

By Senator Fasano

11-00445A-09

20092384__

1 A bill to be entitled
2 An act relating to property insurance; amending s.
3 215.555, F.S.; providing additional legislative
4 findings; redefining the terms "covered event,"
5 "covered policy," "losses," "estimated claims-paying
6 capacity," and "actual claims-paying capacity" to
7 refer to reimbursement contracts; specifying uses of
8 moneys in the Florida Hurricane Catastrophe Fund;
9 providing for the expiration of certain requirements
10 related to the initiation of reimbursement contracts;
11 revising provisions with respect to issuance and use
12 of revenue bonds; providing additional legislative
13 findings regarding the issuance of certain revenue
14 bonds; authorizing the State Board of Administration
15 to direct the Office of Insurance Regulation to levy
16 emergency assessments under certain circumstances;
17 providing an expiration date for certain such
18 authorizations; excluding certain assessments from the
19 effects of such expiration; limiting the amount of
20 such emergency assessments; requiring that the board
21 appoint an advisory council; providing purposes and
22 duties for the council; providing for membership of
23 the council; requiring that the Chief Financial
24 Officer annually designate a chair of the council;
25 revising coverage levels under the Temporary Increase
26 in Coverage Limits option to conform to changes made
27 by the act; creating the Florida Hurricane Protection
28 Program within the Florida Hurricane Catastrophe Fund;
29 specifying purpose of the program; providing

11-00445A-09

20092384__

30 definitions; requiring that the board adopt a plan of
31 operation for the program by rule; providing
32 requirements for the plan of operation; requiring that
33 certain coverage be provided; providing limitations
34 and requirements for such coverage; requiring
35 participation by certain insurers by entrance into a
36 contract with the program; providing requirements for
37 such contract; specifying powers and duties of the
38 program; specifying duties of participating insurers;
39 providing sanctions for noncompliance; providing
40 limitations on liability; providing for the adoption
41 of rates and forms; providing for the calculation of
42 reinsurance needs; authorizing the acquisition of
43 additional reinsurance for specified purposes;
44 providing for transition; requiring that insurers make
45 certain rate and form filings; providing legislative
46 intent; requiring that the board adopt the plan of
47 operation on or before a specified deadline; providing
48 for implementation of the program; authorizing the
49 board to adopt the plan of operation and forms as
50 emergency rules; providing for the expiration of such
51 emergency rules; requiring that the board initiate
52 rulemaking within a specified period after the
53 adoption of emergency rules; requiring that the board
54 submit the initial rate plan required to implement the
55 Florida Hurricane Protection Program to the Office of
56 Insurance Regulation on or before a specified
57 deadline; requiring that the office review the initial
58 rate plan on an expedited basis; requiring that the

11-00445A-09

20092384

59 office approve the initial rate plan on or before a
60 specified deadline; providing that annual rate filings
61 made subsequent to the initial rate plan take effect
62 only after approval by the office; requiring
63 transitional rate and form filings; amending s.
64 624.509, F.S.; specifying the applicability of the
65 insurance premium tax to policies issued by the
66 Florida Hurricane Protection Program; amending s.
67 627.351, F.S.; prohibiting Citizens Property Insurance
68 Corporation from issuing or renewing certain types of
69 policies after a specified date; providing an
70 exception to restrictions on the acceptance of certain
71 offers of coverage; requiring that the corporation
72 provide access to specified policy information by
73 insurance agents on or before specified deadlines;
74 requiring that the corporation transfer a specified
75 portion of its surplus to the fund; providing for the
76 use of the corporation's information technology by the
77 program; transferring ownership of such information
78 technology to the program; amending s. 627.706, F.S.;
79 specifying which counties are considered "high
80 sinkhole hazard counties"; requiring that certain
81 property insurance policies in such counties include
82 catastrophic ground cover collapse coverage;
83 prohibiting such policies in such areas from including
84 coverage for sinkhole losses; requiring that an
85 insurer make available to such policyholder an
86 endorsement or separate policy providing sinkhole
87 coverage; providing an effective date.

11-00445A-09

20092384__

88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116

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

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

215.555 Florida Hurricane Catastrophe Fund.—

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

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

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

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

3. The potential inability of the Florida Hurricane Catastrophe Fund, as currently constituted, to meet its obligations threatens the solvency of all residential property insurers in the state.

4. Notwithstanding depopulation efforts that have removed numerous policies from Citizens Property Insurance Corporation and its predecessors, the property insurance residual market remains unacceptably large, with approximately one million

11-00445A-09

20092384

117 policies in force and a total exposure of approximately \$400
118 billion.

119 5. The unsatisfactory performance of a system intended to
120 provide available, affordable, and reliable coverage for
121 residential hurricane losses in the state, together with the
122 state's unique exposure to hurricane losses, supports the
123 conclusion that hurricanes may be an uninsurable peril in all or
124 parts of the state as the concept of insurability is commonly
125 understood.

126 6. Therefore, a restructured system to protect residential
127 property owners from hurricane losses serves the compelling
128 state interest in maintaining a viable and orderly private-
129 sector market for property insurance, as described in paragraph
130 (a), and is a necessary measure to abate a significant threat to
131 the economy of this state.

132 (2) DEFINITIONS.—As used in this section:

133 (b) "Covered event" means, with respect to reimbursement
134 contracts, any one storm declared to be a hurricane by the
135 National Hurricane Center, which storm causes insured losses in
136 this state.

137 (c) "Covered policy" means, with respect to reimbursement
138 contracts, any insurance policy covering residential property in
139 this state, including, but not limited to, any homeowner's,
140 mobile home owner's, farm owner's, condominium association,
141 condominium unit owner's, tenant's, or apartment building
142 policy, or any other policy covering a residential structure or
143 its contents issued by any authorized insurer, including a
144 commercial self-insurance fund holding a certificate of
145 authority issued by the Office of Insurance Regulation under s.

11-00445A-09

20092384

146 624.462, the Citizens Property Insurance Corporation, and any
147 joint underwriting association or similar entity created under
148 law. The term "covered policy" includes any collateral
149 protection insurance policy covering personal residences which
150 protects both the borrower's and the lender's financial
151 interests, in an amount at least equal to the coverage for the
152 dwelling in place under the lapsed homeowner's policy, if such
153 policy can be accurately reported as required in subsection (5).
154 Additionally, covered policies include policies covering the
155 peril of wind removed from the Florida Residential Property and
156 Casualty Joint Underwriting Association or from the Citizens
157 Property Insurance Corporation, created under s. 627.351(6), or
158 from the Florida Windstorm Underwriting Association, created
159 under s. 627.351(2), by an authorized insurer under the terms
160 and conditions of an executed assumption agreement between the
161 authorized insurer and such association or Citizens Property
162 Insurance Corporation. Each assumption agreement between the
163 association and such authorized insurer or Citizens Property
164 Insurance Corporation must be approved by the Office of
165 Insurance Regulation before the effective date of the
166 assumption, and the Office of Insurance Regulation must provide
167 written notification to the board within 15 working days after
168 such approval. "Covered policy" does not include any policy that
169 excludes wind coverage or hurricane coverage or any reinsurance
170 agreement and does not include any policy otherwise meeting this
171 definition which is issued by a surplus lines insurer or a
172 reinsurer. All commercial residential excess policies and all
173 deductible buy-back policies that, based on sound actuarial
174 principles, require individual ratemaking shall be excluded by

11-00445A-09

20092384

175 rule if the actuarial soundness of the fund is not jeopardized.
176 For this purpose, the term "excess policy" means a policy that
177 provides insurance protection for large commercial property
178 risks and that provides a layer of coverage above a primary
179 layer insured by another insurer.

180 (d) "Losses" means, with respect to reimbursement
181 contracts, direct incurred losses under covered policies, which
182 shall include losses for additional living expenses not to
183 exceed 40 percent of the insured value of a residential
184 structure or its contents and shall exclude loss adjustment
185 expenses. "Losses" does not include losses for fair rental
186 value, loss of rent or rental income, or business interruption
187 losses.

188 (1) "Estimated claims-paying capacity" means, with respect
189 to reimbursement contracts, the sum of the projected year-end
190 balance of the fund as of December 31 of a contract year, plus
191 any reinsurance purchased by the fund, plus the board's estimate
192 of the board's borrowing capacity.

193 (m) "Actual claims-paying capacity" means, with respect to
194 reimbursement contracts, the sum of the balance of the fund as
195 of December 31 of a contract year, plus any reinsurance
196 purchased by the fund, plus the amount the board is able to
197 raise through the issuance of revenue bonds under subsection
198 (6).

199 (3) FLORIDA HURRICANE CATASTROPHE FUND CREATED.—There is
200 created the Florida Hurricane Catastrophe Fund to be
201 administered by the State Board of Administration. Moneys in the
202 fund may not be expended, loaned, or appropriated except to pay
203 obligations of the fund arising out of reimbursement contracts

11-00445A-09

20092384

204 entered into under subsection (4), payment of debt service on
205 revenue bonds issued under subsection (6), costs of the
206 mitigation program under subsection (7), costs of the Florida
207 Hurricane Protection Program under subsection (18), costs of
208 procuring reinsurance, and costs of administration of the fund.
209 The board shall invest the moneys in the fund pursuant to ss.
210 215.44-215.52. Except as otherwise provided in this section,
211 earnings from all investments shall be retained in the fund. The
212 board may employ or contract with such staff and professionals
213 as the board deems necessary for the administration of the fund.
214 The board may adopt such rules as are reasonable and necessary
215 to implement this section and shall specify interest due on any
216 delinquent remittances, which interest may not exceed the fund's
217 rate of return plus 5 percent. Such rules must conform to the
218 Legislature's specific intent in establishing the fund as
219 expressed in subsection (1), must enhance the fund's potential
220 ability to respond to claims for covered events, must contain
221 general provisions so that the rules can be applied with
222 reasonable flexibility so as to accommodate insurers in
223 situations of an unusual nature or where undue hardship may
224 result, except that such flexibility may not in any way impair,
225 override, supersede, or constrain the public purpose of the
226 fund, and must be consistent with sound insurance practices. The
227 board may, by rule, provide for the exemption from subsections
228 (4) and (5) of insurers writing covered policies with less than
229 \$10 million in aggregate exposure for covered policies if the
230 exemption does not affect the actuarial soundness of the fund.

231 (4) REIMBURSEMENT CONTRACTS.—

232 (a)1. The board shall enter into a contract with each

11-00445A-09

20092384__

233 insurer writing covered policies in this state to provide to the
234 insurer the reimbursement described in paragraphs (b) and (d),
235 in exchange for the reimbursement premium paid into the fund
236 under subsection (5). As a condition of doing business in this
237 state, each such insurer shall enter into such a contract.

238 2. The requirement that the board enter into reimbursement
239 contracts with insurers and the requirement that insurers enter
240 into such contracts with the board expire on May 31, 2011.

241 (6) REVENUE BONDS.—

242 (a) *General provisions.*—

243 1. Upon ~~the occurrence of a hurricane and~~ a determination
244 that the moneys in the fund are or will be insufficient to pay
245 reimbursement at the levels promised in the reimbursement
246 contracts under subsection (4), or upon a determination that the
247 moneys in the fund are or will be insufficient to meet the
248 obligations of the Florida Hurricane Protection Program under
249 subsection (18), the board may take the necessary steps under
250 paragraph (c) or paragraph (d) for the issuance of revenue bonds
251 for the benefit of the fund. The proceeds of such revenue bonds
252 may be used to make reimbursement payments under reimbursement
253 contracts; to refinance or replace previously existing
254 borrowings or financial arrangements; to pay interest on bonds;
255 to fund reserves for the bonds; to pay expenses incident to the
256 issuance or sale of any bond issued under this section,
257 including costs of validating, printing, and delivering the
258 bonds, costs of printing the official statement, costs of
259 publishing notices of sale of the bonds, and related
260 administrative expenses; or for such other purposes related to
261 the financial obligations of the fund as the board may

11-00445A-09

20092384__

262 determine. The term of the bonds may not exceed 30 years. The
263 board may pledge or authorize the corporation to pledge all or a
264 portion of all revenues under subsection (5) and under paragraph
265 (b) to secure such revenue bonds and the board may execute such
266 agreements between the board and the issuer of any revenue bonds
267 and providers of other financing arrangements under paragraph
268 (7)(b) as the board deems necessary to evidence, secure,
269 preserve, and protect such pledge. If reimbursement premiums
270 received under subsection (5) or earnings on such premiums are
271 used to pay debt service on revenue bonds, such premiums and
272 earnings shall be used only after the use of the moneys derived
273 from assessments under paragraph (b). The funds, credit,
274 property, or taxing power of the state or political subdivisions
275 of the state shall not be pledged for the payment of such bonds.
276 The board may also enter into agreements under paragraph (c) or
277 paragraph (d) for the purpose of issuing revenue bonds in the
278 absence of a hurricane upon a determination that such action
279 would maximize the ability of the fund to meet future
280 obligations.

281 2. The Legislature finds and declares that the issuance of
282 bonds under this subsection is for the public purpose of paying
283 the proceeds of the bonds to insurers as required by
284 reimbursement contracts under subsection (4), thereby enabling
285 insurers to pay the claims of policyholders to assure that
286 policyholders are able to pay the cost of construction,
287 reconstruction, repair, and restoration, and other costs
288 associated with damage to property of policyholders of covered
289 policies after the occurrence of a hurricane, and for the public
290 purpose of paying claims of policyholders under subsection (18)

11-00445A-09

20092384__

291 to ensure that policyholders are able to pay the costs of
292 construction, reconstruction, repair, restoration, and other
293 costs associated with damage to their property after a
294 hurricane.

295 (b) *Emergency assessments.*—

296 1.a. If the board determines that the amount of revenue
297 produced under subsections ~~subsection~~ (5) and (18) is
298 insufficient to fund the obligations, costs, and expenses of the
299 fund and the corporation, including repayment of revenue bonds
300 and that portion of the debt service coverage not met by
301 reimbursement premiums, the board shall direct the Office of
302 Insurance Regulation to levy, by order, an emergency assessment
303 on direct premiums for all property and casualty lines of
304 business in this state, including property and casualty business
305 of surplus lines insurers regulated under part VIII of chapter
306 626, but not including any workers' compensation premiums or
307 medical malpractice premiums. As used in this subsection, the
308 term "property and casualty business" includes all lines of
309 business identified on Form 2, Exhibit of Premiums and Losses,
310 in the annual statement required of authorized insurers by s.
311 624.424 and any rule adopted under this section, except for
312 those lines identified as accident and health insurance and
313 except for policies written under the National Flood Insurance
314 Program. The assessment shall be specified as a percentage of
315 direct written premium and is subject to annual adjustments by
316 the board in order to meet debt obligations. The same percentage
317 shall apply to all policies in lines of business subject to the
318 assessment issued or renewed during the 12-month period
319 beginning on the effective date of the assessment. This sub-

11-00445A-09

20092384

320 subparagraph expires June 1, 2011. The expiration of this sub-
321 subparagraph does not affect any assessments levied under this
322 sub-subparagraph before that date.

323 b. Effective June 1, 2011, if the board determines that the
324 amount of revenue produced under subsections (5) and (18),
325 including appropriated state funds or federal funding, if any,
326 is insufficient to fund the obligations, costs, and expenses of
327 the fund and the corporation, including repayment of revenue
328 bonds and debt service coverage, the board shall direct the
329 Office of Insurance Regulation to levy, by order, an emergency
330 assessment on direct premiums for all personal lines and
331 commercial lines policies providing property insurance coverage,
332 including policies issued by the Florida Hurricane Protection
333 Program under subsection (18). Such assessment shall be
334 specified as a percentage of direct written premium and is
335 subject to annual adjustments by the board in order to meet debt
336 obligations. The same percentage shall apply to all policies
337 issued or renewed during the 12-month period beginning on the
338 effective date of the assessment in all lines of business
339 subject to the assessment.

340 2.a. A premium is not subject to an annual assessment under
341 this paragraph in excess of 6 percent of premium with respect to
342 obligations arising out of losses attributable to any one
343 contract year, and a premium is not subject to an aggregate
344 annual assessment under this paragraph in excess of 10 percent
345 of premium. This sub-subparagraph expires June 1, 2011. The
346 expiration of this sub-subparagraph does not affect any
347 assessments levied under this sub-subparagraph before that date.

348 b. Effective June 1, 2011, the total amount of emergency

11-00445A-09

20092384

349 assessments under this paragraph with respect to a fund deficit
350 incurred in any year may not exceed 10 percent of the statewide
351 total gross written premium for all insurers for personal lines
352 and commercial lines policies providing property insurance
353 coverage, including policies issued by the Florida Hurricane
354 Protection Program under subsection (18), for the preceding
355 year.

356 c. An annual assessment under this paragraph shall continue
357 as long as the revenue bonds issued with respect to which the
358 assessment was imposed are outstanding, including any bonds the
359 proceeds of which were used to refund the revenue bonds, unless
360 adequate provision has been made for the payment of the bonds
361 under the documents authorizing issuance of the bonds.

362 3. Emergency assessments shall be collected from
363 policyholders. Emergency assessments shall be remitted by
364 insurers as a percentage of direct written premium for the
365 preceding calendar quarter as specified in the order from the
366 Office of Insurance Regulation. The office shall verify the
367 accurate and timely collection and remittance of emergency
368 assessments and shall report the information to the board in a
369 form and at a time specified by the board. Each insurer
370 collecting assessments shall provide the information with
371 respect to premiums and collections as may be required by the
372 office to enable the office to monitor and verify compliance
373 with this paragraph.

374 4. With respect to assessments of surplus lines premiums,
375 each surplus lines agent shall collect the assessment at the
376 same time as the agent collects the surplus lines tax required
377 by s. 626.932, and the surplus lines agent shall remit the

11-00445A-09

20092384

378 assessment to the Florida Surplus Lines Service Office created
379 by s. 626.921 at the same time as the agent remits the surplus
380 lines tax to the Florida Surplus Lines Service Office. The
381 emergency assessment on each insured procuring coverage and
382 filing under s. 626.938 shall be remitted by the insured to the
383 Florida Surplus Lines Service Office at the time the insured
384 pays the surplus lines tax to the Florida Surplus Lines Service
385 Office. The Florida Surplus Lines Service Office shall remit the
386 collected assessments to the fund or corporation as provided in
387 the order levied by the Office of Insurance Regulation. The
388 Florida Surplus Lines Service Office shall verify the proper
389 application of such emergency assessments and shall assist the
390 board in ensuring the accurate and timely collection and
391 remittance of assessments as required by the board. The Florida
392 Surplus Lines Service Office shall annually calculate the
393 aggregate written premium on property and casualty business,
394 other than workers' compensation and medical malpractice,
395 procured through surplus lines agents and insureds procuring
396 coverage and filing under s. 626.938 and shall report the
397 information to the board in a form and at a time specified by
398 the board.

399 5. Any assessment authority not used for a particular
400 contract year may be used for a subsequent contract year. If,
401 for a subsequent contract year, the board determines that the
402 amount of revenue produced under subsection (5) is insufficient
403 to fund the obligations, costs, and expenses of the fund and the
404 corporation, including repayment of revenue bonds and that
405 portion of the debt service coverage not met by reimbursement
406 premiums, the board shall direct the Office of Insurance

11-00445A-09

20092384

407 Regulation to levy an emergency assessment up to an amount not
408 exceeding the amount of unused assessment authority from a
409 previous contract year or years, plus an additional 4 percent
410 provided that the assessments in the aggregate do not exceed the
411 limits specified in subparagraph 2. This subparagraph expires
412 June 1, 2011. The expiration of this subparagraph does not
413 affect any assessments levied under this subparagraph before
414 that date.

415 6. The assessments otherwise payable to the corporation
416 under this paragraph shall be paid to the fund unless and until
417 the Office of Insurance Regulation and the Florida Surplus Lines
418 Service Office have received from the corporation and the fund a
419 notice, which shall be conclusive and upon which they may rely
420 without further inquiry, that the corporation has issued bonds
421 and the fund has no agreements in effect with local governments
422 under paragraph (c). On or after the date of the notice and
423 until the date the corporation has no bonds outstanding, the
424 fund shall have no right, title, or interest in or to the
425 assessments, except as provided in the fund's agreement with the
426 corporation.

427 7. Emergency assessments are not premium and are not
428 subject to the premium tax, to the surplus lines tax, to any
429 fees, or to any commissions. An insurer is liable for all
430 assessments that it collects and must treat the failure of an
431 insured to pay an assessment as a failure to pay the premium. An
432 insurer is not liable for uncollectible assessments.

433 8. When an insurer is required to return an unearned
434 premium, it shall also return any collected assessment
435 attributable to the unearned premium. A credit adjustment to the

11-00445A-09

20092384

436 collected assessment may be made by the insurer with regard to
 437 future remittances that are payable to the fund or corporation,
 438 but the insurer is not entitled to a refund.

439 9. When a surplus lines insured or an insured who has
 440 procured coverage and filed under s. 626.938 is entitled to the
 441 return of an unearned premium, the Florida Surplus Lines Service
 442 Office shall provide a credit or refund to the agent or such
 443 insured for the collected assessment attributable to the
 444 unearned premium prior to remitting the emergency assessment
 445 collected to the fund or corporation.

446 10. The exemption of medical malpractice insurance premiums
 447 from emergency assessments under this paragraph is repealed May
 448 31, 2010, and medical malpractice insurance premiums shall be
 449 subject to emergency assessments attributable to loss events
 450 occurring in the contract years commencing on June 1, 2010.

451 (7) ADDITIONAL POWERS AND DUTIES.—

452 (b) In addition to borrowing under subsection (6), the
 453 board may also ~~borrow from, or~~ enter into other financing
 454 arrangements or borrow from with, any market sources or federal
 455 or multistate funding sources at prevailing interest rates for
 456 the purpose of ensuring or enhancing the ability of the fund to
 457 meet its obligations.

458 (8) ADVISORY COUNCIL.—

459 (a) The State Board of Administration shall appoint an
 460 advisory council to provide the board and the staff of the fund
 461 with technical, scientific, actuarial, and financial advice,
 462 information regarding the impact of potential decisions on
 463 insurance consumers and property owners subject to assessment,
 464 advice on implementation of the Florida Hurricane Protection

11-00445A-09

20092384

465 Program under subsection (18), and such other information and
466 advice as the board or the staff may request ~~a nine-member~~
467 ~~advisory council that consists of an actuary, a meteorologist,~~
468 ~~an engineer, a representative of insurers, a representative of~~
469 ~~insurance agents, a representative of reinsurers, and three~~
470 ~~consumers who shall also be representatives of other affected~~
471 ~~professions and industries, to provide the board with~~
472 ~~information and advice~~ in connection with its duties under this
473 section.

474 (b) The advisory council shall consist of 14 members,
475 appointed as provided in this paragraph. All members of the
476 advisory council shall be appointed by the board, except that
477 the Chief Financial Officer shall appoint the insurance agent
478 members under subparagraph 7.

479 1. Two owners of single-family residences, one of which is
480 located in a higher-risk coastal area and one of which is
481 located in a lower-risk inland area.

482 2. Two representatives of owners of commercial residential
483 property, one of which is located in a higher-risk coastal area
484 and one of which is located in a lower-risk inland area.

485 3. Two representatives of owners of nonresidential
486 commercial properties.

487 4. One representative of home builders.

488 5. One actuary.

489 6. One meteorologist.

490 7. Two representatives of residential property insurance
491 agents appointed by the Chief Financial Officer. One such
492 representative must be an independent agent, and the other must
493 be an agent who is appointed under chapter 626 to represent an

11-00445A-09

20092384

494 insurer that writes residential policies in this state on a
495 direct basis through appointed agents who are not employees.

496 8. One representative of residential property insurers.

497 9. One person who has substantial experience in
498 reinsurance.

499 10. One person who has substantial experience in bond
500 finance.

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

503 (d) Members of the advisory council shall serve at the
504 pleasure of the board and are eligible for per diem and travel
505 expenses under s. 112.061.

506 (17) TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.—

507 (c) *Optional coverage.*—~~For the contract year commencing~~
508 ~~June 1, 2007, and ending May 31, 2008, the contract year~~
509 ~~commencing June 1, 2008, and ending May 31, 2009, and the~~
510 ~~contract year commencing June 1, 2009, and ending May 31, 2010,~~
511 ~~the board shall offer, for each of such years, the optional~~
512 ~~coverage as provided in this subsection.~~

513 (d) *Additional definitions.*—As used in this subsection, the
514 term:

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

516 2. "FHCF reimbursement premium" means the premium paid by
517 an insurer for its coverage as a mandatory participant in the
518 FHCF, but does not include additional premiums for optional
519 coverages.

520 3. "Payout multiple" means the number or multiple created
521 by dividing the statutorily defined claims-paying capacity as
522 determined in subparagraph (4) (c)1. by the aggregate

11-00445A-09

20092384__

523 reimbursement premiums paid by all insurers estimated or
524 projected as of calendar year-end.

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

526 5. "TICL options" means the temporary increase in coverage
527 options created under this subsection.

528 6. "TICL insurer" means an insurer that has opted to obtain
529 coverage under the TICL options addendum in addition to the
530 coverage provided to the insurer under its FHCF reimbursement
531 contract.

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

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

537 9. "TICL coverage" means the coverage for an insurer's
538 losses above the insurer's statutorily determined claims-paying
539 capacity based on the claims-paying limit in subparagraph
540 (4)(c)1., which an insurer selects as its temporary increase in
541 coverage from the fund under the TICL options selected. A TICL
542 insurer's increased coverage limit options shall be calculated
543 as follows:

544 a. The board shall calculate and report to each TICL
545 insurer the TICL coverage multiples based on 12 options for
546 increasing the insurer's FHCF coverage limit. Each TICL coverage
547 multiple shall be calculated by dividing \$1 billion, \$2 billion,
548 \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7 billion, \$8
549 billion, and \$9 billion, ~~\$10 billion, \$11 billion, or \$12~~
550 ~~billion~~ by the total estimated aggregate FHCF reimbursement
551 premiums for the ~~2007-2008 contract year, the 2008-2009 contract~~

11-00445A-09

20092384__

552 ~~year, and the~~ 2009-2010 contract year.

553 b. The TICL insurer's increased coverage shall be the FHCF
554 reimbursement premium multiplied by the TICL coverage multiple
555 for the TICL option selected. In order to determine an insurer's
556 total limit of coverage, an insurer shall add its TICL coverage
557 multiple to its payout multiple. The total shall represent a
558 number that, when multiplied by an insurer's FHCF reimbursement
559 premium for a given reimbursement contract year, defines an
560 insurer's total limit of FHCF reimbursement coverage for that
561 reimbursement contract year.

562 10. "TICL options addendum" means an addendum to the
563 reimbursement contract reflecting the obligations of the fund
564 and insurers selecting an option to increase an insurer's FHCF
565 coverage limit.

566 (e) *TICL options addendum*.—

567 1. The TICL options addendum shall provide for
568 reimbursement of TICL insurers for covered events occurring
569 between June 1, 2007, and May 31, 2008, and between June 1,
570 2008, and May 31, 2009, or between June 1, 2009, and May 31,
571 2010, in exchange for the TICL reimbursement premium paid into
572 the fund under paragraph (f). Any insurer writing covered
573 policies has the option of selecting an increased limit of
574 coverage under the TICL options addendum and shall select such
575 coverage at the time that it executes the FHCF reimbursement
576 contract.

577 2. The TICL addendum shall contain a promise by the board
578 to reimburse the TICL insurer for 70 percent of the TICL
579 coverage based on the TICL option selected for the insurer's ~~45~~
580 ~~percent, 75 percent, or 90 percent of its losses~~ from each

11-00445A-09

20092384__

581 covered event in excess of the insurer's retention, plus 5
582 percent of the reimbursed losses to cover loss adjustment
583 expenses. ~~The percentage shall be the same as the coverage level~~
584 ~~selected by the insurer under paragraph (4) (b).~~

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

588 4. The priorities, schedule, and method of reimbursements
589 under the TICL addendum shall be the same as provided under
590 subsection (4).

591 (g) *Effect on claims-paying capacity of the fund.*—For the
592 contract term ~~terms~~ commencing ~~June 1, 2007, June 1, 2008, and~~
593 ~~June 1, 2009~~, the program created by this subsection shall
594 increase the claims-paying capacity of the fund as provided in
595 subparagraph (4) (c)1. by an amount not to exceed \$9 ~~\$12~~ billion
596 and shall depend on the TICL coverage options selected and the
597 number of insurers that select the TICL optional coverage. The
598 additional capacity shall apply only to the additional coverage
599 provided under the TICL options and shall not otherwise affect
600 any insurer's reimbursement from the fund if the insurer chooses
601 not to select the temporary option to increase its limit of
602 coverage under the FHCF.

603 (h) *Increasing the claims-paying capacity of the fund.*—For
604 the contract year ~~years~~ commencing ~~June 1, 2007, June 1, 2008,~~
605 ~~and June 1, 2009~~, the board may increase the claims-paying
606 capacity of the fund as provided in paragraph (g) by an amount
607 not to exceed \$4 billion in four \$1 billion options and shall
608 depend on the TICL coverage options selected and the number of
609 insurers that select the TICL optional coverage. Each insurer's

11-00445A-09

20092384__

610 TICL premium shall be calculated based upon the additional limit
611 of increased coverage that the insurer selects. Such limit is
612 determined by multiplying the TICL multiple associated with one
613 of the four options times the insurer's FHCF reimbursement
614 premium. The reimbursement premium associated with the
615 additional coverage provided in this paragraph shall be
616 determined as specified in subsection (5).

617 (18) FLORIDA HURRICANE PROTECTION PROGRAM.—

618 (a) Creation; purpose.—The Florida Hurricane Protection
619 Program is created within the Florida Hurricane Catastrophe
620 Fund. The purpose of the program is to provide residential
621 hurricane insurance coverage for properties throughout the
622 state.

623 (b) Definitions.—As used in this subsection, the term:

624 1. "Actuarially indicated" means an amount determined
625 according to principles of actuarial science to be adequate, but
626 not excessive, in the aggregate, to pay current and future
627 obligations and expenses of the program, including additional
628 amounts if needed to pay debt service on revenue bonds issued
629 under this section and to provide required debt-service coverage
630 in excess of the amounts required to pay actual debt service on
631 revenue bonds issued under subsection (6) or to meet the
632 conditions of other financial arrangements entered into under
633 the authority of paragraph (7) (b), and determined according to
634 principles of actuarial science to reflect each insured's
635 relative exposure to hurricane losses.

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

637 3. "Hurricane coverage" means coverage for loss or damage
638 caused by the peril of windstorm during a hurricane. The term

11-00445A-09

20092384

639 includes ensuing damage to the interior of a building, or to
640 property inside a building, directly or indirectly caused by
641 rain, snow, sleet, hail, sand, or dust if the direct force of
642 the windstorm first damages the building, causing an opening
643 through which rain, snow, sleet, hail, sand, or dust enters and
644 causes damage, or caused by the loss of power on or off the
645 covered premises if the loss of power is attributable to the
646 windstorm. The term does not include coverage for loss or damage
647 to residential property caused by flood, storm surge, or rising
648 water.

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

652 b. "Hurricane" means a storm system that has been declared
653 to be a hurricane by the National Hurricane Center of the
654 National Weather Service. The duration of the hurricane includes
655 the period:

656 (I) Beginning at the time a hurricane warning is issued for
657 any part of Florida by the National Hurricane Center of the
658 National Weather Service;

659 (II) Continuing for the period during which hurricane
660 conditions exist anywhere in Florida; and

661 (III) Ending 72 hours following the termination of the last
662 hurricane warning issued for any part of Florida by the National
663 Hurricane Center of the National Weather Service.

664 4. "Participating insurer" means an insurer holding a
665 certificate of authority to write residential property insurance
666 coverage and administering hurricane coverage on behalf of the
667 program.

11-00445A-09

20092384

668 5. "Program" means the Florida Hurricane Protection
669 Program.

670 6. "Reinsurance" includes traditional reinsurance and any
671 other arrangement transferring risk from the program to another
672 entity.

673 7. "Residential coverage" includes both personal lines
674 residential coverage, which consists of the type of coverage
675 provided by homeowner's, mobile home owner's, dwelling,
676 tenant's, condominium unit owner's, cooperative unit owner's,
677 and similar policies, as well as commercial lines residential
678 coverage, which consists of the type of coverage provided by
679 condominium association, cooperative association, apartment
680 building, and similar policies, including policies covering the
681 common elements of a homeowners' association.

682 8. "Underlying policy" means the property insurance policy
683 issued by a participating insurer to provide coverage for perils
684 other than hurricane with respect to a residential property
685 whose hurricane coverage is provided under a policy issued by
686 the program and administered by the insurer.

687 (c) Plan of operation; coverage provided; standards; policy
688 forms.-

689 1. The board shall, by rule, adopt a plan of operation for
690 the program. The plan of operation shall specify standards for
691 the program, including, but not limited to, standards relating
692 to underwriting, mitigation discounts, deductibles, cancellation
693 and nonrenewal, and recordkeeping.

694 2. The plan of operation shall provide the form or forms
695 for the contract between the program and a participating insurer
696 specifying the respective rights and duties of the program and

11-00445A-09

20092384

697 the participating insurer and allowing each insurer to conduct
698 sales, promotion, and other functions related to policy
699 acquisition as it deems appropriate, in compliance with the
700 applicable provisions of the Insurance Code.

701 3. The plan of operation shall require the program to adopt
702 appropriate policy forms and issue a policy providing hurricane
703 coverage to each residential risk covered by a participating
704 insurer, except that a policy may not be issued to a risk that
705 does not meet the underwriting standards adopted under the
706 program. Coverage shall include structure, contents, additional
707 living expenses, emergency debris removal, and temporary repairs
708 after loss, subject to the following limitations and
709 requirements:

710 a. Except as provided in sub-subparagraph b., the policy
711 shall provide structure coverage that has a limit equal to the
712 structure limit, also known as the Coverage "A" limit, of the
713 underlying policy, and shall provide such limits for other
714 coverage as the program deems appropriate.

715 b. With respect to a personal lines residential risk having
716 a structure value greater than \$2 million, the program shall
717 provide coverage that has a structure limit, also known as the
718 Coverage "A" limit, of \$2 million and such limits for other
719 coverage as the program deems consistent with the \$2 million
720 Coverage "A" limit.

721 c. The policy shall include a deductible equal to 2 percent
722 of the insured value of the structure, also known as the
723 Coverage "A" limit, and the program shall make available, at the
724 option of the insured, deductibles equal to 5 percent and 10
725 percent of the insured value of the structure.

11-00445A-09

20092384

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

728 e. Coverage of roofs shall be limited to actual cash value,
729 except that the program shall provide insureds with the option
730 of replacement cost coverage for roofs for an appropriate
731 premium taking into account the design and condition of the
732 roof.

733 f. Coverage shall not be provided for swimming pool
734 enclosures, patio enclosures, patio covers, or awnings.

735 g. Coverage shall not be provided for fences, outbuildings,
736 or other detached structures, except that the program shall
737 provide insureds with the option of replacement cost coverage
738 for outbuildings or other permanently affixed detached
739 structures, not including contents, up to an insured value of
740 \$100,000, for an appropriate premium.

741 h. The plan of operation shall specify other optional
742 exclusions to be made available to the insured for appropriate
743 premium discounts.

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

747 j. The plan of operation shall specify policy limits for
748 coverage of contents, additional living expenses, emergency
749 debris removal, and temporary repairs after loss.

750 k. A property is not eligible for coverage under the
751 Florida Hurricane Protection Program unless it is also covered
752 by a National Flood Insurance Program policy or similar flood
753 insurance coverage, if such coverage is available for the
754 property.

11-00445A-09

20092384

755 4. Except as to matters specifically addressed by this
756 subsection, the program is subject to the provisions of part X
757 of chapter 627.

758 5. The plan of operation shall require the program to adopt
759 such notices, coverage summaries, and outlines of coverage as
760 are required by law or as the board deems appropriate. The plan
761 of operation shall require the program to provide written notice
762 informing an insured of the duties of the program and the duties
763 of the participating insurer.

764 6. The plan of operation shall provide standards for
765 applicability of mitigation discounts, credits, and surcharges
766 and shall provide a process for verification of a property's
767 mitigation status.

768 7. The plan of operation shall provide a reasonable fee
769 schedule for costs and expenses incurred by participating
770 insurers in the sale or administration of coverage under the
771 program, including, but not limited to, policy servicing and
772 loss-adjustment expense, shall provide a fee to be paid to
773 insurers for reasonable acquisition costs, but shall not
774 interfere, directly or indirectly, in the setting of agent
775 commissions or other compensation by any participating insurer
776 in compliance with s. 627.062(2)(i), and shall provide for
777 reimbursement of other costs incurred in the administration of
778 coverage under the program.

779 8. The plan of operation shall authorize the program to
780 enter into agreements with Citizens Property Insurance
781 Corporation under which the corporation provides data processing
782 and other office support for the program.

783 (d) Participating insurers.-

11-00445A-09

20092384

784 1. As a condition of doing business in this state, each
785 insurer holding a certificate of authority to write residential
786 property insurance shall enter into a contract with the program
787 under which the program agrees to issue a policy providing
788 hurricane coverage to each insured for which the participating
789 insurer provides a policy providing residential property
790 insurance coverage for other perils, except as provided in sub-
791 subparagraph 2.b., and under which the participating insurer
792 agrees to administer the policy as issued by the program,
793 subject to the provisions of this subsection and the plan of
794 operation.

795 2. The contract shall require the participating insurer to:
796 a. Collect premiums established pursuant to this subsection
797 for the policy issued by the program using the same billing
798 practices, including payment plans, if any, as the participating
799 insurer uses for the underlying policy, and to remit collected
800 premiums to the program on a schedule specified by the program.

801 b. Apply deductibles, discounts, surcharges, credits, and
802 limits as established by the program.

803 c. Administer the hurricane coverage under the program
804 policy and provide the program policy to each of its residential
805 property insureds, except to the extent inconsistent with
806 eligibility standards specified in this subsection, program
807 underwriting standards, or the property owner's option to
808 exclude coverage under s. 627.712(2) or (3).

809 d. Comply with program requirements and standards relating
810 to program policies, including underwriting, cancellation and
811 nonrenewal, and similar matters. The contract shall allow the
812 participating insurer to solicit, sell, promote, or otherwise

11-00445A-09

20092384

813 acquire policyholders and implement coverage using its own
814 lawful methodologies, systems, agents, and approach. The
815 contract shall provide that the program, board, and office may
816 not in any way prohibit, restrict, or limit the participating
817 insurer's authority and discretion to appoint, compensate, and
818 contract with agents as the insurer and the agent, in their
819 respective discretion, deem appropriate and feasible, except to
820 the extent that such conduct is specifically prohibited by law.

821 e. Provide application processing, premium processing,
822 claims processing, and adjusting services in accordance with
823 standards specified in the plan of operation.

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

826 3. A participating insurer has a fiduciary duty to the
827 program to fairly adjust claims and allocate losses between
828 hurricane and nonhurricane perils.

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

832 5. A participating insurer may make available to its
833 residential property insureds coverage that supplements the
834 hurricane coverage provided by the program, but may not make
835 available to its residential property insureds any coverage that
836 is the same as or similar to the coverage provided by the
837 program.

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

839 1. If a participating insurer fails to substantially comply
840 with its obligations under the program contract or breaches its
841 fiduciary duty to the program, the program may require the

11-00445A-09

20092384

842 participating insurer to pay actual damages, require the
843 participating insurer to pay liquidated damages as specified in
844 the program contract, or order the Office of Insurance
845 Regulation to impose a specified penalty under the Insurance
846 Code.

847 2. There shall be no liability on the part of, and no cause
848 of action of any nature shall arise against, any participating
849 insurer or its agents or employees, the program or its
850 employees, or members of the board for any action taken by such
851 persons or entities in the performance of their respective
852 duties or responsibilities under this subsection. Such immunity
853 does not apply to:

854 a. Any of the foregoing persons or entities for any tort
855 committed willfully.

856 b. The program, a participating insurer, or a participating
857 insurer's producing agents for breach of any written contract or
858 written agreement pertaining to insurance coverage.

859 c. The program or the fund with respect to issuance or
860 payment of debt.

861 d. Any participating insurer with respect to any action by
862 the program to enforce a participating insurer's obligations to
863 the program under this subsection.

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

868 (f) *Ratemaking.*—

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

11-00445A-09

20092384

871 2.a. Program rates must be as close as possible to
872 actuarially indicated rates, taking into account the state's
873 need to restore or maintain affordability of residential
874 property insurance coverage, the program's reinsurance needs as
875 determined under paragraph (g), and the cost of additional
876 reinsurance negotiated under paragraph (g).

877 b. Except as otherwise specifically provided in this
878 paragraph, rates may not be excessive, inadequate, or unfairly
879 discriminatory within the meaning of s. 627.062, and the rate
880 plan must provide mitigation discounts consistent with the
881 intent of s. 627.0629.

882 c. In the aggregate, the rates must generate premium
883 revenue equal to or greater than the statewide average annual
884 insured hurricane loss, based on an average of all models
885 currently determined to meet the standards and guidelines of the
886 Florida Commission on Hurricane Loss Projection Methodology,
887 plus expenses.

888 3. The program shall annually adopt a rate plan pursuant to
889 this paragraph and shall submit the rate plan to the Office of
890 Insurance Regulation for review under s. 627.062. The office
891 shall approve the plan unless the office determines that the
892 plan fails to meet the criteria specified in subparagraph 2. In
893 complying with s. 627.062(2)(i), the office may not directly or
894 indirectly prohibit, impede, or restrict any participating
895 insurer from compensating duly appointed agents as the
896 participating insurer, in its sole discretion, deems
897 appropriate. A rate plan takes effect on the date specified in
898 the rate plan and remains in effect until the effective date of
899 a subsequently adopted rate plan.

11-00445A-09

20092384

900 (g) Calculation of reinsurance needs; optional
901 reinsurance.-

902 1. It is the intent of the Legislature that the program
903 must have for any hurricane season the resources sufficient to
904 cover all losses and expenses attributable to a 1-in-100 year
905 seasonal probable maximum loss, relying on a combination of
906 cash, debt, appropriated state funds or federal funding, if any,
907 and reinsurance. Before receiving the rate recommendations of
908 the independent consultant under subparagraph (f)1., the board
909 shall adopt an estimate of the program's reinsurance needs. The
910 estimate shall be calculated as follows:

911 a. The board shall determine a projected cash balance for
912 the upcoming year.

913 b. The board shall obtain an opinion from a financial
914 advisor regarding the maximum amount of funding it could
915 reasonably be expected to obtain for hurricane losses in the
916 upcoming year through bonds and other debt instruments and
917 through any available federal funding sources, taking into
918 account the actual capacity of credit markets to absorb the
919 program's debt offerings, as well as the assessment revenues and
920 other revenues available for debt service.

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

927 2. The program shall annually procure such amounts of
928 reinsurance as are determined to be necessary under the

11-00445A-09

20092384

929 calculation specified in subparagraph 1.

930 3. In addition to the mandatory procurement of reinsurance
931 as required in subparagraph 2., the board may also procure
932 reinsurance for the purpose of reducing potential assessments or
933 transferring some or all of the risk of loss in excess of the 1-
934 in-100 year seasonal probable maximum loss.

935 4. The board may structure its reinsurance arrangements in
936 such layer or layers, in such groupings of risks, and with such
937 percentages of retained liability in a particular layer, as the
938 board deems appropriate.

939 (h) Transition.—

940 1. It is the intent of the Legislature that participating
941 insurers continue to provide hurricane coverage to their
942 existing policyholders under policies providing residential
943 property insurance coverage until the first renewal date on or
944 after March 1, 2010, at which time the hurricane coverage shall
945 be provided under a program policy.

946 2. A participating insurer remains eligible for coverage
947 under subsection (4) during the contract year beginning June 1,
948 2010, to the extent the participating insurer has in force
949 policies defined as covered policies under subsection (2). The
950 premium for such coverage shall be based on the participating
951 insurer's exposure as of June 30, 2010.

952 3. The replacement of hurricane coverage under a
953 participating insurer's policy providing residential property
954 insurance coverage with hurricane coverage under a program
955 policy does not constitute a cancellation or nonrenewal for
956 purposes of s. 627.4133 or any other purposes under the
957 Insurance Code. With respect to residential property insurance

11-00445A-09

20092384

958 policy renewals taking effect on or after March 1, 2010, and
959 before March 1, 2011, the notice of renewal premium shall
960 include a notice, in a form specified by the board, stating
961 that, as of the policy renewal date, hurricane coverage will be
962 provided under a program policy administered by the insurer and
963 coverage for other perils will be provided under a residential
964 property insurance policy issued by the insurer.

965 (i) Report.—It is the intent of the Legislature that, after
966 the program has sufficient experience providing residential
967 hurricane coverage, coverage under the program be expanded to
968 include commercial nonresidential properties that have a
969 structure insured value not exceeding \$2 million, contingent
970 upon clear evidence of the feasibility of and need for such
971 expansion. Therefore, on or before December 31, 2012, the State
972 Board of Administration shall provide a report to the presiding
973 officers of the Legislature analyzing the feasibility of and
974 need for an expansion of the program.

975 Section 2. State Board of Administration; implementation of
976 the Florida Hurricane Protection Program.—

977 (1) On or before October 1, 2009, the State Board of
978 Administration shall adopt the plan of operation and all forms
979 and rates required to implement the Florida Hurricane Protection
980 Program created by s. 215.555, Florida Statutes, as amended by
981 this act.

982 (2) No later than October 1, 2009, the State Board of
983 Administration shall submit the initial rate plan required to
984 implement the Florida Hurricane Protection Program created by s.
985 215.555, Florida Statutes, as amended by this act, to the Office
986 of Insurance Regulation for review and approval. The office

11-00445A-09

20092384

987 shall review the initial rate plan on an expedited basis. The
988 office shall approve the initial rate plan, as originally filed
989 or as subsequently revised by the office, no later than December
990 1, 2009. Annual rate filings subsequent to the initial rate plan
991 shall take effect only after approval by the office.

992 (3) In order to meet the October 1, 2009, deadline, the
993 board may adopt the plan of operation and forms as emergency
994 rules under s. 120.54(4), Florida Statutes. Notwithstanding the
995 provisions of s. 120.54(4), Florida Statutes, such rules shall
996 remain in effect until they are replaced by permanent rules
997 adopted under s. 120.54(3), Florida Statutes, if the board
998 initiates rulemaking under s. 120.54(3), Florida Statutes, no
999 later than 30 days after the adoption of the emergency rules.

1000 Section 3. Transitional rate and form filings.—Each insurer
1001 holding a certificate of authority to write residential property
1002 insurance, including Citizens Property Insurance Corporation,
1003 shall, on or before October 1, 2009, file with the Office of
1004 Insurance Regulation policy forms or endorsements reflecting
1005 that, with respect to policies issued or renewed on or after
1006 March 1, 2010, residential hurricane coverage will be provided
1007 in a separate policy issued by the Florida Hurricane Protection
1008 Program under s. 215.555(18), Florida Statutes. Such insurers
1009 shall make appropriate rate adjustments on a use-and-file basis
1010 under s. 627.062(2)(a)2., Florida Statutes. Any form or
1011 endorsement filed under this section is deemed approved on
1012 December 1, 2009, unless specifically disapproved by the office.

1013 Section 4. Subsection (1) of section 624.509, Florida
1014 Statutes, is amended to read:

1015 624.509 Premium tax; rate and computation.—

11-00445A-09

20092384__

1016 (1) In addition to the license taxes provided for in this
1017 chapter, each insurer shall also annually, and on or before
1018 March 1 in each year, except as to wet marine and transportation
1019 insurance taxed under s. 624.510, pay to the Department of
1020 Revenue a tax on insurance premiums, premiums for title
1021 insurance, or assessments, including membership fees and policy
1022 fees and gross deposits received from subscribers to reciprocal
1023 or interinsurance agreements, and on annuity premiums or
1024 considerations, received during the preceding calendar year, the
1025 amounts thereof to be determined as set forth in this section,
1026 to wit:

1027 (a) An amount equal to 1.75 percent of the gross amount of
1028 such receipts on account of life and health insurance policies
1029 covering persons resident in this state and on account of all
1030 other types of policies and contracts (except annuity policies
1031 or contracts taxable under paragraph (b)), and except policies
1032 issued by the Florida Hurricane Protection Program under s.
1033 215.555(18), covering property, subjects, or risks located,
1034 resident, or to be performed in this state, omitting premiums on
1035 reinsurance accepted, and less return premiums or assessments,
1036 but without deductions:

- 1037 1. For reinsurance ceded to other insurers;
- 1038 2. For moneys paid upon surrender of policies or
1039 certificates for cash surrender value;
- 1040 3. For discounts or refunds for direct or prompt payment of
1041 premiums or assessments; and
- 1042 4. On account of dividends of any nature or amount paid and
1043 credited or allowed to holders of insurance policies;
1044 certificates; or surety, indemnity, reciprocal, or

11-00445A-09

20092384__

1045 interinsurance contracts or agreements ~~;~~ and

1046 (b) An amount equal to 1 percent of the gross receipts on
1047 annuity policies or contracts paid by holders thereof in this
1048 state.

1049 (c) With respect to policies issued by the Florida
1050 Hurricane Protection Program under s. 215.555(18), the program
1051 shall annually pay to the Department of Revenue on or before
1052 March 1 of each year a tax on insurance premiums received during
1053 the preceding calendar year in an amount equal to 1 percent of
1054 the gross amount of receipts on account of such policies,
1055 subject to the deductions and exclusions specified in paragraph
1056 (a).

1057 Section 5. Paragraphs (ff), (gg), and (hh) are added to
1058 subsection (6) of section 627.351, Florida Statutes, to read:

1059 627.351 Insurance risk apportionment plans.—

1060 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1061 (ff) Notwithstanding any provision of this subsection or s.
1062 627.3517 to the contrary:

1063 1. On or after March 1, 2010, the corporation may not issue
1064 or renew any residential property insurance policy providing
1065 hurricane coverage as defined in s. 215.555(18). This
1066 prohibition does not preclude the corporation from issuing or
1067 renewing policies that provide other residential property
1068 insurance coverages.

1069 2. The corporation shall, directly or through the market
1070 assistance plan, make information from confidential underwriting
1071 and claims files of policyholders available only to licensed
1072 general lines agents who register with the corporation to
1073 receive such information according to the following procedures:

11-00445A-09

20092384

1074 a. On or before August 1, 2009, the corporation shall make
1075 available to licensed general lines agents the registration
1076 procedures to be used to obtain confidential information from
1077 underwriting and claims files for all policies issued by the
1078 corporation providing residential coverage, other than
1079 windstorm-only policies.

1080 b. On or before September 1, 2009, the corporation shall
1081 establish a secure website to provide licensed general lines
1082 agents registered pursuant to this paragraph with application,
1083 rating, loss history, mitigation, and policy-type information
1084 for all policies issued by the corporation providing residential
1085 coverage, other than windstorm-only policies. The registered
1086 licensed general lines agent may use such information to contact
1087 and assist the policyholder in securing residential property
1088 coverage in the voluntary market.

1089 3. Effective March 1, 2010, the corporation may not issue
1090 or renew a policy providing residential property insurance
1091 coverage if the owner of the property has received an offer of
1092 coverage from a participating insurer as defined in s.
1093 215.555(18) and if the participating insurer has furnished the
1094 corporation with notice of the offer of coverage at least 30
1095 days before the expected renewal date or expected issuance date
1096 of the corporation's policy. This subparagraph does not preclude
1097 a participating insurer from making an offer of coverage to a
1098 property owner who has received an offer of coverage from
1099 another participating insurer.

1100 (gg) On or before December 31, 2011, the corporation shall
1101 transfer to the Florida Hurricane Catastrophe Fund an additional
1102 capital contribution for the benefit of the Florida Hurricane

11-00445A-09

20092384

1103 Protection Program. The contribution shall consist of the
1104 corporation's surplus as to policyholders, multiplied by a
1105 ratio:

1106 1. The numerator of which is the total structural insured
1107 value as of March 1, 2011, for risks covered by all policies
1108 issued by the corporation; and

1109 2. The denominator of which is the total structural insured
1110 value as of March 1, 2010, for risks covered by all policies
1111 issued by the corporation.

1112 (hh) On or before October 1, 2009, the corporation shall
1113 enter into an agreement with the Florida Hurricane Protection
1114 Program under which the program has the right to use all of the
1115 corporation's information technology related to the high-risk
1116 account, including computer systems, hardware, software, and
1117 other intellectual property, as well as licenses to any such
1118 information technology used by the corporation under license. On
1119 March 1, 2011, all such information technology and the licenses
1120 thereto become the property of the program.

1121 Section 6. Subsection (1) of section 627.706, Florida
1122 Statutes, is amended to read:

1123 627.706 Sinkhole insurance; catastrophic ground cover
1124 collapse; definitions.—

1125 (1) (a) Every insurer authorized to transact property
1126 insurance in this state shall provide coverage for a
1127 catastrophic ground cover collapse and shall make available, for
1128 an appropriate additional premium, coverage for sinkhole losses
1129 on any structure, including contents of personal property
1130 contained therein, to the extent provided in the form to which
1131 the coverage attaches. A policy for residential property

11-00445A-09

20092384__

1132 insurance may include a deductible amount applicable to sinkhole
1133 losses equal to 1 percent, 2 percent, 5 percent, or 10 percent
1134 of the policy dwelling limits, with appropriate premium
1135 discounts offered with each deductible amount.

1136 (b)1. Effective January 1, 2010, the provisions of this
1137 paragraph apply to residential property insurance coverage of
1138 properties located in high sinkhole hazard counties issued by an
1139 admitted insurer or by Citizens Property Insurance Corporation.
1140 "High sinkhole hazard counties" include Hernando County, Pasco
1141 County, and any other county determined by the office to have a
1142 similarly high likelihood of sinkhole losses, as compared with
1143 the state as a whole, based upon available scientific,
1144 historical, and actuarial evidence.

1145 2. A homeowner's multiperil insurance policy or dwelling
1146 fire insurance policy subject to this paragraph shall include
1147 coverage for a catastrophic ground cover collapse but shall not
1148 include coverage for sinkhole losses. The insurer shall make
1149 available to the policyholder an endorsement or separate policy
1150 providing sinkhole coverage.

1151 Section 7. This act shall take effect upon becoming a law.