

By the Committees on General Government Appropriations;
Governmental Operations; Banking and Insurance; Banking and
Insurance

601-07020-08

20082156c3

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; revising the percentage of losses covered
27 by such coverage; requiring that the division publish
28 certain information in the Florida Administrative Weekly
29 at specified times; authorizing the payment of

601-07020-08

20082156c3

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

601-07020-08

20082156c3

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

601-07020-08

20082156c3

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

115
116 Be It Enacted by the Legislature of the State of Florida:

601-07020-08

20082156c3

117
118 Section 1. Section 215.555, Florida Statutes, is amended to
119 read:

120 215.555 Florida Hurricane Catastrophe Fund.--

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

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

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

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

601-07020-08

20082156c3

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

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

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

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

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

601-07020-08

20082156c3

175 catastrophe could cause damages in excess of \$60 billion,
176 especially if a major urban area or series of urban areas were
177 hit, it is the intent of the Legislature to balance equitably its
178 concerns about mitigation of hurricane impact, insurance
179 affordability and availability, and the risk of insurer and joint
180 underwriting association insolvency, as well as assessment and
181 bonding limitations.

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

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

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

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

601-07020-08

20082156c3

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

601-07020-08

20082156c3

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

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

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

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

601-07020-08

20082156c3

262 2. The retention multiple as determined under subparagraph
263 1. shall be adjusted to reflect the coverage level elected by the
264 insurer. For insurers electing the 90-percent coverage level, the
265 adjusted retention multiple is 100 percent of the amount
266 determined under subparagraph 1. For insurers electing the 75-
267 percent coverage level, the retention multiple is 120 percent of
268 the amount determined under subparagraph 1. For insurers electing
269 the 45-percent coverage level, the adjusted retention multiple is
270 200 percent of the amount determined under subparagraph 1.

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

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

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

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

601-07020-08

20082156c3

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

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

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

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

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

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

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

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

601-07020-08

20082156c3

320 Catastrophe Fund.

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

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

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

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

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

601-07020-08

20082156c3

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

375 | (5) ~~(4)~~ REIMBURSEMENT CONTRACTS.--

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

601-07020-08

20082156c3

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

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

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

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

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

601-07020-08

20082156c3

407 | 215.5595~~7~~ a contract or contract addendum that provides an
408 | additional amount of reimbursement coverage for 70 percent of the
409 | insurer's losses from a covered event of up to \$10 million. The
410 | premium to be charged for this additional reimbursement coverage
411 | shall be 50 percent of the additional reimbursement coverage
412 | provided, which shall include one prepaid reinstatement. The
413 | minimum retention level that an eligible participating insurer
414 | must retain associated with this additional coverage layer is 30
415 | percent of the insurer's surplus as of December 31, 2007 ~~2006~~.
416 | This coverage is ~~shall be~~ in addition to all other coverage that
417 | may be provided under this section. The coverage provided by the
418 | fund under this subparagraph shall be in addition to the claims-
419 | paying capacity as defined in subparagraph (c)1., but only with
420 | respect to those insurers that select the additional coverage
421 | option and meet the requirements of this subparagraph. The
422 | claims-paying capacity with respect to all other participating
423 | insurers and limited apportionment companies that do not select
424 | the additional coverage option shall be limited to their
425 | reimbursement premium's proportionate share of the actual claims-
426 | paying capacity otherwise defined in subparagraph (c)1. and as
427 | provided for under the terms of the reimbursement contract.
428 | Coverage provided in the reimbursement contract is ~~will not be~~
429 | affected by the additional premiums paid by participating
430 | insurers exercising the additional coverage option allowed in
431 | this subparagraph. This subparagraph expires on May 31, 2009
432 | ~~2008~~.

433 | (c)1. The contract shall also provide that the obligation
434 | of the division ~~board~~ with respect to all contracts covering a
435 | particular contract year shall not exceed the actual claims-

601-07020-08

20082156c3

436 paying capacity of the fund up to a limit of \$15 billion for that
437 contract year adjusted based upon the reported exposure from the
438 prior contract year to reflect the percentage growth in exposure
439 to the fund for covered policies since 2003, provided the dollar
440 growth in the limit may not increase in any year by an amount
441 greater than the dollar growth of the balance of the fund as of
442 December 31, less any premiums or interest attributable to
443 optional coverage, as defined by rule which occurred over the
444 prior calendar year.

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

601-07020-08

20082156c3

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

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

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

601-07020-08

20082156c3

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

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

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

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

521 3. The contract shall also provide specifically and solely
522 with respect to any limited apportionment company under s.

601-07020-08

20082156c3

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

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

601-07020-08

20082156c3

552 insurer for any examination expenses incurred in addition to the
553 usual and customary costs of the examination, which additional
554 expenses were incurred as a result of an insurer's failure,
555 despite proper notice, to be prepared for the examination or as a
556 result of an insurer's failure to provide requested information
557 while the examination is in progress. If the division board finds
558 any insurer's records or other necessary information to be
559 inadequate or inadequately posted, recorded, or maintained, the
560 division board may employ experts to reconstruct, rewrite,
561 record, post, or maintain such records or information, at the
562 expense of the insurer being examined, if such insurer has failed
563 to maintain, complete, or correct such records or deficiencies
564 after the division board has given the insurer notice and a
565 reasonable opportunity to do so. Any information contained in an
566 examination report, which information is described in s. 215.557,
567 is confidential and exempt from the provisions of s. 119.07(1)
568 and s. 24(a), Art. I of the State Constitution, as provided in s.
569 215.557. Nothing in this paragraph expands the exemption in s.
570 215.557.

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

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

601-07020-08

20082156c3

581 the insolvent insurer attributable to covered events to such
582 reinsurers; or

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

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

597 (6)~~(5)~~ REIMBURSEMENT PREMIUMS.--

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

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

601-07020-08

20082156c3

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

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

601-07020-08

20082156c3

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

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

601-07020-08

20082156c3

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

671 (7) ~~(6)~~ REVENUE BONDS.--

672 (a) General provisions.--

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

601-07020-08

20082156c3

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

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

715 (b) Emergency assessments.--

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

601-07020-08

20082156c3

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

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

751 | 3. Emergency assessments shall be collected from
752 | policyholders. Emergency assessments shall be remitted by

601-07020-08

20082156c3

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

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

601-07020-08

20082156c3

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

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

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

601-07020-08

20082156c3

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

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

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

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

835 (c) Revenue bond issuance through counties or
836 municipalities.--

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

601-07020-08

20082156c3

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

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

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

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

601-07020-08

20082156c3

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

870 (d) Florida Hurricane Catastrophe Fund Finance
871 Corporation.--

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

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

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

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

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

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

601-07020-08

20082156c3

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

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

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

909 e. The corporation may invest in any of the investments
910 authorized under s. 215.47.

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

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

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

601-07020-08

20082156c3

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

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

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

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

601-07020-08

20082156c3

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

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

970 (e) Protection of bondholders.--

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

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

601-07020-08

20082156c3

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

990 3. Notwithstanding any other provision of law, any pledge
991 of or other security interest in revenue, money, accounts,
992 contract rights, general intangibles, or other personal property
993 made or created by the fund or the corporation shall be valid,
994 binding, and perfected from the time such pledge is made or other
995 security interest attaches without any physical delivery of the
996 collateral or further act and the lien of any such pledge or
997 other security interest shall be valid, binding, and perfected
998 against all parties having claims of any kind in tort, contract,
999 or otherwise against the fund or the corporation irrespective of
1000 whether or not such parties have notice of such claims. No
1001 instrument by which such a pledge or security interest is created
1002 nor any financing statement need be recorded or filed.

1003 ~~(8)(7)~~ ADDITIONAL POWERS AND DUTIES.--

1004 (a) The board may authorize the division's procurement of
1005 ~~procure~~ reinsurance from reinsurers acceptable to the Office of
1006 Insurance Regulation for the purpose of maximizing the capacity
1007 of the fund and may enter into capital market transactions,
1008 including, but not limited to, industry loss warranties,
1009 catastrophe bonds, side-car arrangements, or financial contracts
1010 permissible for the State Board of Administration's ~~board's~~ usage
1011 under s. 215.47(10) and (11), consistent with prudent management
1012 of the fund.

601-07020-08

20082156c3

1013 (b) In addition to borrowing under subsection (7) ~~(6)~~, the
1014 board may also authorize the division to borrow from, or enter
1015 into other financing arrangements with, any market sources at
1016 prevailing interest rates.

1017 (c) Each fiscal year, the Legislature shall appropriate
1018 from the investment income of the Florida Hurricane Catastrophe
1019 Fund an amount no less than \$10 million and no more than 35
1020 percent of the investment income based upon the most recent
1021 fiscal year-end audited financial statements for the purpose of
1022 providing funding for local governments, state agencies, public
1023 and private educational institutions, and nonprofit organizations
1024 to support programs intended to improve hurricane preparedness,
1025 reduce potential losses in the event of a hurricane, provide
1026 research into means to reduce such losses, educate or inform the
1027 public as to means to reduce hurricane losses, assist the public
1028 in determining the appropriateness of particular upgrades to
1029 structures or in the financing of such upgrades, or protect local
1030 infrastructure from potential damage from a hurricane. Moneys
1031 shall first be available for appropriation under this paragraph
1032 in fiscal year 1997-1998. Moneys in excess of the \$10 million
1033 specified in this paragraph shall not be available for
1034 appropriation under this paragraph if the board ~~State Board of~~
1035 ~~Administration~~ finds that an appropriation of investment income
1036 from the fund would jeopardize the actuarial soundness of the
1037 fund.

1038 (d) The division ~~board~~ may allow insurers to comply with
1039 reporting requirements and reporting format requirements by using
1040 alternative methods of reporting if the proper administration of
1041 the fund is not thereby impaired and if the alternative methods

601-07020-08

20082156c3

1042 produce data which is consistent with the purposes of this
1043 section.

1044 (e) In order to assure the equitable operation of the fund,
1045 the division ~~board~~ may impose a reasonable fee on an insurer to
1046 recover costs involved in reprocessing inaccurate, incomplete, or
1047 untimely exposure data submitted by the insurer.

1048 (9) ~~(8)~~ ADVISORY COUNCIL.--The division ~~State Board of~~
1049 ~~Administration~~ shall appoint a nine-member advisory council that
1050 consists of an actuary, a meteorologist, an engineer, a
1051 representative of insurers, a representative of insurance agents,
1052 a representative of reinsurers, and three consumers who shall
1053 also be representatives of other affected professions and
1054 industries, to provide the division ~~board~~ with information and
1055 advice in connection with its duties under this section. Members
1056 of the advisory council shall serve at the pleasure of the board
1057 and are eligible for per diem and travel expenses under s.
1058 112.061.

1059 (10) ~~(9)~~ APPLICABILITY OF S. 19, ART. III OF THE STATE
1060 CONSTITUTION.--The Legislature finds that the Florida Hurricane
1061 Catastrophe Fund created by this section is a trust fund
1062 established for bond covenants, indentures, or resolutions within
1063 the meaning of s. 19(f)(3), Art. III of the State Constitution.

1064 (11) ~~(10)~~ VIOLATIONS.--Any violation of this section or of
1065 rules adopted under this section constitutes a violation of the
1066 insurance code.

1067 (12) ~~(11)~~ LEGAL PROCEEDINGS.--The division ~~board~~ is
1068 authorized to take any action necessary to enforce the rules, and
1069 the provisions and requirements of the reimbursement contract,
1070 required by and adopted pursuant to this section.

601-07020-08

20082156c3

1071 (13)~~(12)~~ FEDERAL OR MULTISTATE CATASTROPHIC FUNDS.--Upon
1072 the creation of a federal or multistate catastrophic insurance or
1073 reinsurance program intended to serve purposes similar to the
1074 purposes of the fund created by this section, the division, upon
1075 approval by the board, ~~State Board of Administration~~ shall
1076 promptly make recommendations to the Legislature for coordination
1077 with the federal or multistate program, for termination of the
1078 fund, or for such other actions as the board finds appropriate in
1079 the circumstances.

1080 (14)~~(13)~~ REVERSION OF FUND ASSETS UPON TERMINATION.--The
1081 fund, the division, and the duties of the board under this
1082 section may be terminated only by law. Upon termination of the
1083 fund, all assets of the fund shall revert to the General Revenue
1084 Fund.

1085 (15)~~(14)~~ SEVERABILITY.--If any provision of this section or
1086 its application to any person or circumstance is held invalid,
1087 the invalidity does not affect other provisions or applications
1088 of the section which can be given effect without the invalid
1089 provision or application, and to this end the provisions of this
1090 section are declared severable.

1091 (16)~~(15)~~ COLLATERAL PROTECTION INSURANCE.--As used in this
1092 section and ss. 627.311 and 627.351, the term "collateral
1093 protection insurance" means commercial property insurance of
1094 which a creditor is the primary beneficiary and policyholder and
1095 which protects or covers an interest of the creditor arising out
1096 of a credit transaction secured by real or personal property.
1097 Initiation of such coverage is triggered by the mortgagor's
1098 failure to maintain insurance coverage as required by the

601-07020-08

20082156c3

1099 mortgage or other lending document. Collateral protection
1100 insurance is not residential coverage.

1101 (17)~~(16)~~ TEMPORARY EMERGENCY ~~OPTIONS FOR~~ ADDITIONAL
1102 COVERAGE OPTIONS.--

1103 (a) Findings and intent.--

1104 1. The Legislature finds that:

1105 a. Because of temporary disruptions in the market for
1106 catastrophic reinsurance, many property insurers were unable to
1107 procure reinsurance for the 2006 hurricane season with an
1108 attachment point below the insurers' respective Florida Hurricane
1109 Catastrophe Fund attachment points, were unable to procure
1110 sufficient amounts of such reinsurance, or were able to procure
1111 such reinsurance only by incurring substantially higher costs
1112 than in prior years.

1113 b. The reinsurance market problems were responsible, at
1114 least in part, for substantial premium increases to many
1115 consumers and increases in the number of policies issued by the
1116 Citizens Property Insurance Corporation.

1117 c. It is likely that the reinsurance market disruptions
1118 will not significantly abate prior to the 2007 hurricane season.

1119 2. It is the intent of the Legislature to create a
1120 temporary emergency program, applicable to the 2007, 2008, and
1121 2009 hurricane seasons, to address these market disruptions and
1122 enable insurers, at their option, to procure additional coverage
1123 from the Florida Hurricane Catastrophe Fund.

1124 (b) Applicability of other provisions of this section.--All
1125 provisions of this section and the rules adopted under this
1126 section apply to the program created by this subsection unless
1127 specifically superseded by this subsection.

601-07020-08

20082156c3

1128 (c) Optional coverage.--For the contract year commencing
1129 June 1, 2007, and ending May 31, 2008, the contract year
1130 commencing June 1, 2008, and ending May 31, 2009, and the
1131 contract year commencing June 1, 2009, and ending May 31, 2010,
1132 the board shall offer for each of such years the optional
1133 coverage as provided in this subsection.

1134 (d) Additional definitions.--As used in this subsection,
1135 the term:

1136 1. "TEACO options" means the temporary emergency additional
1137 coverage options created under this subsection.

1138 2. "TEACO insurer" means an insurer that has opted to
1139 obtain coverage under the TEACO options in addition to the
1140 coverage provided to the insurer under its reimbursement
1141 contract.

1142 3. "TEACO reimbursement premium" means the premium charged
1143 by the fund for coverage provided under the TEACO options.

1144 4. "TEACO retention" means the amount of losses below which
1145 a TEACO insurer is not entitled to reimbursement from the fund
1146 under the TEACO option selected. A TEACO insurer's retention
1147 options shall be calculated as follows:

1148 a. The division board ~~board~~ shall calculate and report to each
1149 TEACO insurer the TEACO retention multiples. There shall be three
1150 TEACO retention multiples for defining coverage. Each multiple
1151 shall be calculated by dividing \$3 billion, \$4 billion, or \$5
1152 billion by the total estimated mandatory FHCF reimbursement
1153 premium assuming all insurers selected the 90-percent coverage
1154 level.

1155 b. The TEACO retention multiples as determined under sub-
1156 subparagraph a. shall be adjusted to reflect the coverage level

601-07020-08

20082156c3

1157 | elected by the insurer. For insurers electing the 90-percent
1158 | coverage level, the adjusted retention multiple is 100 percent of
1159 | the amount determined under sub-subparagraph a. For insurers
1160 | electing the 75-percent coverage level, the retention multiple is
1161 | 120 percent of the amount determined under sub-subparagraph a.
1162 | For insurers electing the 45-percent coverage level, the adjusted
1163 | retention multiple is 200 percent of the amount determined under
1164 | sub-subparagraph a.

1165 | c. An insurer shall determine its provisional TEACO
1166 | retention by multiplying its estimated mandatory FHCF
1167 | reimbursement premium by the applicable adjusted TEACO retention
1168 | multiple and shall determine its actual TEACO retention by
1169 | multiplying its actual mandatory FHCF reimbursement premium by
1170 | the applicable adjusted TEACO retention multiple.

1171 | d. For TEACO insurers who experience multiple covered
1172 | events causing loss during the contract year, the insurer's full
1173 | TEACO retention shall be applied to each of the covered events
1174 | causing the two largest losses for that insurer. For other
1175 | covered events resulting in losses, the TEACO option does not
1176 | apply and the insurer's retention shall be one-third of the full
1177 | retention as calculated under paragraph (2) (e).

1178 | 5. "TEACO addendum" means an addendum to the reimbursement
1179 | contract reflecting the obligations of the fund and TEACO
1180 | insurers under the program created by this subsection.

1181 | 6. "FHCF" means the Florida Hurricane Catastrophe Fund.

1182 | (e) TEACO addendum.--

1183 | 1. The TEACO addendum shall provide for reimbursement of
1184 | TEACO insurers for covered events occurring during the contract
1185 | year, in exchange for the TEACO reimbursement premium paid into

601-07020-08

20082156c3

1186 the fund under paragraph (f). Any insurer writing covered
1187 policies has the option of choosing to accept the TEACO addendum
1188 for any of the 3 contract years that the coverage is offered.

1189 2. The TEACO addendum shall contain a promise by the
1190 division ~~board~~ to reimburse the TEACO insurer for 45 percent, 75
1191 percent, or 90 percent of its losses from each covered event in
1192 excess of the insurer's TEACO retention, plus 5 percent of the
1193 reimbursed losses to cover loss adjustment expenses. The
1194 percentage shall be the same as the coverage level selected by
1195 the insurer under paragraph (5) (b) ~~(4) (b)~~.

1196 3. The TEACO addendum shall provide that reimbursement
1197 amounts shall not be reduced by reinsurance paid or payable to
1198 the insurer from other sources.

1199 4. The TEACO addendum shall also provide that the
1200 obligation of the division ~~board~~ with respect to all TEACO
1201 addenda shall not exceed an amount equal to two times the
1202 difference between the industry retention level calculated under
1203 paragraph (2) (e) and the \$3 billion, \$4 billion, or \$5 billion
1204 industry TEACO retention level options actually selected, but in
1205 no event may the division's ~~board's~~ obligation exceed the actual
1206 claims-paying capacity of the fund plus the additional capacity
1207 created in paragraph (g). If the actual claims-paying capacity
1208 and the additional capacity created under paragraph (g) fall
1209 short of the division's ~~board's~~ obligations under the
1210 reimbursement contract, each insurer's share of the fund's
1211 capacity shall be prorated based on the premium an insurer pays
1212 for its mandatory reimbursement coverage and the premium paid for
1213 its optional TEACO coverage as each such premium bears to the
1214 total premiums paid to the fund times the available capacity.

601-07020-08

20082156c3

1215 5. The priorities, schedule, and method of reimbursements
1216 under the TEACO addendum shall be the same as provided under
1217 subsection (5) ~~(4)~~.

1218 6. A TEACO insurer's maximum reimbursement for a single
1219 event shall be equal to the product of multiplying its mandatory
1220 FHCF premium by the difference between its FHCF retention
1221 multiple and its TEACO retention multiple under the TEACO option
1222 selected and by the coverage selected under paragraph (5) (b)
1223 ~~(4) (b)~~, plus an additional 5 percent for loss adjustment
1224 expenses. A TEACO insurer's maximum reimbursement under the TEACO
1225 option selected for a TEACO insurer's two largest events shall be
1226 twice its maximum reimbursement for a single event.

1227 (f) TEACO reimbursement premiums.--

1228 1. Each TEACO insurer shall pay to the fund, in the manner
1229 and at the time provided in the reimbursement contract for
1230 payment of reimbursement premiums, a TEACO reimbursement premium
1231 calculated as specified in this paragraph.

1232 2. The insurer's TEACO reimbursement premium associated
1233 with the \$3 billion retention option shall be equal to 85 percent
1234 of a TEACO insurer's maximum reimbursement for a single event as
1235 calculated under subparagraph (e)6. The TEACO reimbursement
1236 premium associated with the \$4 billion retention option shall be
1237 equal to 80 percent of a TEACO insurer's maximum reimbursement
1238 for a single event as calculated under subparagraph (e)6. The
1239 TEACO premium associated with the \$5 billion retention option
1240 shall be equal to 75 percent of a TEACO insurer's maximum
1241 reimbursement for a single event as calculated under subparagraph
1242 (e)6.

601-07020-08

20082156c3

1243 (g) Effect on claims-paying capacity of the fund.--For the
1244 contract term commencing June 1, 2007, the contract year
1245 commencing June 1, 2008, and the contract term beginning June 1,
1246 2009, the program created by this subsection shall increase the
1247 claims-paying capacity of the fund as provided in subparagraph
1248 (5)(c)1. ~~(4)(e)1.~~ by an amount equal to two times the difference
1249 between the industry retention level calculated under paragraph
1250 (2)(e) and the \$3 billion industry TEACO retention level
1251 specified in sub-subparagraph (d)4.a. The additional capacity
1252 shall apply only to the additional coverage provided by the TEACO
1253 option and shall not otherwise affect any insurer's reimbursement
1254 from the fund.

1255 ~~(18)(17)~~ TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.--

1256 (a) Findings and intent.--

1257 1. The Legislature finds that:

1258 a. Because of temporary disruptions in the market for
1259 catastrophic reinsurance, many property insurers were unable to
1260 procure sufficient amounts of reinsurance for the 2006 hurricane
1261 season or were able to procure such reinsurance only by incurring
1262 substantially higher costs than in prior years.

1263 b. The reinsurance market problems were responsible, at
1264 least in part, for substantial premium increases to many
1265 consumers and increases in the number of policies issued by
1266 Citizens Property Insurance Corporation.

1267 c. It is likely that the reinsurance market disruptions
1268 will not significantly abate prior to the 2008 ~~2007~~ hurricane
1269 season.

1270 2. It is the intent of the Legislature to create options
1271 for insurers to purchase a temporary increased coverage limit

601-07020-08

20082156c3

1272 above the statutorily determined limit in subparagraph (4)(c)1.,
1273 applicable for the ~~2007~~, 2008, and 2009 hurricane seasons, to
1274 address market disruptions and enable insurers, at their option,
1275 to procure additional coverage from the Florida Hurricane
1276 Catastrophe Fund.

1277 (b) Applicability of other provisions of this section.--All
1278 provisions of this section and the rules adopted under this
1279 section apply to the coverage created by this subsection unless
1280 specifically superseded by provisions in this subsection.

1281 (c) Optional coverage.--For the contract year commencing
1282 ~~June 1, 2007, and ending May 31, 2008, the contract year~~
1283 ~~commencing~~ June 1, 2008, and ending May 31, 2009, and the
1284 contract year commencing June 1, 2009, and ending May 31, 2010,
1285 the board shall offer, for each of such years, the optional
1286 coverage as provided in this subsection.

1287 (d) Additional definitions.--As used in this subsection,
1288 the term:

1289 1. "FHCF" means Florida Hurricane Catastrophe Fund.

1290 2. "FHCF reimbursement premium" means the premium paid by
1291 an insurer for its coverage as a mandatory participant in the
1292 FHCF, but does not include additional premiums for optional
1293 coverages.

1294 3. "Payout multiple" means the number or multiple created
1295 by dividing the statutorily defined claims-paying capacity as
1296 determined in subparagraph (5)(c)1. ~~(4)(c)1.~~ by the aggregate
1297 reimbursement premiums paid by all insurers estimated or
1298 projected as of calendar year-end.

1299 4. "TICL" means the temporary increase in coverage limit.

601-07020-08

20082156c3

1300 5. "TICL options" means the temporary increase in coverage
1301 options created under this subsection.

1302 6. "TICL insurer" means an insurer that has opted to obtain
1303 coverage under the TICL options addendum in addition to the
1304 coverage provided to the insurer under its FHCF reimbursement
1305 contract.

1306 7. "TICL reimbursement premium" means the premium charged
1307 by the fund for coverage provided under the TICL option.

1308 8. "TICL coverage multiple" means the coverage multiple
1309 when multiplied by an insurer's FHCF's reimbursement premium that
1310 defines the temporary increase in coverage limit.

1311 9. "TICL coverage" means the coverage for an insurer's
1312 losses above the insurer's statutorily determined claims-paying
1313 capacity based on the claims-paying limit in subparagraph
1314 (5)(c)1. ~~(4)(e)1.~~, which an insurer selects as its temporary
1315 increase in coverage from the fund under the TICL options
1316 selected. A TICL insurer's increased coverage limit options shall
1317 be calculated as follows:

1318 a. The division ~~board~~ shall calculate and report to each
1319 TICL insurer the TICL coverage multiples based on 9 ~~12~~ options
1320 for increasing the insurer's FHCF coverage limit. Each TICL
1321 coverage multiple shall be calculated by dividing \$1 billion, \$2
1322 billion, \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7
1323 billion, \$8 billion, and \$9 billion, ~~\$10 billion, \$11 billion, or~~
1324 ~~\$12 billion~~ by the total estimated aggregate FHCF reimbursement
1325 premiums for ~~the 2007-2008 contract year,~~ the 2008-2009 contract
1326 year, and the 2009-2010 contract year.

1327 b. The TICL insurer's increased coverage shall be the FHCF
1328 reimbursement premium multiplied by the TICL coverage multiple

601-07020-08

20082156c3

1329 for the TICL option selected. In order to determine an insurer's
1330 total limit of coverage, an insurer shall add its TICL coverage
1331 multiple to its payout multiple. The total shall represent a
1332 number that, when multiplied by an insurer's FHCF reimbursement
1333 premium for a given reimbursement contract year, defines an
1334 insurer's total limit of FHCF reimbursement coverage for that
1335 reimbursement contract year.

1336 10. "TICL options addendum" means an addendum to the
1337 reimbursement contract reflecting the obligations of the fund and
1338 insurers selecting an option to increase an insurer's FHCF
1339 coverage limit.

1340 (e) TICL options addendum.--

1341 1. The TICL options addendum shall provide for
1342 reimbursement of TICL insurers for covered events occurring
1343 between June 1, 2007, and May 31, 2008, and between June 1, 2008,
1344 and May 31, 2009, or between June 1, 2009, and May 31, 2010, in
1345 exchange for the TICL reimbursement premium paid into the fund
1346 under paragraph (f). Any insurer writing covered policies has the
1347 option of selecting an increased limit of coverage under the TICL
1348 options addendum and shall select such coverage at the time that
1349 it executes the FHCF reimbursement contract.

1350 2. The TICL addendum shall contain a promise by the board
1351 to reimburse the TICL insurer for 70 percent of the insurer's 45
1352 percent, 75 percent, or 90 percent of its losses from each
1353 covered event in excess of the insurer's mandatory coverage,
1354 including retention, plus 5 percent of the reimbursed losses to
1355 cover loss adjustment expenses from each covered event. The
1356 ~~percentage shall be the same as the coverage level selected by~~
1357 ~~the insurer under paragraph (4) (b).~~

601-07020-08

20082156c3

1358 3. The TICL addendum shall provide that reimbursement
1359 amounts shall not be reduced by reinsurance paid or payable to
1360 the insurer from other sources.

1361 4. The priorities, schedule, and method of reimbursements
1362 under the TICL addendum shall be the same as provided under
1363 subsection (5) ~~(4)~~.

1364 (f) TICL reimbursement premiums.--Each TICL insurer shall
1365 pay to the fund, in the manner and at the time provided in the
1366 reimbursement contract for payment of reimbursement premiums, a
1367 TICL reimbursement premium determined as specified in subsection
1368 (5).

1369 (g) Effect on claims-paying capacity of the fund.--For the
1370 contract terms commencing ~~June 1, 2007~~, June 1, 2008, and June 1,
1371 2009, the program created by this subsection shall increase the
1372 claims-paying capacity of the fund as provided in subparagraph
1373 (5) (c) 1. ~~(4) (e) 1.~~ by an amount not to exceed \$9 ~~\$12~~ billion and
1374 shall depend on the TICL coverage options selected and the number
1375 of insurers that select the TICL optional coverage. The
1376 additional capacity shall apply only to the additional coverage
1377 provided under the TICL options and shall not otherwise affect
1378 any insurer's reimbursement from the fund if the insurer chooses
1379 not to select the temporary option to increase its limit of
1380 coverage under the FHCF.

1381 (h) Increasing the claims-paying capacity of the fund.--For
1382 the contract years commencing ~~June 1, 2007~~, June 1, 2008, and
1383 June 1, 2009, the board may increase the claims-paying capacity
1384 of the fund as provided in paragraph (g) by an amount not to
1385 exceed \$4 billion in four \$1 billion options and shall depend on
1386 the TICL coverage options selected and the number of insurers

601-07020-08

20082156c3

1387 that select the TICL optional coverage. Each insurer's TICL
1388 premium shall be calculated based upon the additional limit of
1389 increased coverage that the insurer selects. Such limit is
1390 determined by multiplying the TICL multiple associated with one
1391 of the four options times the insurer's FHCF reimbursement
1392 premium. The reimbursement premium associated with the additional
1393 coverage provided in this paragraph shall be determined as
1394 specified in subsection (6) ~~(5)~~.

1395 Section 2. Section 215.557, Florida Statutes, is amended to
1396 read:

1397 215.557 Reports of insured values.--The reports of insured
1398 values under covered policies by zip code submitted to the
1399 Division of the Florida Hurricane Catastrophe Fund ~~State Board of~~
1400 ~~Administration~~ pursuant to s. 215.555, as created by s. 1, ch.
1401 93-409, Laws of Florida, or similar legislation, are confidential
1402 and exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
1403 I of the State Constitution.

1404 Section 3. Paragraph (h) of subsection (4) of section
1405 215.5586, Florida Statutes, is amended to read:

1406 215.5586 My Safe Florida Home Program.--There is
1407 established within the Department of Financial Services the My
1408 Safe Florida Home Program. The department shall provide fiscal
1409 accountability, contract management, and strategic leadership for
1410 the program, consistent with this section. This section does not
1411 create an entitlement for property owners or obligate the state
1412 in any way to fund the inspection or retrofitting of residential
1413 property in this state. Implementation of this program is subject
1414 to annual legislative appropriations. It is the intent of the
1415 Legislature that the My Safe Florida Home Program provide

601-07020-08

20082156c3

1416 inspections for at least 400,000 site-built, single-family,
1417 residential properties and provide grants to at least 35,000
1418 applicants before June 30, 2009. The program shall develop and
1419 implement a comprehensive and coordinated approach for hurricane
1420 damage mitigation that shall include the following:

1421 (4) ADVISORY COUNCIL.--There is created an advisory council
1422 to provide advice and assistance to the department regarding
1423 administration of the program. The advisory council shall consist
1424 of:

1425 (h) The director ~~senior officer~~ of the Division of the
1426 Florida Hurricane Catastrophe Fund.

1427
1428 Members appointed under paragraphs (a)-(d) shall serve at the
1429 pleasure of the Financial Services Commission. Members appointed
1430 under paragraphs (e) and (f) shall serve at the pleasure of the
1431 appointing officer. All other members shall serve voting ex
1432 officio. Members of the advisory council shall serve without
1433 compensation but may receive reimbursement as provided in s.
1434 112.061 for per diem and travel expenses incurred in the
1435 performance of their official duties.

1436 Section 4. Subsection (1) of section 215.559, Florida
1437 Statutes, is amended to read:

1438 215.559 Hurricane Loss Mitigation Program.--

1439 (1) There is created a Hurricane Loss Mitigation Program.
1440 The Legislature shall annually appropriate \$10 million of the
1441 moneys authorized for appropriation under s. 215.555(8) ~~s.~~
1442 ~~215.555(7)(c)~~ from the Florida Hurricane Catastrophe Fund to the
1443 Department of Community Affairs for the purposes set forth in
1444 this section.

601-07020-08

20082156c3

1445 Section 5. Subsection (2) and paragraph (a) of subsection
1446 (3) of section 215.5595, Florida Statutes, are amended to read:
1447 215.5595 Insurance Capital Build-Up Incentive Program.--

1448 (2) The purpose of this section is to provide surplus notes
1449 to new or existing authorized residential property insurers under
1450 the Insurance Capital Build-Up Incentive Program administered by
1451 the Division of the Florida Hurricane Catastrophe Fund of the
1452 State Board of Administration, under the following conditions:

1453 (a) The amount of the surplus note for any insurer or
1454 insurer group, other than an insurer writing only manufactured
1455 housing policies, may not exceed \$25 million or 20 percent of the
1456 total amount of funds available under the program, whichever is
1457 greater. The amount of the surplus note for any insurer or
1458 insurer group writing residential property insurance covering
1459 only manufactured housing may not exceed \$7 million.

1460 (b) The insurer must contribute an amount of new capital to
1461 its surplus which is at least equal to the amount of the surplus
1462 note and must apply to the board by July 1, 2006. If an insurer
1463 applies after July 1, 2006, but before June 1, 2007, the amount
1464 of the surplus note is limited to one-half of the new capital
1465 that the insurer contributes to its surplus, except that an
1466 insurer writing only manufactured housing policies is eligible to
1467 receive a surplus note of up to \$7 million. For purposes of this
1468 section, new capital must be in the form of cash or cash
1469 equivalents as specified in s. 625.012(1).

1470 (c) The insurer's surplus, new capital, and the surplus
1471 note must total at least \$50 million, except for insurers writing
1472 residential property insurance covering only manufactured
1473 housing. The insurer's surplus, new capital, and the surplus note

601-07020-08

20082156c3

1474 must total at least \$14 million for insurers writing only
1475 residential property insurance covering manufactured housing
1476 policies as provided in paragraph (a).

1477 (d) The insurer must commit to meeting a minimum writing
1478 ratio of net written premium to surplus of at least 2:1 for the
1479 term of the surplus note, which shall be determined by the Office
1480 of Insurance Regulation and certified quarterly to the board. For
1481 this purpose, the term "net written premium" means net written
1482 premium for residential property insurance in Florida, including
1483 the peril of wind, and "surplus" refers to the entire surplus of
1484 the insurer. If the required ratio is not maintained during the
1485 term of the surplus note, the board may increase the interest
1486 rate, accelerate the repayment of interest and principal, or
1487 shorten the term of the surplus note, subject to approval by the
1488 Commissioner of Insurance of payments by the insurer of principal
1489 and interest as provided in paragraph (f).

1490 (e) If the requirements of this section are met, the board
1491 may approve an application by an insurer for a surplus note,
1492 unless the board determines that the financial condition of the
1493 insurer and its business plan for writing residential property
1494 insurance in Florida places an unreasonably high level of
1495 financial risk to the state of nonpayment in full of the interest
1496 and principal. The board shall consult with the Office of
1497 Insurance Regulation and may contract with independent financial
1498 and insurance consultants in making this determination.

1499 (f) The surplus note must be repayable to the state with a
1500 term of 20 years. The surplus note shall accrue interest on the
1501 unpaid principal balance at a rate equivalent to the 10-year U.S.
1502 Treasury Bond rate, require the payment only of interest during

601-07020-08

20082156c3

1503 the first 3 years, and include such other terms as approved by
1504 the board. Payment of principal or interest by the insurer on the
1505 surplus note must be approved by the Commissioner of Insurance,
1506 who shall approve such payment unless the commissioner determines
1507 that such payment will substantially impair the financial
1508 condition of the insurer. If such a determination is made, the
1509 commissioner shall approve such payment that will not
1510 substantially impair the financial condition of the insurer.

1511 (g) The total amount of funds available for the program is
1512 limited to the amount appropriated by the Legislature for this
1513 purpose. If the amount of surplus notes requested by insurers
1514 exceeds the amount of funds available, the board may prioritize
1515 insurers that are eligible and approved, with priority for
1516 funding given to insurers writing only manufactured housing
1517 policies, regardless of the date of application, based on the
1518 financial strength of the insurer, the viability of its proposed
1519 business plan for writing additional residential property
1520 insurance in the state, and the effect on competition in the
1521 residential property insurance market. Between insurers writing
1522 residential property insurance covering manufactured housing,
1523 priority shall be given to the insurer writing the highest
1524 percentage of its policies covering manufactured housing.

1525 (h) The board may allocate portions of the funds available
1526 for the program and establish dates for insurers to apply for
1527 surplus notes from such allocation which are earlier than the
1528 dates established in paragraph (b).

1529 (i) Notwithstanding paragraph (d), a newly formed
1530 manufactured housing insurer that is eligible for a surplus note

601-07020-08

20082156c3

1531 under this section shall meet the premium to surplus ratio
1532 provisions of s. 624.4095.

1533 (j) As used in this section, "an insurer writing only
1534 manufactured housing policies" includes:

1535 1. A Florida domiciled insurer that begins writing personal
1536 lines residential manufactured housing policies in Florida after
1537 March 1, 2007, and that removes a minimum of 50,000 policies from
1538 Citizens Property Insurance Corporation without accepting a
1539 bonus, provided at least 25 percent of its policies cover
1540 manufactured housing. Such an insurer may count any funds above
1541 the minimum capital and surplus requirement that were contributed
1542 into the insurer after March 1, 2007, as new capital under this
1543 section.

1544 2. A Florida domiciled insurer that writes at least 40
1545 percent of its policies covering manufactured housing in Florida.

1546 (3) As used in this section, the term:

1547 (a) "Board" means the Division of the Florida Hurricane
1548 Catastrophe Fund of the State Board of Administration.

1549 Section 6. Paragraph (c) of subsection (1), paragraphs (a),
1550 (b), (d), (f), and (g) of subsection (2), and paragraph (b) of
1551 subsection (3) of section 627.0628, Florida Statutes, are amended
1552 to read:

1553 627.0628 Florida Commission on Hurricane Loss Projection
1554 Methodology; public records exemption; public meetings
1555 exemption.--

1556 (1) LEGISLATIVE FINDINGS AND INTENT.--

1557 (c) It is the intent of the Legislature to create the
1558 Florida Commission on Hurricane Loss Projection Methodology as a
1559 panel of experts to provide the most actuarially sophisticated

601-07020-08

20082156c3

1560 guidelines and standards for projection of hurricane losses
1561 possible, given the current state of actuarial science. It is the
1562 further intent of the Legislature that such standards and
1563 guidelines must be used by the Division of the Florida Hurricane
1564 Catastrophe Fund of the State Board of Administration in
1565 developing reimbursement premium rates for the Florida Hurricane
1566 Catastrophe Fund, and, subject to paragraph (3)(c), may be used
1567 by insurers in rate filings under s. 627.062 unless the way in
1568 which such standards and guidelines were applied by the insurer
1569 was erroneous, as shown by a preponderance of the evidence.

1570 (2) COMMISSION CREATED.--

1571 (a) There is created the Florida Commission on Hurricane
1572 Loss Projection Methodology, which is assigned to the Division of
1573 the Florida Hurricane Catastrophe Fund of the State Board of
1574 Administration. For the purposes of this section, the term
1575 "commission" means the Florida Commission on Hurricane Loss
1576 Projection Methodology. The commission shall be administratively
1577 housed within the State Board of Administration, but it shall
1578 independently exercise the powers and duties specified in this
1579 section.

1580 (b) The commission shall consist of the following 11
1581 members:

- 1582 1. The insurance consumer advocate.
- 1583 2. The director of the Division of the Florida Hurricane
1584 Catastrophe Fund ~~senior employee~~ of the State Board of
1585 Administration ~~responsible for operations of the Florida~~
1586 ~~Hurricane Catastrophe Fund.~~
- 1587 3. The Executive Director of the Citizens Property
1588 Insurance Corporation.

601-07020-08

20082156c3

1589 4. The Director of the Division of Emergency Management of
1590 the Department of Community Affairs.

1591 5. The actuary member of the Florida Hurricane Catastrophe
1592 Fund Advisory Council.

1593 6. An employee of the office who is an actuary responsible
1594 for property insurance rate filings and who is appointed by the
1595 director of the office.

1596 7. Five members appointed by the Chief Financial Officer,
1597 as follows:

1598 a. An actuary who is employed full time by a property and
1599 casualty insurer which was responsible for at least 1 percent of
1600 the aggregate statewide direct written premium for homeowner's
1601 insurance in the calendar year preceding the member's appointment
1602 to the commission.

1603 b. An expert in insurance finance who is a full-time member
1604 of the faculty of the State University System and who has a
1605 background in actuarial science.

1606 c. An expert in statistics who is a full-time member of the
1607 faculty of the State University System and who has a background
1608 in insurance.

1609 d. An expert in computer system design who is a full-time
1610 member of the faculty of the State University System.

1611 e. An expert in meteorology who is a full-time member of
1612 the faculty of the State University System and who specializes in
1613 hurricanes.

1614 (d) The board of the Division of the Florida Hurricane
1615 Catastrophe Fund of the State Board of Administration shall
1616 annually appoint one of the members of the commission to serve as
1617 chair.

601-07020-08

20082156c3

1618 (f) The Division of the Florida Hurricane Catastrophe Fund
1619 of the State Board of Administration shall, as a cost of
1620 administration of the Florida Hurricane Catastrophe Fund, provide
1621 for travel, expenses, and staff support for the commission.

1622 (g) There shall be no liability on the part of, and no
1623 cause of action of any nature shall arise against, any member of
1624 the commission, any member ~~of the State Board of Administration,~~
1625 or ~~any~~ employee of the Division of the Florida Hurricane
1626 Catastrophe Fund of the State Board of Administration for any
1627 action taken in the performance of their duties under this
1628 section. In addition, the commission may, in writing, waive any
1629 potential cause of action for negligence of a consultant,
1630 contractor, or contract employee engaged to assist the
1631 commission.

1632 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

1633 (b) In establishing reimbursement premiums for the Florida
1634 Hurricane Catastrophe Fund, the Division of the Florida Hurricane
1635 Catastrophe Fund ~~State Board of Administration~~ must, to the
1636 extent feasible, employ actuarial methods, principles, standards,
1637 models, or output ranges found by the commission to be accurate
1638 or reliable.

1639 Section 7. This act shall take effect June 1, 2008.