

HB 1157

2009

1 A bill to be entitled
2 An act relating to property insurance; amending s.
3 215.555, F.S.; providing an additional legislative finding
4 and purpose; limiting application of certain definitions;
5 expanding uses of moneys in the Florida Hurricane
6 Catastrophe Fund to include Florida Hurricane Protection
7 Program costs; providing for expiration of a requirement
8 for certain reimbursement contracts between insurers and
9 the fund's board; revising provisions with respect to
10 issuance and use of revenue bonds; revising emergency
11 assessment provisions; providing for future expiration;
12 preserving effect on certain assessments; providing for
13 additional emergency assessments under certain
14 circumstances; providing requirements; providing for
15 future expiration; preserving application to certain
16 assessments; providing a limitation on certain
17 assessments; providing for future expiration; preserving
18 application to certain assessments; revising powers and
19 duties of the board; revising membership of an advisory
20 council; requiring the Chief Financial Officer to annually
21 designate the council chair; revising coverage levels and
22 periods of effectiveness under the Temporary Increase in
23 Coverage Limits (TICL) option; creating the Florida
24 Hurricane Protection Program within the Florida Hurricane
25 Catastrophe Fund; providing purposes of the program;
26 providing definitions; requiring the State Board of
27 Administration to adopt a plan of operation for the
28 program; providing plan requirements; providing for rules;

Page 1 of 41

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1157-00

29 specifying coverages to be provided; providing standards;
30 requiring insurer contractual participation; providing
31 contract requirements; specifying powers and duties of the
32 program; specifying duties of participating insurers;
33 providing sanctions for noncompliance; providing
34 limitations on liability; providing requirements for
35 adoption of rates and forms; providing criteria and
36 requirements for calculation of reinsurance needs and
37 optional reinsurance; providing legislative intent;
38 providing responsibilities of the board; providing
39 transition requirements; providing legislative intent;
40 requiring a report; providing requirements for the State
41 Board of Administration to implement the program;
42 providing for review and approval of the program's initial
43 rate plan by the Office of Insurance Regulation; providing
44 for transitional rates and form filings by insurers;
45 amending s. 624.509, F.S.; specifying the applicability of
46 the insurance premium tax to policies issued by the
47 Florida Hurricane Protection Program; requiring the
48 program to make certain payments to the Department of
49 Revenue; amending s. 627.351, F.S.; prohibiting Citizens
50 Property Insurance Corporation from issuing or renewing
51 certain types of policies after a specified date;
52 providing an exception to restrictions on acceptance of
53 certain offers of coverage; requiring the corporation to
54 provide access to specified policy information by
55 insurance agents; requiring the corporation to transfer a
56 specified portion of its surplus to the Florida Hurricane

57 Catastrophe Fund; providing for the use of corporation
 58 information technology by the Florida Hurricane Protection
 59 Program; transferring ownership of such information
 60 technology to the program; amending s. 627.706, F.S.;
 61 specifying areas in which certain property insurance
 62 policies must include coverage for catastrophic ground
 63 cover collapse and in which separate sinkhole coverage
 64 must be made available; providing an effective date.

65

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

67

68 Section 1. Paragraph (h) is added to subsection (1) of
 69 section 215.555, Florida Statutes, paragraphs (b), (c), (d),
 70 (l), and (m) of subsection (2), subsection (3), paragraph (a) of
 71 subsection (4), paragraphs (a) and (b) of subsection (6),
 72 paragraph (b) of subsection (7), subsection (8), and paragraphs
 73 (c), (d), (e), (g), and (h) of subsection (17) of that section
 74 are amended, and subsection (18) is added to that section, to
 75 read:

76 215.555 Florida Hurricane Catastrophe Fund.--

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

79 (h) The Legislature further finds that, as of January 1,
 80 2009:

81 1. More than 15 years of efforts to use state regulatory,
 82 financial, and insurance mechanisms to ensure availability and
 83 affordability of dependable residential property insurance
 84 coverage have not succeeded.

85 2. The continuing lack of available, affordable coverage
86 creates a substantial burden on the state's economy.

87 3. The potential inability of the Florida Hurricane
88 Catastrophe Fund, as constituted prior to July 1, 2009, to meet
89 its obligations threatens the solvency of all residential
90 property insurers in the state.

91 4. Notwithstanding depopulation efforts that have removed
92 numerous policies from Citizens Property Insurance Corporation
93 and its predecessors, the property insurance residual market
94 remains unacceptably large, with approximately 1 million
95 policies in force and a total exposure of approximately \$400
96 billion.

97 5. The unsatisfactory performance of a system intended to
98 provide available, affordable, reliable coverage for residential
99 hurricane losses in the state, together with the state's unique
100 exposure to hurricane losses, supports the conclusion that
101 hurricanes may be an uninsurable peril in all or parts of the
102 state as the concept of insurability is commonly understood.

103 6. Therefore, a restructured system to protect residential
104 property owners from hurricane losses serves a compelling state
105 interest in maintaining a viable and orderly private sector
106 market for property insurance, as described in paragraph (a),
107 and is a necessary measure to abate a significant threat to the
108 economy of the state.

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

110 (b) "Covered event" means, with respect to reimbursement
111 contracts, any one storm declared to be a hurricane by the

HB 1157

2009

112 National Hurricane Center, which storm causes insured losses in
113 this state.

114 (c) "Covered policy" means, with respect to reimbursement
115 contracts, any insurance policy covering residential property in
116 this state, including, but not limited to, any homeowner's,
117 mobile home owner's, farm owner's, condominium association,
118 condominium unit owner's, tenant's, or apartment building
119 policy, or any other policy covering a residential structure or
120 its contents issued by any authorized insurer, including a
121 commercial self-insurance fund holding a certificate of
122 authority issued by the Office of Insurance Regulation under s.
123 624.462, the Citizens Property Insurance Corporation, and any
124 joint underwriting association or similar entity created under
125 law. The term "covered policy" includes any collateral
126 protection insurance policy covering personal residences which
127 protects both the borrower's and the lender's financial
128 interests, in an amount at least equal to the coverage for the
129 dwelling in place under the lapsed homeowner's policy, if such
130 policy can be accurately reported as required in subsection (5).
131 Additionally, covered policies include policies covering the
132 peril of wind removed from the Florida Residential Property and
133 Casualty Joint Underwriting Association or from the Citizens
134 Property Insurance Corporation, created under s. 627.351(6), or
135 from the Florida Windstorm Underwriting Association, created
136 under s. 627.351(2), by an authorized insurer under the terms
137 and conditions of an executed assumption agreement between the
138 authorized insurer and such association or Citizens Property
139 Insurance Corporation. Each assumption agreement between the

HB 1157

2009

140 association and such authorized insurer or Citizens Property
141 Insurance Corporation must be approved by the Office of
142 Insurance Regulation before the effective date of the
143 assumption, and the Office of Insurance Regulation must provide
144 written notification to the board within 15 working days after
145 such approval. "Covered policy" does not include any policy that
146 excludes wind coverage or hurricane coverage or any reinsurance
147 agreement and does not include any policy otherwise meeting this
148 definition which is issued by a surplus lines insurer or a
149 reinsurer. All commercial residential excess policies and all
150 deductible buy-back policies that, based on sound actuarial
151 principles, require individual ratemaking shall be excluded by
152 rule if the actuarial soundness of the fund is not jeopardized.
153 For this purpose, the term "excess policy" means a policy that
154 provides insurance protection for large commercial property
155 risks and that provides a layer of coverage above a primary
156 layer insured by another insurer.

157 (d) "Losses" means, with respect to reimbursement
158 contracts, direct incurred losses under covered policies, which
159 shall include losses for additional living expenses not to
160 exceed 40 percent of the insured value of a residential
161 structure or its contents and shall exclude loss adjustment
162 expenses. "Losses" does not include losses for fair rental
163 value, loss of rent or rental income, or business interruption
164 losses.

165 (1) "Estimated claims-paying capacity" means, with respect
166 to reimbursement contracts, the sum of the projected year-end
167 balance of the fund as of December 31 of a contract year, plus

168 any reinsurance purchased by the fund, plus the board's estimate
 169 of the board's borrowing capacity.

170 (m) "Actual claims-paying capacity" means, with respect to
 171 reimbursement contracts, the sum of the balance of the fund as
 172 of December 31 of a contract year, plus any reinsurance
 173 purchased by the fund, plus the amount the board is able to
 174 raise through the issuance of revenue bonds under subsection
 175 (6).

176 (3) FLORIDA HURRICANE CATASTROPHE FUND CREATED.--There is
 177 created the Florida Hurricane Catastrophe Fund to be
 178 administered by the State Board of Administration. Moneys in the
 179 fund may not be expended, loaned, or appropriated except to pay
 180 obligations of the fund arising out of reimbursement contracts
 181 entered into under subsection (4), payment of debt service on
 182 revenue bonds issued under subsection (6), costs of the
 183 mitigation program under subsection (7), costs of the Florida
 184 Hurricane Protection Program under subsection (18), costs of
 185 procuring reinsurance, and costs of administration of the fund.
 186 The board shall invest the moneys in the fund pursuant to ss.
 187 215.44-215.52. Except as otherwise provided in this section,
 188 earnings from all investments shall be retained in the fund. The
 189 board may employ or contract with such staff and professionals
 190 as the board deems necessary for the administration of the fund.
 191 The board may adopt such rules as are reasonable and necessary
 192 to implement this section and shall specify interest due on any
 193 delinquent remittances, which interest may not exceed the fund's
 194 rate of return plus 5 percent. Such rules must conform to the
 195 Legislature's specific intent in establishing the fund as

196 | expressed in subsection (1), must enhance the fund's potential
 197 | ability to respond to claims for covered events, must contain
 198 | general provisions so that the rules can be applied with
 199 | reasonable flexibility so as to accommodate insurers in
 200 | situations of an unusual nature or where undue hardship may
 201 | result, except that such flexibility may not in any way impair,
 202 | override, supersede, or constrain the public purpose of the
 203 | fund, and must be consistent with sound insurance practices. The
 204 | board may, by rule, provide for the exemption from subsections
 205 | (4) and (5) of insurers writing covered policies with less than
 206 | \$10 million in aggregate exposure for covered policies if the
 207 | exemption does not affect the actuarial soundness of the fund.

208 | (4) REIMBURSEMENT CONTRACTS.--

209 | (a) The board shall enter into a contract with each
 210 | insurer writing covered policies in this state to provide to the
 211 | insurer the reimbursement described in paragraphs (b) and (d),
 212 | in exchange for the reimbursement premium paid into the fund
 213 | under subsection (5). As a condition of doing business in this
 214 | state, each such insurer shall enter into such a contract. The
 215 | contracting requirements of this paragraph expire May 31, 2011.

216 | (6) REVENUE BONDS.--

217 | (a) General provisions.--

218 | 1. Upon ~~the occurrence of a hurricane and~~ a determination
 219 | that the moneys in the fund are or will be insufficient to pay
 220 | reimbursement at the levels promised in the reimbursement
 221 | contracts under subsection (4), or upon a determination that the
 222 | moneys in the fund are or will be insufficient to meet the
 223 | obligations of the Florida Hurricane Protection Program under

HB 1157

2009

224 subsection (18), the board may take the necessary steps under
225 paragraph (c) or paragraph (d) for the issuance of revenue bonds
226 for the benefit of the fund. The proceeds of such revenue bonds
227 may be used to make reimbursement payments under reimbursement
228 contracts; to refinance or replace previously existing
229 borrowings or financial arrangements; to pay interest on bonds;
230 to fund reserves for the bonds; to pay expenses incident to the
231 issuance or sale of any bond issued under this section,
232 including costs of validating, printing, and delivering the
233 bonds, costs of printing the official statement, costs of
234 publishing notices of sale of the bonds, and related
235 administrative expenses; or for such other purposes related to
236 the financial obligations of the fund as the board may
237 determine. The term of the bonds may not exceed 30 years. The
238 board may pledge or authorize the corporation to pledge all or a
239 portion of all revenues under subsection (5) and under paragraph
240 (b) to secure such revenue bonds and the board may execute such
241 agreements between the board and the issuer of any revenue bonds
242 and providers of other financing arrangements under paragraph
243 (7) (b) as the board deems necessary to evidence, secure,
244 preserve, and protect such pledge. If reimbursement premiums
245 received under subsection (5) or earnings on such premiums are
246 used to pay debt service on revenue bonds, such premiums and
247 earnings shall be used only after the use of the moneys derived
248 from assessments under paragraph (b). The funds, credit,
249 property, or taxing power of the state or political subdivisions
250 of the state shall not be pledged for the payment of such bonds.
251 The board may also enter into agreements under paragraph (c) or

252 paragraph (d) for the purpose of issuing revenue bonds in the
 253 absence of a hurricane upon a determination that such action
 254 would maximize the ability of the fund to meet future
 255 obligations.

256 2. The Legislature finds and declares that the issuance of
 257 bonds under this subsection is for the public purpose of paying
 258 the proceeds of the bonds to insurers as required by
 259 reimbursement contracts under subsection (4), thereby enabling
 260 insurers to pay the claims of policyholders to ensure ~~assure~~
 261 that policyholders are able to pay the cost of construction,
 262 reconstruction, repair, and restoration, and other costs
 263 associated with damage to property of policyholders of covered
 264 policies after the occurrence of a hurricane, and for the public
 265 purpose of paying claims of policyholders under subsection (18)
 266 to ensure that policyholders are able to pay the costs of
 267 construction, reconstruction, repair, and restoration and other
 268 costs associated with damage to property after a hurricane.

269 (b) Emergency assessments.--

270 1.a. If the board determines that the amount of revenue
 271 produced under subsections ~~subsection~~ (5) and (18) is
 272 insufficient to fund the obligations, costs, and expenses of the
 273 fund and the corporation, including repayment of revenue bonds
 274 and that portion of the debt service coverage not met by
 275 reimbursement premiums, the board shall direct the Office of
 276 Insurance Regulation to levy, by order, an emergency assessment
 277 on direct premiums for all property and casualty lines of
 278 business in this state, including property and casualty business
 279 of surplus lines insurers regulated under part VIII of chapter

HB 1157

2009

280 626, but not including any workers' compensation premiums or
281 medical malpractice premiums. As used in this subsection, the
282 term "property and casualty business" includes all lines of
283 business identified on Form 2, Exhibit of Premiums and Losses,
284 in the annual statement required of authorized insurers by s.
285 624.424 and any rule adopted under this section, except for
286 those lines identified as accident and health insurance and
287 except for policies written under the National Flood Insurance
288 Program. The assessment shall be specified as a percentage of
289 direct written premium and is subject to annual adjustments by
290 the board in order to meet debt obligations. The same percentage
291 shall apply to all policies in lines of business subject to the
292 assessment issued or renewed during the 12-month period
293 beginning on the effective date of the assessment. This sub-
294 subparagraph expires June 1, 2011; however, the expiration of
295 this sub-subparagraph does not affect any assessments levied
296 under this sub-subparagraph prior to that date.

297 b. Effective June 1, 2011, if the board determines that
298 the amount of revenue produced under subsections (5) and (18),
299 including any appropriated state funds or any federal funding,
300 is insufficient to fund the obligations, costs, and expenses of
301 the fund and the corporation, including repayment of revenue
302 bonds and debt service coverage, the board shall request the
303 Office of Insurance Regulation to levy, and the office shall by
304 order levy, an emergency assessment on direct premiums for all
305 personal lines and commercial lines policies providing property
306 insurance coverage, including policies issued by the Florida
307 Hurricane Protection Program under subsection (18). The

HB 1157

2009

308 assessment shall be specified as a percentage of direct written
309 premium and is subject to annual adjustments by the board in
310 order to meet debt obligations. The same percentage shall apply
311 to all policies issued or renewed during the 12-month period
312 beginning on the effective date of the assessment in all lines
313 of business subject to the assessment.

314 2.a. A premium is not subject to an annual assessment
315 under this paragraph in excess of 6 percent of premium with
316 respect to obligations arising out of losses attributable to any
317 one contract year, and a premium is not subject to an aggregate
318 annual assessment under this paragraph in excess of 10 percent
319 of premium. This sub-subparagraph expires June 1, 2011; however,
320 the expiration of this sub-subparagraph does not affect any
321 assessments levied under this sub-subparagraph prior to that
322 date.

323 b. Effective June 1, 2011, the total amount of emergency
324 assessments under this paragraph with respect to a fund deficit
325 incurred in any year may not exceed 10 percent of the statewide
326 total gross written premium for all insurers for personal lines
327 and commercial lines policies providing property insurance
328 coverage, including policies issued by the Florida Hurricane
329 Protection Program under subsection (18), for the prior year.

330 c. An annual assessment under this paragraph shall
331 continue as long as the revenue bonds issued with respect to
332 which the assessment was imposed are outstanding, including any
333 bonds the proceeds of which were used to refund the revenue
334 bonds, unless adequate provision has been made for the payment

335 of the bonds under the documents authorizing issuance of the
336 bonds.

337 3. Emergency assessments shall be collected from
338 policyholders. Emergency assessments shall be remitted by
339 insurers as a percentage of direct written premium for the
340 preceding calendar quarter as specified in the order from the
341 Office of Insurance Regulation. The office shall verify the
342 accurate and timely collection and remittance of emergency
343 assessments and shall report the information to the board in a
344 form and at a time specified by the board. Each insurer
345 collecting assessments shall provide the information with
346 respect to premiums and collections as may be required by the
347 office to enable the office to monitor and verify compliance
348 with this paragraph.

349 4. With respect to assessments of surplus lines premiums,
350 each surplus lines agent shall collect the assessment at the
351 same time as the agent collects the surplus lines tax required
352 by s. 626.932, and the surplus lines agent shall remit the
353 assessment to the Florida Surplus Lines Service Office created
354 by s. 626.921 at the same time as the agent remits the surplus
355 lines tax to the Florida Surplus Lines Service Office. The
356 emergency assessment on each insured procuring coverage and
357 filing under s. 626.938 shall be remitted by the insured to the
358 Florida Surplus Lines Service Office at the time the insured
359 pays the surplus lines tax to the Florida Surplus Lines Service
360 Office. The Florida Surplus Lines Service Office shall remit the
361 collected assessments to the fund or corporation as provided in
362 the order levied by the Office of Insurance Regulation. The

HB 1157

2009

363 Florida Surplus Lines Service Office shall verify the proper
364 application of such emergency assessments and shall assist the
365 board in ensuring the accurate and timely collection and
366 remittance of assessments as required by the board. The Florida
367 Surplus Lines Service Office shall annually calculate the
368 aggregate written premium on property and casualty business,
369 other than workers' compensation and medical malpractice,
370 procured through surplus lines agents and insureds procuring
371 coverage and filing under s. 626.938 and shall report the
372 information to the board in a form and at a time specified by
373 the board.

374 5. Any assessment authority not used for a particular
375 contract year may be used for a subsequent contract year. If,
376 for a subsequent contract year, the board determines that the
377 amount of revenue produced under subsection (5) is insufficient
378 to fund the obligations, costs, and expenses of the fund and the
379 corporation, including repayment of revenue bonds and that
380 portion of the debt service coverage not met by reimbursement
381 premiums, the board shall direct the Office of Insurance
382 Regulation to levy an emergency assessment up to an amount not
383 exceeding the amount of unused assessment authority from a
384 previous contract year or years, plus an additional 4 percent
385 provided that the assessments in the aggregate do not exceed the
386 limits specified in subparagraph 2. This subparagraph expires
387 June 1, 2011; however, the expiration of this subparagraph does
388 not affect any assessments levied under this subparagraph prior
389 to that date.

HB 1157

2009

390 6. The assessments otherwise payable to the corporation
391 under this paragraph shall be paid to the fund unless and until
392 the Office of Insurance Regulation and the Florida Surplus Lines
393 Service Office have received from the corporation and the fund a
394 notice, which shall be conclusive and upon which they may rely
395 without further inquiry, that the corporation has issued bonds
396 and the fund has no agreements in effect with local governments
397 under paragraph (c). On or after the date of the notice and
398 until the date the corporation has no bonds outstanding, the
399 fund shall have no right, title, or interest in or to the
400 assessments, except as provided in the fund's agreement with the
401 corporation.

402 7. Emergency assessments are not premium and are not
403 subject to the premium tax, to the surplus lines tax, to any
404 fees, or to any commissions. An insurer is liable for all
405 assessments that it collects and must treat the failure of an
406 insured to pay an assessment as a failure to pay the premium. An
407 insurer is not liable for uncollectible assessments.

408 8. When an insurer is required to return an unearned
409 premium, it shall also return any collected assessment
410 attributable to the unearned premium. A credit adjustment to the
411 collected assessment may be made by the insurer with regard to
412 future remittances that are payable to the fund or corporation,
413 but the insurer is not entitled to a refund.

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

HB 1157

2009

418 insured for the collected assessment attributable to the
419 unearned premium prior to remitting the emergency assessment
420 collected to the fund or corporation.

421 10. The exemption of medical malpractice insurance
422 premiums from emergency assessments under this paragraph is
423 repealed May 31, 2010, and medical malpractice insurance
424 premiums shall be subject to emergency assessments attributable
425 to loss events occurring in the contract years commencing on
426 June 1, 2010.

427 (7) ADDITIONAL POWERS AND DUTIES.--

428 (b) In addition to borrowing under subsection (6), the
429 board may also ~~borrow from, or~~ enter into other financing
430 arrangements or borrow from with, any market sources or federal
431 or multistate funding sources at prevailing interest rates for
432 the purpose of ensuring or enhancing the ability of the fund to
433 meet its obligations.

434 (8) ADVISORY COUNCIL.--

435 (a) The State Board of Administration shall appoint an
436 advisory council to provide the board and the staff of the fund
437 with technical, scientific, actuarial, and financial advice;
438 information regarding the impact of potential decisions on
439 insurance consumers and property owners subject to assessment;
440 advice on implementing the Florida Hurricane Protection Program
441 under subsection (18); and such other information and advice as
442 the board or fund staff may request ~~a nine-member advisory~~
443 ~~council that consists of an actuary, a meteorologist, an~~
444 ~~engineer, a representative of insurers, a representative of~~
445 ~~insurance agents, a representative of reinsurers, and three~~

HB 1157

2009

446 ~~consumers who shall also be representatives of other affected~~
447 ~~professions and industries, to provide the board with~~
448 ~~information and advice~~ in connection with its duties under this
449 section.

450 (b) The advisory council shall consist of the following 14
451 members, who shall be appointed by the board, except that the
452 Chief Financial Officer shall appoint the insurance agent
453 members as provided in subparagraph 7.:

454 1. Two owners of single-family residences, one of which is
455 located in a higher risk coastal area and one of which is
456 located in a lower risk inland area.

457 2. Two representatives of owners of commercial residential
458 property, one of which is located in a higher risk coastal area
459 and one of which is located in a lower risk inland area.

460 3. Two representatives of owners of nonresidential
461 commercial properties.

462 4. One representative of home builders.

463 5. One actuary.

464 6. One meteorologist.

465 7. Two representatives of residential property insurance
466 agents appointed by the Chief Financial Officer. One of the
467 agent representatives must be an independent agent and the other
468 must be an agent who is appointed under chapter 626 to represent
469 an insurer that writes residential policies in this state on a
470 direct basis through appointed agents who are not employees.

471 8. One representative of residential property insurers.

472 9. One person with substantial experience in reinsurance.

473 10. One person with substantial experience in bond

HB 1157

2009

474 finance.

475 (c) The Chief Financial Officer shall annually designate a
476 member of the advisory council to serve as chair of the council.

477 Members of the advisory council shall serve at the pleasure of
478 the board and are eligible for per diem and travel expenses
479 under s. 112.061.

480 (17) TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.--

481 (c) Optional coverage.--For the contract year commencing
482 ~~June 1, 2007, and ending May 31, 2008, the contract year~~
483 ~~commencing June 1, 2008, and ending May 31, 2009, and the~~
484 ~~contract year commencing~~ June 1, 2009, and ending May 31, 2010,
485 the board shall offer, ~~for each of such years,~~ the optional
486 coverage as provided in this subsection.

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

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

490 2. "FHCF reimbursement premium" means the premium paid by
491 an insurer for its coverage as a mandatory participant in the
492 FHCF, but does not include additional premiums for optional
493 coverages.

494 3. "Payout multiple" means the number or multiple created
495 by dividing the statutorily defined claims-paying capacity as
496 determined in subparagraph (4)(c)1. by the aggregate
497 reimbursement premiums paid by all insurers estimated or
498 projected as of calendar year-end.

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

500 5. "TICL options" means the temporary increase in coverage
501 options created under this subsection.

502 6. "TICL insurer" means an insurer that has opted to
 503 obtain coverage under the TICL options addendum in addition to
 504 the coverage provided to the insurer under its FHCF
 505 reimbursement contract.

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

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

511 9. "TICL coverage" means the coverage for an insurer's
 512 losses above the insurer's statutorily determined claims-paying
 513 capacity based on the claims-paying limit in subparagraph
 514 (4)(c)1., which an insurer selects as its temporary increase in
 515 coverage from the fund under the TICL options selected. A TICL
 516 insurer's increased coverage limit options shall be calculated
 517 as follows:

518 a. The board shall calculate and report to each TICL
 519 insurer the TICL coverage multiples based on 9 ~~12~~ options for
 520 increasing the insurer's FHCF coverage limit. Each TICL coverage
 521 multiple shall be calculated by dividing \$1 billion, \$2 billion,
 522 \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7 billion, \$8
 523 billion, and \$9 billion, ~~\$10 billion, \$11 billion, or \$12~~
 524 ~~billion~~ by the total estimated aggregate FHCF reimbursement
 525 premiums for the ~~2007-2008 contract year, the 2008-2009 contract~~
 526 ~~year, and the 2009-2010 contract year.~~

527 b. The TICL insurer's increased coverage shall be the FHCF
 528 reimbursement premium multiplied by the TICL coverage multiple
 529 for the TICL option selected. In order to determine an insurer's

530 total limit of coverage, an insurer shall add its TICL coverage
 531 multiple to its payout multiple. The total shall represent a
 532 number that, when multiplied by an insurer's FHCF reimbursement
 533 premium for a given reimbursement contract year, defines an
 534 insurer's total limit of FHCF reimbursement coverage for that
 535 reimbursement contract year.

536 10. "TICL options addendum" means an addendum to the
 537 reimbursement contract reflecting the obligations of the fund
 538 and insurers selecting an option to increase an insurer's FHCF
 539 coverage limit.

540 (e) TICL options addendum.--

541 1. The TICL options addendum shall provide for
 542 reimbursement of TICL insurers for covered events occurring
 543 between June 1, 2007, and May 31, 2008, and between June 1,
 544 2008, and May 31, 2009, or between June 1, 2009, and May 31,
 545 2010, in exchange for the TICL reimbursement premium paid into
 546 the fund under paragraph (f). Any insurer writing covered
 547 policies has the option of selecting an increased limit of
 548 coverage under the TICL options addendum and shall select such
 549 coverage at the time that it executes the FHCF reimbursement
 550 contract.

551 2. The TICL addendum shall contain a promise by the board
 552 to reimburse the TICL insurer for 70 ~~45~~ percent of the TICL
 553 coverage based upon the TICL option selected for the insurer's,
 554 ~~75 percent, or 90 percent of its~~ losses from each covered event
 555 in excess of the insurer's retention, plus 5 percent of the
 556 reimbursed losses to cover loss adjustment expenses. ~~The~~

HB 1157

2009

557 ~~percentage shall be the same as the coverage level selected by~~
558 ~~the insurer under paragraph (4) (b).~~

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

562 4. The priorities, schedule, and method of reimbursements
563 under the TICL addendum shall be the same as provided under
564 subsection (4).

565 (g) Effect on claims-paying capacity of the fund.--For the
566 contract term ~~terms~~ commencing ~~June 1, 2007, June 1, 2008, and~~
567 June 1, 2009, the program created by this subsection shall
568 increase the claims-paying capacity of the fund as provided in
569 subparagraph (4) (c)1. by an amount not to exceed \$9 ~~\$12~~ billion
570 and shall depend on the TICL coverage options selected and the
571 number of insurers that select the TICL optional coverage. The
572 additional capacity shall apply only to the additional coverage
573 provided under the TICL options and shall not otherwise affect
574 any insurer's reimbursement from the fund if the insurer chooses
575 not to select the temporary option to increase its limit of
576 coverage under the FHCF.

577 (h) Increasing the claims-paying capacity of the
578 fund.--For the contract year ~~years~~ commencing ~~June 1, 2007, June~~
579 ~~1, 2008, and~~ June 1, 2009, the board may increase the claims-
580 paying capacity of the fund as provided in paragraph (g) by an
581 amount not to exceed \$4 billion in four \$1 billion options and
582 shall depend on the TICL coverage options selected and the
583 number of insurers that select the TICL optional coverage. Each
584 insurer's TICL premium shall be calculated based upon the

HB 1157

2009

585 additional limit of increased coverage that the insurer selects.
586 Such limit is determined by multiplying the TICL multiple
587 associated with one of the four options times the insurer's FHCF
588 reimbursement premium. The reimbursement premium associated with
589 the additional coverage provided in this paragraph shall be
590 determined as specified in subsection (5).

591 (18) FLORIDA HURRICANE PROTECTION PROGRAM.--

592 (a) Creation; purpose.--The Florida Hurricane Protection
593 Program is created within the Florida Hurricane Catastrophe
594 Fund. The purpose of the program is to provide residential
595 hurricane insurance coverage for properties throughout the
596 state.

597 (b) Definitions.--The definitions in subsection (2) apply
598 to the program, except as modified by this paragraph. As used in
599 this subsection:

600 1. "Actuarially indicated" means an amount determined
601 according to principles of actuarial science to be adequate, but
602 not excessive, in the aggregate, to pay current and future
603 obligations and expenses of the program, including additional
604 amounts if needed to pay debt service on revenue bonds issued
605 under this section and to provide required debt service coverage
606 in excess of the amounts required to pay actual debt service on
607 revenue bonds issued under subsection (6) or to meet the
608 conditions of other financial arrangements entered into as
609 provided by paragraph (7) (b), and determined according to
610 principles of actuarial science to reflect each insured's
611 relative exposure to hurricane losses.

612 2. "Board" means the State Board of Administration.

613 3. "Hurricane coverage" means coverage for loss or damage
 614 caused by the peril of windstorm during a hurricane. The term
 615 includes ensuing damage to the interior of a building, or to
 616 property inside a building, directly or indirectly caused by
 617 rain, snow, sleet, hail, sand, or dust if the direct force of
 618 the windstorm first damages the building, causing an opening
 619 through which rain, snow, sleet, hail, sand, or dust enters and
 620 causes damage, or caused by the loss of power on or off the
 621 covered premises when the loss of power is attributable to the
 622 windstorm. The term does not include coverage for loss or damage
 623 to residential property caused by flood, storm surge, or rising
 624 water. For purposes of this definition:

625 a. "Windstorm" means wind, wind gusts, hail, rain,
 626 tornadoes, or cyclones caused by or resulting from a hurricane
 627 which results in direct physical loss or damage to property.

628 b. "Hurricane" means a storm system that has been declared
 629 to be a hurricane by the National Hurricane Center of the
 630 National Weather Service. The duration of the hurricane includes
 631 the time period, in this state:

632 (I) Beginning at the time a hurricane warning is issued
 633 for any part of this state by the National Hurricane Center of
 634 the National Weather Service.

635 (II) Continuing for the time period during which the
 636 hurricane conditions exist anywhere in this state.

637 (III) Ending 72 hours after the termination of the last
 638 hurricane warning issued for any part of this state by the
 639 National Hurricane Center of the National Weather Service.

640 4. "Participating insurer" means an insurer that holds a

641 certificate of authority to write residential property insurance
642 coverage and that administers hurricane coverage on behalf of
643 the program.

644 5. "Program" means the Florida Hurricane Protection
645 Program created under this subsection.

646 6. "Reinsurance" includes traditional reinsurance and any
647 other arrangement that transfers risk from the program to
648 another entity.

649 7. "Residential coverage" includes:

650 a. Personal lines residential coverage, which consists of
651 the type of coverage provided by homeowner's, mobile home
652 owner's, dwelling, tenant's, condominium unit owner's, and
653 cooperative unit owner's policies and similar policies.

654 b. Commercial lines residential coverage, which consists
655 of the type of coverage provided by condominium association,
656 cooperative association, and apartment building policies and
657 similar policies, including policies covering the common
658 elements of a homeowners' association.

659 8. "Underlying policy" means the property insurance policy
660 issued by a participating insurer to provide coverage for perils
661 other than hurricane with respect to a residential property the
662 hurricane coverage of which is provided under a policy issued by
663 the program and administered by the insurer.

664 (c) Plan of operation; coverage provided; standards;
665 policy forms.--

666 1. By rule, the board shall adopt a plan of operation for
667 the program. The plan of operation shall specify standards for
668 the program, including, but not limited to, standards relating

669 to underwriting, mitigation discounts, deductibles, cancellation
670 and nonrenewal, and recordkeeping.

671 2. The plan of operation shall provide the form or forms
672 for the contract between the program and a participating insurer
673 specifying the respective rights and duties of the program and
674 the participating insurer and allowing each insurer to conduct
675 sales, promotion, and other functions related to policy
676 acquisition as the program deems appropriate, in compliance with
677 the applicable provisions of the Insurance Code.

678 3. The plan of operation shall require the program to
679 adopt appropriate policy forms and issue a policy providing
680 hurricane coverage to each residential risk covered by a
681 participating insurer, except that a policy shall not be issued
682 to a risk that does not meet the underwriting standards adopted
683 under the program. Coverage shall include structure, contents,
684 additional living expenses, emergency debris removal, and
685 temporary repairs after loss, subject to the following
686 limitations and requirements:

687 a. Except as provided in sub-subparagraph b., the policy
688 shall provide structure coverage with a limit equal to the
689 structure limit, also known as the "Coverage A limit," of the
690 underlying policy and shall provide such limits for other
691 coverage as the program deems appropriate.

692 b. With respect to a personal lines residential risk with
693 a structure value greater than \$2 million, the program shall
694 provide coverage with a structure limit, also known as the
695 "Coverage A limit," of \$2 million and such limits for other
696 coverage as the program deems consistent with the \$2 million

HB 1157

2009

697 Coverage A limit.

698 c. The policy shall include a deductible equal to 2
699 percent of the insured value of the structure, also known as the
700 "Coverage A limit," and the program shall make available, at the
701 option of the insured, deductibles equal to 5 percent and 10
702 percent of the insured value of the structure.

703 d. The plan of operation may specify the maximum coverage
704 limits available to a commercial residential property.

705 e. Coverage of roofs shall be limited to actual cash
706 value, except the program shall provide insureds with the option
707 of replacement cost coverage for roofs for an appropriate
708 premium that takes into account the design and condition of the
709 roof.

710 f. No coverage shall be provided for swimming pool
711 enclosures, patio enclosures, patio covers, or awnings.

712 g. No coverage shall be provided for fences, outbuildings,
713 or other detached structures, except the program shall provide
714 insureds with the option of replacement cost coverage for
715 outbuildings or other permanently affixed detached structures,
716 not including contents, up to an insured value of \$100,000, for
717 an appropriate premium.

718 h. The plan of operation shall specify other optional
719 exclusions that shall be made available to the insured for
720 appropriate premium discounts.

721 i. Additional living expenses shall be provided only for
722 the period of time in which the structure is uninhabitable, up
723 to a maximum of 12 months.

724 j. The plan of operation shall specify policy limits for

725 coverage of contents, additional living expenses, emergency
726 debris removal, and temporary repairs after loss.

727 k. A property is not eligible for coverage under the
728 Florida Hurricane Protection Program unless the property is also
729 covered by a National Flood Insurance Program policy or similar
730 flood insurance coverage if such coverage is available for the
731 property.

732 4. Except as to matters specifically addressed by this
733 subsection, the program is subject to the provisions of part X
734 of chapter 627.

735 5. The plan of operation shall require the program to
736 adopt such notices, coverage summaries, and outlines of coverage
737 as are required by law or as the board deems appropriate. The
738 plan of operation shall require the program to provide a notice
739 informing an insured of the duties of the program and the duties
740 of the participating insurer.

741 6. The plan of operation shall provide standards for
742 applicability of mitigation discounts, credits, and surcharges
743 and shall provide a process for verification of a property's
744 mitigation status.

745 7. The plan of operation shall provide a reasonable fee
746 schedule for costs and expenses incurred by participating
747 insurers in the sale and administration of coverage under the
748 program, including, but not limited to, policy servicing and
749 loss adjustment expense; shall provide a fee to be paid to
750 insurers for reasonable acquisition costs, but shall not
751 interfere, directly or indirectly, in the setting of agent
752 commissions or other compensation by any participating insurer

HB 1157

2009

753 in compliance with s. 627.062(2)(i); and shall provide for
754 reimbursement of other costs incurred in the administration of
755 coverage under the program.

756 8. The plan of operation shall authorize the program to
757 enter into agreements with Citizens Property Insurance
758 Corporation under which the corporation provides data processing
759 and other incidental support for the program.

760 (d) Participating insurers.--

761 1. As a condition of doing business in this state, each
762 insurer holding a certificate of authority to write residential
763 property insurance shall enter into a contract with the program
764 under which the program agrees to issue a policy providing
765 hurricane coverage to each insured for which the participating
766 insurer provides a policy providing residential property
767 insurance coverage for other perils, except as provided in sub-
768 paragraph 2.b., and under which the participating insurer
769 agrees to administer the policy as issued by the program,
770 subject to the provisions of this subsection and the plan of
771 operation.

772 2. The contract shall require the participating insurer
773 to:

774 a. Collect premiums established pursuant to this
775 subsection for the policy issued by the program using the same
776 billing practices, including payment plans, if any, as the
777 participating insurer uses for the underlying policy, and remit
778 collected premiums to the program on a schedule specified by the
779 program.

780 b. Apply deductibles, discounts, surcharges, credits, and

HB 1157

2009

781 limits as established by the program.

782 c. Administer the hurricane coverage under the program
783 policy and provide the program policy to each of its residential
784 property insureds, except to the extent inconsistent with
785 eligibility standards specified in this subsection, program
786 underwriting standards, or the property owner's option to
787 exclude coverage under s. 627.712(2) or (3).

788 d. Comply with program requirements and standards relating
789 to program policies, including underwriting, cancellation and
790 nonrenewal, and similar matters. The contract shall allow the
791 participating insurer to solicit, sell, promote, or otherwise
792 acquire policyholders and effectuate coverage using its own
793 lawful methodologies, systems, agents, and approach. The
794 contract shall provide that the program, the board, and the
795 office shall not in any way prohibit, restrict, or limit the
796 participating insurer's authority and discretion to appoint,
797 compensate, and contract with agents as the insurer and the
798 agent, in their respective discretion, deem appropriate and
799 feasible, except to the extent that such conduct is specifically
800 prohibited by law.

801 e. Provide application processing, premium processing,
802 claims processing, and adjusting services in accordance with
803 standards specified in the plan of operation.

804 f. Provide claims payments to insureds, drawn on an
805 account established and funded by the program for such purpose.

806 3. A participating insurer has a fiduciary duty to the
807 program to fairly adjust claims and allocate losses between
808 hurricane and nonhurricane perils.

HB 1157

2009

809 4. The program shall establish an audit process to
810 determine participating insurers' compliance with their
811 fiduciary duties and the requirements of the contract.

812 5. A participating insurer may make available to its
813 residential property insureds coverage that supplements the
814 hurricane coverage provided by the program, but may not make
815 available to its residential property insureds any coverage that
816 is the same as or similar to the coverage provided by the
817 program.

818 (e) Noncompliance by participating insurer; liability.--

819 1. If a participating insurer fails to substantially
820 comply with its obligations under the program contract or
821 breaches its fiduciary duty to the program, the program may
822 require the participating insurer to pay actual damages, require
823 the participating insurer to pay liquidated damages as specified
824 in the program contract, or direct the Office of Insurance
825 Regulation to impose a specified penalty under the Insurance
826 Code.

827 2. There shall be no liability on the part of, and no
828 cause of action of any nature shall arise against, any
829 participating insurer or its agents or employees, the program or
830 its employees, or members of the board for any action taken by
831 such persons or entities in the performance of their respective
832 duties or responsibilities under this subsection. Such immunity
833 does not apply to:

834 a. Any persons or entities specified in this subparagraph
835 for any willful tort.

836 b. The program, a participating insurer, or a

HB 1157

2009

837 participating insurer's producing agents for breach of any
838 written contract or written agreement pertaining to insurance
839 coverage.

840 c. The program or the fund with respect to issuance or
841 payment of debt.

842 d. Any participating insurer with respect to any action by
843 the program to enforce a participating insurer's obligations to
844 the program under this subsection.

845 e. The program in any action for breach of contract or for
846 benefits under a policy issued by the program. In any such
847 action, the program shall be liable to the policyholders and
848 beneficiaries for attorney's fees as provided in s. 627.428.

849 (f) Ratemaking.--

850 1. The program shall select an independent consultant to
851 recommend to the board a rate plan for program coverage.

852 2.a. Program rates must be as close as possible to
853 actuarially indicated rates, taking into account the state's
854 need to restore or maintain affordability of residential
855 property insurance coverage, the program's reinsurance needs as
856 determined under paragraph (g), and the cost of additional
857 reinsurance negotiated under paragraph (g).

858 b. Except as otherwise specifically provided in this
859 paragraph, rates may not be excessive, inadequate, or unfairly
860 discriminatory within the meaning of s. 627.062, and the rate
861 plan must provide mitigation discounts consistent with the
862 intent of s. 627.0629.

863 c. In the aggregate, the rates must generate premium
864 revenue equal to or greater than the statewide average annual

HB 1157

2009

865 insured hurricane loss, based on an average of all models
866 currently determined to meet the standards and guidelines of the
867 Florida Commission on Hurricane Loss Projection Methodology,
868 plus expenses.

869 3. The program shall annually adopt a rate plan pursuant
870 to this paragraph and shall submit the rate plan to the Office
871 of Insurance Regulation for review under s. 627.062. The office
872 shall approve the plan unless the office determines that the
873 plan fails to meet the criteria specified in subparagraph 2. In
874 complying with s. 627.062(2)(i), the office shall not directly
875 or indirectly prohibit, impede, or restrict any participating
876 insurer from compensating duly appointed agents as the
877 participating insurer, in its sole discretion, deems
878 appropriate. A rate plan takes effect on the date specified in
879 the rate plan and remains in effect until the effective date of
880 a subsequently adopted rate plan.

881 (g) Calculation of reinsurance needs; optional
882 reinsurance.--

883 1. It is the intent of the Legislature that the program
884 must have for any hurricane season resources sufficient to cover
885 all losses and expenses attributable to a 1-in-100 year seasonal
886 probable maximum loss, relying on a combination of cash, debt,
887 appropriated state funds or federal funding, if any, and
888 reinsurance. Prior to receiving the rate recommendations of the
889 independent consultant under subparagraph (f)1., the board shall
890 adopt an estimate of the program's reinsurance needs. The
891 estimate shall be calculated as follows:

892 a. The board shall determine a projected cash balance for

893 the upcoming year.

894 b. The board shall obtain an opinion from a financial
 895 advisor regarding the maximum amount of funding the board could
 896 reasonably be expected to obtain for hurricane losses in the
 897 upcoming year through bonds and other debt instruments and
 898 through any available federal funding sources, taking into
 899 account both the actual capacity of credit markets to absorb the
 900 program's debt offerings and the assessment revenues and other
 901 revenues available for debt service.

902 c. The board shall determine the minimum amount of
 903 reinsurance necessary to ensure that, taken together with the
 904 amounts calculated under sub-subparagraphs a. and b., the
 905 program will be able, for the upcoming hurricane season, to
 906 cover all losses and expenses attributable to a 1-in-100 year
 907 seasonal probable maximum loss.

908 2. The program shall annually procure such amounts of
 909 reinsurance as are determined to be necessary under the
 910 calculation specified in subparagraph 1.

911 3. In addition to the mandatory procurement of reinsurance
 912 under subparagraph 2., the board may also procure reinsurance
 913 for the purpose of reducing potential assessments or for the
 914 purpose of transferring some or all of the risk of loss in
 915 excess of the 1-in-100 year seasonal probable maximum loss.

916 4. The board may structure its reinsurance arrangements in
 917 such layer or layers, in such groupings of risks, and with such
 918 percentages of retained liability in a particular layer, as the
 919 board deems appropriate.

920 (h) Transition.--

HB 1157

2009

921 1. It is the intent of the Legislature that participating
922 insurers continue to provide hurricane coverage to their
923 existing policyholders under policies providing residential
924 property insurance coverage until the first renewal date on or
925 after March 1, 2010, at which time the hurricane coverage shall
926 be provided under a program policy.

927 2. A participating insurer remains eligible for coverage
928 under subsection (4) during the contract year beginning June 1,
929 2010, to the extent the participating insurer has in force
930 policies defined as covered policies under subsection (2). The
931 premium for such coverage shall be based on the participating
932 insurer's exposure as of June 30, 2010.

933 3. The replacement of hurricane coverage under a
934 participating insurer's policy providing residential property
935 insurance coverage with hurricane coverage under a program
936 policy does not constitute a cancellation or nonrenewal for
937 purposes of s. 627.4133 or any other purposes under the
938 Insurance Code. With respect to residential property insurance
939 policy renewals taking effect on or after March 1, 2010, and
940 before March 1, 2011, the notice of renewal premium shall
941 include a notice, in a form specified by the board, stating
942 that, as of the policy renewal date, hurricane coverage will be
943 provided under a program policy administered by the insurer and
944 coverage for other perils will be provided under a residential
945 property insurance policy issued by the insurer.

946 (i) It is the intent of the Legislature that, after the
947 program has sufficient experience providing residential
948 hurricane coverage, coverage under the program be expanded to

HB 1157

2009

949 include commercial nonresidential properties with a structure
950 insured value not exceeding \$2 million, contingent upon clear
951 evidence of the feasibility of and need for such expansion.
952 Therefore, no later than December 31, 2012, the State Board of
953 Administration shall provide a report to the President of the
954 Senate and the Speaker of the House of Representatives that
955 analyzes the feasibility of and need for an expansion of the
956 program as described in this paragraph.

957 Section 2. State Board of Administration; implementation
958 of the Florida Hurricane Protection Program.--

959 (1) No later than October 1, 2009, the State Board of
960 Administration shall adopt the plan of operation and all forms
961 and rates required to implement the Florida Hurricane Protection
962 Program created by s. 215.555(18), Florida Statutes.

963 (2) No later than October 1, 2009, the State Board of
964 Administration shall submit the initial rate plan required to
965 implement the Florida Hurricane Protection Program created by s.
966 215.555, Florida Statutes, as amended by this act, to the Office
967 of Insurance Regulation for review and approval. The office
968 shall review the initial rate plan on an expedited basis. The
969 office shall approve the initial rate plan, as originally filed
970 or as subsequently revised by the office, no later than December
971 1, 2009. Annual rate filings subsequent to the initial rate plan
972 shall take effect only after approval by the office.

973 (3) In order to meet the deadline specified in this
974 section, the board may adopt the plan of operation and forms as
975 emergency rules under s. 120.54(4), Florida Statutes.
976 Notwithstanding the provisions of s. 120.54(4), Florida

HB 1157

2009

977 Statutes, such rules shall remain in effect until they are
978 replaced by permanent rules adopted under s. 120.54(3), Florida
979 Statutes, provided that the board initiates rulemaking under s.
980 120.54(3), Florida Statutes, no later than 30 days after the
981 adoption of the emergency rules.

982 Section 3. Transitional rate and form filings.--Each
983 insurer holding a certificate of authority to write residential
984 property insurance in this state, including Citizens Property
985 Insurance Corporation, shall, no later than October 1, 2009,
986 file with the Office of Insurance Regulation policy forms or
987 endorsements to reflect the fact that, with respect to policies
988 issued or renewed on or after March 1, 2010, residential
989 hurricane coverage will be provided in a separate policy issued
990 by the Florida Hurricane Protection Program under s.
991 215.555(18), Florida Statutes, and shall make appropriate rate
992 adjustments on a use and file basis under s. 627.062(2)(a)2.,
993 Florida Statutes. Any form or endorsement filed under this
994 section is deemed approved on December 1, 2009, unless
995 specifically disapproved by the office.

996 Section 4. Subsection (1) of section 624.509, Florida
997 Statutes, is amended to read:

998 624.509 Premium tax; rate and computation.--

999 (1) In addition to the license taxes provided for in this
1000 chapter, each insurer shall also annually, and on or before
1001 March 1 in each year, except as to wet marine and transportation
1002 insurance taxed under s. 624.510, pay to the Department of
1003 Revenue a tax on insurance premiums, premiums for title
1004 insurance, or assessments, including membership fees and policy

HB 1157

2009

1005 fees and gross deposits received from subscribers to reciprocal
 1006 or interinsurance agreements, and on annuity premiums or
 1007 considerations, received during the preceding calendar year, the
 1008 amounts thereof to be determined as set forth in this section,
 1009 to wit:

1010 (a) An amount equal to 1.75 percent of the gross amount of
 1011 such receipts on account of life and health insurance policies
 1012 covering persons resident in this state and on account of all
 1013 other types of policies and contracts (except annuity policies
 1014 or contracts taxable under paragraph (b) and except policies
 1015 issued by the Florida Hurricane Protection Program under s.
 1016 215.555(18)) covering property, subjects, or risks located,
 1017 resident, or to be performed in this state, omitting premiums on
 1018 reinsurance accepted, and less return premiums or assessments,
 1019 but without deductions:

- 1020 1. For reinsurance ceded to other insurers;
- 1021 2. For moneys paid upon surrender of policies or
 1022 certificates for cash surrender value;
- 1023 3. For discounts or refunds for direct or prompt payment
 1024 of premiums or assessments; and
- 1025 4. On account of dividends of any nature or amount paid
 1026 and credited or allowed to holders of insurance policies;
 1027 certificates; or surety, indemnity, reciprocal, or
 1028 interinsurance contracts or agreements; and

1029 (b) An amount equal to 1 percent of the gross receipts on
 1030 annuity policies or contracts paid by holders thereof in this
 1031 state.

1032 (c) With respect to policies issued by the Florida
 1033 Hurricane Protection Program under s. 215.555(18), the program
 1034 shall annually pay to the Department of Revenue on or before
 1035 March 1 of each year a tax on insurance premiums received during
 1036 the preceding calendar year in an amount equal to 1 percent of
 1037 the gross amount of receipts on account of such policies,
 1038 subject to the deductions and exclusions specified in paragraph
 1039 (a).

1040 Section 5. Paragraphs (ff), (gg), and (hh) are added to
 1041 subsection (6) of section 627.351, Florida Statutes, to read:

1042 627.351 Insurance risk apportionment plans.--

1043 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

1044 (ff) Notwithstanding any provision of this subsection or
 1045 s. 627.3517:

1046 1. On or after March 1, 2010, the corporation may not
 1047 issue or renew any residential property insurance policy
 1048 providing hurricane coverage as defined in s. 215.555(18). This
 1049 prohibition does not preclude the corporation from issuing or
 1050 renewing policies that provide other residential property
 1051 insurance coverages.

1052 2. The corporation, directly or through the market
 1053 assistance plan, shall make information from confidential
 1054 underwriting and claims files of policyholders available only to
 1055 licensed general lines agents who register with the corporation
 1056 to receive such information according to the following
 1057 procedures:

1058 a. No later than August 1, 2009, the corporation shall
 1059 make available to licensed general lines agents the registration

HB 1157

2009

1060 procedures to be used to obtain confidential information from
1061 underwriting and claims files for all policies issued by the
1062 corporation providing residential coverage, other than
1063 windstorm-only policies.

1064 b. No later than September 1, 2009, the corporation shall
1065 establish a secure website to provide licensed general lines
1066 agents registered pursuant to this paragraph with application,
1067 rating information, loss history, mitigation, and policy type
1068 for all policies issued by the corporation providing residential
1069 coverage, other than windstorm-only policies. The registered
1070 licensed general lines agent may use such information to contact
1071 and assist the policyholder in securing residential property
1072 coverage in the voluntary market.

1073 3. Effective March 1, 2010, the corporation may not issue
1074 or renew a policy providing residential property insurance
1075 coverage if the owner of the property has received an offer of
1076 coverage from a participating insurer as defined in s.
1077 215.555(18), provided the participating insurer has given the
1078 corporation notice of the offer of coverage at least 30 days
1079 prior to the expected renewal date or expected issuance date of
1080 the corporation's policy. Nothing in this subparagraph precludes
1081 a participating insurer from making an offer of coverage to a
1082 property owner who has received an offer of coverage from
1083 another participating insurer.

1084 (gg) No later than December 31, 2011, the corporation
1085 shall transfer to the Florida Hurricane Catastrophe Fund an
1086 additional capital contribution for the benefit of the Florida
1087 Hurricane Protection Program. The contribution shall consist of

1088 the corporation's surplus as to policyholders, multiplied by a
 1089 ratio:

1090 1. The numerator of which is the total structural insured
 1091 value as of March 1, 2011, for risks covered by all policies
 1092 issued by the corporation; and

1093 2. The denominator of which is the total structural
 1094 insured value as of March 1, 2010, for risks covered by all
 1095 policies issued by the corporation.

1096 (hh) No later than October 1, 2009, the corporation shall
 1097 enter into an agreement with the Florida Hurricane Protection
 1098 Program under which the program has the right to use all of the
 1099 corporation's information technology related to the high-risk
 1100 account, including computer systems, hardware, and software and
 1101 other intellectual property, and including licenses to any such
 1102 information technology used by the corporation under license. On
 1103 March 1, 2011, all such information technology and the licenses
 1104 thereto become the property of the program.

1105 Section 6. Subsection (1) of section 627.706, Florida
 1106 Statutes, is amended to read:

1107 627.706 Sinkhole insurance; catastrophic ground cover
 1108 collapse; definitions.--

1109 (1) (a) Every insurer authorized to transact property
 1110 insurance in this state shall provide coverage for a
 1111 catastrophic ground cover collapse and shall make available, for
 1112 an appropriate additional premium, coverage for sinkhole losses
 1113 on any structure, including contents of personal property
 1114 contained therein, to the extent provided in the form to which
 1115 the coverage attaches. A policy for residential property

HB 1157

2009

1116 insurance may include a deductible amount applicable to sinkhole
1117 losses equal to 1 percent, 2 percent, 5 percent, or 10 percent
1118 of the policy dwelling limits, with appropriate premium
1119 discounts offered with each deductible amount.

1120 (b)1. Effective January 1, 2010, the provisions of this
1121 paragraph apply to residential property insurance coverage of
1122 properties located in counties with a high risk of sinkhole
1123 hazards issued by an admitted insurer or by Citizens Property
1124 Insurance Corporation. High sinkhole hazard counties include
1125 Hernando County, Pasco County, and any other county determined
1126 by the office to have a similarly high likelihood of sinkhole
1127 losses, as compared with the state as a whole, based upon
1128 available scientific, historical, and actuarial evidence.

1129 2. A homeowner's multiperil insurance policy or dwelling
1130 fire insurance policy subject to this paragraph shall include
1131 coverage for a catastrophic ground cover collapse but shall not
1132 include coverage for sinkhole losses. The insurer shall make
1133 available to the policyholder an endorsement or separate policy
1134 providing sinkhole coverage.

1135 Section 7. This act shall take effect July 1, 2009.