and  
545 | losses required to be reported under the terms and conditions of  
546 | the reimbursement contract. The costs of the examinations shall  
547 | be borne by the division board ~~board~~. However, in order to remove any  
548 | incentive for an insurer to delay preparations for an  
549 | examination, the division board ~~board~~ shall be reimbursed by the

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550 insurer for any examination expenses incurred in addition to the  
551 usual and customary costs of the examination, which additional  
552 expenses were incurred as a result of an insurer's failure,  
553 despite proper notice, to be prepared for the examination or as a  
554 result of an insurer's failure to provide requested information  
555 while the examination is in progress. If the division ~~board~~ finds  
556 any insurer's records or other necessary information to be  
557 inadequate or inadequately posted, recorded, or maintained, the  
558 division ~~board~~ may employ experts to reconstruct, rewrite,  
559 record, post, or maintain such records or information, at the  
560 expense of the insurer being examined, if such insurer has failed  
561 to maintain, complete, or correct such records or deficiencies  
562 after the division ~~board~~ has given the insurer notice and a  
563 reasonable opportunity to do so. Any information contained in an  
564 examination report, which information is described in s. 215.557,  
565 is confidential and exempt from the provisions of s. 119.07(1)  
566 and s. 24(a), Art. I of the State Constitution, as provided in s.  
567 215.557. Nothing in this paragraph expands the exemption in s.  
568 215.557.

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

576 1. Preliminary or duplicate payments owed to private  
577 reinsurers or other inuring reinsurance payments to private  
578 reinsurers that satisfy statutory or contractual obligations of

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579 | the insolvent insurer attributable to covered events to such  
580 | reinsurers; or

581 |       2. Funds owed to a bank or other financial institution to  
582 | cover obligations of the insolvent insurer under a credit  
583 | agreement that assists the insolvent insurer in paying claims  
584 | attributable to covered events.

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

595 |       (6)~~(5)~~ REIMBURSEMENT PREMIUMS.--

596 |       (a) Each reimbursement contract shall require the insurer  
597 | to annually pay to the fund an actuarially indicated premium for  
598 | the reimbursement.

599 |       (b) The division ~~State Board of Administration~~ shall select  
600 | an independent consultant to develop a formula for determining  
601 | the actuarially indicated premium to be paid to the fund. The  
602 | formula shall specify, for each zip code or other limited  
603 | geographical area, the amount of premium to be paid by an insurer  
604 | for each \$1,000 of insured value under covered policies in that  
605 | zip code or other area. In establishing premiums, the division  
606 | ~~board~~ shall consider the coverage elected under paragraph (5) (b)  
607 | ~~(4) (b)~~ and any factors that tend to enhance the actuarial

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608 | sophistication of ratemaking for the fund, including deductibles,  
609 | type of construction, type of coverage provided, relative  
610 | concentration of risks, and other such factors deemed by the  
611 | division board ~~board~~ to be appropriate. The formula may provide for a  
612 | procedure to determine the premiums to be paid by new insurers  
613 | that begin writing covered policies after the beginning of a  
614 | contract year, taking into consideration when the insurer starts  
615 | writing covered policies, the potential exposure of the insurer,  
616 | the potential exposure of the fund, the administrative costs to  
617 | the insurer and to the fund, and any other factors deemed  
618 | appropriate by the board. The formula must be approved by  
619 | unanimous vote of the board. The board may, at any time, revise  
620 | the formula pursuant to the procedure provided in this paragraph.

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

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

638 (e) If Citizens Property Insurance Corporation assumes or  
639 otherwise provides coverage for policies of an insurer placed in  
640 liquidation under chapter 631 pursuant to s. 627.351(6), the  
641 corporation may, pursuant to conditions mutually agreed to  
642 between the corporation and the division ~~State Board of~~  
643 ~~Administration~~, obtain coverage for such policies under its  
644 contract with the fund or accept an assignment of the liquidated  
645 insurer's contract with the fund. If Citizens Property Insurance  
646 Corporation elects to cover these policies under the  
647 corporation's contract with the division ~~fund~~, it shall notify  
648 the division ~~board~~ of its insured values with respect to such  
649 policies within a specified time mutually agreed to between the  
650 corporation and the division ~~board~~, after such assumption or  
651 other coverage transaction, and the division ~~fund~~ shall treat  
652 such policies as having been in effect as of June 30 of that  
653 year. In the event of an assignment, the fund shall apply that  
654 contract to such policies and treat Citizens Property Insurance  
655 Corporation as if the corporation were the liquidated insurer for  
656 the remaining term of the contract, and the corporation shall  
657 have all rights and duties of the liquidated insurer beginning on  
658 the date it provides coverage for such policies, but the  
659 corporation is not subject to any preexisting rights,  
660 liabilities, or duties of the liquidated insurer. The assignment,  
661 including any unresolved issues between the liquidated insurer  
662 and Citizens Property Insurance Corporation under the contract,  
663 shall be provided for in the liquidation order or otherwise

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664 determined by the court. However, if a covered event occurs  
665 before the effective date of the assignment, the corporation may  
666 not obtain coverage for such policies under its contract with the  
667 fund and shall accept an assignment of the liquidated insurer's  
668 contract as provided in this paragraph.

669 (7) ~~(6)~~ REVENUE BONDS.--

670 (a) General provisions.--

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



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693 division ~~board~~ deems necessary to evidence, secure, preserve, and  
694 protect such pledge. If reimbursement premiums received under  
695 subsection (6) ~~(5)~~ or earnings on such premiums are used to pay  
696 debt service on revenue bonds, such premiums and earnings shall  
697 be used only after the use of the moneys derived from assessments  
698 under paragraph (b). The funds, credit, property, or taxing power  
699 of the state or political subdivisions of the state shall not be  
700 pledged for the payment of such bonds. The division ~~board~~ may  
701 also enter into agreements under paragraph (c) or paragraph (d)  
702 for the purpose of issuing revenue bonds in the absence of a  
703 hurricane upon a determination that such action would maximize  
704 the ability of the fund to meet future obligations.

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

713         (b) Emergency assessments.--

714         1. If the board determines that the amount of revenue  
715 produced under subsection (6) ~~(5)~~ is insufficient to fund the  
716 obligations, costs, and expenses of the fund and the corporation,  
717 including repayment of revenue bonds and that portion of the debt  
718 service coverage not met by reimbursement premiums, the board  
719 shall direct the Office of Insurance Regulation to levy, by  
720 order, an emergency assessment on direct premiums for all  
721 property and casualty lines of business in this state, including

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722 property and casualty business of surplus lines insurers  
723 regulated under part VIII of chapter 626, but not including any  
724 workers' compensation premiums or medical malpractice premiums.  
725 As used in this subsection, the term "property and casualty  
726 business" includes all lines of business identified on Form 2,  
727 Exhibit of Premiums and Losses, in the annual statement required  
728 of authorized insurers by s. 624.424 and any rule adopted under  
729 this section, except for those lines identified as accident and  
730 health insurance and except for policies written under the  
731 National Flood Insurance Program. The assessment shall be  
732 specified as a percentage of direct written premium and is  
733 subject to annual adjustments by the board in order to meet debt  
734 obligations. The same percentage shall apply to all policies in  
735 lines of business subject to the assessment issued or renewed  
736 during the 12-month period beginning on the effective date of the  
737 assessment.

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

749 3. Emergency assessments shall be collected from  
750 policyholders. Emergency assessments shall be remitted by

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751 insurers as a percentage of direct written premium for the  
752 preceding calendar quarter as specified in the order from the  
753 Office of Insurance Regulation. The office shall verify the  
754 accurate and timely collection and remittance of emergency  
755 assessments and shall report the information to the division  
756 ~~board~~ in a form and at a time specified by the division ~~board~~.  
757 Each insurer collecting assessments shall provide the information  
758 with respect to premiums and collections as may be required by  
759 the office to enable the office to monitor and verify compliance  
760 with this paragraph.

761 4. With respect to assessments of surplus lines premiums,  
762 each surplus lines agent shall collect the assessment at the same  
763 time as the agent collects the surplus lines tax required by s.  
764 626.932, and the surplus lines agent shall remit the assessment  
765 to the Florida Surplus Lines Service Office created by s. 626.921  
766 at the same time as the agent remits the surplus lines tax to the  
767 Florida Surplus Lines Service Office. The emergency assessment on  
768 each insured procuring coverage and filing under s. 626.938 shall  
769 be remitted by the insured to the Florida Surplus Lines Service  
770 Office at the time the insured pays the surplus lines tax to the  
771 Florida Surplus Lines Service Office. The Florida Surplus Lines  
772 Service Office shall remit the collected assessments to the fund  
773 or corporation as provided in the order levied by the Office of  
774 Insurance Regulation. The Florida Surplus Lines Service Office  
775 shall verify the proper application of such emergency assessments  
776 and shall assist the division ~~board~~ in ensuring the accurate and  
777 timely collection and remittance of assessments as required by  
778 the board. The Florida Surplus Lines Service Office shall  
779 annually calculate the aggregate written premium on property and

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780 casualty business, other than workers' compensation and medical  
781 malpractice, procured through surplus lines agents and insureds  
782 procuring coverage and filing under s. 626.938 and shall report  
783 the information to the division ~~board~~ in a form and at a time  
784 specified by the division ~~board~~.

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

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

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

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

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

828           10. The exemption of medical malpractice insurance premiums  
829 from emergency assessments under this paragraph is repealed May  
830 31, 2010, and medical malpractice insurance premiums shall be  
831 subject to emergency assessments attributable to loss events  
832 occurring in the contract years commencing on June 1, 2010.

833           (c) Revenue bond issuance through counties or  
834 municipalities.--

835           1. If the board elects to enter into agreements with local  
836 governments for the issuance of revenue bonds for the benefit of  
837 the fund, the division board ~~board~~ shall enter into such contracts with

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838 one or more local governments, including agreements providing for  
839 the pledge of revenues, as are necessary to effect such issuance.  
840 The governing body of a county or municipality is authorized to  
841 issue bonds as defined in s. 125.013 or s. 166.101 from time to  
842 time to fund an assistance program, in conjunction with the  
843 Florida Hurricane Catastrophe Fund, for the purposes set forth in  
844 this section or for the purpose of paying the costs of  
845 construction, reconstruction, repair, restoration, and other  
846 costs associated with damage to properties of policyholders of  
847 covered policies due to the occurrence of a hurricane by assuring  
848 that policyholders located in this state are able to recover  
849 claims under property insurance policies after a covered event.

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

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

864 4. There shall be no liability on the part of, and no cause  
865 of action shall arise against any members or employees of the

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866 governing body of a local government for any actions taken by  
867 them in the performance of their duties under this paragraph.

868 (d) Florida Hurricane Catastrophe Fund Finance  
869 Corporation.--

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

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

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

883 c. The efficacy of the financing mechanism will be enhanced  
884 by the corporation's ownership of the assessments, by the  
885 insulation of the assessments from possible bankruptcy  
886 proceedings, and by covenants of the state with the corporation's  
887 bondholders.

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

891 b. The corporation shall operate under a six-member ~~five-~~  
892 ~~member~~ board of directors consisting of the Governor or a  
893 designee, the Chief Financial Officer or a designee, the Attorney  
894 General or a designee, the Commissioner of the Department of

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895 Agriculture and Consumer Services or a designee, the director of  
896 the Division of Bond Finance of the State Board of  
897 Administration, and the director of the division ~~senior employee~~  
898 ~~of the State Board of Administration responsible for operations~~  
899 of the Florida Hurricane Catastrophe Fund of the State Board of  
900 Administration.

901 c. The corporation has all of the powers of corporations  
902 under chapter 607 and under chapter 617, subject only to the  
903 provisions of this subsection.

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

907 e. The corporation may invest in any of the investments  
908 authorized under s. 215.47.

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

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

920 b. The state hereby covenants with holders of bonds of the  
921 corporation that the state will not repeal or abrogate the power  
922 of the board to direct the Office of Insurance Regulation to levy  
923 the assessments and to collect the proceeds of the revenues



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924 pledged to the payment of such bonds as long as any such bonds  
925 remain outstanding unless adequate provision has been made for  
926 the payment of such bonds pursuant to the documents authorizing  
927 the issuance of such bonds.

928 4. The bonds of the corporation are not a debt of the state  
929 or of any political subdivision, and neither the state nor any  
930 political subdivision is liable on such bonds. The corporation  
931 does not have the power to pledge the credit, the revenues, or  
932 the taxing power of the state or of any political subdivision.  
933 The credit, revenues, or taxing power of the state or of any  
934 political subdivision shall not be deemed to be pledged to the  
935 payment of any bonds of the corporation.

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

946 b. All bonds of the corporation shall be and constitute  
947 legal investments without limitation for all public bodies of  
948 this state; for all banks, trust companies, savings banks,  
949 savings associations, savings and loan associations, and  
950 investment companies; for all administrators, executors,  
951 trustees, and other fiduciaries; for all insurance companies and  
952 associations and other persons carrying on an insurance business;

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953 and for all other persons who are now or may hereafter be  
954 authorized to invest in bonds or other obligations of the state  
955 and shall be and constitute eligible securities to be deposited  
956 as collateral for the security of any state, county, municipal,  
957 or other public funds. This sub-subparagraph shall be considered  
958 as additional and supplemental authority and shall not be limited  
959 without specific reference to this sub-subparagraph.

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

968 (e) Protection of bondholders.--

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

979 2. The state hereby covenants with holders of bonds of the  
980 corporation that the state will not limit or alter the denial of  
981 authority under this paragraph or the rights under this section

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982 | vested in the fund or the corporation to fulfill the terms of any  
983 | agreements made with such bondholders or in any way impair the  
984 | rights and remedies of such bondholders as long as any such bonds  
985 | remain outstanding unless adequate provision has been made for  
986 | the payment of such bonds pursuant to the documents authorizing  
987 | the issuance of such bonds.

988 |         3. Notwithstanding any other provision of law, any pledge  
989 | of or other security interest in revenue, money, accounts,  
990 | contract rights, general intangibles, or other personal property  
991 | made or created by the fund or the corporation shall be valid,  
992 | binding, and perfected from the time such pledge is made or other  
993 | security interest attaches without any physical delivery of the  
994 | collateral or further act and the lien of any such pledge or  
995 | other security interest shall be valid, binding, and perfected  
996 | against all parties having claims of any kind in tort, contract,  
997 | or otherwise against the fund or the corporation irrespective of  
998 | whether or not such parties have notice of such claims. No  
999 | instrument by which such a pledge or security interest is created  
1000 | nor any financing statement need be recorded or filed.

1001 |         ~~(8)(7)~~ ADDITIONAL POWERS AND DUTIES.--

1002 |         (a) The board may authorize the division's procurement of  
1003 | ~~procure~~ reinsurance from reinsurers acceptable to the Office of  
1004 | Insurance Regulation for the purpose of maximizing the capacity  
1005 | of the fund and may enter into capital market transactions,  
1006 | including, but not limited to, industry loss warranties,  
1007 | catastrophe bonds, side-car arrangements, or financial contracts  
1008 | permissible for the State Board of Administration's ~~board's~~ usage  
1009 | under s. 215.47(10) and (11), consistent with prudent management  
1010 | of the fund.

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1011 (b) In addition to borrowing under subsection (7) ~~(6)~~, the  
1012 board may also authorize the division to borrow from, or enter  
1013 into other financing arrangements with, any market sources at  
1014 prevailing interest rates.

1015 (c) Each fiscal year, the Legislature shall appropriate  
1016 from the investment income of the Florida Hurricane Catastrophe  
1017 Fund an amount no less than \$10 million and no more than 35  
1018 percent of the investment income based upon the most recent  
1019 fiscal year-end audited financial statements for the purpose of  
1020 providing funding for local governments, state agencies, public  
1021 and private educational institutions, and nonprofit organizations  
1022 to support programs intended to improve hurricane preparedness,  
1023 reduce potential losses in the event of a hurricane, provide  
1024 research into means to reduce such losses, educate or inform the  
1025 public as to means to reduce hurricane losses, assist the public  
1026 in determining the appropriateness of particular upgrades to  
1027 structures or in the financing of such upgrades, or protect local  
1028 infrastructure from potential damage from a hurricane. Moneys  
1029 shall first be available for appropriation under this paragraph  
1030 in fiscal year 1997-1998. Moneys in excess of the \$10 million  
1031 specified in this paragraph shall not be available for  
1032 appropriation under this paragraph if the board ~~State Board of~~  
1033 ~~Administration~~ finds that an appropriation of investment income  
1034 from the fund would jeopardize the actuarial soundness of the  
1035 fund.

1036 (d) The division ~~board~~ may allow insurers to comply with  
1037 reporting requirements and reporting format requirements by using  
1038 alternative methods of reporting if the proper administration of  
1039 the fund is not thereby impaired and if the alternative methods

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1040 produce data which is consistent with the purposes of this  
1041 section.

1042 (e) In order to assure the equitable operation of the fund,  
1043 the division ~~board~~ may impose a reasonable fee on an insurer to  
1044 recover costs involved in reprocessing inaccurate, incomplete, or  
1045 untimely exposure data submitted by the insurer.

1046 (9) ~~(8)~~ ADVISORY COUNCIL.--The division ~~State Board of~~  
1047 ~~Administration~~ shall appoint a nine-member advisory council that  
1048 consists of an actuary, a meteorologist, an engineer, a  
1049 representative of insurers, a representative of insurance agents,  
1050 a representative of reinsurers, and three consumers who shall  
1051 also be representatives of other affected professions and  
1052 industries, to provide the division ~~board~~ with information and  
1053 advice in connection with its duties under this section. Members  
1054 of the advisory council shall serve at the pleasure of the board  
1055 and are eligible for per diem and travel expenses under s.  
1056 112.061.

1057 (10) ~~(9)~~ APPLICABILITY OF S. 19, ART. III OF THE STATE  
1058 CONSTITUTION.--The Legislature finds that the Florida Hurricane  
1059 Catastrophe Fund created by this section is a trust fund  
1060 established for bond covenants, indentures, or resolutions within  
1061 the meaning of s. 19(f) (3), Art. III of the State Constitution.

1062 (11) ~~(10)~~ VIOLATIONS.--Any violation of this section or of  
1063 rules adopted under this section constitutes a violation of the  
1064 insurance code.

1065 (12) ~~(11)~~ LEGAL PROCEEDINGS.--The division ~~board~~ is  
1066 authorized to take any action necessary to enforce the rules, and  
1067 the provisions and requirements of the reimbursement contract,  
1068 required by and adopted pursuant to this section.

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1069        (13)~~(12)~~ FEDERAL OR MULTISTATE CATASTROPHIC FUNDS.--Upon  
1070 the creation of a federal or multistate catastrophic insurance or  
1071 reinsurance program intended to serve purposes similar to the  
1072 purposes of the fund created by this section, the division, upon  
1073 approval by the board, ~~State Board of Administration~~ shall  
1074 promptly make recommendations to the Legislature for coordination  
1075 with the federal or multistate program, for termination of the  
1076 fund, or for such other actions as the board finds appropriate in  
1077 the circumstances.

1078        (14)~~(13)~~ REVERSION OF FUND ASSETS UPON TERMINATION.--The  
1079 fund, the division, and the duties of the board under this  
1080 section may be terminated only by law. Upon termination of the  
1081 fund, all assets of the fund shall revert to the General Revenue  
1082 Fund.

1083        (15)~~(14)~~ SEVERABILITY.--If any provision of this section or  
1084 its application to any person or circumstance is held invalid,  
1085 the invalidity does not affect other provisions or applications  
1086 of the section which can be given effect without the invalid  
1087 provision or application, and to this end the provisions of this  
1088 section are declared severable.

1089        (16)~~(15)~~ COLLATERAL PROTECTION INSURANCE.--As used in this  
1090 section and ss. 627.311 and 627.351, the term "collateral  
1091 protection insurance" means commercial property insurance of  
1092 which a creditor is the primary beneficiary and policyholder and  
1093 which protects or covers an interest of the creditor arising out  
1094 of a credit transaction secured by real or personal property.  
1095 Initiation of such coverage is triggered by the mortgagor's  
1096 failure to maintain insurance coverage as required by the

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1097 mortgage or other lending document. Collateral protection  
1098 insurance is not residential coverage.

1099 (17)~~(16)~~ TEMPORARY EMERGENCY ~~OPTIONS FOR~~ ADDITIONAL  
1100 COVERAGE OPTIONS.--

1101 (a) Findings and intent.--

1102 1. The Legislature finds that:

1103 a. Because of temporary disruptions in the market for  
1104 catastrophic reinsurance, many property insurers were unable to  
1105 procure reinsurance for the 2006 hurricane season with an  
1106 attachment point below the insurers' respective Florida Hurricane  
1107 Catastrophe Fund attachment points, were unable to procure  
1108 sufficient amounts of such reinsurance, or were able to procure  
1109 such reinsurance only by incurring substantially higher costs  
1110 than in prior years.

1111 b. The reinsurance market problems were responsible, at  
1112 least in part, for substantial premium increases to many  
1113 consumers and increases in the number of policies issued by the  
1114 Citizens Property Insurance Corporation.

1115 c. It is likely that the reinsurance market disruptions  
1116 will not significantly abate prior to the 2007 hurricane season.

1117 2. It is the intent of the Legislature to create a  
1118 temporary emergency program, applicable to the 2007, 2008, and  
1119 2009 hurricane seasons, to address these market disruptions and  
1120 enable insurers, at their option, to procure additional coverage  
1121 from the Florida Hurricane Catastrophe Fund.

1122 (b) Applicability of other provisions of this section.--All  
1123 provisions of this section and the rules adopted under this  
1124 section apply to the program created by this subsection unless  
1125 specifically superseded by this subsection.

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1126 (c) Optional coverage.--For the contract year commencing  
1127 June 1, 2007, and ending May 31, 2008, the contract year  
1128 commencing June 1, 2008, and ending May 31, 2009, and the  
1129 contract year commencing June 1, 2009, and ending May 31, 2010,  
1130 the board shall offer for each of such years the optional  
1131 coverage as provided in this subsection.

1132 (d) Additional definitions.--As used in this subsection,  
1133 the term:

1134 1. "TEACO options" means the temporary emergency additional  
1135 coverage options created under this subsection.

1136 2. "TEACO insurer" means an insurer that has opted to  
1137 obtain coverage under the TEACO options in addition to the  
1138 coverage provided to the insurer under its reimbursement  
1139 contract.

1140 3. "TEACO reimbursement premium" means the premium charged  
1141 by the fund for coverage provided under the TEACO options.

1142 4. "TEACO retention" means the amount of losses below which  
1143 a TEACO insurer is not entitled to reimbursement from the fund  
1144 under the TEACO option selected. A TEACO insurer's retention  
1145 options shall be calculated as follows:

1146 a. The division board ~~board~~ shall calculate and report to each  
1147 TEACO insurer the TEACO retention multiples. There shall be three  
1148 TEACO retention multiples for defining coverage. Each multiple  
1149 shall be calculated by dividing \$3 billion, \$4 billion, or \$5  
1150 billion by the total estimated mandatory FHCF reimbursement  
1151 premium assuming all insurers selected the 90-percent coverage  
1152 level.

1153 b. The TEACO retention multiples as determined under sub-  
1154 subparagraph a. shall be adjusted to reflect the coverage level



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1155 | elected by the insurer. For insurers electing the 90-percent  
1156 | coverage level, the adjusted retention multiple is 100 percent of  
1157 | the amount determined under sub-subparagraph a. For insurers  
1158 | electing the 75-percent coverage level, the retention multiple is  
1159 | 120 percent of the amount determined under sub-subparagraph a.  
1160 | For insurers electing the 45-percent coverage level, the adjusted  
1161 | retention multiple is 200 percent of the amount determined under  
1162 | sub-subparagraph a.

1163 |       c. An insurer shall determine its provisional TEACO  
1164 | retention by multiplying its estimated mandatory FHCF  
1165 | reimbursement premium by the applicable adjusted TEACO retention  
1166 | multiple and shall determine its actual TEACO retention by  
1167 | multiplying its actual mandatory FHCF reimbursement premium by  
1168 | the applicable adjusted TEACO retention multiple.

1169 |       d. For TEACO insurers who experience multiple covered  
1170 | events causing loss during the contract year, the insurer's full  
1171 | TEACO retention shall be applied to each of the covered events  
1172 | causing the two largest losses for that insurer. For other  
1173 | covered events resulting in losses, the TEACO option does not  
1174 | apply and the insurer's retention shall be one-third of the full  
1175 | retention as calculated under paragraph (2) (e).

1176 |       5. "TEACO addendum" means an addendum to the reimbursement  
1177 | contract reflecting the obligations of the fund and TEACO  
1178 | insurers under the program created by this subsection.

1179 |       6. "FHCF" means the Florida Hurricane Catastrophe Fund.

1180 |       (e) TEACO addendum.--

1181 |       1. The TEACO addendum shall provide for reimbursement of  
1182 | TEACO insurers for covered events occurring during the contract  
1183 | year, in exchange for the TEACO reimbursement premium paid into

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1184 the fund under paragraph (f). Any insurer writing covered  
1185 policies has the option of choosing to accept the TEACO addendum  
1186 for any of the 3 contract years that the coverage is offered.

1187 2. The TEACO addendum shall contain a promise by the  
1188 division ~~board~~ to reimburse the TEACO insurer for 45 percent, 75  
1189 percent, or 90 percent of its losses from each covered event in  
1190 excess of the insurer's TEACO retention, plus 5 percent of the  
1191 reimbursed losses to cover loss adjustment expenses. The  
1192 percentage shall be the same as the coverage level selected by  
1193 the insurer under paragraph (5) (b) ~~(4) (b)~~.

1194 3. The TEACO addendum shall provide that reimbursement  
1195 amounts shall not be reduced by reinsurance paid or payable to  
1196 the insurer from other sources.

1197 4. The TEACO addendum shall also provide that the  
1198 obligation of the division ~~board~~ with respect to all TEACO  
1199 addenda shall not exceed an amount equal to two times the  
1200 difference between the industry retention level calculated under  
1201 paragraph (2) (e) and the \$3 billion, \$4 billion, or \$5 billion  
1202 industry TEACO retention level options actually selected, but in  
1203 no event may the division's ~~board's~~ obligation exceed the actual  
1204 claims-paying capacity of the fund plus the additional capacity  
1205 created in paragraph (g). If the actual claims-paying capacity  
1206 and the additional capacity created under paragraph (g) fall  
1207 short of the division's ~~board's~~ obligations under the  
1208 reimbursement contract, each insurer's share of the fund's  
1209 capacity shall be prorated based on the premium an insurer pays  
1210 for its mandatory reimbursement coverage and the premium paid for  
1211 its optional TEACO coverage as each such premium bears to the  
1212 total premiums paid to the fund times the available capacity.

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1213           5. The priorities, schedule, and method of reimbursements  
1214 under the TEACO addendum shall be the same as provided under  
1215 subsection (5) ~~(4)~~.

1216           6. A TEACO insurer's maximum reimbursement for a single  
1217 event shall be equal to the product of multiplying its mandatory  
1218 FHCF premium by the difference between its FHCF retention  
1219 multiple and its TEACO retention multiple under the TEACO option  
1220 selected and by the coverage selected under paragraph (5) (b)  
1221 ~~(4) (b)~~, plus an additional 5 percent for loss adjustment  
1222 expenses. A TEACO insurer's maximum reimbursement under the TEACO  
1223 option selected for a TEACO insurer's two largest events shall be  
1224 twice its maximum reimbursement for a single event.

1225           (f) TEACO reimbursement premiums.--

1226           1. Each TEACO insurer shall pay to the fund, in the manner  
1227 and at the time provided in the reimbursement contract for  
1228 payment of reimbursement premiums, a TEACO reimbursement premium  
1229 calculated as specified in this paragraph.

1230           2. The insurer's TEACO reimbursement premium associated  
1231 with the \$3 billion retention option shall be equal to 85 percent  
1232 of a TEACO insurer's maximum reimbursement for a single event as  
1233 calculated under subparagraph (e)6. The TEACO reimbursement  
1234 premium associated with the \$4 billion retention option shall be  
1235 equal to 80 percent of a TEACO insurer's maximum reimbursement  
1236 for a single event as calculated under subparagraph (e)6. The  
1237 TEACO premium associated with the \$5 billion retention option  
1238 shall be equal to 75 percent of a TEACO insurer's maximum  
1239 reimbursement for a single event as calculated under subparagraph  
1240 (e)6.

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1241 (g) Effect on claims-paying capacity of the fund.--For the  
1242 contract term commencing June 1, 2007, the contract year  
1243 commencing June 1, 2008, and the contract term beginning June 1,  
1244 2009, the program created by this subsection shall increase the  
1245 claims-paying capacity of the fund as provided in subparagraph  
1246 (5) (c) 1. ~~(4) (e) 1.~~ by an amount equal to two times the difference  
1247 between the industry retention level calculated under paragraph  
1248 (2) (e) and the \$3 billion industry TEACO retention level  
1249 specified in sub-subparagraph (d) 4.a. The additional capacity  
1250 shall apply only to the additional coverage provided by the TEACO  
1251 option and shall not otherwise affect any insurer's reimbursement  
1252 from the fund.

1253 ~~(18) (17)~~ TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.--

1254 (a) Findings and intent.--

1255 1. The Legislature finds that:

1256 a. Because of temporary disruptions in the market for  
1257 catastrophic reinsurance, many property insurers were unable to  
1258 procure sufficient amounts of reinsurance for the 2006 hurricane  
1259 season or were able to procure such reinsurance only by incurring  
1260 substantially higher costs than in prior years.

1261 b. The reinsurance market problems were responsible, at  
1262 least in part, for substantial premium increases to many  
1263 consumers and increases in the number of policies issued by  
1264 Citizens Property Insurance Corporation.

1265 c. It is likely that the reinsurance market disruptions  
1266 will not significantly abate prior to the 2008 ~~2007~~ hurricane  
1267 season.

1268 2. It is the intent of the Legislature to create options  
1269 for insurers to purchase a temporary increased coverage limit

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1270 above the statutorily determined limit in subparagraph (4)(c)1.,  
1271 applicable for the ~~2007~~, 2008, and 2009 hurricane seasons, to  
1272 address market disruptions and enable insurers, at their option,  
1273 to procure additional coverage from the Florida Hurricane  
1274 Catastrophe Fund.

1275 (b) Applicability of other provisions of this section.--All  
1276 provisions of this section and the rules adopted under this  
1277 section apply to the coverage created by this subsection unless  
1278 specifically superseded by provisions in this subsection.

1279 (c) Optional coverage.--For the contract year commencing  
1280 ~~June 1, 2007, and ending May 31, 2008, the contract year~~  
1281 ~~commencing~~ June 1, 2008, and ending May 31, 2009, and the  
1282 contract year commencing June 1, 2009, and ending May 31, 2010,  
1283 the board shall offer, for each of such years, the optional  
1284 coverage as provided in this subsection.

1285 (d) Additional definitions.--As used in this subsection,  
1286 the term:

- 1287 1. "FHCF" means Florida Hurricane Catastrophe Fund.
- 1288 2. "FHCF reimbursement premium" means the premium paid by  
1289 an insurer for its coverage as a mandatory participant in the  
1290 FHCF, but does not include additional premiums for optional  
1291 coverages.
- 1292 3. "Payout multiple" means the number or multiple created  
1293 by dividing the statutorily defined claims-paying capacity as  
1294 determined in subparagraph (5)(c)1. ~~(4)(c)1.~~ by the aggregate  
1295 reimbursement premiums paid by all insurers estimated or  
1296 projected as of calendar year-end.
- 1297 4. "TICL" means the temporary increase in coverage limit.

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1298 5. "TICL options" means the temporary increase in coverage  
1299 options created under this subsection.

1300 6. "TICL insurer" means an insurer that has opted to obtain  
1301 coverage under the TICL options addendum in addition to the  
1302 coverage provided to the insurer under its FHCF reimbursement  
1303 contract.

1304 7. "TICL reimbursement premium" means the premium charged  
1305 by the fund for coverage provided under the TICL option.

1306 8. "TICL coverage multiple" means the coverage multiple  
1307 when multiplied by an insurer's FHCF's reimbursement premium that  
1308 defines the temporary increase in coverage limit.

1309 9. "TICL coverage" means the coverage for an insurer's  
1310 losses above the insurer's statutorily determined claims-paying  
1311 capacity based on the claims-paying limit in subparagraph  
1312 (5)(c)1. ~~(4)(e)1.~~, which an insurer selects as its temporary  
1313 increase in coverage from the fund under the TICL options  
1314 selected. A TICL insurer's increased coverage limit options shall  
1315 be calculated as follows:

1316 a. The division ~~board~~ shall calculate and report to each  
1317 TICL insurer the TICL coverage multiples based on 9 ~~12~~ options  
1318 for increasing the insurer's FHCF coverage limit. Each TICL  
1319 coverage multiple shall be calculated by dividing \$1 billion, \$2  
1320 billion, \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7  
1321 billion, \$8 billion, and \$9 billion, ~~\$10 billion, \$11 billion, or~~  
1322 ~~\$12 billion~~ by the total estimated aggregate FHCF reimbursement  
1323 premiums for ~~the 2007-2008 contract year,~~ the 2008-2009 contract  
1324 year, and the 2009-2010 contract year.

1325 b. The TICL insurer's increased coverage shall be the FHCF  
1326 reimbursement premium multiplied by the TICL coverage multiple

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1327 for the TICL option selected. In order to determine an insurer's  
1328 total limit of coverage, an insurer shall add its TICL coverage  
1329 multiple to its payout multiple. The total shall represent a  
1330 number that, when multiplied by an insurer's FHCF reimbursement  
1331 premium for a given reimbursement contract year, defines an  
1332 insurer's total limit of FHCF reimbursement coverage for that  
1333 reimbursement contract year.

1334 10. "TICL options addendum" means an addendum to the  
1335 reimbursement contract reflecting the obligations of the fund and  
1336 insurers selecting an option to increase an insurer's FHCF  
1337 coverage limit.

1338 (e) TICL options addendum.--

1339 1. The TICL options addendum shall provide for  
1340 reimbursement of TICL insurers for covered events occurring  
1341 between June 1, 2007, and May 31, 2008, and between June 1, 2008,  
1342 and May 31, 2009, or between June 1, 2009, and May 31, 2010, in  
1343 exchange for the TICL reimbursement premium paid into the fund  
1344 under paragraph (f). Any insurer writing covered policies has the  
1345 option of selecting an increased limit of coverage under the TICL  
1346 options addendum and shall select such coverage at the time that  
1347 it executes the FHCF reimbursement contract.

1348 2. The TICL addendum shall contain a promise by the board  
1349 to reimburse the TICL insurer for 70 percent of the insurer's 45  
1350 percent, 75 percent, or 90 percent of its losses from each  
1351 covered event in excess of the insurer's mandatory coverage,  
1352 including retention, plus 5 percent of the reimbursed losses to  
1353 cover loss adjustment expenses from each covered event. ~~The~~  
1354 ~~percentage shall be the same as the coverage level selected by~~  
1355 ~~the insurer under paragraph (4) (b).~~

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1356 3. The TICL addendum shall provide that reimbursement  
1357 amounts shall not be reduced by reinsurance paid or payable to  
1358 the insurer from other sources.

1359 4. The priorities, schedule, and method of reimbursements  
1360 under the TICL addendum shall be the same as provided under  
1361 subsection (5) ~~(4)~~.

1362 (f) TICL reimbursement premiums.--Each TICL insurer shall  
1363 pay to the fund, in the manner and at the time provided in the  
1364 reimbursement contract for payment of reimbursement premiums, a  
1365 TICL reimbursement premium determined as specified in subsection  
1366 (5).

1367 (g) Effect on claims-paying capacity of the fund.--For the  
1368 contract terms commencing ~~June 1, 2007,~~ June 1, 2008, and June 1,  
1369 2009, the program created by this subsection shall increase the  
1370 claims-paying capacity of the fund as provided in subparagraph  
1371 (5) (c) 1. ~~(4) (e) 1.~~ by an amount not to exceed \$9 ~~\$12~~ billion and  
1372 shall depend on the TICL coverage options selected and the number  
1373 of insurers that select the TICL optional coverage. The  
1374 additional capacity shall apply only to the additional coverage  
1375 provided under the TICL options and shall not otherwise affect  
1376 any insurer's reimbursement from the fund if the insurer chooses  
1377 not to select the temporary option to increase its limit of  
1378 coverage under the FHCF.

1379 (h) Increasing the claims-paying capacity of the fund.--For  
1380 the contract years commencing ~~June 1, 2007,~~ June 1, 2008, and  
1381 June 1, 2009, the board may increase the claims-paying capacity  
1382 of the fund as provided in paragraph (g) by an amount not to  
1383 exceed \$4 billion in four \$1 billion options and shall depend on  
1384 the TICL coverage options selected and the number of insurers



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1385 that select the TICL optional coverage. Each insurer's TICL  
1386 premium shall be calculated based upon the additional limit of  
1387 increased coverage that the insurer selects. Such limit is  
1388 determined by multiplying the TICL multiple associated with one  
1389 of the four options times the insurer's FHCF reimbursement  
1390 premium. The reimbursement premium associated with the additional  
1391 coverage provided in this paragraph shall be determined as  
1392 specified in subsection (6) ~~(5)~~.

1393 Section 2. Section 215.557, Florida Statutes, is amended to  
1394 read:

1395 215.557 Reports of insured values.--The reports of insured  
1396 values under covered policies by zip code submitted to the  
1397 Division of the Florida Hurricane Catastrophe Fund ~~State Board of~~  
1398 ~~Administration~~ pursuant to s. 215.555, as created by s. 1, ch.  
1399 93-409, Laws of Florida, or similar legislation, are confidential  
1400 and exempt from the provisions of s. 119.07(1) and s. 24(a), Art.  
1401 I of the State Constitution.

1402 Section 3. Paragraph (h) of subsection (4) of section  
1403 215.5586, Florida Statutes, is amended to read:

1404 215.5586 My Safe Florida Home Program.--There is  
1405 established within the Department of Financial Services the My  
1406 Safe Florida Home Program. The department shall provide fiscal  
1407 accountability, contract management, and strategic leadership for  
1408 the program, consistent with this section. This section does not  
1409 create an entitlement for property owners or obligate the state  
1410 in any way to fund the inspection or retrofitting of residential  
1411 property in this state. Implementation of this program is subject  
1412 to annual legislative appropriations. It is the intent of the  
1413 Legislature that the My Safe Florida Home Program provide

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1414 inspections for at least 400,000 site-built, single-family,  
1415 residential properties and provide grants to at least 35,000  
1416 applicants before June 30, 2009. The program shall develop and  
1417 implement a comprehensive and coordinated approach for hurricane  
1418 damage mitigation that shall include the following:

1419 (4) ADVISORY COUNCIL.--There is created an advisory council  
1420 to provide advice and assistance to the department regarding  
1421 administration of the program. The advisory council shall consist  
1422 of:

1423 (h) The director ~~senior officer~~ of the Division of the  
1424 Florida Hurricane Catastrophe Fund.

1425  
1426 Members appointed under paragraphs (a)-(d) shall serve at the  
1427 pleasure of the Financial Services Commission. Members appointed  
1428 under paragraphs (e) and (f) shall serve at the pleasure of the  
1429 appointing officer. All other members shall serve voting ex  
1430 officio. Members of the advisory council shall serve without  
1431 compensation but may receive reimbursement as provided in s.  
1432 112.061 for per diem and travel expenses incurred in the  
1433 performance of their official duties.

1434 Section 4. Subsection (1) of section 215.559, Florida  
1435 Statutes, is amended to read:

1436 215.559 Hurricane Loss Mitigation Program.--

1437 (1) There is created a Hurricane Loss Mitigation Program.  
1438 The Legislature shall annually appropriate \$10 million of the  
1439 moneys authorized for appropriation under s. 215.555(8) ~~s.~~  
1440 ~~215.555(7)(c)~~ from the Florida Hurricane Catastrophe Fund to the  
1441 Department of Community Affairs for the purposes set forth in  
1442 this section.

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1443 Section 5. Subsection (2) and paragraph (a) of subsection  
1444 (3) of section 215.5595, Florida Statutes, are amended to read:

1445 215.5595 Insurance Capital Build-Up Incentive Program.--

1446 (2) The purpose of this section is to provide surplus notes  
1447 to new or existing authorized residential property insurers under  
1448 the Insurance Capital Build-Up Incentive Program administered by  
1449 the Division of the Florida Hurricane Catastrophe Fund of the  
1450 State Board of Administration, under the following conditions:

1451 (a) The amount of the surplus note for any insurer or  
1452 insurer group, other than an insurer writing only manufactured  
1453 housing policies, may not exceed \$25 million or 20 percent of the  
1454 total amount of funds available under the program, whichever is  
1455 greater. The amount of the surplus note for any insurer or  
1456 insurer group writing residential property insurance covering  
1457 only manufactured housing may not exceed \$7 million.

1458 (b) The insurer must contribute an amount of new capital to  
1459 its surplus which is at least equal to the amount of the surplus  
1460 note and must apply to the board by July 1, 2006. If an insurer  
1461 applies after July 1, 2006, but before June 1, 2007, the amount  
1462 of the surplus note is limited to one-half of the new capital  
1463 that the insurer contributes to its surplus, except that an  
1464 insurer writing only manufactured housing policies is eligible to  
1465 receive a surplus note of up to \$7 million. For purposes of this  
1466 section, new capital must be in the form of cash or cash  
1467 equivalents as specified in s. 625.012(1).

1468 (c) The insurer's surplus, new capital, and the surplus  
1469 note must total at least \$50 million, except for insurers writing  
1470 residential property insurance covering only manufactured  
1471 housing. The insurer's surplus, new capital, and the surplus note

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1472 must total at least \$14 million for insurers writing only  
1473 residential property insurance covering manufactured housing  
1474 policies as provided in paragraph (a).

1475 (d) The insurer must commit to meeting a minimum writing  
1476 ratio of net written premium to surplus of at least 2:1 for the  
1477 term of the surplus note, which shall be determined by the Office  
1478 of Insurance Regulation and certified quarterly to the board. For  
1479 this purpose, the term "net written premium" means net written  
1480 premium for residential property insurance in Florida, including  
1481 the peril of wind, and "surplus" refers to the entire surplus of  
1482 the insurer. If the required ratio is not maintained during the  
1483 term of the surplus note, the board may increase the interest  
1484 rate, accelerate the repayment of interest and principal, or  
1485 shorten the term of the surplus note, subject to approval by the  
1486 Commissioner of Insurance of payments by the insurer of principal  
1487 and interest as provided in paragraph (f).

1488 (e) If the requirements of this section are met, the board  
1489 may approve an application by an insurer for a surplus note,  
1490 unless the board determines that the financial condition of the  
1491 insurer and its business plan for writing residential property  
1492 insurance in Florida places an unreasonably high level of  
1493 financial risk to the state of nonpayment in full of the interest  
1494 and principal. The board shall consult with the Office of  
1495 Insurance Regulation and may contract with independent financial  
1496 and insurance consultants in making this determination.

1497 (f) The surplus note must be repayable to the state with a  
1498 term of 20 years. The surplus note shall accrue interest on the  
1499 unpaid principal balance at a rate equivalent to the 10-year U.S.  
1500 Treasury Bond rate, require the payment only of interest during

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1501 the first 3 years, and include such other terms as approved by  
1502 the board. Payment of principal or interest by the insurer on the  
1503 surplus note must be approved by the Commissioner of Insurance,  
1504 who shall approve such payment unless the commissioner determines  
1505 that such payment will substantially impair the financial  
1506 condition of the insurer. If such a determination is made, the  
1507 commissioner shall approve such payment that will not  
1508 substantially impair the financial condition of the insurer.

1509 (g) The total amount of funds available for the program is  
1510 limited to the amount appropriated by the Legislature for this  
1511 purpose. If the amount of surplus notes requested by insurers  
1512 exceeds the amount of funds available, the board may prioritize  
1513 insurers that are eligible and approved, with priority for  
1514 funding given to insurers writing only manufactured housing  
1515 policies, regardless of the date of application, based on the  
1516 financial strength of the insurer, the viability of its proposed  
1517 business plan for writing additional residential property  
1518 insurance in the state, and the effect on competition in the  
1519 residential property insurance market. Between insurers writing  
1520 residential property insurance covering manufactured housing,  
1521 priority shall be given to the insurer writing the highest  
1522 percentage of its policies covering manufactured housing.

1523 (h) The board may allocate portions of the funds available  
1524 for the program and establish dates for insurers to apply for  
1525 surplus notes from such allocation which are earlier than the  
1526 dates established in paragraph (b).

1527 (i) Notwithstanding paragraph (d), a newly formed  
1528 manufactured housing insurer that is eligible for a surplus note

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1529 | under this section shall meet the premium to surplus ratio  
1530 | provisions of s. 624.4095.

1531 | (j) As used in this section, "an insurer writing only  
1532 | manufactured housing policies" includes:

1533 | 1. A Florida domiciled insurer that begins writing personal  
1534 | lines residential manufactured housing policies in Florida after  
1535 | March 1, 2007, and that removes a minimum of 50,000 policies from  
1536 | Citizens Property Insurance Corporation without accepting a  
1537 | bonus, provided at least 25 percent of its policies cover  
1538 | manufactured housing. Such an insurer may count any funds above  
1539 | the minimum capital and surplus requirement that were contributed  
1540 | into the insurer after March 1, 2007, as new capital under this  
1541 | section.

1542 | 2. A Florida domiciled insurer that writes at least 40  
1543 | percent of its policies covering manufactured housing in Florida.

1544 | (3) As used in this section, the term:

1545 | (a) "Board" means the Division of the Florida Hurricane  
1546 | Catastrophe Fund of the State Board of Administration.

1547 | Section 6. Paragraph (c) of subsection (1), paragraphs (a),  
1548 | (b), (d), (f), and (g) of subsection (2), and paragraph (b) of  
1549 | subsection (3) of section 627.0628, Florida Statutes, are amended  
1550 | to read:

1551 | 627.0628 Florida Commission on Hurricane Loss Projection  
1552 | Methodology; public records exemption; public meetings  
1553 | exemption.--

1554 | (1) LEGISLATIVE FINDINGS AND INTENT.--

1555 | (c) It is the intent of the Legislature to create the  
1556 | Florida Commission on Hurricane Loss Projection Methodology as a  
1557 | panel of experts to provide the most actuarially sophisticated

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1558 guidelines and standards for projection of hurricane losses  
1559 possible, given the current state of actuarial science. It is the  
1560 further intent of the Legislature that such standards and  
1561 guidelines must be used by the Division of the Florida Hurricane  
1562 Catastrophe Fund of the State Board of Administration in  
1563 developing reimbursement premium rates for the Florida Hurricane  
1564 Catastrophe Fund, and, subject to paragraph (3)(c), may be used  
1565 by insurers in rate filings under s. 627.062 unless the way in  
1566 which such standards and guidelines were applied by the insurer  
1567 was erroneous, as shown by a preponderance of the evidence.

1568 (2) COMMISSION CREATED.--

1569 (a) There is created the Florida Commission on Hurricane  
1570 Loss Projection Methodology, which is assigned to the Division of  
1571 the Florida Hurricane Catastrophe Fund of the State Board of  
1572 Administration. For the purposes of this section, the term  
1573 "commission" means the Florida Commission on Hurricane Loss  
1574 Projection Methodology. The commission shall be administratively  
1575 housed within the State Board of Administration, but it shall  
1576 independently exercise the powers and duties specified in this  
1577 section.

1578 (b) The commission shall consist of the following 11  
1579 members:

- 1580 1. The insurance consumer advocate.
- 1581 2. The director of the Division of the Florida Hurricane  
1582 Catastrophe Fund ~~senior employee~~ of the State Board of  
1583 Administration ~~responsible for operations of the Florida~~  
1584 ~~Hurricane Catastrophe Fund~~.
- 1585 3. The Executive Director of the Citizens Property  
1586 Insurance Corporation.

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1587 4. The Director of the Division of Emergency Management of  
1588 the Department of Community Affairs.

1589 5. The actuary member of the Florida Hurricane Catastrophe  
1590 Fund Advisory Council.

1591 6. An employee of the office who is an actuary responsible  
1592 for property insurance rate filings and who is appointed by the  
1593 director of the office.

1594 7. Five members appointed by the Chief Financial Officer,  
1595 as follows:

1596 a. An actuary who is employed full time by a property and  
1597 casualty insurer which was responsible for at least 1 percent of  
1598 the aggregate statewide direct written premium for homeowner's  
1599 insurance in the calendar year preceding the member's appointment  
1600 to the commission.

1601 b. An expert in insurance finance who is a full-time member  
1602 of the faculty of the State University System and who has a  
1603 background in actuarial science.

1604 c. An expert in statistics who is a full-time member of the  
1605 faculty of the State University System and who has a background  
1606 in insurance.

1607 d. An expert in computer system design who is a full-time  
1608 member of the faculty of the State University System.

1609 e. An expert in meteorology who is a full-time member of  
1610 the faculty of the State University System and who specializes in  
1611 hurricanes.

1612 (d) The board of the Division of the Florida Hurricane  
1613 Catastrophe Fund of the State Board of Administration shall  
1614 annually appoint one of the members of the commission to serve as  
1615 chair.



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1616 (f) The Division of the Florida Hurricane Catastrophe Fund  
1617 of the State Board of Administration shall, as a cost of  
1618 administration of the Florida Hurricane Catastrophe Fund, provide  
1619 for travel, expenses, and staff support for the commission.

1620 (g) There shall be no liability on the part of, and no  
1621 cause of action of any nature shall arise against, any member of  
1622 the commission, any member ~~of the State Board of Administration,~~  
1623 or ~~any~~ employee of the Division of the Florida Hurricane  
1624 Catastrophe Fund of the State Board of Administration for any  
1625 action taken in the performance of their duties under this  
1626 section. In addition, the commission may, in writing, waive any  
1627 potential cause of action for negligence of a consultant,  
1628 contractor, or contract employee engaged to assist the  
1629 commission.

1630 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

1631 (b) In establishing reimbursement premiums for the Florida  
1632 Hurricane Catastrophe Fund, the Division of the Florida Hurricane  
1633 Catastrophe Fund ~~State Board of Administration~~ must, to the  
1634 extent feasible, employ actuarial methods, principles, standards,  
1635 models, or output ranges found by the commission to be accurate  
1636 or reliable.

1637 Section 7. This act shall take effect June 1, 2008.