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1 A bill to be entitled
2 An act relating to the Florida Hurricane Catastrophe Fund;
3 amending s. 215.555, F.S.; revising legislative findings
4 and purpose; revising and providing definitions; creating
5 the Division of the Florida Hurricane Catastrophe Fund
6 within the State Board of Administration; transferring the
7 powers, duties, and responsibilities of administration of
8 the fund from the State Board of Administration to the
9 division; requiring the State Board of Administration to
10 appoint a director; revising provisions to conform;
11 providing penalties and interest for failing to collect
12 and remit certain assessments; increasing the membership
13 of the board of directors of the Florida Hurricane
14 Catastrophe Fund Finance Corporation; revising the
15 methodology for calculating TICL coverage multiples for
16 purposes of reducing an insurer's fund coverage limit;
17 increasing the percentage of reimbursement of an insurer's
18 TICL coverage under the TICL options addendum; amending
19 ss. 215.557, 215.5586, and 215.5595, F.S.; revising
20 provisions to conform; amending s. 627.0628, F.S.;
21 assigning the Florida Commission on Hurricane Loss
22 Projection Methodology to the division; revising
23 provisions to conform; amending ss. 215.559, 624.424, and
24 627.351, F.S.; correcting cross-references; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:
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29 Section 1. Section 215.555, Florida Statutes, is amended
30 to read:

31 215.555 Florida Hurricane Catastrophe Fund.--

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

34 (a) There is a compelling state interest in maintaining a
35 viable and orderly private sector market for property insurance
36 in this state. To the extent that the private sector is unable
37 to maintain a viable and orderly market for property insurance
38 in this state, state actions to maintain such a viable and
39 orderly market are valid and necessary exercises of the police
40 power.

41 (b) As a result of unprecedented levels of catastrophic
42 insured losses in recent years, and especially as a result of
43 Hurricane Andrew, numerous insurers have determined that in
44 order to protect their solvency, it is necessary for them to
45 reduce their exposure to hurricane losses. Also as a result of
46 these events, world reinsurance capacity has significantly
47 contracted, increasing the pressure on insurers to reduce their
48 catastrophic exposures.

49 (c) Mortgages require reliable property insurance, and the
50 unavailability of reliable property insurance would therefore
51 make most real estate transactions impossible. In addition, the
52 public health, safety, and welfare demand that structures
53 damaged or destroyed in a catastrophe be repaired or
54 reconstructed as soon as possible. Therefore, the inability of
55 the private sector insurance and reinsurance markets to maintain
56 sufficient capacity to enable residents of this state to obtain

57 | property insurance coverage in the private sector endangers the
58 | economy of the state and endangers the public health, safety,
59 | and welfare. Accordingly, state action to correct for this
60 | inability of the private sector constitutes a valid and
61 | necessary public and governmental purpose.

62 | (d) The insolvencies and financial impairments resulting
63 | from Hurricane Andrew demonstrate that many property insurers
64 | are unable or unwilling to maintain reserves, surplus, and
65 | reinsurance sufficient to enable the insurers to pay all claims
66 | in full in the event of a catastrophe. State action is therefore
67 | necessary to protect the public from an insurer's unwillingness
68 | or inability to maintain sufficient reserves, surplus, and
69 | reinsurance.

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

75 | (f) It is essential to the functioning of a state program
76 | to increase insurance capacity that revenues received be exempt
77 | from federal taxation. It is therefore the intent of the
78 | Legislature that this program be structured as a state trust
79 | fund under the direction and control of the Division of the
80 | Florida Hurricane Catastrophe Fund within the State Board of
81 | Administration and operate exclusively for the purpose of
82 | protecting and advancing the state's interest in maintaining
83 | insurance capacity in this state.

84 (g) Hurricane Andrew, which caused insured and uninsured
 85 losses in excess of \$20 billion, will likely not be the last
 86 major windstorm to strike Florida. Recognizing that a future
 87 wind catastrophe could cause damages in excess of \$60 billion,
 88 especially if a major urban area or series of urban areas were
 89 hit, it is the intent of the Legislature to balance equitably
 90 its concerns about mitigation of hurricane impact, insurance
 91 affordability and availability, and the risk of insurer and
 92 joint underwriting association insolvency, as well as assessment
 93 and bonding limitations.

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

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

100 (b)~~(a)~~ "Actuarially indicated" means, with respect to
 101 premiums paid by insurers for reimbursement provided by the
 102 fund, an amount determined according to principles of actuarial
 103 science to be adequate, but not excessive, in the aggregate, to
 104 pay current and future obligations and expenses of the fund,
 105 including additional amounts if needed to pay debt service on
 106 revenue bonds issued under this section and to provide required
 107 debt service coverage in excess of the amounts required to pay
 108 actual debt service on revenue bonds issued under subsection (7)
 109 ~~(6)~~, and determined according to principles of actuarial science
 110 to reflect each insurer's relative exposure to hurricane losses.

111 (c) "Board" means the governing board of the division,

112 which shall be composed of the Governor and Cabinet. The
 113 Governor shall be chair of the governing board of the division,
 114 the Attorney General shall be the secretary of the board, and
 115 the Chief Financial Officer shall be treasurer of the board.

116 (d)~~(g)~~ "Bond" means any bond, debenture, note, or other
 117 evidence of financial indebtedness issued under this section.

118 (e)~~(n)~~ "Corporation" means the Florida Hurricane
 119 Catastrophe Fund Finance Corporation created in paragraph
 120 (7)~~(6)~~(d).

121 (f)~~(b)~~ "Covered event" means any one storm declared to be
 122 a hurricane by the National Hurricane Center, which storm causes
 123 insured losses in this state.

124 (g)~~(e)~~ "Covered policy" means any insurance policy
 125 covering residential property in this state, including, but not
 126 limited to, any homeowner's, mobile home owner's, farm owner's,
 127 condominium association, condominium unit owner's, tenant's, or
 128 apartment building policy, or any other policy covering a
 129 residential structure or its contents issued by any authorized
 130 insurer, including a commercial self-insurance fund holding a
 131 certificate of authority issued by the Office of Insurance
 132 Regulation under s. 624.462, the Citizens Property Insurance
 133 Corporation, and any joint underwriting association or similar
 134 entity created under law. The term "covered policy" includes any
 135 collateral protection insurance policy covering personal
 136 residences which protects both the borrower's and the lender's
 137 financial interests, in an amount at least equal to the coverage
 138 for the dwelling in place under the lapsed homeowner's policy,
 139 if such policy can be accurately reported as required in

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140 subsection (6) ~~(5)~~. Additionally, covered policies include
141 policies covering the peril of wind removed from the Florida
142 Residential Property and Casualty Joint Underwriting Association
143 or from the Citizens Property Insurance Corporation, created
144 under s. 627.351(6), or from the Florida Windstorm Underwriting
145 Association, created under s. 627.351(2), by an authorized
146 insurer under the terms and conditions of an executed assumption
147 agreement between the authorized insurer and such association or
148 Citizens Property Insurance Corporation. Each assumption
149 agreement between the association and such authorized insurer or
150 Citizens Property Insurance Corporation must be approved by the
151 Office of Insurance Regulation before the effective date of the
152 assumption, and the Office of Insurance Regulation must provide
153 written notification to the division ~~board~~ within 15 working
154 days after such approval. "Covered policy" does not include any
155 policy that excludes wind coverage or hurricane coverage or any
156 reinsurance agreement and does not include any policy otherwise
157 meeting this definition which is issued by a surplus lines
158 insurer or a reinsurer. All commercial residential excess
159 policies and all deductible buy-back policies that, based on
160 sound actuarial principles, require individual ratemaking shall
161 be excluded by rule if the actuarial soundness of the fund is
162 not jeopardized. For this purpose, the term "excess policy"
163 means a policy that provides insurance protection for large
164 commercial property risks and that provides a layer of coverage
165 above a primary layer insured by another insurer.

166 (h) "Debt service" means the amount required in any fiscal
167 year to pay the principal of, redemption premium, if any, and

168 interest on revenue bonds and any amounts required by the terms
 169 of documents authorizing, securing, or providing liquidity for
 170 revenue bonds necessary to maintain in effect any such liquidity
 171 or security arrangements.

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

176 (j) "Director" means the chief administrator of the
 177 division, who shall act on behalf of the division as authorized
 178 by the board.

179 (k) "Division" means the Division of the Florida Hurricane
 180 Catastrophe Fund.

181 (l) "Estimated claims-paying capacity" means the sum of
 182 the projected year-end balance of the fund as of December 31 of
 183 a contract year, plus any reinsurance purchased by the fund,
 184 plus the division's ~~board's~~ estimate of the board's borrowing
 185 capacity.

186 (m) "Fund" or "FHCF" means the Florida Hurricane
 187 Catastrophe Fund.

188 (n) ~~(j)~~ "Local government" means a unit of general purpose
 189 local government as defined in s. 218.31(2).

190 (o) ~~(d)~~ "Losses" means direct incurred losses under covered
 191 policies, which shall include losses for additional living
 192 expenses not to exceed 40 percent of the insured value of a
 193 residential structure or its contents and shall exclude loss
 194 adjustment expenses. "Losses" does not include losses for fair

195 rental value, loss of rent or rental income, or business
196 interruption losses.

197 (p)~~(k)~~ "Pledged revenues" means all or any portion of
198 revenues to be derived from reimbursement premiums under
199 subsection (6) ~~(5)~~ or from emergency assessments under paragraph
200 (7)~~(6)~~(b), as determined by the board.

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

204 1. The division ~~board~~ shall calculate and report to each
205 insurer the retention multiples for that year. For the contract
206 year beginning June 1, 2005, the retention multiple shall be
207 equal to \$4.5 billion divided by the total estimated
208 reimbursement premium for the contract year; for subsequent
209 years, the retention multiple shall be equal to \$4.5 billion,
210 adjusted based upon the reported exposure from the prior
211 contract year to reflect the percentage growth in exposure to
212 the fund for covered policies since 2004, divided by the total
213 estimated reimbursement premium for the contract year. Total
214 reimbursement premium for purposes of the calculation under this
215 subparagraph shall be estimated using the assumption that all
216 insurers have selected the 90-percent coverage level.

217 2. The retention multiple as determined under subparagraph
218 1. shall be adjusted to reflect the coverage level elected by
219 the insurer. For insurers electing the 90-percent coverage
220 level, the adjusted retention multiple is 100 percent of the
221 amount determined under subparagraph 1. For insurers electing
222 the 75-percent coverage level, the retention multiple is 120

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223 percent of the amount determined under subparagraph 1. For
224 insurers electing the 45-percent coverage level, the adjusted
225 retention multiple is 200 percent of the amount determined under
226 subparagraph 1.

227 3. An insurer shall determine its provisional retention by
228 multiplying its provisional reimbursement premium by the
229 applicable adjusted retention multiple and shall determine its
230 actual retention by multiplying its actual reimbursement premium
231 by the applicable adjusted retention multiple.

232 4. For insurers who experience multiple covered events
233 causing loss during the contract year, beginning June 1, 2005,
234 each insurer's full retention shall be applied to each of the
235 covered events causing the two largest losses for that insurer.
236 For each other covered event resulting in losses, the insurer's
237 retention shall be reduced to one-third of the full retention.
238 The reimbursement contract shall provide for the reimbursement
239 of losses for each covered event based on the full retention
240 with adjustments made to reflect the reduced retentions after
241 January 1 of the contract year provided the insurer reports its
242 losses as specified in the reimbursement contract.

243 (r) ~~(f)~~ "Workers' compensation" includes both workers'
244 compensation and excess workers' compensation insurance.

245 (3) DIVISION OF THE FLORIDA HURRICANE CATASTROPHE FUND
246 CREATED.--The Division of the Florida Hurricane Catastrophe Fund
247 is created within the State Board of Administration for the
248 purpose of administering the Florida Hurricane Catastrophe Fund.
249 For purposes of this section, the board of the division shall
250 consist of the Governor and Cabinet.

251 (4) ~~(3)~~ FLORIDA HURRICANE CATASTROPHE FUND CREATED.--There
 252 is created the Florida Hurricane Catastrophe Fund within ~~to be~~
 253 ~~administered by~~ the State Board of Administration. Moneys in the
 254 fund may not be expended, loaned, or appropriated except to pay
 255 obligations of the fund arising out of reimbursement contracts
 256 entered into under subsection (5) ~~(4)~~, payment of debt service
 257 on revenue bonds issued under subsection (7) ~~(6)~~, costs of the
 258 mitigation program under subsection (8) ~~(7)~~, costs of procuring
 259 reinsurance, and costs of administration of the fund. The State
 260 Board of Administration shall invest the moneys in the fund
 261 pursuant to ss. 215.44-215.52. Except as otherwise provided in
 262 this section, earnings from all investments shall be retained in
 263 the fund. The State Board of Administration shall appoint a
 264 director of the division who shall be responsible for the
 265 administration of the fund. The appointment of the division
 266 director shall be subject to approval by a majority vote of the
 267 board. The division ~~board~~ may employ or contract with such staff
 268 and professionals as the division ~~board~~ deems necessary for the
 269 administration of the fund. The board may adopt such rules as
 270 are reasonable and necessary to implement this section and shall
 271 specify interest due on any delinquent remittances, which
 272 interest may not exceed the fund's rate of return plus 5
 273 percent. Such rules must conform to the Legislature's specific
 274 intent in establishing the fund as expressed in subsection (1),
 275 must enhance the fund's potential ability to respond to claims
 276 for covered events, must contain general provisions so that the
 277 rules can be applied with reasonable flexibility so as to
 278 accommodate insurers in situations of an unusual nature or where

279 undue hardship may result, except that such flexibility may not
 280 in any way impair, override, supersede, or constrain the public
 281 purpose of the fund, and must be consistent with sound insurance
 282 practices. The board may, by rule, provide for the exemption
 283 from subsections (5) ~~(4)~~ and (6) ~~(5)~~ of insurers writing covered
 284 policies with less than \$10 million in aggregate exposure for
 285 covered policies if the exemption does not affect the actuarial
 286 soundness of the fund. The division may sue and be sued in the
 287 name of the division.

288 (5)~~(4)~~ REIMBURSEMENT CONTRACTS.--

289 (a) The division ~~board~~ shall enter into a contract with
 290 each insurer writing covered policies in this state to provide
 291 to the insurer the reimbursement described in paragraphs (b) and
 292 (d)~~7~~, in exchange for the reimbursement premium paid into the
 293 fund under subsection (6) ~~(5)~~. As a condition of doing business
 294 in this state, each such insurer shall enter into such a
 295 contract.

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

301 2. The insurer must elect one of the percentage coverage
 302 levels specified in this paragraph and may, upon renewal of a
 303 reimbursement contract, elect a lower percentage coverage level
 304 if no revenue bonds issued under subsection (7) ~~(6)~~ after a
 305 covered event are outstanding, or elect a higher percentage
 306 coverage level, regardless of whether or not revenue bonds are

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307 outstanding. All members of an insurer group must elect the same
308 percentage coverage level. Any joint underwriting association,
309 risk apportionment plan, or other entity created under s.
310 627.351 must elect the 90-percent coverage level.

311 3. The contract shall provide that reimbursement amounts
312 shall not be reduced by reinsurance paid or payable to the
313 insurer from other sources.

314 4. Notwithstanding any other provision contained in this
315 section, the board shall make available to insurers that
316 purchased coverage provided by this subparagraph in 2006,
317 insurers qualifying as limited apportionment companies under s.
318 627.351(6)(c), and insurers that were approved to participate in
319 2006 or that are approved in 2007 for the Insurance Capital
320 Build-Up Incentive Program pursuant to s. 215.5595, a contract
321 or contract addendum that provides an additional amount of
322 reimbursement coverage of up to \$10 million. The premium to be
323 charged for this additional reimbursement coverage shall be 50
324 percent of the additional reimbursement coverage provided, which
325 shall include one prepaid reinstatement. The minimum retention
326 level that an eligible participating insurer must retain
327 associated with this additional coverage layer is 30 percent of
328 the insurer's surplus as of December 31, 2006. This coverage
329 shall be in addition to all other coverage that may be provided
330 under this section. The coverage provided by the fund under this
331 subparagraph shall be in addition to the claims-paying capacity
332 as defined in subparagraph (c)1., but only with respect to those
333 insurers that select the additional coverage option and meet the
334 requirements of this subparagraph. The claims-paying capacity

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335 with respect to all other participating insurers and limited
336 apportionment companies that do not select the additional
337 coverage option shall be limited to their reimbursement
338 premium's proportionate share of the actual claims-paying
339 capacity otherwise defined in subparagraph (c)1. and as provided
340 for under the terms of the reimbursement contract. Coverage
341 provided in the reimbursement contract will not be affected by
342 the additional premiums paid by participating insurers
343 exercising the additional coverage option allowed in this
344 subparagraph. This subparagraph expires on May 31, 2008.

345 (c)1. The contract shall also provide that the obligation
346 of the division board with respect to all contracts covering a
347 particular contract year shall not exceed the actual claims-
348 paying capacity of the fund up to a limit of \$15 billion for
349 that contract year adjusted based upon the reported exposure
350 from the prior contract year to reflect the percentage growth in
351 exposure to the fund for covered policies since 2003, provided
352 the dollar growth in the limit may not increase in any year by
353 an amount greater than the dollar growth of the balance of the
354 fund as of December 31, less any premiums or interest
355 attributable to optional coverage, as defined by rule which
356 occurred over the prior calendar year.

357 2. In May before the start of the upcoming contract year
358 and in October during the contract year, the division board
359 shall publish in the Florida Administrative Weekly a statement
360 of the fund's estimated borrowing capacity and the projected
361 balance of the fund as of December 31. After the end of each
362 calendar year, the division board shall notify insurers of the

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363 estimated borrowing capacity and the balance of the fund as of
364 December 31 to provide insurers with data necessary to assist
365 them in determining their retention and projected payout from
366 the fund for loss reimbursement purposes. In conjunction with
367 the development of the premium formula, as provided for in
368 subsection (6) ~~(5)~~, the division board shall publish factors or
369 multiples that assist insurers in determining their retention
370 and projected payout for the next contract year. For all
371 regulatory and reinsurance purposes, an insurer may calculate
372 its projected payout from the fund as its share of the total
373 fund premium for the current contract year multiplied by the sum
374 of the projected balance of the fund as of December 31 and the
375 estimated borrowing capacity for that contract year as reported
376 under this subparagraph.

377 (d)1. For purposes of determining potential liability and
378 to aid in the sound administration of the fund, the contract
379 shall require each insurer to report such insurer's losses from
380 each covered event on an interim basis, as directed by the
381 division board. The contract shall require the insurer to report
382 to the division board no later than December 31 of each year,
383 and quarterly thereafter, its reimbursable losses from covered
384 events for the year. The contract shall require the division
385 ~~board~~ to determine and pay, as soon as practicable after
386 receiving these reports of reimbursable losses, the initial
387 amount of reimbursement due and adjustments to this amount based
388 on later loss information. The adjustments to reimbursement
389 amounts shall require the division board to pay, or the insurer

390 to return, amounts reflecting the most recent calculation of
 391 losses.

392 2. In determining reimbursements pursuant to this
 393 subsection, the contract shall provide that the division ~~board~~
 394 shall pay to each insurer such insurer's projected payout, which
 395 is the amount of reimbursement it is owed, up to an amount equal
 396 to the insurer's share of the actual premium paid for that
 397 contract year, multiplied by the actual claims-paying capacity
 398 available for that contract year.

399 (e)1. Except as provided in subparagraphs 2. and 3., the
 400 contract shall provide that if an insurer demonstrates to the
 401 division ~~board~~ that it is likely to qualify for reimbursement
 402 under the contract, and demonstrates to the division ~~board~~ that
 403 the immediate receipt of moneys from the division ~~board~~ is
 404 likely to prevent the insurer from becoming insolvent, the
 405 division ~~board~~ shall advance the insurer, at market interest
 406 rates, the amounts necessary to maintain the solvency of the
 407 insurer, up to 50 percent of the division's ~~board's~~ estimate of
 408 the reimbursement due the insurer. The insurer's reimbursement
 409 shall be reduced by an amount equal to the amount of the advance
 410 and interest thereon.

411 2. With respect only to an entity created under s.
 412 627.351, the contract shall also provide that the division ~~board~~
 413 may, upon application by such entity, advance to such entity, at
 414 market interest rates, up to 90 percent of the lesser of:

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

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417 b. The entity's share of the actual reimbursement premium
418 paid for that contract year, multiplied by the currently
419 available liquid assets of the fund. In order for the entity to
420 qualify for an advance under this subparagraph, the entity must
421 demonstrate to the division ~~board~~ that the advance is essential
422 to allow the entity to pay claims for a covered event and the
423 division ~~board~~ must determine that the fund's assets are
424 sufficient and are sufficiently liquid to allow the division
425 ~~board~~ to make an advance to the entity and still fulfill the
426 division's ~~board's~~ reimbursement obligations to other insurers.
427 The entity's final reimbursement for any contract year in which
428 an advance has been made under this subparagraph must be reduced
429 by an amount equal to the amount of the advance and any interest
430 on such advance. In order to determine what amounts, if any, are
431 due the entity, the division ~~board~~ may require the entity to
432 report its exposure and its losses at any time to determine
433 retention levels and reimbursements payable.

434 3. The contract shall also provide specifically and solely
435 with respect to any limited apportionment company under s.
436 627.351(2)(b)3. that the division ~~board~~ may, upon application by
437 such company, advance to such company the amount of the
438 estimated reimbursement payable to such company as calculated
439 pursuant to paragraph (d), at market interest rates, if the
440 division ~~board~~ determines that the fund's assets are sufficient
441 and are sufficiently liquid to permit the division ~~board~~ to make
442 an advance to such company and at the same time fulfill its
443 reimbursement obligations to the insurers that are participants
444 in the fund. Such company's final reimbursement for any contract

445 year in which an advance pursuant to this subparagraph has been
446 made shall be reduced by an amount equal to the amount of the
447 advance and interest thereon. In order to determine what
448 amounts, if any, are due to such company, the division ~~board~~ may
449 require such company to report its exposure and its losses at
450 such times as may be required to determine retention levels and
451 loss reimbursements payable.

452 (f) In order to ensure that insurers have properly
453 reported the insured values on which the reimbursement premium
454 is based and to ensure that insurers have properly reported the
455 losses for which reimbursements have been made, the division
456 ~~board~~ shall inspect, examine, and verify the records of each
457 insurer's covered policies at such times as the division ~~board~~
458 deems appropriate and according to standards established by rule
459 for the specific purpose of validating the accuracy of exposures
460 and losses required to be reported under the terms and
461 conditions of the reimbursement contract. The costs of the
462 examinations shall be borne by the division ~~board~~. However, in
463 order to remove any incentive for an insurer to delay
464 preparations for an examination, the division ~~board~~ shall be
465 reimbursed by the insurer for any examination expenses incurred
466 in addition to the usual and customary costs of the examination,
467 which additional expenses were incurred as a result of an
468 insurer's failure, despite proper notice, to be prepared for the
469 examination or as a result of an insurer's failure to provide
470 requested information while the examination is in progress. If
471 the division ~~board~~ finds any insurer's records or other
472 necessary information to be inadequate or inadequately posted,

473 recorded, or maintained, the division board ~~board~~ may employ experts
 474 to reconstruct, rewrite, record, post, or maintain such records
 475 or information, at the expense of the insurer being examined, if
 476 such insurer has failed to maintain, complete, or correct such
 477 records or deficiencies after the division board ~~board~~ has given the
 478 insurer notice and a reasonable opportunity to do so. Any
 479 information contained in an examination report, which
 480 information is described in s. 215.557, is confidential and
 481 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
 482 of the State Constitution, as provided in s. 215.557. Nothing in
 483 this paragraph expands the exemption in s. 215.557.

484 (g) The contract shall provide that in the event of the
 485 insolvency of an insurer, the fund shall pay directly to the
 486 Florida Insurance Guaranty Association for the benefit of
 487 Florida policyholders of the insurer the net amount of all
 488 reimbursement moneys owed to the insurer. As used in this
 489 paragraph, the term "net amount of all reimbursement moneys"
 490 means that amount which remains after reimbursement for:

491 1. Preliminary or duplicate payments owed to private
 492 reinsurers or other inuring reinsurance payments to private
 493 reinsurers that satisfy statutory or contractual obligations of
 494 the insolvent insurer attributable to covered events to such
 495 reinsurers; or

496 2. Funds owed to a bank or other financial institution to
 497 cover obligations of the insolvent insurer under a credit
 498 agreement that assists the insolvent insurer in paying claims
 499 attributable to covered events.

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501 The private reinsurers, banks, or other financial institutions
502 shall be reimbursed or otherwise paid prior to payment to the
503 Florida Insurance Guaranty Association, notwithstanding any law
504 to the contrary. The guaranty association shall pay all claims
505 up to the maximum amount permitted by chapter 631; thereafter,
506 any remaining moneys shall be paid pro rata to claims not fully
507 satisfied. This paragraph does not apply to a joint underwriting
508 association, risk apportionment plan, or other entity created
509 under s. 627.351.

510 (6)~~(5)~~ REIMBURSEMENT PREMIUMS.--

511 (a) Each reimbursement contract shall require the insurer
512 to annually pay to the fund an actuarially indicated premium for
513 the reimbursement.

514 (b) The division ~~State Board of Administration~~ shall
515 select an independent consultant to develop a formula for
516 determining the actuarially indicated premium to be paid to the
517 fund. The formula shall specify, for each zip code or other
518 limited geographical area, the amount of premium to be paid by
519 an insurer for each \$1,000 of insured value under covered
520 policies in that zip code or other area. In establishing
521 premiums, the division ~~board~~ shall consider the coverage elected
522 under paragraph (5)~~(4)~~(b) and any factors that tend to enhance
523 the actuarial sophistication of ratemaking for the fund,
524 including deductibles, type of construction, type of coverage
525 provided, relative concentration of risks, and other such
526 factors deemed by the division ~~board~~ to be appropriate. The
527 formula may provide for a procedure to determine the premiums to
528 be paid by new insurers that begin writing covered policies

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529 after the beginning of a contract year, taking into
530 consideration when the insurer starts writing covered policies,
531 the potential exposure of the insurer, the potential exposure of
532 the fund, the administrative costs to the insurer and to the
533 fund, and any other factors deemed appropriate by the division
534 ~~board~~. The formula must be approved by unanimous vote of the
535 board. The board may, at any time, revise the formula pursuant
536 to the procedure provided in this paragraph.

537 (c) No later than September 1 of each year, each insurer
538 shall notify the division ~~board~~ of its insured values under
539 covered policies by zip code, as of June 30 of that year. On the
540 basis of these reports, the division ~~board~~ shall calculate the
541 premium due from the insurer, based on the formula adopted under
542 paragraph (b). The insurer shall pay the required annual premium
543 pursuant to a periodic payment plan specified in the contract.
544 The division ~~board~~ shall provide for payment of reimbursement
545 premium in periodic installments and for the adjustment of
546 provisional premium installments collected prior to submission
547 of the exposure report to reflect data in the exposure report.
548 The division ~~board~~ shall collect interest on late reimbursement
549 premium payments consistent with the assumptions made in
550 developing the premium formula in accordance with paragraph (b).

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

554 (e) If Citizens Property Insurance Corporation assumes or
555 otherwise provides coverage for policies of an insurer placed in
556 liquidation under chapter 631 pursuant to s. 627.351(6), the

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557 corporation may, pursuant to conditions mutually agreed to
558 between the corporation and the division ~~State Board of~~
559 ~~Administration~~, obtain coverage for such policies under its
560 contract with the division ~~fund~~ or accept an assignment of the
561 liquidated insurer's contract with the division ~~fund~~. If
562 Citizens Property Insurance Corporation elects to cover these
563 policies under the corporation's contract with the division
564 ~~fund~~, it shall notify the division ~~board~~ of its insured values
565 with respect to such policies within a specified time mutually
566 agreed to between the corporation and the division ~~board~~, after
567 such assumption or other coverage transaction, and the division
568 ~~fund~~ shall treat such policies as having been in effect as of
569 June 30 of that year. In the event of an assignment, the
570 division ~~fund~~ shall apply that contract to such policies and
571 treat Citizens Property Insurance Corporation as if the
572 corporation were the liquidated insurer for the remaining term
573 of the contract, and the corporation shall have all rights and
574 duties of the liquidated insurer beginning on the date it
575 provides coverage for such policies, but the corporation is not
576 subject to any preexisting rights, liabilities, or duties of the
577 liquidated insurer. The assignment, including any unresolved
578 issues between the liquidated insurer and Citizens Property
579 Insurance Corporation under the contract, shall be provided for
580 in the liquidation order or otherwise determined by the court.
581 However, if a covered event occurs before the effective date of
582 the assignment, the corporation may not obtain coverage for such
583 policies under its contract with the division ~~fund~~ and shall

584 accept an assignment of the liquidated insurer's contract as
 585 provided in this paragraph.

586 (7)~~(6)~~ REVENUE BONDS.--

587 (a) General provisions.--

588 1. Upon the occurrence of a hurricane and a determination
 589 that the moneys in the fund are or will be insufficient to pay
 590 reimbursement at the levels promised in the reimbursement
 591 contracts, the board may take the necessary steps under
 592 paragraph (c) or paragraph (d) for the issuance of revenue bonds
 593 for the benefit of the fund. The proceeds of such revenue bonds
 594 may be used to make reimbursement payments under reimbursement
 595 contracts; to refinance or replace previously existing
 596 borrowings or financial arrangements; to pay interest on bonds;
 597 to fund reserves for the bonds; to pay expenses incident to the
 598 issuance or sale of any bond issued under this section,
 599 including costs of validating, printing, and delivering the
 600 bonds, costs of printing the official statement, costs of
 601 publishing notices of sale of the bonds, and related
 602 administrative expenses; or for such other purposes related to
 603 the financial obligations of the fund as the board may
 604 determine. The term of the bonds may not exceed 30 years. The
 605 board may pledge or authorize the corporation to pledge all or a
 606 portion of all revenues under subsection (6) ~~(5)~~ and under
 607 paragraph (b) to secure such revenue bonds, and the division
 608 ~~board~~ may execute such agreements between the division ~~board~~ and
 609 the issuer of any revenue bonds and providers of other financing
 610 arrangements under paragraph (8) ~~(7)~~ (b) as the board deems
 611 necessary to evidence, secure, preserve, and protect such

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612 pledge. If reimbursement premiums received under subsection (6)
613 ~~(5)~~ or earnings on such premiums are used to pay debt service on
614 revenue bonds, such premiums and earnings shall be used only
615 after the use of the moneys derived from assessments under
616 paragraph (b). The funds, credit, property, or taxing power of
617 the state or political subdivisions of the state shall not be
618 pledged for the payment of such bonds. The division ~~board~~ may
619 also enter into agreements under paragraph (c) or paragraph (d)
620 for the purpose of issuing revenue bonds in the absence of a
621 hurricane upon a determination that such action would maximize
622 the ability of the fund to meet future obligations.

623 2. The Legislature finds and declares that the issuance of
624 bonds under this subsection is for the public purpose of paying
625 the proceeds of the bonds to insurers, thereby enabling insurers
626 to pay the claims of policyholders to ensure ~~assure~~ that
627 policyholders are able to pay the cost of construction,
628 reconstruction, repair, restoration, and other costs associated
629 with damage to property of policyholders of covered policies
630 after the occurrence of a hurricane.

631 (b) Emergency assessments.--

632 1. If the board determines that the amount of revenue
633 produced under subsection (6) ~~(5)~~ is insufficient to fund the
634 obligations, costs, and expenses of the fund and the
635 corporation, including repayment of revenue bonds and that
636 portion of the debt service coverage not met by reimbursement
637 premiums, the board shall direct the Office of Insurance
638 Regulation to levy, by order, an emergency assessment on direct
639 premiums for all property and casualty lines of business in this

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640 state, including property and casualty business of surplus lines
641 insurers regulated under part VIII of chapter 626, but not
642 including any workers' compensation premiums or medical
643 malpractice premiums. As used in this subsection, the term
644 "property and casualty business" includes all lines of business
645 identified on Form 2, Exhibit of Premiums and Losses, in the
646 annual statement required of authorized insurers by s. 624.424
647 and any rule adopted under this section, except for those lines
648 identified as accident and health insurance and except for
649 policies written under the National Flood Insurance Program. The
650 assessment shall be specified as a percentage of direct written
651 premium and is subject to annual adjustments by the board in
652 order to meet debt obligations. The same percentage shall apply
653 to all policies in lines of business subject to the assessment
654 issued or renewed during the 12-month period beginning on the
655 effective date of the assessment.

656 2. A premium is not subject to an annual assessment under
657 this paragraph in excess of 6 percent of premium with respect to
658 obligations arising out of losses attributable to any one
659 contract year, and a premium is not subject to an aggregate
660 annual assessment under this paragraph in excess of 10 percent
661 of premium. An annual assessment under this paragraph shall
662 continue as long as the revenue bonds issued with respect to
663 which the assessment was imposed are outstanding, including any
664 bonds the proceeds of which were used to refund the revenue
665 bonds, unless adequate provision has been made for the payment
666 of the bonds under the documents authorizing issuance of the
667 bonds.

668 3. Emergency assessments shall be collected from
 669 policyholders. Emergency assessments shall be remitted by
 670 insurers as a percentage of direct written premium for the
 671 preceding calendar quarter as specified in the order from the
 672 Office of Insurance Regulation. The office shall verify the
 673 accurate and timely collection and remittance of emergency
 674 assessments and shall report the information to the division
 675 ~~board~~ in a form and at a time specified by the division ~~board~~.
 676 Each insurer collecting assessments shall provide the
 677 information with respect to premiums and collections as may be
 678 required by the office to enable the office to monitor and
 679 verify compliance with this paragraph.

680 4. With respect to assessments of surplus lines premiums,
 681 each surplus lines agent shall collect the assessment at the
 682 same time as the agent collects the surplus lines tax required
 683 by s. 626.932, and the surplus lines agent shall remit the
 684 assessment to the Florida Surplus Lines Service Office created
 685 by s. 626.921 at the same time as the agent remits the surplus
 686 lines tax to the Florida Surplus Lines Service Office. The
 687 emergency assessment on each insured procuring coverage and
 688 filing under s. 626.938 shall be remitted by the insured to the
 689 Florida Surplus Lines Service Office at the time the insured
 690 pays the surplus lines tax to the Florida Surplus Lines Service
 691 Office. Failure to collect and remit the assessment as required
 692 by this subparagraph is a violation of this subparagraph, and
 693 the surplus lines agent and insureds procuring coverage shall
 694 pay penalties and interest as provided by s. 626.936(2). The
 695 Florida Surplus Lines Service Office shall remit the collected

696 assessments to the fund or corporation as provided in the order
 697 levied by the Office of Insurance Regulation. The Florida
 698 Surplus Lines Service Office shall verify the proper application
 699 of such emergency assessments and shall assist the division
 700 ~~board~~ in ensuring the accurate and timely collection and
 701 remittance of assessments as required by the board. The Florida
 702 Surplus Lines Service Office shall annually calculate the
 703 aggregate written premium on property and casualty business,
 704 other than workers' compensation and medical malpractice,
 705 procured through surplus lines agents and insureds procuring
 706 coverage and filing under s. 626.938 and shall report the
 707 information to the division ~~board~~ in a form and at a time
 708 specified by the division ~~board~~.

709 5. Any assessment authority not used for a particular
 710 contract year may be used for a subsequent contract year. If,
 711 for a subsequent contract year, the board determines that the
 712 amount of revenue produced under subsection (6) ~~(5)~~ is
 713 insufficient to fund the obligations, costs, and expenses of the
 714 fund and the corporation, including repayment of revenue bonds
 715 and that portion of the debt service coverage not met by
 716 reimbursement premiums, the board shall direct the Office of
 717 Insurance Regulation to levy an emergency assessment up to an
 718 amount not exceeding the amount of unused assessment authority
 719 from a previous contract year or years, plus an additional 4
 720 percent provided that the assessments in the aggregate do not
 721 exceed the limits specified in subparagraph 2.

722 6. The assessments otherwise payable to the corporation
 723 under this paragraph shall be paid to the fund unless and until

724 the Office of Insurance Regulation and the Florida Surplus Lines
725 Service Office have received from the corporation and the
726 division fund a notice, which shall be conclusive and upon which
727 they may rely without further inquiry, that the corporation has
728 issued bonds and the division fund has no agreements in effect
729 with local governments under paragraph (c). On or after the date
730 of the notice and until the date the corporation has no bonds
731 outstanding, the division fund shall have no right, title, or
732 interest in or to the assessments, except as provided in the
733 division's fund's agreement with the corporation.

734 7. Emergency assessments are not premium and are not
735 subject to the premium tax, to the surplus lines tax, to any
736 fees, or to any commissions. An insurer is liable for all
737 assessments that it collects and must treat the failure of an
738 insured to pay an assessment as a failure to pay the premium. An
739 insurer is not liable for uncollectible assessments.

740 8. When an insurer is required to return an unearned
741 premium, it shall also return any collected assessment
742 attributable to the unearned premium. A credit adjustment to the
743 collected assessment may be made by the insurer with regard to
744 future remittances that are payable to the fund or corporation,
745 but the insurer is not entitled to a refund.

746 9. When a surplus lines insured or an insured who has
747 procured coverage and filed under s. 626.938 is entitled to the
748 return of an unearned premium, the Florida Surplus Lines Service
749 Office shall provide a credit or refund to the agent or such
750 insured for the collected assessment attributable to the

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751 unearned premium prior to remitting the emergency assessment
752 collected to the fund or corporation.

753 10. The exemption of medical malpractice insurance
754 premiums from emergency assessments under this paragraph is
755 repealed May 31, 2010, and medical malpractice insurance
756 premiums shall be subject to emergency assessments attributable
757 to loss events occurring in the contract years commencing on
758 June 1, 2010.

759 (c) Revenue bond issuance through counties or
760 municipalities.--

761 1. If the board elects to enter into agreements with local
762 governments for the issuance of revenue bonds for the benefit of
763 the fund, the division board shall enter into such contracts
764 with one or more local governments, including agreements
765 providing for the pledge of revenues, as are necessary to effect
766 such issuance. The governing body of a county or municipality is
767 authorized to issue bonds as defined in s. 125.013 or s. 166.101
768 from time to time to fund an assistance program, in conjunction
769 with the Florida Hurricane Catastrophe Fund, for the purposes
770 set forth in this section or for the purpose of paying the costs
771 of construction, reconstruction, repair, restoration, and other
772 costs associated with damage to properties of policyholders of
773 covered policies due to the occurrence of a hurricane by
774 assuring that policyholders located in this state are able to
775 recover claims under property insurance policies after a covered
776 event.

777 2. In order to avoid needless and indiscriminate
778 proliferation, duplication, and fragmentation of such assistance

779 | programs, any local government may provide for the payment of
 780 | fund reimbursements, regardless of whether or not the losses for
 781 | which reimbursement is made occurred within or outside of the
 782 | territorial jurisdiction of the local government.

783 | 3. The state hereby covenants with holders of bonds issued
 784 | under this paragraph that the state will not repeal or abrogate
 785 | the power of the board to direct the Office of Insurance
 786 | Regulation to levy the assessments and to collect the proceeds
 787 | of the revenues pledged to the payment of such bonds as long as
 788 | any such bonds remain outstanding unless adequate provision has
 789 | been made for the payment of such bonds pursuant to the
 790 | documents authorizing the issuance of such bonds.

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

795 | (d) Florida Hurricane Catastrophe Fund Finance
 796 | Corporation.--

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

799 | a. The public benefits corporation created under this
 800 | paragraph will provide a mechanism necessary for the cost-
 801 | effective and efficient issuance of bonds. This mechanism will
 802 | eliminate unnecessary costs in the bond issuance process,
 803 | thereby increasing the amounts available to pay reimbursement
 804 | for losses to property sustained as a result of hurricane
 805 | damage.

806 b. The purpose of such bonds is to fund reimbursements
 807 through the Florida Hurricane Catastrophe Fund to pay for the
 808 costs of construction, reconstruction, repair, restoration, and
 809 other costs associated with damage to properties of
 810 policyholders of covered policies due to the occurrence of a
 811 hurricane.

812 c. The efficacy of the financing mechanism will be
 813 enhanced by the corporation's ownership of the assessments, by
 814 the insulation of the assessments from possible bankruptcy
 815 proceedings, and by covenants of the state with the
 816 corporation's bondholders.

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

820 b. The corporation shall operate under a six-member ~~five-~~
 821 ~~member~~ board of directors consisting of the Governor or a
 822 designee, the Chief Financial Officer or a designee, the
 823 Attorney General or a designee, the Commissioner of Agriculture
 824 or a designee, the director of the Division of Bond Finance of
 825 the State Board of Administration, and the director ~~senior~~
 826 ~~employee~~ of the Division ~~State Board of Administration~~
 827 ~~responsible for operations~~ of the Florida Hurricane Catastrophe
 828 Fund.

829 c. The corporation has all of the powers of corporations
 830 under chapter 607 and under chapter 617, subject only to the
 831 provisions of this subsection.

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

835 e. The corporation may invest in any of the investments
836 authorized under s. 215.47.

837 f. There shall be no liability on the part of, and no
838 cause of action shall arise against, any board members or
839 employees of the corporation for any actions taken by them in
840 the performance of their duties under this paragraph.

841 3.a. In actions under chapter 75 to validate any bonds
842 issued by the corporation, the notice required by s. 75.06 shall
843 be published only in Leon County and in two newspapers of
844 general circulation in the state, and the complaint and order of
845 the court shall be served only on the State Attorney of the
846 Second Judicial Circuit.

847 b. The state hereby covenants with holders of bonds of the
848 corporation that the state will not repeal or abrogate the power
849 of the board to direct the Office of Insurance Regulation to
850 levy the assessments and to collect the proceeds of the revenues
851 pledged to the payment of such bonds as long as any such bonds
852 remain outstanding unless adequate provision has been made for
853 the payment of such bonds pursuant to the documents authorizing
854 the issuance of such bonds.

855 4. The bonds of the corporation are not a debt of the
856 state or of any political subdivision, and neither the state nor
857 any political subdivision is liable on such bonds. The
858 corporation does not have the power to pledge the credit, the
859 revenues, or the taxing power of the state or of any political

860 subdivision. The credit, revenues, or taxing power of the state
861 or of any political subdivision shall not be deemed to be
862 pledged to the payment of any bonds of the corporation.

863 5.a. The property, revenues, and other assets of the
864 corporation; the transactions and operations of the corporation
865 and the income from such transactions and operations; and all
866 bonds issued under this paragraph and interest on such bonds are
867 exempt from taxation by the state and any political subdivision,
868 including the intangibles tax under chapter 199 and the income
869 tax under chapter 220. This exemption does not apply to any tax
870 imposed by chapter 220 on interest, income, or profits on debt
871 obligations owned by corporations other than the Florida
872 Hurricane Catastrophe Fund Finance Corporation.

873 b. All bonds of the corporation shall be and constitute
874 legal investments without limitation for all public bodies of
875 this state; for all banks, trust companies, savings banks,
876 savings associations, savings and loan associations, and
877 investment companies; for all administrators, executors,
878 trustees, and other fiduciaries; for all insurance companies and
879 associations and other persons carrying on an insurance
880 business; and for all other persons who are now or may hereafter
881 be authorized to invest in bonds or other obligations of the
882 state and shall be and constitute eligible securities to be
883 deposited as collateral for the security of any state, county,
884 municipal, or other public funds. This sub-subparagraph shall be
885 considered as additional and supplemental authority and shall
886 not be limited without specific reference to this sub-
887 subparagraph.

888 6. The corporation and its corporate existence shall
 889 continue until terminated by law; however, no such law shall
 890 take effect as long as the corporation has bonds outstanding
 891 unless adequate provision has been made for the payment of such
 892 bonds pursuant to the documents authorizing the issuance of such
 893 bonds. Upon termination of the existence of the corporation, all
 894 of its rights and properties in excess of its obligations shall
 895 pass to and be vested in the state.

896 (e) Protection of bondholders.--

897 1. As long as the corporation has any bonds outstanding,
 898 neither the division fund ~~fund~~ nor the corporation shall have the
 899 authority to file a voluntary petition under chapter 9 of the
 900 federal Bankruptcy Code or such corresponding chapter or
 901 sections as may be in effect, from time to time, and neither any
 902 public officer nor any organization, entity, or other person
 903 shall authorize the division fund or the corporation to be or
 904 become a debtor under chapter 9 of the federal Bankruptcy Code
 905 or such corresponding chapter or sections as may be in effect,
 906 from time to time, during any such period.

907 2. The state hereby covenants with holders of bonds of the
 908 corporation that the state will not limit or alter the denial of
 909 authority under this paragraph or the rights under this section
 910 vested in the division fund or the corporation to fulfill the
 911 terms of any agreements made with such bondholders or in any way
 912 impair the rights and remedies of such bondholders as long as
 913 any such bonds remain outstanding unless adequate provision has
 914 been made for the payment of such bonds pursuant to the
 915 documents authorizing the issuance of such bonds.

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916 3. Notwithstanding any other provision of law, any pledge
917 of or other security interest in revenue, money, accounts,
918 contract rights, general intangibles, or other personal property
919 made or created by the fund or the corporation shall be valid,
920 binding, and perfected from the time such pledge is made or
921 other security interest attaches without any physical delivery
922 of the collateral or further act and the lien of any such pledge
923 or other security interest shall be valid, binding, and
924 perfected against all parties having claims of any kind in tort,
925 contract, or otherwise against the division ~~fund~~ or the
926 corporation irrespective of whether or not such parties have
927 notice of such claims. No instrument by which such a pledge or
928 security interest is created nor any financing statement need be
929 recorded or filed.

930 ~~(8)~~ ~~(7)~~ ADDITIONAL POWERS AND DUTIES.--

931 (a) The board may authorize the division to procure
932 reinsurance from reinsurers acceptable to the Office of
933 Insurance Regulation for the purpose of maximizing the capacity
934 of the fund and may enter into capital market transactions,
935 including, but not limited to, industry loss warranties,
936 catastrophe bonds, side-car arrangements, or financial contracts
937 permissible for the State Board of Administration's ~~board's~~
938 usage under s. 215.47(10) and (11), consistent with prudent
939 management of the fund.

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

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944 (c) Each fiscal year, the Legislature shall appropriate
945 from the investment income of the Florida Hurricane Catastrophe
946 Fund an amount no less than \$10 million and no more than 35
947 percent of the investment income based upon the most recent
948 fiscal year-end audited financial statements for the purpose of
949 providing funding for local governments, state agencies, public
950 and private educational institutions, and nonprofit
951 organizations to support programs intended to improve hurricane
952 preparedness, reduce potential losses in the event of a
953 hurricane, provide research into means to reduce such losses,
954 educate or inform the public as to means to reduce hurricane
955 losses, assist the public in determining the appropriateness of
956 particular upgrades to structures or in the financing of such
957 upgrades, or protect local infrastructure from potential damage
958 from a hurricane. Moneys shall first be available for
959 appropriation under this paragraph in fiscal year 1997-1998.
960 Moneys in excess of the \$10 million specified in this paragraph
961 shall not be available for appropriation under this paragraph if
962 the ~~State board of Administration~~ finds that an appropriation of
963 investment income from the fund would jeopardize the actuarial
964 soundness of the fund.

965 (d) The division ~~board~~ may allow insurers to comply with
966 reporting requirements and reporting format requirements by
967 using alternative methods of reporting if the proper
968 administration of the fund is not thereby impaired and if the
969 alternative methods produce data which is consistent with the
970 purposes of this section.

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

975 (9) ~~(8)~~ ADVISORY COUNCIL.--The State Board of
 976 Administration shall appoint a nine-member advisory council that
 977 consists of an actuary, a meteorologist, an engineer, a
 978 representative of insurers, a representative of insurance
 979 agents, a representative of reinsurers, and three consumers who
 980 shall also be representatives of other affected professions and
 981 industries, to provide the board with information and advice in
 982 connection with its duties under this section. Members of the
 983 advisory council shall serve at the pleasure of the board and
 984 are eligible for per diem and travel expenses under s. 112.061.

985 (10) ~~(9)~~ APPLICABILITY OF S. 19, ART. III OF THE STATE
 986 CONSTITUTION.--The Legislature finds that the Florida Hurricane
 987 Catastrophe Fund created by this section is a trust fund
 988 established for bond covenants, indentures, or resolutions
 989 within the meaning of s. 19(f)(3), Art. III of the State
 990 Constitution.

991 (11) ~~(10)~~ VIOLATIONS.--Any violation of this section or of
 992 rules adopted under this section constitutes a violation of the
 993 insurance code.

994 (12) ~~(11)~~ LEGAL PROCEEDINGS.--The division ~~may board~~ ~~is~~
 995 ~~authorized to~~ take any action necessary to enforce the rules,
 996 and the provisions and requirements of the reimbursement
 997 contract, required by and adopted pursuant to this section.

998 (13)~~(12)~~ FEDERAL OR MULTISTATE CATASTROPHIC FUNDS.--Upon
 999 the creation of a federal or multistate catastrophic insurance
 1000 or reinsurance program intended to serve purposes similar to the
 1001 purposes of the fund created by this section, the division, upon
 1002 approval by the State board, ~~of Administration~~ shall promptly
 1003 make recommendations to the Legislature for coordination with
 1004 the federal or multistate program, for termination of the fund,
 1005 or for such other actions as the division ~~board~~ finds
 1006 appropriate in the circumstances.

1007 (14)~~(13)~~ REVERSION OF FUND ASSETS UPON TERMINATION.--The
 1008 fund, the division, and the duties of the board under this
 1009 section may be terminated only by law. Upon termination of the
 1010 fund, all assets of the fund shall revert to the General Revenue
 1011 Fund.

1012 (15)~~(14)~~ SEVERABILITY.--If any provision of this section
 1013 or its application to any person or circumstance is held
 1014 invalid, the invalidity does not affect other provisions or
 1015 applications of the section which can be given effect without
 1016 the invalid provision or application, and to this end the
 1017 provisions of this section are declared severable.

1018 (16)~~(15)~~ COLLATERAL PROTECTION INSURANCE.--As used in this
 1019 section and ss. 627.311 and 627.351, the term "collateral
 1020 protection insurance" means commercial property insurance of
 1021 which a creditor is the primary beneficiary and policyholder and
 1022 which protects or covers an interest of the creditor arising out
 1023 of a credit transaction secured by real or personal property.
 1024 Initiation of such coverage is triggered by the mortgagor's
 1025 failure to maintain insurance coverage as required by the

1026 mortgage or other lending document. Collateral protection
 1027 insurance is not residential coverage.

1028 (17)~~(16)~~ TEMPORARY EMERGENCY ADDITIONAL COVERAGE OPTIONS
 1029 ~~FOR ADDITIONAL COVERAGE.~~--

1030 (a) Findings and intent.--

1031 1. The Legislature finds that:

1032 a. Because of temporary disruptions in the market for
 1033 catastrophic reinsurance, many property insurers were unable to
 1034 procure reinsurance for the 2006 hurricane season with an
 1035 attachment point below the insurers' respective Florida
 1036 Hurricane Catastrophe Fund attachment points, were unable to
 1037 procure sufficient amounts of such reinsurance, or were able to
 1038 procure such reinsurance only by incurring substantially higher
 1039 costs than in prior years.

1040 b. The reinsurance market problems were responsible, at
 1041 least in part, for substantial premium increases to many
 1042 consumers and increases in the number of policies issued by the
 1043 Citizens Property Insurance Corporation.

1044 c. It is likely that the reinsurance market disruptions
 1045 will not significantly abate prior to the 2007 hurricane season.

1046 2. It is the intent of the Legislature to create a
 1047 temporary emergency program, applicable to the 2007, 2008, and
 1048 2009 hurricane seasons, to address these market disruptions and
 1049 enable insurers, at their option, to procure additional coverage
 1050 from the Florida Hurricane Catastrophe Fund.

1051 (b) Applicability of other provisions of this
 1052 section.--All provisions of this section and the rules adopted

1053 under this section apply to the program created by this
 1054 subsection unless specifically superseded by this subsection.

1055 (c) Optional coverage.--For the contract year commencing
 1056 June 1, 2007, and ending May 31, 2008, the contract year
 1057 commencing June 1, 2008, and ending May 31, 2009, and the
 1058 contract year commencing June 1, 2009, and ending May 31, 2010,
 1059 the board shall offer for each of such years the optional
 1060 coverage as provided in this subsection.

1061 (d) Additional definitions.--As used in this subsection,
 1062 the term:

1063 1. "TEACO options" means the temporary emergency
 1064 additional coverage options created under this subsection.

1065 2. "TEACO insurer" means an insurer that has opted to
 1066 obtain coverage under the TEACO options in addition to the
 1067 coverage provided to the insurer under its reimbursement
 1068 contract.

1069 3. "TEACO reimbursement premium" means the premium charged
 1070 by the fund for coverage provided under the TEACO options.

1071 4. "TEACO retention" means the amount of losses below
 1072 which a TEACO insurer is not entitled to reimbursement from the
 1073 fund under the TEACO option selected. A TEACO insurer's
 1074 retention options shall be calculated as follows:

1075 a. The division ~~board~~ shall calculate and report to each
 1076 TEACO insurer the TEACO retention multiples. There shall be
 1077 three TEACO retention multiples for defining coverage. Each
 1078 multiple shall be calculated by dividing \$3 billion, \$4 billion,
 1079 or \$5 billion by the total estimated mandatory FHCF

1080 reimbursement premium assuming all insurers selected the 90-
 1081 percent coverage level.

1082 b. The TEACO retention multiples as determined under sub-
 1083 subparagraph a. shall be adjusted to reflect the coverage level
 1084 elected by the insurer. For insurers electing the 90-percent
 1085 coverage level, the adjusted retention multiple is 100 percent
 1086 of the amount determined under sub-subparagraph a. For insurers
 1087 electing the 75-percent coverage level, the retention multiple
 1088 is 120 percent of the amount determined under sub-subparagraph
 1089 a. For insurers electing the 45-percent coverage level, the
 1090 adjusted retention multiple is 200 percent of the amount
 1091 determined under sub-subparagraph a.

1092 c. An insurer shall determine its provisional TEACO
 1093 retention by multiplying its estimated mandatory FHCF
 1094 reimbursement premium by the applicable adjusted TEACO retention
 1095 multiple and shall determine its actual TEACO retention by
 1096 multiplying its actual mandatory FHCF reimbursement premium by
 1097 the applicable adjusted TEACO retention multiple.

1098 d. For TEACO insurers who experience multiple covered
 1099 events causing loss during the contract year, the insurer's full
 1100 TEACO retention shall be applied to each of the covered events
 1101 causing the two largest losses for that insurer. For other
 1102 covered events resulting in losses, the TEACO option does not
 1103 apply and the insurer's retention shall be one-third of the full
 1104 retention as calculated under paragraph (2) (g) ~~(e)~~.

1105 5. "TEACO addendum" means an addendum to the reimbursement
 1106 contract reflecting the obligations of the fund and TEACO
 1107 insurers under the program created by this subsection.

1108 | 6. "FHCF" means the Florida Hurricane Catastrophe Fund.
 1109 | (e) TEACO addendum.--
 1110 | 1. The TEACO addendum shall provide for reimbursement of
 1111 | TEACO insurers for covered events occurring during the contract
 1112 | year, in exchange for the TEACO reimbursement premium paid into
 1113 | the fund under paragraph (f). Any insurer writing covered
 1114 | policies has the option of choosing to accept the TEACO addendum
 1115 | for any of the 3 contract years that the coverage is offered.
 1116 | 2. The TEACO addendum shall contain a promise by the
 1117 | division ~~board~~ to reimburse the TEACO insurer for 45 percent, 75
 1118 | percent, or 90 percent of its losses from each covered event in
 1119 | excess of the insurer's TEACO retention, plus 5 percent of the
 1120 | reimbursed losses to cover loss adjustment expenses. The
 1121 | percentage shall be the same as the coverage level selected by
 1122 | the insurer under paragraph (5) ~~(4)~~ (b).
 1123 | 3. The TEACO addendum shall provide that reimbursement
 1124 | amounts shall not be reduced by reinsurance paid or payable to
 1125 | the insurer from other sources.
 1126 | 4. The TEACO addendum shall also provide that the
 1127 | obligation of the division ~~board~~ with respect to all TEACO
 1128 | addenda shall not exceed an amount equal to two times the
 1129 | difference between the industry retention level calculated under
 1130 | paragraph (2) (g) ~~(e)~~ and the \$3 billion, \$4 billion, or \$5
 1131 | billion industry TEACO retention level options actually
 1132 | selected, but in no event may the division's ~~board's~~ obligation
 1133 | exceed the actual claims-paying capacity of the fund plus the
 1134 | additional capacity created in paragraph (g). If the actual
 1135 | claims-paying capacity and the additional capacity created under

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1136 paragraph (g) fall short of the division's ~~board's~~ obligations
1137 under the reimbursement contract, each insurer's share of the
1138 fund's capacity shall be prorated based on the premium an
1139 insurer pays for its mandatory reimbursement coverage and the
1140 premium paid for its optional TEACO coverage as each such
1141 premium bears to the total premiums paid to the fund times the
1142 available capacity.

1143 5. The priorities, schedule, and method of reimbursements
1144 under the TEACO addendum shall be the same as provided under
1145 subsection (5) ~~(4)~~.

1146 6. A TEACO insurer's maximum reimbursement for a single
1147 event shall be equal to the product of multiplying its mandatory
1148 FHCF premium by the difference between its FHCF retention
1149 multiple and its TEACO retention multiple under the TEACO option
1150 selected and by the coverage selected under paragraph (5)~~(4)~~(b),
1151 plus an additional 5 percent for loss adjustment expenses. A
1152 TEACO insurer's maximum reimbursement under the TEACO option
1153 selected for a TEACO insurer's two largest events shall be twice
1154 its maximum reimbursement for a single event.

1155 (f) TEACO reimbursement premiums.--

1156 1. Each TEACO insurer shall pay to the fund, in the manner
1157 and at the time provided in the reimbursement contract for
1158 payment of reimbursement premiums, a TEACO reimbursement premium
1159 calculated as specified in this paragraph.

1160 2. The insurer's TEACO reimbursement premium associated
1161 with the \$3 billion retention option shall be equal to 85
1162 percent of a TEACO insurer's maximum reimbursement for a single
1163 event as calculated under subparagraph (e)6. The TEACO

1164 reimbursement premium associated with the \$4 billion retention
 1165 option shall be equal to 80 percent of a TEACO insurer's maximum
 1166 reimbursement for a single event as calculated under
 1167 subparagraph (e)6. The TEACO premium associated with the \$5
 1168 billion retention option shall be equal to 75 percent of a TEACO
 1169 insurer's maximum reimbursement for a single event as calculated
 1170 under subparagraph (e)6.

1171 (g) Effect on claims-paying capacity of the fund.--For the
 1172 contract term commencing June 1, 2007, the contract year
 1173 commencing June 1, 2008, and the contract term beginning June 1,
 1174 2009, the program created by this subsection shall increase the
 1175 claims-paying capacity of the fund as provided in subparagraph
 1176 (5)~~(4)~~(c)1. by an amount equal to two times the difference
 1177 between the industry retention level calculated under paragraph
 1178 (2)(g)~~(e)~~ and the \$3 billion industry TEACO retention level
 1179 specified in sub-subparagraph (d)4.a. The additional capacity
 1180 shall apply only to the additional coverage provided by the
 1181 TEACO option and shall not otherwise affect any insurer's
 1182 reimbursement from the fund.

1183 (18)~~(17)~~ TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.--

1184 (a) Findings and intent.--

1185 1. The Legislature finds that:

1186 a. Because of temporary disruptions in the market for
 1187 catastrophic reinsurance, many property insurers were unable to
 1188 procure sufficient amounts of reinsurance for the 2006 hurricane
 1189 season or were able to procure such reinsurance only by
 1190 incurring substantially higher costs than in prior years.

1191 b. The reinsurance market problems were responsible, at
 1192 least in part, for substantial premium increases to many
 1193 consumers and increases in the number of policies issued by
 1194 Citizens Property Insurance Corporation.

1195 c. It is likely that the reinsurance market disruptions
 1196 will not significantly abate prior to the 2008 ~~2007~~ hurricane
 1197 season.

1198 2. It is the intent of the Legislature to create options
 1199 for insurers to purchase a temporary increased coverage limit
 1200 above the statutorily determined limit in subparagraph
 1201 (5) ~~(4)~~ (c)1., applicable for the ~~2007~~, 2008, and 2009 hurricane
 1202 seasons, to address market disruptions and enable insurers, at
 1203 their option, to procure additional coverage from the Florida
 1204 Hurricane Catastrophe Fund.

1205 (b) Applicability of other provisions of this
 1206 section.--All provisions of this section and the rules adopted
 1207 under this section apply to the coverage created by this
 1208 subsection unless specifically superseded by provisions in this
 1209 subsection.

1210 (c) Optional coverage.--For the contract year commencing
 1211 ~~June 1, 2007, and ending May 31, 2008, the contract year~~
 1212 ~~commencing~~ June 1, 2008, and ending May 31, 2009, and the
 1213 contract year commencing June 1, 2009, and ending May 31, 2010,
 1214 the board shall offer, for each of such years, the optional
 1215 coverage as provided in this subsection.

1216 (d) Additional definitions.--As used in this subsection,
 1217 the term:

1218 1. "FHCF" means Florida Hurricane Catastrophe Fund.

1219 2. "FHCF reimbursement premium" means the premium paid by
 1220 an insurer for its coverage as a mandatory participant in the
 1221 FHCF, but does not include additional premiums for optional
 1222 coverages.

1223 3. "Payout multiple" means the number or multiple created
 1224 by dividing the statutorily defined claims-paying capacity as
 1225 determined in subparagraph (5)~~(4)~~(c)1. by the aggregate
 1226 reimbursement premiums paid by all insurers estimated or
 1227 projected as of calendar year-end.

1228 4. "TICL" means the temporary increase in coverage limit.

1229 5. "TICL options" means the temporary increase in coverage
 1230 options created under this subsection.

1231 6. "TICL insurer" means an insurer that has opted to
 1232 obtain coverage under the TICL options addendum in addition to
 1233 the coverage provided to the insurer under its FHCF
 1234 reimbursement contract.

1235 7. "TICL reimbursement premium" means the premium charged
 1236 by the fund for coverage provided under the TICL option.

1237 8. "TICL coverage multiple" means the coverage multiple
 1238 when multiplied by an insurer's FHCF reimbursement premium that
 1239 defines the temporary increase in coverage limit.

1240 9. "TICL coverage" means the coverage for an insurer's
 1241 losses above the insurer's statutorily determined claims-paying
 1242 capacity based on the claims-paying limit in subparagraph
 1243 (5)~~(4)~~(c)1., which an insurer selects as its temporary increase
 1244 in coverage from the fund under the TICL options selected. A
 1245 TICL insurer's increased coverage limit options shall be
 1246 calculated as follows:

1247 a. The division board ~~board~~ shall calculate and report to each
 1248 TICL insurer the TICL coverage multiples based on 9 ~~12~~ options
 1249 for increasing the insurer's FHCF coverage limit. Each TICL
 1250 coverage multiple shall be calculated by dividing \$1 billion, \$2
 1251 billion, \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7
 1252 billion, \$8 billion, and \$9 billion, ~~\$10 billion, \$11 billion,~~
 1253 ~~or \$12 billion~~ by the total estimated aggregate FHCF
 1254 reimbursement premiums for ~~the 2007-2008 contract year,~~ the
 1255 2008-2009 contract year, and the 2009-2010 contract year.

1256 b. The TICL insurer's increased coverage shall be the FHCF
 1257 reimbursement premium multiplied by the TICL coverage multiple
 1258 for the TICL option selected. In order to determine an insurer's
 1259 total limit of coverage, an insurer shall add its TICL coverage
 1260 multiple to its payout multiple. The total shall represent a
 1261 number that, when multiplied by an insurer's FHCF reimbursement
 1262 premium for a given reimbursement contract year, defines an
 1263 insurer's total limit of FHCF reimbursement coverage for that
 1264 reimbursement contract year.

1265 10. "TICL options addendum" means an addendum to the
 1266 reimbursement contract reflecting the obligations of the fund
 1267 and insurers selecting an option to increase an insurer's FHCF
 1268 coverage limit.

1269 (e) TICL options addendum.--

1270 1. The TICL options addendum shall provide for
 1271 reimbursement of TICL insurers for covered events occurring
 1272 between June 1, 2007, and May 31, 2008, and between June 1,
 1273 2008, and May 31, 2009, or between June 1, 2009, and May 31,
 1274 2010, in exchange for the TICL reimbursement premium paid into

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1275 the fund under paragraph (f). Any insurer writing covered
1276 policies has the option of selecting an increased limit of
1277 coverage under the TICL options addendum and shall select such
1278 coverage at the time that it executes the FHCF reimbursement
1279 contract.

1280 2. The TICL addendum shall contain a promise by the board
1281 to reimburse the TICL insurer for 70 ~~45~~ percent of the TICL
1282 coverage based on the TICL option selected for the insurer's, ~~75~~
1283 ~~percent, or 90 percent of its~~ losses from each covered event in
1284 excess of the insurer's retention, plus 5 percent of the
1285 reimbursed losses to cover loss adjustment expenses. ~~The~~
1286 ~~percentage shall be the same as the coverage level selected by~~
1287 ~~the insurer under paragraph (4) (b).~~

1288 3. The TICL addendum shall provide that reimbursement
1289 amounts shall not be reduced by reinsurance paid or payable to
1290 the insurer from other sources.

1291 4. The priorities, schedule, and method of reimbursements
1292 under the TICL addendum shall be the same as provided under
1293 subsection (5) ~~(4)~~.

1294 (f) TICL reimbursement premiums.--Each TICL insurer shall
1295 pay to the fund, in the manner and at the time provided in the
1296 reimbursement contract for payment of reimbursement premiums, a
1297 TICL reimbursement premium determined as specified in subsection
1298 (6) ~~(5)~~.

1299 (g) Effect on claims-paying capacity of the fund.--For the
1300 contract terms commencing ~~June 1, 2007,~~ June 1, 2008, and June
1301 1, 2009, the program created by this subsection shall increase
1302 the claims-paying capacity of the fund as provided in

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1303 subparagraph (5)~~(4)~~(c)1. by an amount not to exceed \$9 ~~\$12~~
 1304 billion and shall depend on the TICL coverage options selected
 1305 and the number of insurers that select the TICL optional
 1306 coverage. The additional capacity shall apply only to the
 1307 additional coverage provided under the TICL options and shall
 1308 not otherwise affect any insurer's reimbursement from the fund
 1309 if the insurer chooses not to select the temporary option to
 1310 increase its limit of coverage under the FHCF.

1311 (h) Increasing the claims-paying capacity of the
 1312 fund.--For the contract years commencing ~~June 1, 2007,~~ June 1,
 1313 2008, and June 1, 2009, the board may increase the claims-paying
 1314 capacity of the fund as provided in paragraph (g) by an amount
 1315 not to exceed \$4 billion in four \$1 billion options and shall
 1316 depend on the TICL coverage options selected and the number of
 1317 insurers that select the TICL optional coverage. Each insurer's
 1318 TICL premium shall be calculated based upon the additional limit
 1319 of increased coverage that the insurer selects. Such limit is
 1320 determined by multiplying the TICL multiple associated with one
 1321 of the four options times the insurer's FHCF reimbursement
 1322 premium. The reimbursement premium associated with the
 1323 additional coverage provided in this paragraph shall be
 1324 determined as specified in subsection (6) ~~(5)~~.

1325 Section 2. Section 215.557, Florida Statutes, is amended
 1326 to read:

1327 215.557 Reports of insured values.--The reports of insured
 1328 values under covered policies by zip code submitted to the
 1329 Division of the Florida Hurricane Catastrophe Fund State Board
 1330 ~~of Administration~~ pursuant to s. 215.555, as created by s. 1,

1331 ch. 93-409, Laws of Florida, or similar legislation, are
 1332 confidential and exempt from the provisions of s. 119.07(1) and
 1333 s. 24(a), Art. I of the State Constitution.

1334 Section 3. Paragraph (h) of subsection (4) of section
 1335 215.5586, Florida Statutes, is amended to read:

1336 215.5586 My Safe Florida Home Program.--There is
 1337 established within the Department of Financial Services the My
 1338 Safe Florida Home Program. The department shall provide fiscal
 1339 accountability, contract management, and strategic leadership
 1340 for the program, consistent with this section. This section does
 1341 not create an entitlement for property owners or obligate the
 1342 state in any way to fund the inspection or retrofitting of
 1343 residential property in this state. Implementation of this
 1344 program is subject to annual legislative appropriations. It is
 1345 the intent of the Legislature that the My Safe Florida Home
 1346 Program provide inspections for at least 400,000 site-built,
 1347 single-family, residential properties and provide grants to at
 1348 least 35,000 applicants before June 30, 2009. The program shall
 1349 develop and implement a comprehensive and coordinated approach
 1350 for hurricane damage mitigation that shall include the
 1351 following:

1352 (4) ADVISORY COUNCIL.--There is created an advisory
 1353 council to provide advice and assistance to the department
 1354 regarding administration of the program. The advisory council
 1355 shall consist of:

1356 (h) The director ~~senior officer~~ of the Division of the
 1357 Florida Hurricane Catastrophe Fund.

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1359 Members appointed under paragraphs (a)-(d) shall serve at the
 1360 pleasure of the Financial Services Commission. Members appointed
 1361 under paragraphs (e) and (f) shall serve at the pleasure of the
 1362 appointing officer. All other members shall serve voting ex
 1363 officio. Members of the advisory council shall serve without
 1364 compensation but may receive reimbursement as provided in s.
 1365 112.061 for per diem and travel expenses incurred in the
 1366 performance of their official duties.

1367 Section 4. Subsection (1) of section 215.559, Florida
 1368 Statutes, is amended to read:

1369 215.559 Hurricane Loss Mitigation Program.--

1370 (1) There is created a Hurricane Loss Mitigation Program.
 1371 The Legislature shall annually appropriate \$10 million of the
 1372 moneys authorized for appropriation under s. 215.555 (8) ~~(7)~~ (c)
 1373 from the Florida Hurricane Catastrophe Fund to the Department of
 1374 Community Affairs for the purposes set forth in this section.

1375 Section 5. Subsections (2), (3), (6), and (7) of section
 1376 215.5595, Florida Statutes, are amended to read:

1377 215.5595 Insurance Capital Build-Up Incentive Program.--

1378 (2) The purpose of this section is to provide surplus
 1379 notes to new or existing authorized residential property
 1380 insurers under the Insurance Capital Build-Up Incentive Program
 1381 administered by the division ~~State Board of Administration~~,
 1382 under the following conditions:

1383 (a) The amount of the surplus note for any insurer or
 1384 insurer group, other than an insurer writing only manufactured
 1385 housing policies, may not exceed \$25 million or 20 percent of
 1386 the total amount of funds available under the program, whichever

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1387 is greater. The amount of the surplus note for any insurer or
1388 insurer group writing residential property insurance covering
1389 only manufactured housing may not exceed \$7 million.

1390 (b) The insurer must contribute an amount of new capital
1391 to its surplus which is at least equal to the amount of the
1392 surplus note and must apply to the board by July 1, 2006. If an
1393 insurer applies after July 1, 2006, but before June 1, 2007, the
1394 amount of the surplus note is limited to one-half of the new
1395 capital that the insurer contributes to its surplus, except that
1396 an insurer writing only manufactured housing policies is
1397 eligible to receive a surplus note of up to \$7 million. For
1398 purposes of this section, new capital must be in the form of
1399 cash or cash equivalents as specified in s. 625.012(1).

1400 (c) The insurer's surplus, new capital, and the surplus
1401 note must total at least \$50 million, except for insurers
1402 writing residential property insurance covering only
1403 manufactured housing. The insurer's surplus, new capital, and
1404 the surplus note must total at least \$14 million for insurers
1405 writing only residential property insurance covering
1406 manufactured housing policies as provided in paragraph (a).

1407 (d) The insurer must commit to meeting a minimum writing
1408 ratio of net written premium to surplus of at least 2:1 for the
1409 term of the surplus note, which shall be determined by the
1410 Office of Insurance Regulation and certified quarterly to the
1411 board. For this purpose, the term "net written premium" means
1412 net written premium for residential property insurance in this
1413 state ~~Florida~~, including the peril of wind, and "surplus" refers
1414 to the entire surplus of the insurer. If the required ratio is

1415 not maintained during the term of the surplus note, the division
 1416 ~~board~~ may increase the interest rate, accelerate the repayment
 1417 of interest and principal, or shorten the term of the surplus
 1418 note, subject to approval by the Commissioner of Insurance of
 1419 payments by the insurer of principal and interest as provided in
 1420 paragraph (f).

1421 (e) If the requirements of this section are met, the
 1422 division ~~board~~ may approve an application by an insurer for a
 1423 surplus note, unless the division ~~board~~ determines that the
 1424 financial condition of the insurer and its business plan for
 1425 writing residential property insurance in this state ~~Florida~~
 1426 places an unreasonably high level of financial risk to the state
 1427 of nonpayment in full of the interest and principal. The
 1428 division ~~board~~ shall consult with the Office of Insurance
 1429 Regulation and may contract with independent financial and
 1430 insurance consultants in making this determination.

1431 (f) The surplus note must be repayable to the state with a
 1432 term of 20 years. The surplus note shall accrue interest on the
 1433 unpaid principal balance at a rate equivalent to the 10-year
 1434 U.S. Treasury Bond rate, require the payment only of interest
 1435 during the first 3 years, and include such other terms as
 1436 approved by the division ~~board~~. Payment of principal or interest
 1437 by the insurer on the surplus note must be approved by the
 1438 Commissioner of Insurance, who shall approve such payment unless
 1439 the commissioner determines that such payment will substantially
 1440 impair the financial condition of the insurer. If such a
 1441 determination is made, the commissioner shall approve such

1442 payment that will not substantially impair the financial
 1443 condition of the insurer.

1444 (g) The total amount of funds available for the program is
 1445 limited to the amount appropriated by the Legislature for this
 1446 purpose. If the amount of surplus notes requested by insurers
 1447 exceeds the amount of funds available, the division ~~board~~ may
 1448 prioritize insurers that are eligible and approved, with
 1449 priority for funding given to insurers writing only manufactured
 1450 housing policies, regardless of the date of application, based
 1451 on the financial strength of the insurer, the viability of its
 1452 proposed business plan for writing additional residential
 1453 property insurance in the state, and the effect on competition
 1454 in the residential property insurance market. Between insurers
 1455 writing residential property insurance covering manufactured
 1456 housing, priority shall be given to the insurer writing the
 1457 highest percentage of its policies covering manufactured
 1458 housing.

1459 (h) The division ~~board~~ may allocate portions of the funds
 1460 available for the program and establish dates for insurers to
 1461 apply for surplus notes from such allocation which are earlier
 1462 than the dates established in paragraph (b).

1463 (i) Notwithstanding paragraph (d), a newly formed
 1464 manufactured housing insurer that is eligible for a surplus note
 1465 under this section shall meet the premium to surplus ratio
 1466 provisions of s. 624.4095.

1467 (j) As used in this section, "an insurer writing only
 1468 manufactured housing policies" includes:

1469 1. A Florida domiciled insurer that begins writing
 1470 personal lines residential manufactured housing policies in
 1471 Florida after March 1, 2007, and that removes a minimum of
 1472 50,000 policies from Citizens Property Insurance Corporation
 1473 without accepting a bonus, provided at least 25 percent of its
 1474 policies cover manufactured housing. Such an insurer may count
 1475 any funds above the minimum capital and surplus requirement that
 1476 were contributed into the insurer after March 1, 2007, as new
 1477 capital under this section.

1478 2. A Florida domiciled insurer that writes at least 40
 1479 percent of its policies covering manufactured housing in this
 1480 state Florida.

1481 (3) As used in this section, the term:

1482 (a) "Division Board" means the Division of the Florida
 1483 Hurricane Catastrophe Fund of the State Board of Administration
 1484 established in s. 215.555.

1485 (b) "Program" means the Insurance Capital Build-Up
 1486 Incentive Program established by this section.

1487 (6) The division board shall adopt rules prescribing the
 1488 procedures, administration, and criteria for approving the
 1489 issuance of surplus notes pursuant to this section, which may be
 1490 adopted pursuant to the procedures for emergency rules of
 1491 chapter 120. Otherwise, actions and determinations by the
 1492 division board pursuant to this section are exempt from chapter
 1493 120.

1494 (7) The division board shall invest and reinvest the funds
 1495 appropriated for the program in accordance with s. 215.47 and
 1496 consistent with division board policy.

1497 Section 6. Paragraph (c) of subsection (1), paragraphs
 1498 (a), (b), (d), (f), and (g) of subsection (2), and paragraph (b)
 1499 of subsection (3) of section 627.0628, Florida Statutes, are
 1500 amended to read:

1501 627.0628 Florida Commission on Hurricane Loss Projection
 1502 Methodology; public records exemption; public meetings
 1503 exemption.--

1504 (1) LEGISLATIVE FINDINGS AND INTENT.--

1505 (c) It is the intent of the Legislature to create the
 1506 Florida Commission on Hurricane Loss Projection Methodology as a
 1507 panel of experts to provide the most actuarially sophisticated
 1508 guidelines and standards for projection of hurricane losses
 1509 possible, given the current state of actuarial science. It is
 1510 the further intent of the Legislature that such standards and
 1511 guidelines must be used by the Division of the Florida Hurricane
 1512 Catastrophe Fund of the State Board of Administration in
 1513 developing reimbursement premium rates for the Florida Hurricane
 1514 Catastrophe Fund, and, subject to paragraph (3)(c), may be used
 1515 by insurers in rate filings under s. 627.062 unless the way in
 1516 which such standards and guidelines were applied by the insurer
 1517 was erroneous, as shown by a preponderance of the evidence.

1518 (2) COMMISSION CREATED.--

1519 (a) There is created the Florida Commission on Hurricane
 1520 Loss Projection Methodology, which is assigned to the Division
 1521 of the Florida Hurricane Catastrophe Fund of the State Board of
 1522 Administration. For the purposes of this section, the term
 1523 "commission" means the Florida Commission on Hurricane Loss
 1524 Projection Methodology. The commission shall be administratively

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1525 housed within the State Board of Administration, but it shall
 1526 independently exercise the powers and duties specified in this
 1527 section.

1528 (b) The commission shall consist of the following 11
 1529 members:

1530 1. The insurance consumer advocate.

1531 2. The director of the Division of the Florida Hurricane
 1532 Catastrophe Fund ~~senior employee~~ of the State Board of
 1533 Administration ~~responsible for operations of the Florida~~
 1534 ~~Hurricane Catastrophe Fund.~~

1535 3. The Executive Director of the Citizens Property
 1536 Insurance Corporation.

1537 4. The Director of the Division of Emergency Management of
 1538 the Department of Community Affairs.

1539 5. The actuary member of the Florida Hurricane Catastrophe
 1540 Fund Advisory Council.

1541 6. An employee of the office who is an actuary responsible
 1542 for property insurance rate filings and who is appointed by the
 1543 director of the office.

1544 7. Five members appointed by the Chief Financial Officer,
 1545 as follows:

1546 a. An actuary who is employed full time by a property and
 1547 casualty insurer which was responsible for at least 1 percent of
 1548 the aggregate statewide direct written premium for homeowner's
 1549 insurance in the calendar year preceding the member's
 1550 appointment to the commission.

1551 b. An expert in insurance finance who is a full-time
 1552 member of the faculty of the State University System and who has
 1553 a background in actuarial science.

1554 c. An expert in statistics who is a full-time member of
 1555 the faculty of the State University System and who has a
 1556 background in insurance.

1557 d. An expert in computer system design who is a full-time
 1558 member of the faculty of the State University System.

1559 e. An expert in meteorology who is a full-time member of
 1560 the faculty of the State University System and who specializes
 1561 in hurricanes.

1562 (d) The board of the Division of the Florida Hurricane
 1563 Catastrophe Fund of the State Board of Administration shall
 1564 annually appoint one of the members of the commission to serve
 1565 as chair.

1566 (f) The Division of the Florida Hurricane Catastrophe Fund
 1567 of the State Board of Administration shall, as a cost of
 1568 administration of the Florida Hurricane Catastrophe Fund,
 1569 provide for travel, expenses, and staff support for the
 1570 commission.

1571 (g) There shall be no liability on the part of, and no
 1572 cause of action of any nature shall arise against, any member of
 1573 the commission, any member of the Division of the Florida
 1574 Hurricane Catastrophe Fund ~~State Board of Administration~~, or any
 1575 employee of the Division of the Florida Hurricane Catastrophe
 1576 Fund ~~State Board of Administration~~ for any action taken in the
 1577 performance of their duties under this section. In addition, the
 1578 commission may, in writing, waive any potential cause of action

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1579 for negligence of a consultant, contractor, or contract employee
 1580 engaged to assist the commission.

1581 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

1582 (b) In establishing reimbursement premiums for the Florida
 1583 Hurricane Catastrophe Fund, the Division of the Florida
 1584 Hurricane Catastrophe Fund ~~State Board of Administration~~ must,
 1585 to the extent feasible, employ actuarial methods, principles,
 1586 standards, models, or output ranges found by the commission to
 1587 be accurate or reliable.

1588 Section 7. Subsection (10) of section 624.424, Florida
 1589 Statutes, is amended to read:

1590 624.424 Annual statement and other information.--

1591 (10) Each insurer or insurer group doing business in this
 1592 state shall file on a quarterly basis in conjunction with
 1593 financial reports required by paragraph (1)(a) a supplemental
 1594 report on an individual and group basis on a form prescribed by
 1595 the commission with information on personal lines and commercial
 1596 lines residential property insurance policies in this state. The
 1597 supplemental report shall include separate information for
 1598 personal lines property policies and for commercial lines
 1599 property policies and totals for each item specified, including
 1600 premiums written for each of the property lines of business as
 1601 described in ss. 215.555(2) (g) ~~(e)~~ and 627.351(6)(a). The report
 1602 shall include the following information for each county on a
 1603 monthly basis:

1604 (a) Total number of policies in force at the end of each
 1605 month.

1606 (b) Total number of policies canceled.

1607 (c) Total number of policies nonrenewed.
 1608 (d) Number of policies canceled due to hurricane risk.
 1609 (e) Number of policies nonrenewed due to hurricane risk.
 1610 (f) Number of new policies written.
 1611 (g) Total dollar value of structure exposure under
 1612 policies that include wind coverage.
 1613 (h) Number of policies that exclude wind coverage.
 1614 Section 8. Paragraph (u) of subsection (6) of section
 1615 627.351, Florida Statutes, is amended to read:
 1616 627.351 Insurance risk apportionment plans.--
 1617 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--
 1618 (u)1. Effective July 1, 2002, policies of the Residential
 1619 Property and Casualty Joint Underwriting Association shall
 1620 become policies of the corporation. All obligations, rights,
 1621 assets and liabilities of the Residential Property and Casualty
 1622 Joint Underwriting Association, including bonds, note and debt
 1623 obligations, and the financing documents pertaining to them
 1624 become those of the corporation as of July 1, 2002. The
 1625 corporation is not required to issue endorsements or
 1626 certificates of assumption to insureds during the remaining term
 1627 of in-force transferred policies.
 1628 2. Effective July 1, 2002, policies of the Florida
 1629 Windstorm Underwriting Association are transferred to the
 1630 corporation and shall become policies of the corporation. All
 1631 obligations, rights, assets, and liabilities of the Florida
 1632 Windstorm Underwriting Association, including bonds, note and
 1633 debt obligations, and the financing documents pertaining to them
 1634 are transferred to and assumed by the corporation on July 1,

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1635 2002. The corporation is not required to issue endorsements or
1636 certificates of assumption to insureds during the remaining term
1637 of in-force transferred policies.

1638 3. The Florida Windstorm Underwriting Association and the
1639 Residential Property and Casualty Joint Underwriting Association
1640 shall take all actions as may be proper to further evidence the
1641 transfers and shall provide the documents and instruments of
1642 further assurance as may reasonably be requested by the
1643 corporation for that purpose. The corporation shall execute
1644 assumptions and instruments as the trustees or other parties to
1645 the financing documents of the Florida Windstorm Underwriting
1646 Association or the Residential Property and Casualty Joint
1647 Underwriting Association may reasonably request to further
1648 evidence the transfers and assumptions, which transfers and
1649 assumptions, however, are effective on the date provided under
1650 this paragraph whether or not, and regardless of the date on
1651 which, the assumptions or instruments are executed by the
1652 corporation. Subject to the relevant financing documents
1653 pertaining to their outstanding bonds, notes, indebtedness, or
1654 other financing obligations, the moneys, investments,
1655 receivables, choses in action, and other intangibles of the
1656 Florida Windstorm Underwriting Association shall be credited to
1657 the high-risk account of the corporation, and those of the
1658 personal lines residential coverage account and the commercial
1659 lines residential coverage account of the Residential Property
1660 and Casualty Joint Underwriting Association shall be credited to
1661 the personal lines account and the commercial lines account,
1662 respectively, of the corporation.

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1663 4. Effective July 1, 2002, a new applicant for property
1664 insurance coverage who would otherwise have been eligible for
1665 coverage in the Florida Windstorm Underwriting Association is
1666 eligible for coverage from the corporation as provided in this
1667 subsection.

1668 5. The transfer of all policies, obligations, rights,
1669 assets, and liabilities from the Florida Windstorm Underwriting
1670 Association to the corporation and the renaming of the
1671 Residential Property and Casualty Joint Underwriting Association
1672 as the corporation shall in no way affect the coverage with
1673 respect to covered policies as defined in s. 215.555(2) (g) ~~(e)~~
1674 provided to these entities by the Florida Hurricane Catastrophe
1675 Fund. The coverage provided by the Florida Hurricane Catastrophe
1676 Fund to the Florida Windstorm Underwriting Association based on
1677 its exposures as of June 30, 2002, and each June 30 thereafter
1678 shall be redesignated as coverage for the high-risk account of
1679 the corporation. Notwithstanding any other provision of law, the
1680 coverage provided by the Florida Hurricane Catastrophe Fund to
1681 the Residential Property and Casualty Joint Underwriting
1682 Association based on its exposures as of June 30, 2002, and each
1683 June 30 thereafter shall be transferred to the personal lines
1684 account and the commercial lines account of the corporation.
1685 Notwithstanding any other provision of law, the high-risk
1686 account shall be treated, for all Florida Hurricane Catastrophe
1687 Fund purposes, as if it were a separate participating insurer
1688 with its own exposures, reimbursement premium, and loss
1689 reimbursement. Likewise, the personal lines and commercial lines
1690 accounts shall be viewed together, for all Florida Hurricane

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1691 Catastrophe Fund purposes, as if the two accounts were one and
1692 represent a single, separate participating insurer with its own
1693 exposures, reimbursement premium, and loss reimbursement. The
1694 coverage provided by the Florida Hurricane Catastrophe Fund to
1695 the corporation shall constitute and operate as a full transfer
1696 of coverage from the Florida Windstorm Underwriting Association
1697 and Residential Property and Casualty Joint Underwriting to the
1698 corporation.

1699 Section 9. This act shall take effect July 1, 2008.