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

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

215.555 Florida Hurricane Catastrophe Fund.--

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

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

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

(c) Mortgages require reliable property insurance, and the unavailability of reliable property insurance would therefore make most real estate transactions impossible. In addition, the public health, safety, and welfare demand that structures damaged or destroyed in a catastrophe be repaired or

57 reconstructed as soon as possible. Therefore, the inability of
58 the private sector insurance and reinsurance markets to maintain
59 sufficient capacity to enable residents of this state to obtain
60 property insurance coverage in the private sector endangers the
61 economy of the state and endangers the public health, safety,
62 and welfare. Accordingly, state action to correct for this
63 inability of the private sector constitutes a valid and
64 necessary public and governmental purpose.

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

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

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

85 protecting and advancing the state's interest in maintaining
86 insurance capacity in this state.

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

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

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

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

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112 ~~(6)~~, and determined according to principles of actuarial science
 113 to reflect each insurer's relative exposure to hurricane losses.

114 (c) "Board" means the governing board of the division,
 115 which shall be composed of the Governor and Cabinet. The
 116 Governor shall be chair of the governing board of the division,
 117 the Attorney General shall be the secretary of the board, and
 118 the Chief Financial Officer shall be treasurer of the board.

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

121 (e)~~(n)~~ "Corporation" means the Florida Hurricane
 122 Catastrophe Fund Finance Corporation created in paragraph
 123 (7)~~(6)~~(d) .

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

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

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

167 commercial property risks and that provides a layer of coverage
 168 above a primary layer insured by another insurer.

169 (h) "Debt service" means the amount required in any fiscal
 170 year to pay the principal of, redemption premium, if any, and
 171 interest on revenue bonds and any amounts required by the terms
 172 of documents authorizing, securing, or providing liquidity for
 173 revenue bonds necessary to maintain in effect any such liquidity
 174 or security arrangements.

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

179 (j) "Director" means the chief administrator of the
 180 division, who shall act on behalf of the division as authorized
 181 by the board.

182 (k) "Division" means the Division of the Florida Hurricane
 183 Catastrophe Fund.

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

189 (m) "Fund" or "FHCF" means the Florida Hurricane
 190 Catastrophe Fund.

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

193 (o) ~~(d)~~ "Losses" means direct incurred losses under covered
 194 policies, which shall include losses for additional living

195 expenses not to exceed 40 percent of the insured value of a
196 residential structure or its contents and shall exclude loss
197 adjustment expenses. "Losses" does not include losses for fair
198 rental value, loss of rent or rental income, or business
199 interruption losses.

200 (p)~~(k)~~ "Pledged revenues" means all or any portion of
201 revenues to be derived from reimbursement premiums under
202 subsection (6)~~(5)~~ or from emergency assessments under paragraph
203 (7)~~(6)~~(b), as determined by the board.

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

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

220 2. The retention multiple as determined under subparagraph
221 1. shall be adjusted to reflect the coverage level elected by
222 the insurer. For insurers electing the 90-percent coverage

223 level, the adjusted retention multiple is 100 percent of the
 224 amount determined under subparagraph 1. For insurers electing
 225 the 75-percent coverage level, the retention multiple is 120
 226 percent of the amount determined under subparagraph 1. For
 227 insurers electing the 45-percent coverage level, the adjusted
 228 retention multiple is 200 percent of the amount determined under
 229 subparagraph 1.

230 3. An insurer shall determine its provisional retention by
 231 multiplying its provisional reimbursement premium by the
 232 applicable adjusted retention multiple and shall determine its
 233 actual retention by multiplying its actual reimbursement premium
 234 by the applicable adjusted retention multiple.

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

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

248 (3) DIVISION OF THE FLORIDA HURRICANE CATASTROPHE FUND
 249 CREATED.--The Division of the Florida Hurricane Catastrophe Fund
 250 is created within the State Board of Administration for the

251 purpose of administering the Florida Hurricane Catastrophe Fund.
 252 For purposes of this section, the board of the division shall
 253 consist of the Governor and Cabinet.

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

279 for covered events, must contain general provisions so that the
 280 rules can be applied with reasonable flexibility so as to
 281 accommodate insurers in situations of an unusual nature or where
 282 undue hardship may result, except that such flexibility may not
 283 in any way impair, override, supersede, or constrain the public
 284 purpose of the fund, and must be consistent with sound insurance
 285 practices. The board may, by rule, provide for the exemption
 286 from subsections (5) ~~(4)~~ and (6) ~~(5)~~ of insurers writing covered
 287 policies with less than \$10 million in aggregate exposure for
 288 covered policies if the exemption does not affect the actuarial
 289 soundness of the fund. The division may sue and be sued in the
 290 name of the division.

291 (5)~~(4)~~ REIMBURSEMENT CONTRACTS.--

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

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

304 2. The insurer must elect one of the percentage coverage
 305 levels specified in this paragraph and may, upon renewal of a
 306 reimbursement contract, elect a lower percentage coverage level

307 if no revenue bonds issued under subsection (7) ~~(6)~~ after a
 308 covered event are outstanding, or elect a higher percentage
 309 coverage level, regardless of whether or not revenue bonds are
 310 outstanding. All members of an insurer group must elect the same
 311 percentage coverage level. Any joint underwriting association,
 312 risk apportionment plan, or other entity created under s.
 313 627.351 must elect the 90-percent coverage level.

314 3. The contract shall provide that reimbursement amounts
 315 shall not be reduced by reinsurance paid or payable to the
 316 insurer from other sources.

317 4. Notwithstanding any other provision contained in this
 318 section, the board shall make available to insurers that
 319 purchased coverage provided by this subparagraph in 2007 ~~2006~~,
 320 insurers qualifying as limited apportionment companies under s.
 321 627.351(6)(c), and insurers that have been ~~were~~ approved to
 322 participate in ~~2006 or that are approved in 2007~~ for the
 323 Insurance Capital Build-Up Incentive Program pursuant to s.
 324 215.5595~~7~~, a contract or contract addendum that provides an
 325 additional amount of reimbursement coverage of up to \$7 ~~\$10~~
 326 million. The premium to be charged for this additional
 327 reimbursement coverage shall be 50 percent of the additional
 328 reimbursement coverage provided, which shall include one prepaid
 329 reinstatement. The minimum retention level that an eligible
 330 participating insurer must retain associated with this
 331 additional coverage layer is 30 percent of the insurer's surplus
 332 as of December 31, 2007 ~~2006~~. This coverage shall be in addition
 333 to all other coverage that may be provided under this section.
 334 The coverage provided by the fund under this subparagraph shall

335 be in addition to the claims-paying capacity as defined in
336 subparagraph (c)1., but only with respect to those insurers that
337 select the additional coverage option and meet the requirements
338 of this subparagraph. The claims-paying capacity with respect to
339 all other participating insurers and limited apportionment
340 companies that do not select the additional coverage option
341 shall be limited to their reimbursement premium's proportionate
342 share of the actual claims-paying capacity otherwise defined in
343 subparagraph (c)1. and as provided for under the terms of the
344 reimbursement contract. Coverage provided in the reimbursement
345 contract shall ~~will~~ not be affected by the additional premiums
346 paid by participating insurers exercising the additional
347 coverage option allowed in this subparagraph. This subparagraph
348 expires on May 31, 2009 ~~2008~~.

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

361 2. In May before the start of the upcoming contract year
362 and in October during the contract year, the division board ~~board~~

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

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

391 amount of reimbursement due and adjustments to this amount based
392 on later loss information. The adjustments to reimbursement
393 amounts shall require the division ~~board~~ to pay, or the insurer
394 to return, amounts reflecting the most recent calculation of
395 losses.

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

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

415 2. With respect only to an entity created under s.
416 627.351, the contract shall also provide that the division ~~board~~
417 may, upon application by such entity, advance to such entity, at
418 market interest rates, up to 90 percent of the lesser of:

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

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

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

447 reimbursement obligations to the insurers that are participants
448 in the fund. Such company's final reimbursement for any contract
449 year in which an advance pursuant to this subparagraph has been
450 made shall be reduced by an amount equal to the amount of the
451 advance and interest thereon. In order to determine what
452 amounts, if any, are due to such company, the division ~~board~~ may
453 require such company to report its exposure and its losses at
454 such times as may be required to determine retention levels and
455 loss reimbursements payable.

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

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

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

495 1. Preliminary or duplicate payments owed to private
 496 reinsurers or other inuring reinsurance payments to private
 497 reinsurers that satisfy statutory or contractual obligations of
 498 the insolvent insurer attributable to covered events to such
 499 reinsurers; or

500 2. Funds owed to a bank or other financial institution to
 501 cover obligations of the insolvent insurer under a credit

502 agreement that assists the insolvent insurer in paying claims
 503 attributable to covered events.

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

514 (6)~~(5)~~ REIMBURSEMENT PREMIUMS.--

515 (a) Each reimbursement contract shall require the insurer
 516 to annually pay to the fund an actuarially indicated premium for
 517 the reimbursement.

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

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

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

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

558 (e) If Citizens Property Insurance Corporation assumes or
559 otherwise provides coverage for policies of an insurer placed in
560 liquidation under chapter 631 pursuant to s. 627.351(6), the
561 corporation may, pursuant to conditions mutually agreed to
562 between the corporation and the division ~~State Board of~~
563 ~~Administration~~, obtain coverage for such policies under its
564 contract with the division ~~fund~~ or accept an assignment of the
565 liquidated insurer's contract with the division ~~fund~~. If
566 Citizens Property Insurance Corporation elects to cover these
567 policies under the corporation's contract with the division
568 ~~fund~~, it shall notify the division ~~board~~ of its insured values
569 with respect to such policies within a specified time mutually
570 agreed to between the corporation and the division ~~board~~, after
571 such assumption or other coverage transaction, and the division
572 ~~fund~~ shall treat such policies as having been in effect as of
573 June 30 of that year. In the event of an assignment, the
574 division ~~fund~~ shall apply that contract to such policies and
575 treat Citizens Property Insurance Corporation as if the
576 corporation were the liquidated insurer for the remaining term
577 of the contract, and the corporation shall have all rights and
578 duties of the liquidated insurer beginning on the date it
579 provides coverage for such policies, but the corporation is not
580 subject to any preexisting rights, liabilities, or duties of the
581 liquidated insurer. The assignment, including any unresolved
582 issues between the liquidated insurer and Citizens Property
583 Insurance Corporation under the contract, shall be provided for
584 in the liquidation order or otherwise determined by the court.
585 However, if a covered event occurs before the effective date of

586 the assignment, the corporation may not obtain coverage for such
 587 policies under its contract with the division ~~fund~~ and shall
 588 accept an assignment of the liquidated insurer's contract as
 589 provided in this paragraph.

590 (7)~~(6)~~ REVENUE BONDS.--

591 (a) General provisions.--

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

614 arrangements under paragraph (8)~~(7)~~(b) as the board deems
 615 necessary to evidence, secure, preserve, and protect such
 616 pledge. If reimbursement premiums received under subsection (6)
 617 ~~(5)~~ or earnings on such premiums are used to pay debt service on
 618 revenue bonds, such premiums and earnings shall be used only
 619 after the use of the moneys derived from assessments under
 620 paragraph (b). The funds, credit, property, or taxing power of
 621 the state or political subdivisions of the state shall not be
 622 pledged for the payment of such bonds. The division ~~board~~ may
 623 also enter into agreements under paragraph (c) or paragraph (d)
 624 for the purpose of issuing revenue bonds in the absence of a
 625 hurricane upon a determination that such action would maximize
 626 the ability of the fund to meet future obligations.

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

635 (b) Emergency assessments.--

636 1. If the board determines that the amount of revenue
 637 produced under subsection (6) ~~(5)~~ is insufficient to fund the
 638 obligations, costs, and expenses of the fund and the
 639 corporation, including repayment of revenue bonds and that
 640 portion of the debt service coverage not met by reimbursement
 641 premiums, the board shall direct the Office of Insurance

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

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

670 of the bonds under the documents authorizing issuance of the
671 bonds.

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

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

698 pay penalties and interest as provided by s. 626.936(2). The
699 Florida Surplus Lines Service Office shall remit the collected
700 assessments to the fund or corporation as provided in the order
701 levied by the Office of Insurance Regulation. The Florida
702 Surplus Lines Service Office shall verify the proper application
703 of such emergency assessments and shall assist the division
704 ~~board~~ in ensuring the accurate and timely collection and
705 remittance of assessments as required by the board. The Florida
706 Surplus Lines Service Office shall annually calculate the
707 aggregate written premium on property and casualty business,
708 other than workers' compensation and medical malpractice,
709 procured through surplus lines agents and insureds procuring
710 coverage and filing under s. 626.938 and shall report the
711 information to the division ~~board~~ in a form and at a time
712 specified by the division ~~board~~.

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

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

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

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

750 9. When a surplus lines insured or an insured who has
751 procured coverage and filed under s. 626.938 is entitled to the
752 return of an unearned premium, the Florida Surplus Lines Service
753 Office shall provide a credit or refund to the agent or such

754 insured for the collected assessment attributable to the
755 unearned premium prior to remitting the emergency assessment
756 collected to the fund or corporation.

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

763 (c) Revenue bond issuance through counties or
764 municipalities.--

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

781 2. In order to avoid needless and indiscriminate
 782 proliferation, duplication, and fragmentation of such assistance
 783 programs, any local government may provide for the payment of
 784 fund reimbursements, regardless of whether or not the losses for
 785 which reimbursement is made occurred within or outside of the
 786 territorial jurisdiction of the local government.

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

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

799 (d) Florida Hurricane Catastrophe Fund Finance
 800 Corporation.--

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

803 a. The public benefits corporation created under this
 804 paragraph will provide a mechanism necessary for the cost-
 805 effective and efficient issuance of bonds. This mechanism will
 806 eliminate unnecessary costs in the bond issuance process,
 807 thereby increasing the amounts available to pay reimbursement

808 for losses to property sustained as a result of hurricane
809 damage.

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

816 c. The efficacy of the financing mechanism will be
817 enhanced by the corporation's ownership of the assessments, by
818 the insulation of the assessments from possible bankruptcy
819 proceedings, and by covenants of the state with the
820 corporation's bondholders.

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

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

833 c. The corporation has all of the powers of corporations
834 under chapter 607 and under chapter 617, subject only to the
835 provisions of this subsection.

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

839 e. The corporation may invest in any of the investments
840 authorized under s. 215.47.

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

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

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

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

864 subdivision. The credit, revenues, or taxing power of the state
865 or of any political subdivision shall not be deemed to be
866 pledged to the payment of any bonds of the corporation.

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

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

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

900 (e) Protection of bondholders.--

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

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

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

934 ~~(8)~~~~(7)~~ ADDITIONAL POWERS AND DUTIES.--

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

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

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

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

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

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

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

995 (11) ~~(10)~~ VIOLATIONS.--Any violation of this section or of
 996 rules adopted under this section constitutes a violation of the
 997 insurance code.

998 (12) ~~(11)~~ LEGAL PROCEEDINGS.--The division ~~may board~~ ~~is~~
 999 ~~authorized to~~ take any action necessary to enforce the rules,
 1000 and the provisions and requirements of the reimbursement
 1001 contract, required by and adopted pursuant to this section.

1002 (13)~~(12)~~ FEDERAL OR MULTISTATE CATASTROPHIC FUNDS.--Upon
 1003 the creation of a federal or multistate catastrophic insurance
 1004 or reinsurance program intended to serve purposes similar to the
 1005 purposes of the fund created by this section, the division, upon
 1006 approval by the State board, ~~of Administration~~ shall promptly
 1007 make recommendations to the Legislature for coordination with
 1008 the federal or multistate program, for termination of the fund,
 1009 or for such other actions as the division ~~board~~ finds
 1010 appropriate in the circumstances.

1011 (14)~~(13)~~ REVERSION OF FUND ASSETS UPON TERMINATION.--The
 1012 fund, the division, and the duties of the board under this
 1013 section may be terminated only by law. Upon termination of the
 1014 fund, all assets of the fund shall revert to the General Revenue
 1015 Fund.

1016 (15)~~(14)~~ SEVERABILITY.--If any provision of this section
 1017 or its application to any person or circumstance is held
 1018 invalid, the invalidity does not affect other provisions or
 1019 applications of the section which can be given effect without
 1020 the invalid provision or application, and to this end the
 1021 provisions of this section are declared severable.

1022 (16)~~(15)~~ COLLATERAL PROTECTION INSURANCE.--As used in this
 1023 section and ss. 627.311 and 627.351, the term "collateral
 1024 protection insurance" means commercial property insurance of
 1025 which a creditor is the primary beneficiary and policyholder and
 1026 which protects or covers an interest of the creditor arising out
 1027 of a credit transaction secured by real or personal property.
 1028 Initiation of such coverage is triggered by the mortgagor's
 1029 failure to maintain insurance coverage as required by the

1030 mortgage or other lending document. Collateral protection
 1031 insurance is not residential coverage.

1032 (17)~~(16)~~ TEMPORARY EMERGENCY ADDITIONAL COVERAGE OPTIONS
 1033 ~~FOR ADDITIONAL COVERAGE.~~--

1034 (a) Findings and intent.--

1035 1. The Legislature finds that:

1036 a. Because of temporary disruptions in the market for
 1037 catastrophic reinsurance, many property insurers were unable to
 1038 procure reinsurance for the 2006 hurricane season with an
 1039 attachment point below the insurers' respective Florida
 1040 Hurricane Catastrophe Fund attachment points, were unable to
 1041 procure sufficient amounts of such reinsurance, or were able to
 1042 procure such reinsurance only by incurring substantially higher
 1043 costs than in prior years.

1044 b. The reinsurance market problems were responsible, at
 1045 least in part, for substantial premium increases to many
 1046 consumers and increases in the number of policies issued by the
 1047 Citizens Property Insurance Corporation.

1048 c. It is likely that the reinsurance market disruptions
 1049 will not significantly abate prior to the 2007 hurricane season.

1050 2. It is the intent of the Legislature to create a
 1051 temporary emergency program, applicable to the 2007, 2008, and
 1052 2009 hurricane seasons, to address these market disruptions and
 1053 enable insurers, at their option, to procure additional coverage
 1054 from the Florida Hurricane Catastrophe Fund.

1055 (b) Applicability of other provisions of this
 1056 section.--All provisions of this section and the rules adopted

1057 | under this section apply to the program created by this
 1058 | subsection unless specifically superseded by this subsection.

1059 | (c) Optional coverage.--For the contract year commencing
 1060 | June 1, 2007, and ending May 31, 2008, the contract year
 1061 | commencing June 1, 2008, and ending May 31, 2009, and the
 1062 | contract year commencing June 1, 2009, and ending May 31, 2010,
 1063 | the board shall offer for each of such years the optional
 1064 | coverage as provided in this subsection.

1065 | (d) Additional definitions.--As used in this subsection,
 1066 | the term:

1067 | 1. "TEACO options" means the temporary emergency
 1068 | additional coverage options created under this subsection.

1069 | 2. "TEACO insurer" means an insurer that has opted to
 1070 | obtain coverage under the TEACO options in addition to the
 1071 | coverage provided to the insurer under its reimbursement
 1072 | contract.

1073 | 3. "TEACO reimbursement premium" means the premium charged
 1074 | by the fund for coverage provided under the TEACO options.

1075 | 4. "TEACO retention" means the amount of losses below
 1076 | which a TEACO insurer is not entitled to reimbursement from the
 1077 | fund under the TEACO option selected. A TEACO insurer's
 1078 | retention options shall be calculated as follows:

1079 | a. The division ~~board~~ shall calculate and report to each
 1080 | TEACO insurer the TEACO retention multiples. There shall be
 1081 | three TEACO retention multiples for defining coverage. Each
 1082 | multiple shall be calculated by dividing \$3 billion, \$4 billion,
 1083 | or \$5 billion by the total estimated mandatory FHCF

1084 reimbursement premium assuming all insurers selected the 90-
1085 percent coverage level.

1086 b. The TEACO retention multiples as determined under sub-
1087 subparagraph a. shall be adjusted to reflect the coverage level
1088 elected by the insurer. For insurers electing the 90-percent
1089 coverage level, the adjusted retention multiple is 100 percent
1090 of the amount determined under sub-subparagraph a. For insurers
1091 electing the 75-percent coverage level, the retention multiple
1092 is 120 percent of the amount determined under sub-subparagraph
1093 a. For insurers electing the 45-percent coverage level, the
1094 adjusted retention multiple is 200 percent of the amount
1095 determined under sub-subparagraph a.

1096 c. An insurer shall determine its provisional TEACO
1097 retention by multiplying its estimated mandatory FHCF
1098 reimbursement premium by the applicable adjusted TEACO retention
1099 multiple and shall determine its actual TEACO retention by
1100 multiplying its actual mandatory FHCF reimbursement premium by
1101 the applicable adjusted TEACO retention multiple.

1102 d. For TEACO insurers who experience multiple covered
1103 events causing loss during the contract year, the insurer's full
1104 TEACO retention shall be applied to each of the covered events
1105 causing the two largest losses for that insurer. For other
1106 covered events resulting in losses, the TEACO option does not
1107 apply and the insurer's retention shall be one-third of the full
1108 retention as calculated under paragraph (2) (g) ~~(e)~~.

1109 5. "TEACO addendum" means an addendum to the reimbursement
1110 contract reflecting the obligations of the fund and TEACO
1111 insurers under the program created by this subsection.

1112 6. "FHCF" means the Florida Hurricane Catastrophe Fund.
 1113 (e) TEACO addendum.--

1114 1. The TEACO addendum shall provide for reimbursement of
 1115 TEACO insurers for covered events occurring during the contract
 1116 year, in exchange for the TEACO reimbursement premium paid into
 1117 the fund under paragraph (f). Any insurer writing covered
 1118 policies has the option of choosing to accept the TEACO addendum
 1119 for any of the 3 contract years that the coverage is offered.

1120 2. The TEACO addendum shall contain a promise by the
 1121 division board to reimburse the TEACO insurer for 45 percent, 75
 1122 percent, or 90 percent of its losses from each covered event in
 1123 excess of the insurer's TEACO retention, plus 5 percent of the
 1124 reimbursed losses to cover loss adjustment expenses. The
 1125 percentage shall be the same as the coverage level selected by
 1126 the insurer under paragraph (5)~~(4)~~(b).

1127 3. The TEACO addendum shall provide that reimbursement
 1128 amounts shall not be reduced by reinsurance paid or payable to
 1129 the insurer from other sources.

1130 4. The TEACO addendum shall also provide that the
 1131 obligation of the division board with respect to all TEACO
 1132 addenda shall not exceed an amount equal to two times the
 1133 difference between the industry retention level calculated under
 1134 paragraph (2) (g)~~(e)~~ and the \$3 billion, \$4 billion, or \$5
 1135 billion industry TEACO retention level options actually
 1136 selected, but in no event may the division's board's obligation
 1137 exceed the actual claims-paying capacity of the fund plus the
 1138 additional capacity created in paragraph (g). If the actual
 1139 claims-paying capacity and the additional capacity created under

1140 paragraph (g) fall short of the division's ~~board's~~ obligations
1141 under the reimbursement contract, each insurer's share of the
1142 fund's capacity shall be prorated based on the premium an
1143 insurer pays for its mandatory reimbursement coverage and the
1144 premium paid for its optional TEACO coverage as each such
1145 premium bears to the total premiums paid to the fund times the
1146 available capacity.

1147 5. The priorities, schedule, and method of reimbursements
1148 under the TEACO addendum shall be the same as provided under
1149 subsection (5) ~~(4)~~.

1150 6. A TEACO insurer's maximum reimbursement for a single
1151 event shall be equal to the product of multiplying its mandatory
1152 FHCF premium by the difference between its FHCF retention
1153 multiple and its TEACO retention multiple under the TEACO option
1154 selected and by the coverage selected under paragraph (5)~~(4)~~(b),
1155 plus an additional 5 percent for loss adjustment expenses. A
1156 TEACO insurer's maximum reimbursement under the TEACO option
1157 selected for a TEACO insurer's two largest events shall be twice
1158 its maximum reimbursement for a single event.

1159 (f) TEACO reimbursement premiums.--

1160 1. Each TEACO insurer shall pay to the fund, in the manner
1161 and at the time provided in the reimbursement contract for
1162 payment of reimbursement premiums, a TEACO reimbursement premium
1163 calculated as specified in this paragraph.

1164 2. The insurer's TEACO reimbursement premium associated
1165 with the \$3 billion retention option shall be equal to 85
1166 percent of a TEACO insurer's maximum reimbursement for a single
1167 event as calculated under subparagraph (e)6. The TEACO

1168 reimbursement premium associated with the \$4 billion retention
 1169 option shall be equal to 80 percent of a TEACO insurer's maximum
 1170 reimbursement for a single event as calculated under
 1171 subparagraph (e)6. The TEACO premium associated with the \$5
 1172 billion retention option shall be equal to 75 percent of a TEACO
 1173 insurer's maximum reimbursement for a single event as calculated
 1174 under subparagraph (e)6.

1175 (g) Effect on claims-paying capacity of the fund.--For the
 1176 contract term commencing June 1, 2007, the contract year
 1177 commencing June 1, 2008, and the contract term beginning June 1,
 1178 2009, the program created by this subsection shall increase the
 1179 claims-paying capacity of the fund as provided in subparagraph
 1180 (5)~~(4)~~(c)1. by an amount equal to two times the difference
 1181 between the industry retention level calculated under paragraph
 1182 (2)(g)~~(e)~~ and the \$3 billion industry TEACO retention level
 1183 specified in sub-subparagraph (d)4.a. The additional capacity
 1184 shall apply only to the additional coverage provided by the
 1185 TEACO option and shall not otherwise affect any insurer's
 1186 reimbursement from the fund.

1187 (18)~~(17)~~ TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.--

1188 (a) Findings and intent.--

1189 1. The Legislature finds that:

1190 a. Because of temporary disruptions in the market for
 1191 catastrophic reinsurance, many property insurers were unable to
 1192 procure sufficient amounts of reinsurance for the 2006 hurricane
 1193 season or were able to procure such reinsurance only by
 1194 incurring substantially higher costs than in prior years.

1195 b. The reinsurance market problems were responsible, at
 1196 least in part, for substantial premium increases to many
 1197 consumers and increases in the number of policies issued by
 1198 Citizens Property Insurance Corporation.

1199 c. It is likely that the reinsurance market disruptions
 1200 will not significantly abate prior to the 2008 ~~2007~~ hurricane
 1201 season.

1202 2. It is the intent of the Legislature to create options
 1203 for insurers to purchase a temporary increased coverage limit
 1204 above the statutorily determined limit in subparagraph
 1205 (5) ~~(4)~~ (c)1., applicable for the ~~2007~~, 2008, and 2009 hurricane
 1206 seasons, to address market disruptions and enable insurers, at
 1207 their option, to procure additional coverage from the Florida
 1208 Hurricane Catastrophe Fund.

1209 (b) Applicability of other provisions of this
 1210 section.--All provisions of this section and the rules adopted
 1211 under this section apply to the coverage created by this
 1212 subsection unless specifically superseded by provisions in this
 1213 subsection.

1214 (c) Optional coverage.--For the contract year commencing
 1215 ~~June 1, 2007, and ending May 31, 2008, the contract year~~
 1216 ~~commencing~~ June 1, 2008, and ending May 31, 2009, and the
 1217 contract year commencing June 1, 2009, and ending May 31, 2010,
 1218 the board shall offer, for each of such years, the optional
 1219 coverage as provided in this subsection.

1220 (d) Additional definitions.--As used in this subsection,
 1221 the term:

1222 1. "FHCF" means Florida Hurricane Catastrophe Fund.

1223 2. "FHCF reimbursement premium" means the premium paid by
 1224 an insurer for its coverage as a mandatory participant in the
 1225 FHCF, but does not include additional premiums for optional
 1226 coverages.

1227 3. "Payout multiple" means the number or multiple created
 1228 by dividing the statutorily defined claims-paying capacity as
 1229 determined in subparagraph (5)~~(4)~~(c)1. by the aggregate
 1230 reimbursement premiums paid by all insurers estimated or
 1231 projected as of calendar year-end.

1232 4. "TICL" means the temporary increase in coverage limit.

1233 5. "TICL options" means the temporary increase in coverage
 1234 options created under this subsection.

1235 6. "TICL insurer" means an insurer that has opted to
 1236 obtain coverage under the TICL options addendum in addition to
 1237 the coverage provided to the insurer under its FHCF
 1238 reimbursement contract.

1239 7. "TICL reimbursement premium" means the premium charged
 1240 by the fund for coverage provided under the TICL option.

1241 8. "TICL coverage multiple" means the coverage multiple
 1242 when multiplied by an insurer's FHCF reimbursement premium that
 1243 defines the temporary increase in coverage limit.

1244 9. "TICL coverage" means the coverage for an insurer's
 1245 losses above the insurer's statutorily determined claims-paying
 1246 capacity based on the claims-paying limit in subparagraph
 1247 (5)~~(4)~~(c)1., which an insurer selects as its temporary increase
 1248 in coverage from the fund under the TICL options selected. A
 1249 TICL insurer's increased coverage limit options shall be
 1250 calculated as follows:

1251 a. The division board ~~board~~ shall calculate and report to each
 1252 TICL insurer the TICL coverage multiples based on 9 ~~12~~ options
 1253 for increasing the insurer's FHCF coverage limit. Each TICL
 1254 coverage multiple shall be calculated by dividing \$1 billion, \$2
 1255 billion, \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7
 1256 billion, \$8 billion, and \$9 billion, ~~\$10 billion, \$11 billion,~~
 1257 ~~or \$12 billion~~ by the total estimated aggregate FHCF
 1258 reimbursement premiums for ~~the 2007-2008 contract year,~~ the
 1259 2008-2009 contract year, and the 2009-2010 contract year.

1260 b. The TICL insurer's increased coverage shall be the FHCF
 1261 reimbursement premium multiplied by the TICL coverage multiple
 1262 for the TICL option selected. In order to determine an insurer's
 1263 total limit of coverage, an insurer shall add its TICL coverage
 1264 multiple to its payout multiple. The total shall represent a
 1265 number that, when multiplied by an insurer's FHCF reimbursement
 1266 premium for a given reimbursement contract year, defines an
 1267 insurer's total limit of FHCF reimbursement coverage for that
 1268 reimbursement contract year.

1269 10. "TICL options addendum" means an addendum to the
 1270 reimbursement contract reflecting the obligations of the fund
 1271 and insurers selecting an option to increase an insurer's FHCF
 1272 coverage limit.

1273 (e) TICL options addendum.--

1274 1. The TICL options addendum shall provide for
 1275 reimbursement of TICL insurers for covered events occurring
 1276 between June 1, 2007, and May 31, 2008, and between June 1,
 1277 2008, and May 31, 2009, or between June 1, 2009, and May 31,
 1278 2010, in exchange for the TICL reimbursement premium paid into

1279 the fund under paragraph (f). Any insurer writing covered
 1280 policies has the option of selecting an increased limit of
 1281 coverage under the TICL options addendum and shall select such
 1282 coverage at the time that it executes the FHCF reimbursement
 1283 contract.

1284 2. The TICL addendum shall contain a promise by the board
 1285 to reimburse the TICL insurer for 70 ~~45~~ percent of the TICL
 1286 coverage based on the TICL option selected for the insurer's, ~~75~~
 1287 ~~percent, or 90 percent of its~~ losses from each covered event in
 1288 excess of the insurer's retention, plus 5 percent of the
 1289 reimbursed losses to cover loss adjustment expenses. ~~The~~
 1290 ~~percentage shall be the same as the coverage level selected by~~
 1291 ~~the insurer under paragraph (4) (b).~~

1292 3. The TICL addendum shall provide that reimbursement
 1293 amounts shall not be reduced by reinsurance paid or payable to
 1294 the insurer from other sources.

1295 4. The priorities, schedule, and method of reimbursements
 1296 under the TICL addendum shall be the same as provided under
 1297 subsection (5) ~~(4)~~.

1298 (f) TICL reimbursement premiums.--Each TICL insurer shall
 1299 pay to the fund, in the manner and at the time provided in the
 1300 reimbursement contract for payment of reimbursement premiums, a
 1301 TICL reimbursement premium determined as specified in subsection
 1302 (6) ~~(5)~~.

1303 (g) Effect on claims-paying capacity of the fund.--For the
 1304 contract terms commencing ~~June 1, 2007,~~ June 1, 2008, and June
 1305 1, 2009, the program created by this subsection shall increase
 1306 the claims-paying capacity of the fund as provided in

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1307 subparagraph (5)~~(4)~~(c)1. by an amount not to exceed \$9 ~~\$12~~
 1308 billion and shall depend on the TICL coverage options selected
 1309 and the number of insurers that select the TICL optional
 1310 coverage. The additional capacity shall apply only to the
 1311 additional coverage provided under the TICL options and shall
 1312 not otherwise affect any insurer's reimbursement from the fund
 1313 if the insurer chooses not to select the temporary option to
 1314 increase its limit of coverage under the FHCF.

1315 (h) Increasing the claims-paying capacity of the
 1316 fund.--For the contract years commencing ~~June 1, 2007,~~ June 1,
 1317 2008, and June 1, 2009, the board may increase the claims-paying
 1318 capacity of the fund as provided in paragraph (g) by an amount
 1319 not to exceed \$4 billion in four \$1 billion options and shall
 1320 depend on the TICL coverage options selected and the number of
 1321 insurers that select the TICL optional coverage. Each insurer's
 1322 TICL premium shall be calculated based upon the additional limit
 1323 of increased coverage that the insurer selects. Such limit is
 1324 determined by multiplying the TICL multiple associated with one
 1325 of the four options times the insurer's FHCF reimbursement
 1326 premium. The reimbursement premium associated with the
 1327 additional coverage provided in this paragraph shall be
 1328 determined as specified in subsection (6) ~~(5)~~.

1329 Section 2. Section 215.557, Florida Statutes, is amended
 1330 to read:

1331 215.557 Reports of insured values.--The reports of insured
 1332 values under covered policies by zip code submitted to the
 1333 Division of the Florida Hurricane Catastrophe Fund State Board
 1334 ~~of Administration~~ pursuant to s. 215.555, as created by s. 1,

1335 ch. 93-409, Laws of Florida, or similar legislation, are
 1336 confidential and exempt from the provisions of s. 119.07(1) and
 1337 s. 24(a), Art. I of the State Constitution.

1338 Section 3. Paragraph (h) of subsection (4) of section
 1339 215.5586, Florida Statutes, is amended to read:

1340 215.5586 My Safe Florida Home Program.--There is
 1341 established within the Department of Financial Services the My
 1342 Safe Florida Home Program. The department shall provide fiscal
 1343 accountability, contract management, and strategic leadership
 1344 for the program, consistent with this section. This section does
 1345 not create an entitlement for property owners or obligate the
 1346 state in any way to fund the inspection or retrofitting of
 1347 residential property in this state. Implementation of this
 1348 program is subject to annual legislative appropriations. It is
 1349 the intent of the Legislature that the My Safe Florida Home
 1350 Program provide inspections for at least 400,000 site-built,
 1351 single-family, residential properties and provide grants to at
 1352 least 35,000 applicants before June 30, 2009. The program shall
 1353 develop and implement a comprehensive and coordinated approach
 1354 for hurricane damage mitigation that shall include the
 1355 following:

1356 (4) ADVISORY COUNCIL.--There is created an advisory
 1357 council to provide advice and assistance to the department
 1358 regarding administration of the program. The advisory council
 1359 shall consist of:

1360 (h) The director ~~senior officer~~ of the Division of the
 1361 Florida Hurricane Catastrophe Fund.

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1363 Members appointed under paragraphs (a)-(d) shall serve at the
 1364 pleasure of the Financial Services Commission. Members appointed
 1365 under paragraphs (e) and (f) shall serve at the pleasure of the
 1366 appointing officer. All other members shall serve voting ex
 1367 officio. Members of the advisory council shall serve without
 1368 compensation but may receive reimbursement as provided in s.
 1369 112.061 for per diem and travel expenses incurred in the
 1370 performance of their official duties.

1371 Section 4. Subsection (1) of section 215.559, Florida
 1372 Statutes, is amended to read:

1373 215.559 Hurricane Loss Mitigation Program.--

1374 (1) There is created a Hurricane Loss Mitigation Program.
 1375 The Legislature shall annually appropriate \$10 million of the
 1376 moneys authorized for appropriation under s. 215.555 (8) ~~(7)~~ (c)
 1377 from the Florida Hurricane Catastrophe Fund to the Department of
 1378 Community Affairs for the purposes set forth in this section.

1379 Section 5. Subsections (2), (3), (6), and (7) of section
 1380 215.5595, Florida Statutes, are amended to read:

1381 215.5595 Insurance Capital Build-Up Incentive Program.--

1382 (2) The purpose of this section is to provide surplus
 1383 notes to new or existing authorized residential property
 1384 insurers under the Insurance Capital Build-Up Incentive Program
 1385 administered by the division ~~State Board of Administration~~,
 1386 under the following conditions:

1387 (a) The amount of the surplus note for any insurer or
 1388 insurer group, other than an insurer writing only manufactured
 1389 housing policies, may not exceed \$25 million or 20 percent of
 1390 the total amount of funds available under the program, whichever

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1391 is greater. The amount of the surplus note for any insurer or
1392 insurer group writing residential property insurance covering
1393 only manufactured housing may not exceed \$7 million.

1394 (b) The insurer must contribute an amount of new capital
1395 to its surplus which is at least equal to the amount of the
1396 surplus note and must apply to the board by July 1, 2006. If an
1397 insurer applies after July 1, 2006, but before June 1, 2007, the
1398 amount of the surplus note is limited to one-half of the new
1399 capital that the insurer contributes to its surplus, except that
1400 an insurer writing only manufactured housing policies is
1401 eligible to receive a surplus note of up to \$7 million. For
1402 purposes of this section, new capital must be in the form of
1403 cash or cash equivalents as specified in s. 625.012(1).

1404 (c) The insurer's surplus, new capital, and the surplus
1405 note must total at least \$50 million, except for insurers
1406 writing residential property insurance covering only
1407 manufactured housing. The insurer's surplus, new capital, and
1408 the surplus note must total at least \$14 million for insurers
1409 writing only residential property insurance covering
1410 manufactured housing policies as provided in paragraph (a).

1411 (d) The insurer must commit to meeting a minimum writing
1412 ratio of net written premium to surplus of at least 2:1 for the
1413 term of the surplus note, which shall be determined by the
1414 Office of Insurance Regulation and certified quarterly to the
1415 board. For this purpose, the term "net written premium" means
1416 net written premium for residential property insurance in this
1417 state ~~Florida~~, including the peril of wind, and "surplus" refers
1418 to the entire surplus of the insurer. If the required ratio is

1419 not maintained during the term of the surplus note, the division
 1420 ~~board~~ may increase the interest rate, accelerate the repayment
 1421 of interest and principal, or shorten the term of the surplus
 1422 note, subject to approval by the Commissioner of Insurance of
 1423 payments by the insurer of principal and interest as provided in
 1424 paragraph (f).

1425 (e) If the requirements of this section are met, the
 1426 division ~~board~~ may approve an application by an insurer for a
 1427 surplus note, unless the division ~~board~~ determines that the
 1428 financial condition of the insurer and its business plan for
 1429 writing residential property insurance in this state ~~Florida~~
 1430 places an unreasonably high level of financial risk to the state
 1431 of nonpayment in full of the interest and principal. The
 1432 division ~~board~~ shall consult with the Office of Insurance
 1433 Regulation and may contract with independent financial and
 1434 insurance consultants in making this determination.

1435 (f) The surplus note must be repayable to the state with a
 1436 term of 20 years. The surplus note shall accrue interest on the
 1437 unpaid principal balance at a rate equivalent to the 10-year
 1438 U.S. Treasury Bond rate, require the payment only of interest
 1439 during the first 3 years, and include such other terms as
 1440 approved by the division ~~board~~. Payment of principal or interest
 1441 by the insurer on the surplus note must be approved by the
 1442 Commissioner of Insurance, who shall approve such payment unless
 1443 the commissioner determines that such payment will substantially
 1444 impair the financial condition of the insurer. If such a
 1445 determination is made, the commissioner shall approve such

1446 payment that will not substantially impair the financial
1447 condition of the insurer.

1448 (g) The total amount of funds available for the program is
1449 limited to the amount appropriated by the Legislature for this
1450 purpose. If the amount of surplus notes requested by insurers
1451 exceeds the amount of funds available, the division ~~board~~ may
1452 prioritize insurers that are eligible and approved, with
1453 priority for funding given to insurers writing only manufactured
1454 housing policies, regardless of the date of application, based
1455 on the financial strength of the insurer, the viability of its
1456 proposed business plan for writing additional residential
1457 property insurance in the state, and the effect on competition
1458 in the residential property insurance market. Between insurers
1459 writing residential property insurance covering manufactured
1460 housing, priority shall be given to the insurer writing the
1461 highest percentage of its policies covering manufactured
1462 housing.

1463 (h) The division ~~board~~ may allocate portions of the funds
1464 available for the program and establish dates for insurers to
1465 apply for surplus notes from such allocation which are earlier
1466 than the dates established in paragraph (b).

1467 (i) Notwithstanding paragraph (d), a newly formed
1468 manufactured housing insurer that is eligible for a surplus note
1469 under this section shall meet the premium to surplus ratio
1470 provisions of s. 624.4095.

1471 (j) As used in this section, "an insurer writing only
1472 manufactured housing policies" includes:

1473 1. A Florida domiciled insurer that begins writing
 1474 personal lines residential manufactured housing policies in
 1475 Florida after March 1, 2007, and that removes a minimum of
 1476 50,000 policies from Citizens Property Insurance Corporation
 1477 without accepting a bonus, provided at least 25 percent of its
 1478 policies cover manufactured housing. Such an insurer may count
 1479 any funds above the minimum capital and surplus requirement that
 1480 were contributed into the insurer after March 1, 2007, as new
 1481 capital under this section.

1482 2. A Florida domiciled insurer that writes at least 40
 1483 percent of its policies covering manufactured housing in this
 1484 state Florida.

1485 (3) As used in this section, the term:

1486 (a) "Division Board" means the Division of the Florida
 1487 Hurricane Catastrophe Fund of the State Board of Administration
 1488 established in s. 215.555.

1489 (b) "Program" means the Insurance Capital Build-Up
 1490 Incentive Program established by this section.

1491 (6) The division board shall adopt rules prescribing the
 1492 procedures, administration, and criteria for approving the
 1493 issuance of surplus notes pursuant to this section, which may be
 1494 adopted pursuant to the procedures for emergency rules of
 1495 chapter 120. Otherwise, actions and determinations by the
 1496 division board pursuant to this section are exempt from chapter
 1497 120.

1498 (7) The division board shall invest and reinvest the funds
 1499 appropriated for the program in accordance with s. 215.47 and
 1500 consistent with division board policy.

1501 Section 6. Paragraph (c) of subsection (1), paragraphs
 1502 (a), (b), (d), (f), and (g) of subsection (2), and paragraph (b)
 1503 of subsection (3) of section 627.0628, Florida Statutes, are
 1504 amended to read:

1505 627.0628 Florida Commission on Hurricane Loss Projection
 1506 Methodology; public records exemption; public meetings
 1507 exemption.--

1508 (1) LEGISLATIVE FINDINGS AND INTENT.--

1509 (c) It is the intent of the Legislature to create the
 1510 Florida Commission on Hurricane Loss Projection Methodology as a
 1511 panel of experts to provide the most actuarially sophisticated
 1512 guidelines and standards for projection of hurricane losses
 1513 possible, given the current state of actuarial science. It is
 1514 the further intent of the Legislature that such standards and
 1515 guidelines must be used by the Division of the Florida Hurricane
 1516 Catastrophe Fund of the State Board of Administration in
 1517 developing reimbursement premium rates for the Florida Hurricane
 1518 Catastrophe Fund, and, subject to paragraph (3)(c), may be used
 1519 by insurers in rate filings under s. 627.062 unless the way in
 1520 which such standards and guidelines were applied by the insurer
 1521 was erroneous, as shown by a preponderance of the evidence.

1522 (2) COMMISSION CREATED.--

1523 (a) There is created the Florida Commission on Hurricane
 1524 Loss Projection Methodology, which is assigned to the Division
 1525 of the Florida Hurricane Catastrophe Fund of the State Board of
 1526 Administration. For the purposes of this section, the term
 1527 "commission" means the Florida Commission on Hurricane Loss
 1528 Projection Methodology. The commission shall be administratively

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1529 housed within the State Board of Administration, but it shall
 1530 independently exercise the powers and duties specified in this
 1531 section.

1532 (b) The commission shall consist of the following 11
 1533 members:

1534 1. The insurance consumer advocate.

1535 2. The director of the Division of the Florida Hurricane
 1536 Catastrophe Fund ~~senior employee~~ of the State Board of
 1537 Administration ~~responsible for operations of the Florida~~
 1538 ~~Hurricane Catastrophe Fund.~~

1539 3. The Executive Director of the Citizens Property
 1540 Insurance Corporation.

1541 4. The Director of the Division of Emergency Management of
 1542 the Department of Community Affairs.

1543 5. The actuary member of the Florida Hurricane Catastrophe
 1544 Fund Advisory Council.

1545 6. An employee of the office who is an actuary responsible
 1546 for property insurance rate filings and who is appointed by the
 1547 director of the office.

1548 7. Five members appointed by the Chief Financial Officer,
 1549 as follows:

1550 a. An actuary who is employed full time by a property and
 1551 casualty insurer which was responsible for at least 1 percent of
 1552 the aggregate statewide direct written premium for homeowner's
 1553 insurance in the calendar year preceding the member's
 1554 appointment to the commission.

1555 b. An expert in insurance finance who is a full-time
 1556 member of the faculty of the State University System and who has
 1557 a background in actuarial science.

1558 c. An expert in statistics who is a full-time member of
 1559 the faculty of the State University System and who has a
 1560 background in insurance.

1561 d. An expert in computer system design who is a full-time
 1562 member of the faculty of the State University System.

1563 e. An expert in meteorology who is a full-time member of
 1564 the faculty of the State University System and who specializes
 1565 in hurricanes.

1566 (d) The board of the Division of the Florida Hurricane
 1567 Catastrophe Fund of the State Board of Administration shall
 1568 annually appoint one of the members of the commission to serve
 1569 as chair.

1570 (f) The Division of the Florida Hurricane Catastrophe Fund
 1571 of the State Board of Administration shall, as a cost of
 1572 administration of the Florida Hurricane Catastrophe Fund,
 1573 provide for travel, expenses, and staff support for the
 1574 commission.

1575 (g) There shall be no liability on the part of, and no
 1576 cause of action of any nature shall arise against, any member of
 1577 the commission, any member of the Division of the Florida
 1578 Hurricane Catastrophe Fund ~~State Board of Administration~~, or any
 1579 employee of the Division of the Florida Hurricane Catastrophe
 1580 Fund ~~State Board of Administration~~ for any action taken in the
 1581 performance of their duties under this section. In addition, the
 1582 commission may, in writing, waive any potential cause of action

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1583 for negligence of a consultant, contractor, or contract employee
 1584 engaged to assist the commission.

1585 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

1586 (b) In establishing reimbursement premiums for the Florida
 1587 Hurricane Catastrophe Fund, the Division of the Florida
 1588 Hurricane Catastrophe Fund ~~State Board of Administration~~ must,
 1589 to the extent feasible, employ actuarial methods, principles,
 1590 standards, models, or output ranges found by the commission to
 1591 be accurate or reliable.

1592 Section 7. Subsection (10) of section 624.424, Florida
 1593 Statutes, is amended to read:

1594 624.424 Annual statement and other information.--

1595 (10) Each insurer or insurer group doing business in this
 1596 state shall file on a quarterly basis in conjunction with
 1597 financial reports required by paragraph (1)(a) a supplemental
 1598 report on an individual and group basis on a form prescribed by
 1599 the commission with information on personal lines and commercial
 1600 lines residential property insurance policies in this state. The
 1601 supplemental report shall include separate information for
 1602 personal lines property policies and for commercial lines
 1603 property policies and totals for each item specified, including
 1604 premiums written for each of the property lines of business as
 1605 described in ss. 215.555(2) (g) ~~(e)~~ and 627.351(6)(a). The report
 1606 shall include the following information for each county on a
 1607 monthly basis:

1608 (a) Total number of policies in force at the end of each
 1609 month.

1610 (b) Total number of policies canceled.

1611 (c) Total number of policies nonrenewed.
 1612 (d) Number of policies canceled due to hurricane risk.
 1613 (e) Number of policies nonrenewed due to hurricane risk.
 1614 (f) Number of new policies written.
 1615 (g) Total dollar value of structure exposure under
 1616 policies that include wind coverage.
 1617 (h) Number of policies that exclude wind coverage.
 1618 Section 8. Paragraph (u) of subsection (6) of section
 1619 627.351, Florida Statutes, is amended to read:
 1620 627.351 Insurance risk apportionment plans.--
 1621 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--
 1622 (u)1. Effective July 1, 2002, policies of the Residential
 1623 Property and Casualty Joint Underwriting Association shall
 1624 become policies of the corporation. All obligations, rights,
 1625 assets and liabilities of the Residential Property and Casualty
 1626 Joint Underwriting Association, including bonds, note and debt
 1627 obligations, and the financing documents pertaining to them
 1628 become those of the corporation as of July 1, 2002. The
 1629 corporation is not required to issue endorsements or
 1630 certificates of assumption to insureds during the remaining term
 1631 of in-force transferred policies.
 1632 2. Effective July 1, 2002, policies of the Florida
 1633 Windstorm Underwriting Association are transferred to the
 1634 corporation and shall become policies of the corporation. All
 1635 obligations, rights, assets, and liabilities of the Florida
 1636 Windstorm Underwriting Association, including bonds, note and
 1637 debt obligations, and the financing documents pertaining to them
 1638 are transferred to and assumed by the corporation on July 1,

1639 2002. The corporation is not required to issue endorsements or
1640 certificates of assumption to insureds during the remaining term
1641 of in-force transferred policies.

1642 3. The Florida Windstorm Underwriting Association and the
1643 Residential Property and Casualty Joint Underwriting Association
1644 shall take all actions as may be proper to further evidence the
1645 transfers and shall provide the documents and instruments of
1646 further assurance as may reasonably be requested by the
1647 corporation for that purpose. The corporation shall execute
1648 assumptions and instruments as the trustees or other parties to
1649 the financing documents of the Florida Windstorm Underwriting
1650 Association or the Residential Property and Casualty Joint
1651 Underwriting Association may reasonably request to further
1652 evidence the transfers and assumptions, which transfers and
1653 assumptions, however, are effective on the date provided under
1654 this paragraph whether or not, and regardless of the date on
1655 which, the assumptions or instruments are executed by the
1656 corporation. Subject to the relevant financing documents
1657 pertaining to their outstanding bonds, notes, indebtedness, or
1658 other financing obligations, the moneys, investments,
1659 receivables, choses in action, and other intangibles of the
1660 Florida Windstorm Underwriting Association shall be credited to
1661 the high-risk account of the corporation, and those of the
1662 personal lines residential coverage account and the commercial
1663 lines residential coverage account of the Residential Property
1664 and Casualty Joint Underwriting Association shall be credited to
1665 the personal lines account and the commercial lines account,
1666 respectively, of the corporation.

1667 4. Effective July 1, 2002, a new applicant for property
1668 insurance coverage who would otherwise have been eligible for
1669 coverage in the Florida Windstorm Underwriting Association is
1670 eligible for coverage from the corporation as provided in this
1671 subsection.

1672 5. The transfer of all policies, obligations, rights,
1673 assets, and liabilities from the Florida Windstorm Underwriting
1674 Association to the corporation and the renaming of the
1675 Residential Property and Casualty Joint Underwriting Association
1676 as the corporation shall in no way affect the coverage with
1677 respect to covered policies as defined in s. 215.555(2) (g) ~~(e)~~
1678 provided to these entities by the Florida Hurricane Catastrophe
1679 Fund. The coverage provided by the Florida Hurricane Catastrophe
1680 Fund to the Florida Windstorm Underwriting Association based on
1681 its exposures as of June 30, 2002, and each June 30 thereafter
1682 shall be redesignated as coverage for the high-risk account of
1683 the corporation. Notwithstanding any other provision of law, the
1684 coverage provided by the Florida Hurricane Catastrophe Fund to
1685 the Residential Property and Casualty Joint Underwriting
1686 Association based on its exposures as of June 30, 2002, and each
1687 June 30 thereafter shall be transferred to the personal lines
1688 account and the commercial lines account of the corporation.
1689 Notwithstanding any other provision of law, the high-risk
1690 account shall be treated, for all Florida Hurricane Catastrophe
1691 Fund purposes, as if it were a separate participating insurer
1692 with its own exposures, reimbursement premium, and loss
1693 reimbursement. Likewise, the personal lines and commercial lines
1694 accounts shall be viewed together, for all Florida Hurricane

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1695 Catastrophe Fund purposes, as if the two accounts were one and
1696 represent a single, separate participating insurer with its own
1697 exposures, reimbursement premium, and loss reimbursement. The
1698 coverage provided by the Florida Hurricane Catastrophe Fund to
1699 the corporation shall constitute and operate as a full transfer
1700 of coverage from the Florida Windstorm Underwriting Association
1701 and Residential Property and Casualty Joint Underwriting to the
1702 corporation.

1703 Section 9. This act shall take effect July 1, 2008.