

1 A bill to be entitled
2 An act relating to the Florida Hurricane Catastrophe Fund;
3 amending s. 215.555, F.S.; creating the Division of the
4 Florida Hurricane Catastrophe Fund as a division of the
5 State Board of Administration; providing for a board of
6 the division; revising legislative findings; revising
7 certain definitions; providing definitions; revising
8 provisions requiring the State Board of Administration to
9 invest certain funds; requiring the division board to
10 appoint a director; providing duties of the director;
11 providing that the appointment of a director is subject to
12 the approval of the board by a majority vote; authorizing
13 the division to employ or contract with such staff as the
14 division deems necessary to administer the fund; requiring
15 the division to enter into a contract with each insurer
16 writing covered policies in this state to provide to the
17 insurer reimbursement as prescribed by state law;
18 requiring that such contracts contain certain elements or
19 provisions and provide the division with certain
20 obligations; requiring the division to publish certain
21 information in the Florida Administrative Weekly at
22 specified times; authorizing the payment of advancements
23 of reimbursements or reimbursement premium to certain
24 entities under certain conditions; requiring the division
25 to inspect, examine, and verify the records of each
26 insurer's covered policies for certain reimbursement
27 contract purposes; providing for the payments of expenses
28 associated with such inspection, examination, or

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29 verification; providing for the reimbursement of the
30 division for such expenses by an insurer under certain
31 circumstances; authorizing the division to take certain
32 action if it finds any insurer's records or other
33 necessary information to be inadequate or inadequately
34 posted, recorded, or maintained; requiring the division to
35 select an independent consultant to develop a formula for
36 determining the actuarially indicated premium to be paid
37 to the fund; requiring the division to consider certain
38 factors when establishing reimbursement premium;
39 providing for the calculation of such premium by the
40 division; providing for the payment of reimbursement
41 premium; providing for the collection of interest on
42 certain late reimbursement premium payments; providing
43 responsibilities of the division if Citizens Property
44 Insurance Corporation assumes or otherwise provides
45 coverage for policies of an insurer placed in liquidation;
46 authorizing the division to execute agreements regarding
47 revenue bonds or other financing arrangements for the
48 purpose of evidencing, securing, preserving, or protecting
49 a pledge of revenue by the corporation; requiring the
50 Florida Surplus Lines Service Office to assist the
51 division in ensuring the accurate and timely collection
52 and remittance of assessments of surplus lines premiums;
53 requiring the office to report certain information to the
54 division at a time and in a manner prescribed by the
55 division; providing for the issuance of revenue bonds
56 through counties or municipalities; revising the

57 membership of the Florida Hurricane Catastrophe Fund
58 Finance Corporation; providing absence of liability on the
59 part of any member of the board of directors or employees
60 of the corporation for any actions taken by them in the
61 performance of their duties; providing additional powers
62 and duties of the division board and the division;
63 requiring the division board to appoint an advisory
64 council; providing for membership of the council;
65 providing duties of the council; authorizing the division
66 to take any action necessary to enforce certain rules and
67 provisions of a reimbursement contract; requiring the
68 division to make certain recommendations to the
69 Legislature upon the creation of a federal or multistate
70 catastrophic insurance or reinsurance program intended to
71 serve purposes similar to the purposes of the fund;
72 providing for the reversion of fund assets upon
73 termination of the fund; providing for optional coverages
74 of the fund; revising the temporary increases in coverage
75 limits (TICL); requiring a TICL addendum to contain a
76 promise by the division to make certain reimbursements to
77 the TICL insurer; including the level of TICL coverage
78 specified by the board among the factors that must be
79 considered when determining the amount of increase in the
80 claims-paying capacity of the fund; amending s. 215.557,
81 F.S.; conforming provisions to changes made by the act;
82 amending s. 215.5586, F.S.; requiring the division
83 director to serve on the advisory council of the My Safe
84 Florida Home Program; amending ss. 215.559 and 215.5595,

85 F.S.; conforming provisions to changes made by the act;
 86 amending s. 627.0628, F.S.; revising legislative intent;
 87 assigning the Florida Commission on Hurricane Loss
 88 Projection Methodology to the division; requiring the fund
 89 director to serve on the commission; requiring the
 90 division board to annually appoint one of the members of
 91 the commission to serve as chair; requiring the division
 92 to provide for travel, expenses, and staff support for the
 93 commission; indemnifying members and employees of the
 94 division from liability for action taken with respect to
 95 the commission or its activities; requiring the division
 96 to employ certain methods, principles, standards, models,
 97 or output ranges when establishing reimbursement premiums
 98 for the fund; providing an effective date.

99
 100 Be It Enacted by the Legislature of the State of Florida:

101
 102 Section 1. Section 215.555, Florida Statutes, is amended
 103 to read:

104 215.555 Florida Hurricane Catastrophe Fund.--

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

107 (a) There is a compelling state interest in maintaining a
 108 viable and orderly private sector market for property insurance
 109 in this state. To the extent that the private sector is unable
 110 to maintain a viable and orderly market for property insurance
 111 in this state, state actions to maintain such a viable and

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112 orderly market are valid and necessary exercises of the police
113 power.

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

122 (c) Mortgages require reliable property insurance, and the
123 unavailability of reliable property insurance would therefore
124 make most real estate transactions impossible. In addition, the
125 public health, safety, and welfare demand that structures
126 damaged or destroyed in a catastrophe be repaired or
127 reconstructed as soon as possible. Therefore, the inability of
128 the private sector insurance and reinsurance markets to maintain
129 sufficient capacity to enable residents of this state to obtain
130 property insurance coverage in the private sector endangers the
131 economy of the state and endangers the public health, safety,
132 and welfare. Accordingly, state action to correct for this
133 inability of the private sector constitutes a valid and
134 necessary public and governmental purpose.

135 (d) The insolvencies and financial impairments resulting
136 from Hurricane Andrew demonstrate that many property insurers
137 are unable or unwilling to maintain reserves, surplus, and
138 reinsurance sufficient to enable the insurers to pay all claims
139 in full in the event of a catastrophe. State action is therefore

140 necessary to protect the public from an insurer's unwillingness
 141 or inability to maintain sufficient reserves, surplus, and
 142 reinsurance.

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

148 (f) It is essential to the functioning of a state program
 149 to increase insurance capacity that revenues received be exempt
 150 from federal taxation. It is therefore the intent of the
 151 Legislature that this program be structured as a state trust
 152 fund under the direction and control of the Division of the
 153 Florida Hurricane Catastrophe Fund within the State Board of
 154 Administration and operate exclusively for the purpose of
 155 protecting and advancing the state's interest in maintaining
 156 insurance capacity in this state.

157 (g) Hurricane Andrew, which caused insured and uninsured
 158 losses in excess of \$20 billion, will likely not be the last
 159 major windstorm to strike Florida. Recognizing that a future
 160 wind catastrophe could cause damages in excess of \$60 billion,
 161 especially if a major urban area or series of urban areas were
 162 hit, it is the intent of the Legislature to balance equitably
 163 its concerns about mitigation of hurricane impact, insurance
 164 affordability and availability, and the risk of insurer and
 165 joint underwriting association insolvency, as well as assessment
 166 and bonding limitations.

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

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168 (a) "Actuarially indicated" means, with respect to
169 premiums paid by insurers for reimbursement provided by the
170 fund, an amount determined according to principles of actuarial
171 science to be adequate, but not excessive, in the aggregate, to
172 pay current and future obligations and expenses of the fund,
173 including additional amounts if needed to pay debt service on
174 revenue bonds issued under this section and to provide required
175 debt service coverage in excess of the amounts required to pay
176 actual debt service on revenue bonds issued under subsection (7)
177 ~~(6)~~, and determined according to principles of actuarial science
178 to reflect each insurer's relative exposure to hurricane losses.

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

182 (c) "Covered policy" means any insurance policy covering
183 residential property in this state, including, but not limited
184 to, any homeowner's, mobile home owner's, farm owner's,
185 condominium association, condominium unit owner's, tenant's, or
186 apartment building policy, or any other policy covering a
187 residential structure or its contents issued by any authorized
188 insurer, including a commercial self-insurance fund holding a
189 certificate of authority issued by the Office of Insurance
190 Regulation under s. 624.462, the Citizens Property Insurance
191 Corporation, and any joint underwriting association or similar
192 entity created under law. The term "covered policy" includes any
193 collateral protection insurance policy covering personal
194 residences which protects both the borrower's and the lender's
195 financial interests, in an amount at least equal to the coverage

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196 for the dwelling in place under the lapsed homeowner's policy,
197 if such policy can be accurately reported as required in
198 subsection (6) ~~(5)~~. Additionally, covered policies include
199 policies covering the peril of wind removed from the Florida
200 Residential Property and Casualty Joint Underwriting Association
201 or from the Citizens Property Insurance Corporation, created
202 under s. 627.351(6), or from the Florida Windstorm Underwriting
203 Association, created under s. 627.351(2), by an authorized
204 insurer under the terms and conditions of an executed assumption
205 agreement between the authorized insurer and such association or
206 Citizens Property Insurance Corporation. Each assumption
207 agreement between the association and such authorized insurer or
208 Citizens Property Insurance Corporation must be approved by the
209 Office of Insurance Regulation before the effective date of the
210 assumption, and the Office of Insurance Regulation must provide
211 written notification to the division ~~board~~ within 15 working
212 days after such approval. "Covered policy" does not include any
213 policy that excludes wind coverage or hurricane coverage or any
214 reinsurance agreement and does not include any policy otherwise
215 meeting this definition which is issued by a surplus lines
216 insurer or a reinsurer. All commercial residential excess
217 policies and all deductible buy-back policies that, based on
218 sound actuarial principles, require individual ratemaking shall
219 be excluded by rule if the actuarial soundness of the fund is
220 not jeopardized. For this purpose, the term "excess policy"
221 means a policy that provides insurance protection for large
222 commercial property risks and that provides a layer of coverage
223 above a primary layer insured by another insurer.

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

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224 (d) "Losses" means direct incurred losses under covered
225 policies, which shall include losses for additional living
226 expenses not to exceed 40 percent of the insured value of a
227 residential structure or its contents and shall exclude loss
228 adjustment expenses. "Losses" does not include losses for fair
229 rental value, loss of rent or rental income, or business
230 interruption losses.

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

234 1. The division board ~~board~~ shall calculate and report to each
235 insurer the retention multiples for that year. For the contract
236 year beginning June 1, 2005, the retention multiple shall be
237 equal to \$4.5 billion divided by the total estimated
238 reimbursement premium for the contract year; for subsequent
239 years, the retention multiple shall be equal to \$4.5 billion,
240 adjusted based upon the reported exposure from the prior
241 contract year to reflect the percentage growth in exposure to
242 the fund for covered policies since 2004, divided by the total
243 estimated reimbursement premium for the contract year. Total
244 reimbursement premium for purposes of the calculation under this
245 subparagraph shall be estimated using the assumption that all
246 insurers have selected the 90-percent coverage level.

247 2. The retention multiple as determined under subparagraph
248 1. shall be adjusted to reflect the coverage level elected by
249 the insurer. For insurers electing the 90-percent coverage
250 level, the adjusted retention multiple is 100 percent of the
251 amount determined under subparagraph 1. For insurers electing

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252 the 75-percent coverage level, the retention multiple is 120
253 percent of the amount determined under subparagraph 1. For
254 insurers electing the 45-percent coverage level, the adjusted
255 retention multiple is 200 percent of the amount determined under
256 subparagraph 1.

257 3. An insurer shall determine its provisional retention by
258 multiplying its provisional reimbursement premium by the
259 applicable adjusted retention multiple and shall determine its
260 actual retention by multiplying its actual reimbursement premium
261 by the applicable adjusted retention multiple.

262 4. For insurers who experience multiple covered events
263 causing loss during the contract year, beginning June 1, 2005,
264 each insurer's full retention shall be applied to each of the
265 covered events causing the two largest losses for that insurer.
266 For each other covered event resulting in losses, the insurer's
267 retention shall be reduced to one-third of the full retention.
268 The reimbursement contract shall provide for the reimbursement
269 of losses for each covered event based on the full retention
270 with adjustments made to reflect the reduced retentions after
271 January 1 of the contract year provided the insurer reports its
272 losses as specified in the reimbursement contract.

273 (f) "Workers' compensation" includes both workers'
274 compensation and excess workers' compensation insurance.

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

277 (h) "Debt service" means the amount required in any fiscal
278 year to pay the principal of, redemption premium, if any, and
279 interest on revenue bonds and any amounts required by the terms

280 of documents authorizing, securing, or providing liquidity for
 281 revenue bonds necessary to maintain in effect any such liquidity
 282 or security arrangements.

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

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

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

293 (l) "Estimated claims-paying capacity" means the sum of
 294 the projected year-end balance of the fund as of December 31 of
 295 a contract year, plus any reinsurance purchased by the fund,
 296 plus the division's ~~board's~~ estimate of the board's borrowing
 297 capacity.

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

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

305 (o) "Division" means the Division of the Florida Hurricane
 306 Catastrophe Fund.

307 (p) "Director" means the chief administrator of the

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308 division, who shall act on behalf of the division as authorized
 309 by the board.

310 (q) "FHCF" or "fund" means the Florida Hurricane
 311 Catastrophe Fund.

312 (r) "Board" means the governing board of the division,
 313 which shall be composed of the Governor and the Cabinet.

314 (3) DIVISION OF THE FLORIDA HURRICANE CATASTROPHE FUND
 315 CREATED.--There is created a division of the State Board of
 316 Administration known as the Division of the Florida Hurricane
 317 Catastrophe Fund, which shall administer the Florida Hurricane
 318 Catastrophe Fund. For purposes of this section, the board of the
 319 division shall consist of the Governor and the Cabinet. The
 320 Governor shall serve as chair of the board, the Attorney General
 321 shall serve as secretary of the board, and the Chief Financial
 322 Officer shall serve as treasurer of the board.

323 (4) ~~(3)~~ FLORIDA HURRICANE CATASTROPHE FUND CREATED.--There
 324 is created the Florida Hurricane Catastrophe Fund within ~~to be~~
 325 ~~administered by~~ the State Board of Administration. Moneys in the
 326 fund may not be expended, loaned, or appropriated except to pay
 327 obligations of the fund arising out of reimbursement contracts
 328 entered into under subsection (5) ~~(4)~~, payment of debt service
 329 on revenue bonds issued under subsection (7) ~~(6)~~, costs of the
 330 mitigation program under subsection (8) ~~(7)~~, costs of procuring
 331 reinsurance, and costs of administration of the fund. The State
 332 Board of Administration ~~board~~ shall invest the moneys in the
 333 fund pursuant to ss. 215.44-215.52. Except as otherwise provided
 334 in this section, earnings from all investments shall be retained
 335 in the fund. The board shall appoint a director, who shall be

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

361 (5) ~~(4)~~ REIMBURSEMENT CONTRACTS.--

362 (a) The division ~~board~~ shall enter into a contract with
363 each insurer writing covered policies in this state to provide

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364 to the insurer the reimbursement described in paragraphs (b) and
365 (d), in exchange for the reimbursement premium paid into the
366 fund under subsection (6) ~~(5)~~. As a condition of doing business
367 in this state, each such insurer shall enter into such a
368 contract.

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

374 2. The insurer must elect one of the percentage coverage
375 levels specified in this paragraph and may, upon renewal of a
376 reimbursement contract, elect a lower percentage coverage level
377 if no revenue bonds issued under subsection (7) ~~(6)~~ after a
378 covered event are outstanding, or elect a higher percentage
379 coverage level, regardless of whether or not revenue bonds are
380 outstanding. All members of an insurer group must elect the same
381 percentage coverage level. Any joint underwriting association,
382 risk apportionment plan, or other entity created under s.
383 627.351 must elect the 90-percent coverage level.

384 3. The contract shall provide that reimbursement amounts
385 shall not be reduced by reinsurance paid or payable to the
386 insurer from other sources.

387 4. Notwithstanding any other provision contained in this
388 section, the board shall make available to insurers that
389 purchased coverage provided by this subparagraph in 2007,
390 insurers qualifying as limited apportionment companies under s.
391 627.351(6)(c), and insurers that have been approved to

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392 participate in the Insurance Capital Build-Up Incentive Program
393 pursuant to s. 215.5595 a contract or contract addendum that
394 provides an additional amount of reimbursement coverage of up to
395 \$10 million. The premium to be charged for this additional
396 reimbursement coverage shall be 50 percent of the additional
397 reimbursement coverage provided, which shall include one prepaid
398 reinstatement. The minimum retention level that an eligible
399 participating insurer must retain associated with this
400 additional coverage layer is 30 percent of the insurer's surplus
401 as of December 31, 2007. This coverage shall be in addition to
402 all other coverage that may be provided under this section. The
403 coverage provided by the fund under this subparagraph shall be
404 in addition to the claims-paying capacity as defined in
405 subparagraph (c)1., but only with respect to those insurers that
406 select the additional coverage option and meet the requirements
407 of this subparagraph. The claims-paying capacity with respect to
408 all other participating insurers and limited apportionment
409 companies that do not select the additional coverage option
410 shall be limited to their reimbursement premium's proportionate
411 share of the actual claims-paying capacity otherwise defined in
412 subparagraph (c)1. and as provided for under the terms of the
413 reimbursement contract. Coverage provided in the reimbursement
414 contract shall not be affected by the additional premiums paid
415 by participating insurers exercising the additional coverage
416 option allowed in this subparagraph. This subparagraph expires
417 on May 31, 2009.

418 (c)1. The contract shall also provide that the obligation
419 of the division ~~board~~ with respect to all contracts covering a

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420 particular contract year shall not exceed the actual claims-
421 paying capacity of the fund up to a limit of \$15 billion for
422 that contract year adjusted based upon the reported exposure
423 from the prior contract year to reflect the percentage growth in
424 exposure to the fund for covered policies since 2003, provided
425 the dollar growth in the limit may not increase in any year by
426 an amount greater than the dollar growth of the balance of the
427 fund as of December 31, less any premiums or interest
428 attributable to optional coverage, as defined by rule which
429 occurred over the prior calendar year.

430 2. In May before the start of the upcoming contract year
431 and in October during the contract year, the division ~~board~~
432 shall publish in the Florida Administrative Weekly a statement
433 of the fund's estimated borrowing capacity and the projected
434 balance of the fund as of December 31. After the end of each
435 calendar year, the division ~~board~~ shall notify insurers of the
436 estimated borrowing capacity and the balance of the fund as of
437 December 31 to provide insurers with data necessary to assist
438 them in determining their retention and projected payout from
439 the fund for loss reimbursement purposes. In conjunction with
440 the development of the premium formula, as provided for in
441 subsection (6) ~~(5)~~, the division ~~board~~ shall publish factors or
442 multiples that assist insurers in determining their retention
443 and projected payout for the next contract year. For all
444 regulatory and reinsurance purposes, an insurer may calculate
445 its projected payout from the fund as its share of the total
446 fund premium for the current contract year multiplied by the sum
447 of the projected balance of the fund as of December 31 and the

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448 estimated borrowing capacity for that contract year as reported
449 under this subparagraph.

450 (d)1. For purposes of determining potential liability and
451 to aid in the sound administration of the fund, the contract
452 shall require each insurer to report such insurer's losses from
453 each covered event on an interim basis, as directed by the
454 division board. The contract shall require the insurer to report
455 to the division board no later than December 31 of each year,
456 and quarterly thereafter, its reimbursable losses from covered
457 events for the year. The contract shall require the division
458 ~~board~~ to determine and pay, as soon as practicable after
459 receiving these reports of reimbursable losses, the initial
460 amount of reimbursement due and adjustments to this amount based
461 on later loss information. The adjustments to reimbursement
462 amounts shall require the division board to pay, or the insurer
463 to return, amounts reflecting the most recent calculation of
464 losses.

465 2. In determining reimbursements pursuant to this
466 subsection, the contract shall provide that the division board
467 shall pay to each insurer such insurer's projected payout, which
468 is the amount of reimbursement it is owed, up to an amount equal
469 to the insurer's share of the actual premium paid for that
470 contract year, multiplied by the actual claims-paying capacity
471 available for that contract year.

472 (e)1. Except as provided in subparagraphs 2. and 3., the
473 contract shall provide that if an insurer demonstrates to the
474 division board that it is likely to qualify for reimbursement
475 under the contract, and demonstrates to the division board that

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476 the immediate receipt of moneys from the division ~~board~~ is
477 likely to prevent the insurer from becoming insolvent, the
478 division ~~board~~ shall advance the insurer, at market interest
479 rates, the amounts necessary to maintain the solvency of the
480 insurer, up to 50 percent of the division's ~~board's~~ estimate of
481 the reimbursement due the insurer. The insurer's reimbursement
482 shall be reduced by an amount equal to the amount of the advance
483 and interest thereon.

484 2. With respect only to an entity created under s.
485 627.351, the contract shall also provide that the division ~~board~~
486 may, upon application by such entity, advance to such entity, at
487 market interest rates, up to 90 percent of the lesser of:

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

490 b. The entity's share of the actual reimbursement premium
491 paid for that contract year, multiplied by the currently
492 available liquid assets of the fund. In order for the entity to
493 qualify for an advance under this subparagraph, the entity must
494 demonstrate to the division ~~board~~ that the advance is essential
495 to allow the entity to pay claims for a covered event and the
496 division ~~board~~ must determine that the fund's assets are
497 sufficient and are sufficiently liquid to allow the division
498 ~~board~~ to make an advance to the entity and still fulfill the
499 board's reimbursement obligations to other insurers. The
500 entity's final reimbursement for any contract year in which an
501 advance has been made under this subparagraph must be reduced by
502 an amount equal to the amount of the advance and any interest on
503 such advance. In order to determine what amounts, if any, are

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504 due the entity, the division board ~~board~~ may require the entity to
505 report its exposure and its losses at any time to determine
506 retention levels and reimbursements payable.

507 3. The contract shall also provide specifically and solely
508 with respect to any limited apportionment company under s.
509 627.351(2)(b)3. that the division board ~~board~~ may, upon application by
510 such company, advance to such company the amount of the
511 estimated reimbursement payable to such company as calculated
512 pursuant to paragraph (d), at market interest rates, if the
513 division board ~~board~~ determines that the fund's assets are sufficient
514 and are sufficiently liquid to permit the division board ~~board~~ to make
515 an advance to such company and at the same time fulfill its
516 reimbursement obligations to the insurers that are participants
517 in the fund. Such company's final reimbursement for any contract
518 year in which an advance pursuant to this subparagraph has been
519 made shall be reduced by an amount equal to the amount of the
520 advance and interest thereon. In order to determine what
521 amounts, if any, are due to such company, the division board ~~board~~ may
522 require such company to report its exposure and its losses at
523 such times as may be required to determine retention levels and
524 loss reimbursements payable.

525 (f) In order to ensure that insurers have properly
526 reported the insured values on which the reimbursement premium
527 is based and to ensure that insurers have properly reported the
528 losses for which reimbursements have been made, the division
529 ~~board~~ shall inspect, examine, and verify the records of each
530 insurer's covered policies at such times as the division board ~~board~~
531 deems appropriate and according to standards established by rule

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532 for the specific purpose of validating the accuracy of exposures
533 and losses required to be reported under the terms and
534 conditions of the reimbursement contract. The costs of the
535 examinations shall be borne by the division ~~board~~. However, in
536 order to remove any incentive for an insurer to delay
537 preparations for an examination, the division ~~board~~ shall be
538 reimbursed by the insurer for any examination expenses incurred
539 in addition to the usual and customary costs of the examination,
540 which additional expenses were incurred as a result of an
541 insurer's failure, despite proper notice, to be prepared for the
542 examination or as a result of an insurer's failure to provide
543 requested information while the examination is in progress. If
544 the division ~~board~~ finds any insurer's records or other
545 necessary information to be inadequate or inadequately posted,
546 recorded, or maintained, the division ~~board~~ may employ experts
547 to reconstruct, rewrite, record, post, or maintain such records
548 or information, at the expense of the insurer being examined, if
549 such insurer has failed to maintain, complete, or correct such
550 records or deficiencies after the division ~~board~~ has given the
551 insurer notice and a reasonable opportunity to do so. Any
552 information contained in an examination report, which
553 information is described in s. 215.557, is confidential and
554 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
555 of the State Constitution, as provided in s. 215.557. Nothing in
556 this paragraph expands the exemption in s. 215.557.

557 (g) The contract shall provide that in the event of the
558 insolvency of an insurer, the fund shall pay directly to the
559 Florida Insurance Guaranty Association for the benefit of

560 Florida policyholders of the insurer the net amount of all
 561 reimbursement moneys owed to the insurer. As used in this
 562 paragraph, the term "net amount of all reimbursement moneys"
 563 means that amount which remains after reimbursement for:

564 1. Preliminary or duplicate payments owed to private
 565 reinsurers or other inuring reinsurance payments to private
 566 reinsurers that satisfy statutory or contractual obligations of
 567 the insolvent insurer attributable to covered events to such
 568 reinsurers; or

569 2. Funds owed to a bank or other financial institution to
 570 cover obligations of the insolvent insurer under a credit
 571 agreement that assists the insolvent insurer in paying claims
 572 attributable to covered events.

573
 574 The private reinsurers, banks, or other financial institutions
 575 shall be reimbursed or otherwise paid prior to payment to the
 576 Florida Insurance Guaranty Association, notwithstanding any law
 577 to the contrary. The guaranty association shall pay all claims
 578 up to the maximum amount permitted by chapter 631; thereafter,
 579 any remaining moneys shall be paid pro rata to claims not fully
 580 satisfied. This paragraph does not apply to a joint underwriting
 581 association, risk apportionment plan, or other entity created
 582 under s. 627.351.

583 (6)~~(5)~~ REIMBURSEMENT PREMIUMS.--

584 (a) Each reimbursement contract shall require the insurer
 585 to annually pay to the fund an actuarially indicated premium for
 586 the reimbursement.

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587 (b) The division ~~State Board of Administration~~ shall
588 select an independent consultant to develop a formula for
589 determining the actuarially indicated premium to be paid to the
590 fund. The formula shall specify, for each zip code or other
591 limited geographical area, the amount of premium to be paid by
592 an insurer for each \$1,000 of insured value under covered
593 policies in that zip code or other area. In establishing
594 premiums, the division ~~board~~ shall consider the coverage elected
595 under paragraph (5) (b) ~~(4) (b)~~ and any factors that tend to
596 enhance the actuarial sophistication of ratemaking for the fund,
597 including deductibles, type of construction, type of coverage
598 provided, relative concentration of risks, and other such
599 factors deemed by the division ~~board~~ to be appropriate. The
600 formula may provide for a procedure to determine the premiums to
601 be paid by new insurers that begin writing covered policies
602 after the beginning of a contract year, taking into
603 consideration when the insurer starts writing covered policies,
604 the potential exposure of the insurer, the potential exposure of
605 the fund, the administrative costs to the insurer and to the
606 fund, and any other factors deemed appropriate by the board. The
607 formula must be approved by unanimous vote of the board. The
608 board may, at any time, revise the formula pursuant to the
609 procedure provided in this paragraph.

610 (c) No later than September 1 of each year, each insurer
611 shall notify the division ~~board~~ of its insured values under
612 covered policies by zip code, as of June 30 of that year. On the
613 basis of these reports, the division ~~board~~ shall calculate the
614 premium due from the insurer, based on the formula adopted under

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615 paragraph (b). The insurer shall pay the required annual premium
616 pursuant to a periodic payment plan specified in the contract.
617 The division ~~board~~ shall provide for payment of reimbursement
618 premium in periodic installments and for the adjustment of
619 provisional premium installments collected prior to submission
620 of the exposure report to reflect data in the exposure report.
621 The division ~~board~~ shall collect interest on late reimbursement
622 premium payments consistent with the assumptions made in
623 developing the premium formula in accordance with paragraph (b).

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

627 (e) If Citizens Property Insurance Corporation assumes or
628 otherwise provides coverage for policies of an insurer placed in
629 liquidation under chapter 631 pursuant to s. 627.351(6), the
630 corporation may, pursuant to conditions mutually agreed to
631 between the corporation and the division ~~State Board of~~
632 ~~Administration~~, obtain coverage for such policies under its
633 contract with the fund or accept an assignment of the liquidated
634 insurer's contract with the fund. If Citizens Property Insurance
635 Corporation elects to cover these policies under the
636 corporation's contract with the division ~~fund~~, it shall notify
637 the division ~~board~~ of its insured values with respect to such
638 policies within a specified time mutually agreed to between the
639 corporation and the division ~~board~~, after such assumption or
640 other coverage transaction, and the division ~~fund~~ shall treat
641 such policies as having been in effect as of June 30 of that
642 year. In the event of an assignment, the fund shall apply that

643 contract to such policies and treat Citizens Property Insurance
 644 Corporation as if the corporation were the liquidated insurer
 645 for the remaining term of the contract, and the corporation
 646 shall have all rights and duties of the liquidated insurer
 647 beginning on the date it provides coverage for such policies,
 648 but the corporation is not subject to any preexisting rights,
 649 liabilities, or duties of the liquidated insurer. The
 650 assignment, including any unresolved issues between the
 651 liquidated insurer and Citizens Property Insurance Corporation
 652 under the contract, shall be provided for in the liquidation
 653 order or otherwise determined by the court. However, if a
 654 covered event occurs before the effective date of the
 655 assignment, the corporation may not obtain coverage for such
 656 policies under its contract with the fund and shall accept an
 657 assignment of the liquidated insurer's contract as provided in
 658 this paragraph.

659 (7)~~(6)~~ REVENUE BONDS.--

660 (a) General provisions.--

661 1. Upon the occurrence of a hurricane and a determination
 662 that the moneys in the fund are or will be insufficient to pay
 663 reimbursement at the levels promised in the reimbursement
 664 contracts, the board may take the necessary steps under
 665 paragraph (c) or paragraph (d) for the issuance of revenue bonds
 666 for the benefit of the fund. The proceeds of such revenue bonds
 667 may be used to make reimbursement payments under reimbursement
 668 contracts; to refinance or replace previously existing
 669 borrowings or financial arrangements; to pay interest on bonds;
 670 to fund reserves for the bonds; to pay expenses incident to the

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671 issuance or sale of any bond issued under this section,
672 including costs of validating, printing, and delivering the
673 bonds, costs of printing the official statement, costs of
674 publishing notices of sale of the bonds, and related
675 administrative expenses; or for such other purposes related to
676 the financial obligations of the fund as the board may
677 determine. The term of the bonds may not exceed 30 years. The
678 board may pledge or authorize the corporation to pledge all or a
679 portion of all revenues under subsection (6) ~~(5)~~ and under
680 paragraph (b) to secure such revenue bonds and the division
681 ~~board~~ may execute such agreements between the division ~~board~~ and
682 the issuer of any revenue bonds and providers of other financing
683 arrangements under paragraph (8) (b) ~~(7) (b)~~ as the division ~~board~~
684 deems necessary to evidence, secure, preserve, and protect such
685 pledge. If reimbursement premiums received under subsection (6)
686 ~~(5)~~ or earnings on such premiums are used to pay debt service on
687 revenue bonds, such premiums and earnings shall be used only
688 after the use of the moneys derived from assessments under
689 paragraph (b). The funds, credit, property, or taxing power of
690 the state or political subdivisions of the state shall not be
691 pledged for the payment of such bonds. The division ~~board~~ may
692 also enter into agreements under paragraph (c) or paragraph (d)
693 for the purpose of issuing revenue bonds in the absence of a
694 hurricane upon a determination that such action would maximize
695 the ability of the fund to meet future obligations.

696 2. The Legislature finds and declares that the issuance of
697 bonds under this subsection is for the public purpose of paying
698 the proceeds of the bonds to insurers, thereby enabling insurers

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699 | to pay the claims of policyholders to assure that policyholders
700 | are able to pay the cost of construction, reconstruction,
701 | repair, restoration, and other costs associated with damage to
702 | property of policyholders of covered policies after the
703 | occurrence of a hurricane.

704 | (b) Emergency assessments.--

705 | 1. If the board determines that the amount of revenue
706 | produced under subsection (6) ~~(5)~~ is insufficient to fund the
707 | obligations, costs, and expenses of the fund and the
708 | corporation, including repayment of revenue bonds and that
709 | portion of the debt service coverage not met by reimbursement
710 | premiums, the board shall direct the Office of Insurance
711 | Regulation to levy, by order, an emergency assessment on direct
712 | premiums for all property and casualty lines of business in this
713 | state, including property and casualty business of surplus lines
714 | insurers regulated under part VIII of chapter 626, but not
715 | including any workers' compensation premiums or medical
716 | malpractice premiums. As used in this subsection, the term
717 | "property and casualty business" includes all lines of business
718 | identified on Form 2, Exhibit of Premiums and Losses, in the
719 | annual statement required of authorized insurers by s. 624.424
720 | and any rule adopted under this section, except for those lines
721 | identified as accident and health insurance and except for
722 | policies written under the National Flood Insurance Program. The
723 | assessment shall be specified as a percentage of direct written
724 | premium and is subject to annual adjustments by the board in
725 | order to meet debt obligations. The same percentage shall apply
726 | to all policies in lines of business subject to the assessment

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727 issued or renewed during the 12-month period beginning on the
728 effective date of the assessment.

729 2. A premium is not subject to an annual assessment under
730 this paragraph in excess of 6 percent of premium with respect to
731 obligations arising out of losses attributable to any one
732 contract year, and a premium is not subject to an aggregate
733 annual assessment under this paragraph in excess of 10 percent
734 of premium. An annual assessment under this paragraph shall
735 continue as long as the revenue bonds issued with respect to
736 which the assessment was imposed are outstanding, including any
737 bonds the proceeds of which were used to refund the revenue
738 bonds, unless adequate provision has been made for the payment
739 of the bonds under the documents authorizing issuance of the
740 bonds.

741 3. Emergency assessments shall be collected from
742 policyholders. Emergency assessments shall be remitted by
743 insurers as a percentage of direct written premium for the
744 preceding calendar quarter as specified in the order from the
745 Office of Insurance Regulation. The office shall verify the
746 accurate and timely collection and remittance of emergency
747 assessments and shall report the information to the division
748 ~~board~~ in a form and at a time specified by the division ~~board~~.
749 Each insurer collecting assessments shall provide the
750 information with respect to premiums and collections as may be
751 required by the office to enable the office to monitor and
752 verify compliance with this paragraph.

753 4. With respect to assessments of surplus lines premiums,
754 each surplus lines agent shall collect the assessment at the

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755 same time as the agent collects the surplus lines tax required
756 by s. 626.932, and the surplus lines agent shall remit the
757 assessment to the Florida Surplus Lines Service Office created
758 by s. 626.921 at the same time as the agent remits the surplus
759 lines tax to the Florida Surplus Lines Service Office. The
760 emergency assessment on each insured procuring coverage and
761 filing under s. 626.938 shall be remitted by the insured to the
762 Florida Surplus Lines Service Office at the time the insured
763 pays the surplus lines tax to the Florida Surplus Lines Service
764 Office. The Florida Surplus Lines Service Office shall remit the
765 collected assessments to the fund or corporation as provided in
766 the order levied by the Office of Insurance Regulation. The
767 Florida Surplus Lines Service Office shall verify the proper
768 application of such emergency assessments and shall assist the
769 division ~~board~~ in ensuring the accurate and timely collection
770 and remittance of assessments as required by the board. The
771 Florida Surplus Lines Service Office shall annually calculate
772 the aggregate written premium on property and casualty business,
773 other than workers' compensation and medical malpractice,
774 procured through surplus lines agents and insureds procuring
775 coverage and filing under s. 626.938 and shall report the
776 information to the division ~~board~~ in a form and at a time
777 specified by the division ~~board~~.

778 5. Any assessment authority not used for a particular
779 contract year may be used for a subsequent contract year. If,
780 for a subsequent contract year, the board determines that the
781 amount of revenue produced under subsection (6) ~~(5)~~ is
782 insufficient to fund the obligations, costs, and expenses of the

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783 fund and the corporation, including repayment of revenue bonds
784 and that portion of the debt service coverage not met by
785 reimbursement premiums, the board shall direct the Office of
786 Insurance Regulation to levy an emergency assessment up to an
787 amount not exceeding the amount of unused assessment authority
788 from a previous contract year or years, plus an additional 4
789 percent provided that the assessments in the aggregate do not
790 exceed the limits specified in subparagraph 2.

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

803 7. Emergency assessments are not premium and are not
804 subject to the premium tax, to the surplus lines tax, to any
805 fees, or to any commissions. An insurer is liable for all
806 assessments that it collects and must treat the failure of an
807 insured to pay an assessment as a failure to pay the premium. An
808 insurer is not liable for uncollectible assessments.

809 8. When an insurer is required to return an unearned
810 premium, it shall also return any collected assessment

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811 | attributable to the unearned premium. A credit adjustment to the
812 | collected assessment may be made by the insurer with regard to
813 | future remittances that are payable to the fund or corporation,
814 | but the insurer is not entitled to a refund.

815 | 9. When a surplus lines insured or an insured who has
816 | procured coverage and filed under s. 626.938 is entitled to the
817 | return of an unearned premium, the Florida Surplus Lines Service
818 | Office shall provide a credit or refund to the agent or such
819 | insured for the collected assessment attributable to the
820 | unearned premium prior to remitting the emergency assessment
821 | collected to the fund or corporation.

822 | 10. The exemption of medical malpractice insurance
823 | premiums from emergency assessments under this paragraph is
824 | repealed May 31, 2010, and medical malpractice insurance
825 | premiums shall be subject to emergency assessments attributable
826 | to loss events occurring in the contract years commencing on
827 | June 1, 2010.

828 | (c) Revenue bond issuance through counties or
829 | municipalities.--

830 | 1. If the board elects to enter into agreements with local
831 | governments for the issuance of revenue bonds for the benefit of
832 | the fund, the division ~~board~~ shall enter into such contracts
833 | with one or more local governments, including agreements
834 | providing for the pledge of revenues, as are necessary to effect
835 | such issuance. The governing body of a county or municipality is
836 | authorized to issue bonds as defined in s. 125.013 or s. 166.101
837 | from time to time to fund an assistance program, in conjunction
838 | with the Florida Hurricane Catastrophe Fund, for the purposes

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839 set forth in this section or for the purpose of paying the costs
840 of construction, reconstruction, repair, restoration, and other
841 costs associated with damage to properties of policyholders of
842 covered policies due to the occurrence of a hurricane by
843 assuring that policyholders located in this state are able to
844 recover claims under property insurance policies after a covered
845 event.

846 2. In order to avoid needless and indiscriminate
847 proliferation, duplication, and fragmentation of such assistance
848 programs, any local government may provide for the payment of
849 fund reimbursements, regardless of whether or not the losses for
850 which reimbursement is made occurred within or outside of the
851 territorial jurisdiction of the local government.

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

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

864 (d) Florida Hurricane Catastrophe Fund Finance
865 Corporation.--

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

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

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

881 c. The efficacy of the financing mechanism will be
 882 enhanced by the corporation's ownership of the assessments, by
 883 the insulation of the assessments from possible bankruptcy
 884 proceedings, and by covenants of the state with the
 885 corporation's bondholders.

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

889 b. The corporation shall operate under a six-member ~~five-~~
 890 ~~member~~ board of directors consisting of the Governor or a
 891 designee, the Chief Financial Officer or a designee, the
 892 Attorney General or a designee, the Commissioner of the
 893 Department of Agriculture and Consumer Services or a designee,

894 the director of the Division of Bond Finance of the State Board
 895 of Administration, and the director of the Division ~~senior~~
 896 ~~employee of the State Board of Administration responsible for~~
 897 ~~operations~~ of the Florida Hurricane Catastrophe Fund of the
 898 State Board of Administration.

899 c. The corporation has all of the powers of corporations
 900 under chapter 607 and under chapter 617, subject only to the
 901 provisions of this subsection.

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

905 e. The corporation may invest in any of the investments
 906 authorized under s. 215.47.

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

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

918 b. The state hereby covenants with holders of bonds of the
 919 corporation that the state will not repeal or abrogate the power
 920 of the board to direct the Office of Insurance Regulation to
 921 levy the assessments and to collect the proceeds of the revenues

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922 pledged to the payment of such bonds as long as any such bonds
923 remain outstanding unless adequate provision has been made for
924 the payment of such bonds pursuant to the documents authorizing
925 the issuance of such bonds.

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

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

944 b. All bonds of the corporation shall be and constitute
945 legal investments without limitation for all public bodies of
946 this state; for all banks, trust companies, savings banks,
947 savings associations, savings and loan associations, and
948 investment companies; for all administrators, executors,
949 trustees, and other fiduciaries; for all insurance companies and

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950 associations and other persons carrying on an insurance
951 business; and for all other persons who are now or may hereafter
952 be authorized to invest in bonds or other obligations of the
953 state and shall be and constitute eligible securities to be
954 deposited as collateral for the security of any state, county,
955 municipal, or other public funds. This sub-subparagraph shall be
956 considered as additional and supplemental authority and shall
957 not be limited without specific reference to this sub-
958 subparagraph.

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

967 (e) Protection of bondholders.--

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

978 2. The state hereby covenants with holders of bonds of the
 979 corporation that the state will not limit or alter the denial of
 980 authority under this paragraph or the rights under this section
 981 vested in the fund or the corporation to fulfill the terms of
 982 any agreements made with such bondholders or in any way impair
 983 the rights and remedies of such bondholders as long as any such
 984 bonds remain outstanding unless adequate provision has been made
 985 for the payment of such bonds pursuant to the documents
 986 authorizing the issuance of such bonds.

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

1001 (8) ~~(7)~~ ADDITIONAL POWERS AND DUTIES.--

1002 (a) The board may authorize the division's procurement of
 1003 ~~procure~~ reinsurance from reinsurers acceptable to the Office of
 1004 Insurance Regulation for the purpose of maximizing the capacity
 1005 of the fund and may enter into capital market transactions,

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1006 including, but not limited to, industry loss warranties,
 1007 catastrophe bonds, side-car arrangements, or financial contracts
 1008 permissible for the State Board of Administration's ~~board's~~
 1009 usage under s. 215.47(10) and (11), consistent with prudent
 1010 management of the fund.

1011 (b) In addition to borrowing under subsection (7) ~~(6)~~, the
 1012 board may also authorize the division to borrow from, or enter
 1013 into other financing arrangements with, any market sources at
 1014 prevailing interest rates.

1015 (c) Each fiscal year, the Legislature shall appropriate
 1016 from the investment income of the Florida Hurricane Catastrophe
 1017 Fund an amount no less than \$10 million and no more than 35
 1018 percent of the investment income based upon the most recent
 1019 fiscal year-end audited financial statements for the purpose of
 1020 providing funding for local governments, state agencies, public
 1021 and private educational institutions, and nonprofit
 1022 organizations to support programs intended to improve hurricane
 1023 preparedness, reduce potential losses in the event of a
 1024 hurricane, provide research into means to reduce such losses,
 1025 educate or inform the public as to means to reduce hurricane
 1026 losses, assist the public in determining the appropriateness of
 1027 particular upgrades to structures or in the financing of such
 1028 upgrades, or protect local infrastructure from potential damage
 1029 from a hurricane. Moneys shall first be available for
 1030 appropriation under this paragraph in fiscal year 1997-1998.
 1031 Moneys in excess of the \$10 million specified in this paragraph
 1032 shall not be available for appropriation under this paragraph if
 1033 the board ~~State Board of Administration~~ finds that an

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1034 appropriation of investment income from the fund would
1035 jeopardize the actuarial soundness of the fund.

1036 (d) The division board may allow insurers to comply with
1037 reporting requirements and reporting format requirements by
1038 using alternative methods of reporting if the proper
1039 administration of the fund is not thereby impaired and if the
1040 alternative methods produce data which is consistent with the
1041 purposes of this section.

1042 (e) In order to assure the equitable operation of the
1043 fund, the division board may impose a reasonable fee on an
1044 insurer to recover costs involved in reprocessing inaccurate,
1045 incomplete, or untimely exposure data submitted by the insurer.

1046 ~~(9)(8)~~ ADVISORY COUNCIL.--The division State Board of
1047 ~~Administration~~ shall appoint a nine-member advisory council that
1048 consists of an actuary, a meteorologist, an engineer, a
1049 representative of insurers, a representative of insurance
1050 agents, a representative of reinsurers, and three consumers who
1051 shall also be representatives of other affected professions and
1052 industries, to provide the division board with information and
1053 advice in connection with its duties under this section. Members
1054 of the advisory council shall serve at the pleasure of the board
1055 and are eligible for per diem and travel expenses under s.
1056 112.061.

1057 ~~(10)(9)~~ APPLICABILITY OF S. 19, ART. III OF THE STATE
1058 CONSTITUTION.--The Legislature finds that the Florida Hurricane
1059 Catastrophe Fund created by this section is a trust fund
1060 established for bond covenants, indentures, or resolutions

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1061 within the meaning of s. 19(f)(3), Art. III of the State
 1062 Constitution.

1063 (11)~~(10)~~ VIOLATIONS.--Any violation of this section or of
 1064 rules adopted under this section constitutes a violation of the
 1065 insurance code.

1066 (12)~~(11)~~ LEGAL PROCEEDINGS.--The division ~~board~~ is
 1067 authorized to take any action necessary to enforce the rules,
 1068 and the provisions and requirements of the reimbursement
 1069 contract, required by and adopted pursuant to this section.

1070 (13)~~(12)~~ FEDERAL OR MULTISTATE CATASTROPHIC FUNDS.--Upon
 1071 the creation of a federal or multistate catastrophic insurance
 1072 or reinsurance program intended to serve purposes similar to the
 1073 purposes of the fund created by this section, the division, upon
 1074 approval by the board, ~~State Board of Administration~~ shall
 1075 promptly make recommendations to the Legislature for
 1076 coordination with the federal or multistate program, for
 1077 termination of the fund, or for such other actions as the board
 1078 finds appropriate in the circumstances.

1079 (14)~~(13)~~ REVERSION OF FUND ASSETS UPON TERMINATION.--The
 1080 fund, the division, and the duties of the board under this
 1081 section may be terminated only by law. Upon termination of the
 1082 fund, all assets of the fund shall revert to the General Revenue
 1083 Fund.

1084 (15)~~(14)~~ SEVERABILITY.--If any provision of this section
 1085 or its application to any person or circumstance is held
 1086 invalid, the invalidity does not affect other provisions or
 1087 applications of the section which can be given effect without

1088 the invalid provision or application, and to this end the
 1089 provisions of this section are declared severable.

1090 (16)~~(15)~~ COLLATERAL PROTECTION INSURANCE.--As used in this
 1091 section and ss. 627.311 and 627.351, the term "collateral
 1092 protection insurance" means commercial property insurance of
 1093 which a creditor is the primary beneficiary and policyholder and
 1094 which protects or covers an interest of the creditor arising out
 1095 of a credit transaction secured by real or personal property.
 1096 Initiation of such coverage is triggered by the mortgagor's
 1097 failure to maintain insurance coverage as required by the
 1098 mortgage or other lending document. Collateral protection
 1099 insurance is not residential coverage.

1100 (17)~~(16)~~ TEMPORARY EMERGENCY ~~OPTIONS FOR~~ ADDITIONAL
 1101 COVERAGE OPTIONS.--

1102 (a) Findings and intent.--

1103 1. The Legislature finds that:

1104 a. Because of temporary disruptions in the market for
 1105 catastrophic reinsurance, many property insurers were unable to
 1106 procure reinsurance for the 2006 hurricane season with an
 1107 attachment point below the insurers' respective Florida
 1108 Hurricane Catastrophe Fund attachment points, were unable to
 1109 procure sufficient amounts of such reinsurance, or were able to
 1110 procure such reinsurance only by incurring substantially higher
 1111 costs than in prior years.

1112 b. The reinsurance market problems were responsible, at
 1113 least in part, for substantial premium increases to many
 1114 consumers and increases in the number of policies issued by the
 1115 Citizens Property Insurance Corporation.

1116 c. It is likely that the reinsurance market disruptions
 1117 will not significantly abate prior to the 2007 hurricane season.

1118 2. It is the intent of the Legislature to create a
 1119 temporary emergency program, applicable to the 2007, 2008, and
 1120 2009 hurricane seasons, to address these market disruptions and
 1121 enable insurers, at their option, to procure additional coverage
 1122 from the Florida Hurricane Catastrophe Fund.

1123 (b) Applicability of other provisions of this
 1124 section.--All provisions of this section and the rules adopted
 1125 under this section apply to the program created by this
 1126 subsection unless specifically superseded by this subsection.

1127 (c) Optional coverage.--For the contract year commencing
 1128 June 1, 2007, and ending May 31, 2008, the contract year
 1129 commencing June 1, 2008, and ending May 31, 2009, and the
 1130 contract year commencing June 1, 2009, and ending May 31, 2010,
 1131 the board shall offer for each of such years the optional
 1132 coverage as provided in this subsection.

1133 (d) Additional definitions.--As used in this subsection,
 1134 the term:

1135 1. "TEACO options" means the temporary emergency
 1136 additional coverage options created under this subsection.

1137 2. "TEACO insurer" means an insurer that has opted to
 1138 obtain coverage under the TEACO options in addition to the
 1139 coverage provided to the insurer under its reimbursement
 1140 contract.

1141 3. "TEACO reimbursement premium" means the premium charged
 1142 by the fund for coverage provided under the TEACO options.

1143 4. "TEACO retention" means the amount of losses below
 1144 which a TEACO insurer is not entitled to reimbursement from the
 1145 fund under the TEACO option selected. A TEACO insurer's
 1146 retention options shall be calculated as follows:

1147 a. The division ~~board~~ shall calculate and report to each
 1148 TEACO insurer the TEACO retention multiples. There shall be
 1149 three TEACO retention multiples for defining coverage. Each
 1150 multiple shall be calculated by dividing \$3 billion, \$4 billion,
 1151 or \$5 billion by the total estimated mandatory FHCF
 1152 reimbursement premium assuming all insurers selected the 90-
 1153 percent coverage level.

1154 b. The TEACO retention multiples as determined under sub-
 1155 subparagraph a. shall be adjusted to reflect the coverage level
 1156 elected by the insurer. For insurers electing the 90-percent
 1157 coverage level, the adjusted retention multiple is 100 percent
 1158 of the amount determined under sub-subparagraph a. For insurers
 1159 electing the 75-percent coverage level, the retention multiple
 1160 is 120 percent of the amount determined under sub-subparagraph
 1161 a. For insurers electing the 45-percent coverage level, the
 1162 adjusted retention multiple is 200 percent of the amount
 1163 determined under sub-subparagraph a.

1164 c. An insurer shall determine its provisional TEACO
 1165 retention by multiplying its estimated mandatory FHCF
 1166 reimbursement premium by the applicable adjusted TEACO retention
 1167 multiple and shall determine its actual TEACO retention by
 1168 multiplying its actual mandatory FHCF reimbursement premium by
 1169 the applicable adjusted TEACO retention multiple.

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1170 d. For TEACO insurers who experience multiple covered
1171 events causing loss during the contract year, the insurer's full
1172 TEACO retention shall be applied to each of the covered events
1173 causing the two largest losses for that insurer. For other
1174 covered events resulting in losses, the TEACO option does not
1175 apply and the insurer's retention shall be one-third of the full
1176 retention as calculated under paragraph (2) (e).

1177 5. "TEACO addendum" means an addendum to the reimbursement
1178 contract reflecting the obligations of the fund and TEACO
1179 insurers under the program created by this subsection.

1180 6. "FHCF" means the Florida Hurricane Catastrophe Fund.

1181 (e) TEACO addendum.--

1182 1. The TEACO addendum shall provide for reimbursement of
1183 TEACO insurers for covered events occurring during the contract
1184 year, in exchange for the TEACO reimbursement premium paid into
1185 the fund under paragraph (f). Any insurer writing covered
1186 policies has the option of choosing to accept the TEACO addendum
1187 for any of the 3 contract years that the coverage is offered.

1188 2. The TEACO addendum shall contain a promise by the
1189 division board to reimburse the TEACO insurer for 45 percent, 75
1190 percent, or 90 percent of its losses from each covered event in
1191 excess of the insurer's TEACO retention, plus 5 percent of the
1192 reimbursed losses to cover loss adjustment expenses. The
1193 percentage shall be the same as the coverage level selected by
1194 the insurer under paragraph (5) (b) ~~(4) (b)~~.

1195 3. The TEACO addendum shall provide that reimbursement
1196 amounts shall not be reduced by reinsurance paid or payable to
1197 the insurer from other sources.

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1198 4. The TEACO addendum shall also provide that the
1199 obligation of the division ~~board~~ with respect to all TEACO
1200 addenda shall not exceed an amount equal to two times the
1201 difference between the industry retention level calculated under
1202 paragraph (2) (e) and the \$3 billion, \$4 billion, or \$5 billion
1203 industry TEACO retention level options actually selected, but in
1204 no event may the division's ~~board's~~ obligation exceed the actual
1205 claims-paying capacity of the fund plus the additional capacity
1206 created in paragraph (g). If the actual claims-paying capacity
1207 and the additional capacity created under paragraph (g) fall
1208 short of the division's ~~board's~~ obligations under the
1209 reimbursement contract, each insurer's share of the fund's
1210 capacity shall be prorated based on the premium an insurer pays
1211 for its mandatory reimbursement coverage and the premium paid
1212 for its optional TEACO coverage as each such premium bears to
1213 the total premiums paid to the fund times the available
1214 capacity.

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

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

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1225 TEACO option selected for a TEACO insurer's two largest events
 1226 shall be twice its maximum reimbursement for a single event.

1227 (f) TEACO reimbursement premiums.--

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

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

1243 (g) Effect on claims-paying capacity of the fund.--For the
 1244 contract term commencing June 1, 2007, the contract year
 1245 commencing June 1, 2008, and the contract term beginning June 1,
 1246 2009, the program created by this subsection shall increase the
 1247 claims-paying capacity of the fund as provided in subparagraph
 1248 (5) (c) 1. ~~(4) (e) 1.~~ by an amount equal to two times the difference
 1249 between the industry retention level calculated under paragraph
 1250 (2) (e) and the \$3 billion industry TEACO retention level
 1251 specified in sub-subparagraph (d)4.a. The additional capacity
 1252 shall apply only to the additional coverage provided by the

1253 TEACO option and shall not otherwise affect any insurer's
 1254 reimbursement from the fund.

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

1256 (a) Findings and intent.--

1257 1. The Legislature finds that:

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

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

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

1270 2. It is the intent of the Legislature to create options
 1271 for insurers to purchase a temporary increased coverage limit
 1272 above the statutorily determined limit in subparagraph (5)(c)1.
 1273 ~~(4)(c)1.~~, applicable for the ~~2007~~, 2008, and 2009 hurricane
 1274 seasons, to address market disruptions and enable insurers, at
 1275 their option, to procure additional coverage from the Florida
 1276 Hurricane Catastrophe Fund.

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

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1280 subsection unless specifically superseded by provisions in this
 1281 subsection.

1282 (c) Optional coverage.--For the contract year commencing
 1283 ~~June 1, 2007, and ending May 31, 2008, the contract year~~
 1284 ~~commencing~~ June 1, 2008, and ending May 31, 2009, and the
 1285 contract year commencing June 1, 2009, and ending May 31, 2010,
 1286 the board shall offer, for each of such years, the optional
 1287 coverage as provided in this subsection.

1288 (d) Additional definitions.--As used in this subsection,
 1289 the term:

1290 1. "FHCF" means Florida Hurricane Catastrophe Fund.

1291 2. "FHCF reimbursement premium" means the premium paid by
 1292 an insurer for its coverage as a mandatory participant in the
 1293 FHCF, but does not include additional premiums for optional
 1294 coverages.

1295 3. "Payout multiple" means the number or multiple created
 1296 by dividing the statutorily defined claims-paying capacity as
 1297 determined in subparagraph (5)(c)1. ~~(4)(c)1.~~ by the aggregate
 1298 reimbursement premiums paid by all insurers estimated or
 1299 projected as of calendar year-end.

1300 4. "TICL" means the temporary increase in coverage limit.

1301 5. "TICL options" means the temporary increase in coverage
 1302 options created under this subsection.

1303 6. "TICL insurer" means an insurer that has opted to
 1304 obtain coverage under the TICL options addendum in addition to
 1305 the coverage provided to the insurer under its FHCF
 1306 reimbursement contract.

1307 7. "TICL reimbursement premium" means the premium charged
 1308 by the fund for coverage provided under the TICL option.

1309 8. "TICL coverage multiple" means the coverage multiple
 1310 when multiplied by an insurer's FHCF reimbursement premium that
 1311 defines the temporary increase in coverage limit.

1312 9. "TICL coverage" means the coverage for an insurer's
 1313 losses above the insurer's statutorily determined claims-paying
 1314 capacity based on the claims-paying limit in subparagraph
 1315 (5)(c)1. ~~(4)(e)1.~~, which an insurer selects as its temporary
 1316 increase in coverage from the fund under the TICL options
 1317 selected. A TICL insurer's increased coverage limit options
 1318 shall be calculated as follows:

1319 a. The division board ~~board~~ shall calculate and report to each
 1320 TICL insurer the TICL coverage multiples based on nine ~~12~~
 1321 options for increasing the insurer's FHCF coverage limit. Each
 1322 TICL coverage multiple shall be calculated by dividing \$1
 1323 billion, \$2 billion, \$3 billion, \$4 billion, \$5 billion, \$6
 1324 billion, \$7 billion, \$8 billion, and \$9 billion, ~~\$10 billion,~~
 1325 ~~\$11 billion, or \$12 billion~~ by the total estimated aggregate
 1326 FHCF reimbursement premiums for ~~the 2007-2008 contract year,~~ the
 1327 2008-2009 contract year, ~~and the 2009-2010 contract year.~~

1328 b. The TICL insurer's increased coverage shall be the FHCF
 1329 reimbursement premium multiplied by the TICL coverage multiple
 1330 for the TICL option selected. In order to determine an insurer's
 1331 total limit of coverage, an insurer shall add its TICL coverage
 1332 multiple to its payout multiple. The total shall represent a
 1333 number that, when multiplied by an insurer's FHCF reimbursement
 1334 premium for a given reimbursement contract year, defines an

1335 insurer's total limit of FHCF reimbursement coverage for that
 1336 reimbursement contract year.

1337 10. "TICL options addendum" means an addendum to the
 1338 reimbursement contract reflecting the obligations of the fund
 1339 and insurers selecting an option to increase an insurer's FHCF
 1340 coverage limit.

1341 (e) TICL options addendum.--

1342 1. The TICL options addendum shall provide for
 1343 reimbursement of TICL insurers for covered events occurring
 1344 between June 1, 2007, and May 31, 2008, and between June 1,
 1345 2008, and May 31, 2009, or between June 1, 2009, and May 31,
 1346 2010, in exchange for the TICL reimbursement premium paid into
 1347 the fund under paragraph (f). Any insurer writing covered
 1348 policies has the option of selecting an increased limit of
 1349 coverage under the TICL options addendum and shall select such
 1350 coverage at the time that it executes the FHCF reimbursement
 1351 contract.

1352 2. The TICL addendum shall contain a promise by the board
 1353 to reimburse the TICL insurer for 70 percent of the TICL
 1354 coverage for the TICL option selected for the insurer's 45
 1355 ~~percent, 75 percent, or 90 percent of its~~ losses from each
 1356 covered event in excess of the insurer's retention, plus 5
 1357 percent of the reimbursed losses to cover loss adjustment
 1358 expenses. ~~The percentage shall be the same as the coverage level~~
 1359 ~~selected by the insurer under paragraph (4) (b).~~

1360 3. The TICL addendum shall provide that reimbursement
 1361 amounts shall not be reduced by reinsurance paid or payable to
 1362 the insurer from other sources.

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1363 4. The priorities, schedule, and method of reimbursements
 1364 under the TICL addendum shall be the same as provided under
 1365 subsection (5) ~~(4)~~.

1366 (f) TICL reimbursement premiums.--Each TICL insurer shall
 1367 pay to the fund, in the manner and at the time provided in the
 1368 reimbursement contract for payment of reimbursement premiums, a
 1369 TICL reimbursement premium determined as specified in subsection
 1370 (5).

1371 (g) Effect on claims-paying capacity of the fund.--For the
 1372 contract terms commencing ~~June 1, 2007,~~ June 1, 2008, and June
 1373 1, 2009, the program created by this subsection shall increase
 1374 the claims-paying capacity of the fund as provided in
 1375 subparagraph (5) (c) 1. ~~(4) (c) 1.~~ by an amount not to exceed \$6 ~~\$12~~
 1376 billion and shall depend on the TICL coverage options selected
 1377 and the number of insurers that select the TICL optional
 1378 coverage. The additional capacity shall apply only to the
 1379 additional coverage provided under the TICL options and shall
 1380 not otherwise affect any insurer's reimbursement from the fund
 1381 if the insurer chooses not to select the temporary option to
 1382 increase its limit of coverage under the FHCF.

1383 (h) Increasing the claims-paying capacity of the
 1384 fund.--For the contract years commencing ~~June 1, 2007,~~ June 1,
 1385 2008, and June 1, 2009, the board may increase the claims-paying
 1386 capacity of the fund as provided in paragraph (g) by an amount
 1387 not to exceed \$4 billion in four \$1 billion options and shall
 1388 depend on the TICL coverage options selected and the number of
 1389 insurers that select the TICL optional coverage. Each insurer's
 1390 TICL premium shall be calculated based upon the additional limit

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1391 of increased coverage that the insurer selects. Such limit is
 1392 determined by multiplying the TICL multiple associated with one
 1393 of the four options times the insurer's FHCF reimbursement
 1394 premium. The reimbursement premium associated with the
 1395 additional coverage provided in this paragraph shall be
 1396 determined as specified in subsection (6) ~~(5)~~.

1397 Section 2. Section 215.557, Florida Statutes, is amended
 1398 to read:

1399 215.557 Reports of insured values.--The reports of insured
 1400 values under covered policies by zip code submitted to the
 1401 Division of the Florida Hurricane Catastrophe Fund State Board
 1402 ~~of Administration~~ pursuant to s. 215.555, as created by s. 1,
 1403 ch. 93-409, Laws of Florida, or similar legislation, are
 1404 confidential and exempt from the provisions of s. 119.07(1) and
 1405 s. 24(a), Art. I of the State Constitution.

1406 Section 3. Paragraph (h) of subsection (4) of section
 1407 215.5586, Florida Statutes, is amended to read:

1408 215.5586 My Safe Florida Home Program.--There is
 1409 established within the Department of Financial Services the My
 1410 Safe Florida Home Program. The department shall provide fiscal
 1411 accountability, contract management, and strategic leadership
 1412 for the program, consistent with this section. This section does
 1413 not create an entitlement for property owners or obligate the
 1414 state in any way to fund the inspection or retrofitting of
 1415 residential property in this state. Implementation of this
 1416 program is subject to annual legislative appropriations. It is
 1417 the intent of the Legislature that the My Safe Florida Home
 1418 Program provide inspections for at least 400,000 site-built,

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1419 single-family, residential properties and provide grants to at
 1420 least 35,000 applicants before June 30, 2009. The program shall
 1421 develop and implement a comprehensive and coordinated approach
 1422 for hurricane damage mitigation that shall include the
 1423 following:

1424 (4) ADVISORY COUNCIL.--There is created an advisory
 1425 council to provide advice and assistance to the department
 1426 regarding administration of the program. The advisory council
 1427 shall consist of:

1428 (h) The director ~~senior officer~~ of the Division of the
 1429 Florida Hurricane Catastrophe Fund.

1430
 1431 Members appointed under paragraphs (a)-(d) shall serve at the
 1432 pleasure of the Financial Services Commission. Members appointed
 1433 under paragraphs (e) and (f) shall serve at the pleasure of the
 1434 appointing officer. All other members shall serve voting ex
 1435 officio. Members of the advisory council shall serve without
 1436 compensation but may receive reimbursement as provided in s.
 1437 112.061 for per diem and travel expenses incurred in the
 1438 performance of their official duties.

1439 Section 4. Subsection (1) of section 215.559, Florida
 1440 Statutes, is amended to read:

1441 215.559 Hurricane Loss Mitigation Program.--

1442 (1) There is created a Hurricane Loss Mitigation Program.
 1443 The Legislature shall annually appropriate \$10 million of the
 1444 moneys authorized for appropriation under s. 215.555(8)(c) ~~s.~~
 1445 ~~215.555(7)(e)~~ from the Florida Hurricane Catastrophe Fund to the

1446 Department of Community Affairs for the purposes set forth in
 1447 this section.

1448 Section 5. Subsection (2) and paragraph (a) of subsection
 1449 (3) of section 215.5595, Florida Statutes, are amended to read:
 1450 215.5595 Insurance Capital Build-Up Incentive Program.--

1451 (2) The purpose of this section is to provide funds in
 1452 exchange for surplus notes to be issued by new or existing
 1453 authorized residential property insurers under the Insurance
 1454 Capital Build-Up Incentive Program administered by the Division
 1455 of the Florida Hurricane Catastrophe Fund of the State Board of
 1456 Administration, under the following conditions:

1457 (a) The amount of state funds provided in exchange for a
 1458 surplus note to any insurer, other than an insurer writing only
 1459 manufactured housing policies, may not exceed \$25 million or 20
 1460 percent of the total amount of funds appropriated for the
 1461 program, whichever is greater. The amount of the surplus note
 1462 for any insurer or insurer group writing residential property
 1463 insurance covering only manufactured housing may not exceed \$7
 1464 million.

1465 (b) On or after April 1, 2008, the insurer must contribute
 1466 an amount of new capital to its surplus which is at least equal
 1467 to the amount of the surplus note and must apply to the board by
 1468 September 1, 2008. If an insurer applies after September 1,
 1469 2008, but before June 1, 2009, the amount of the surplus note is
 1470 limited to one-half of the new capital that the insurer
 1471 contributes to its surplus, except that an insurer writing only
 1472 manufactured housing policies is eligible to receive a surplus
 1473 note of up to \$7 million. For purposes of this section, new

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1474 capital must be in the form of cash or cash equivalents as
1475 specified in s. 625.012(1).

1476 (c) The insurer's surplus, new capital, and the surplus
1477 note must total at least \$50 million, except for insurers
1478 writing residential property insurance covering only
1479 manufactured housing. The insurer's surplus, new capital, and
1480 the surplus note must total at least \$14 million for insurers
1481 writing only residential property insurance covering
1482 manufactured housing policies as provided in paragraph (a).

1483 (d) The insurer must commit to increase its writings of
1484 residential property insurance, including the peril of wind, and
1485 to meet a minimum writing ratio of net written premium to
1486 surplus of at least 1:1 for the first calendar year after
1487 receiving the state funds or renegotiation of the surplus note,
1488 1.5:1 for the second calendar year, and 2:1 for the remaining
1489 term of the surplus note. Alternatively, the insurer must meet a
1490 minimum writing ratio of gross written premium to surplus of at
1491 least 3:1 for the first calendar year after receiving the state
1492 funds or renegotiation of the surplus note, 4.5:1 for the second
1493 calendar year, and 6:1 for the remaining term of the surplus
1494 note. The writing ratios shall be determined by the Office of
1495 Insurance Regulation and certified quarterly to the board. For
1496 this purpose, the term "premium" means premium for residential
1497 property insurance in this state, including the peril of wind,
1498 and "surplus" means the new capital and surplus note of the
1499 insurer. An insurer that makes an initial application after July
1500 1, 2008, must also commit to writing at least 15 percent of its
1501 net or gross written premium for new policies, not including

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1502 renewal premiums, for policies taken out of Citizens Property
1503 Insurance Corporation, during each of the first 3 years after
1504 receiving the state funds in exchange for the surplus note,
1505 which shall be determined by the Office of Insurance Regulation
1506 and certified annually to the board. The insurer must also
1507 commit to maintaining a level of surplus and reinsurance
1508 sufficient to cover in excess of its 1-in-100 year probable
1509 maximum loss, as determined by a hurricane loss model accepted
1510 by the Florida Commission on Hurricane Loss Projection
1511 Methodology, which shall be determined by the Office of
1512 Insurance Regulation and certified annually to the board. If the
1513 board determines that the insurer has failed to meet any of the
1514 requirements of this paragraph during the term of the surplus
1515 note, the board may increase the interest rate, accelerate the
1516 repayment of interest and principal, or shorten the term of the
1517 surplus note, subject to approval by the Commissioner of
1518 Insurance of payments by the insurer of principal and interest
1519 as provided in paragraph (f).

1520 (e) If the requirements of this section are met, the board
1521 may approve an application by an insurer for funds in exchange
1522 for issuance of a surplus note, unless the board determines that
1523 the financial condition of the insurer and its business plan for
1524 writing residential property insurance in Florida places an
1525 unreasonably high level of financial risk to the state of
1526 nonpayment in full of the interest and principal. The board
1527 shall consult with the Office of Insurance Regulation and may
1528 contract with independent financial and insurance consultants in
1529 making this determination.

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1530 (f) The surplus note must be repayable to the state with a
1531 term of 20 years. The surplus note shall accrue interest on the
1532 unpaid principal balance at a rate equivalent to the 10-year
1533 U.S. Treasury Bond rate, require the payment only of interest
1534 during the first 3 years, and include such other terms as
1535 approved by the board. The board may charge late fees up to 5
1536 percent for late payments or other late remittances. Payment of
1537 principal, interest, or late fees by the insurer on the surplus
1538 note must be approved by the Commissioner of Insurance, who
1539 shall approve such payment unless the commissioner determines
1540 that such payment will substantially impair the financial
1541 condition of the insurer. If such a determination is made, the
1542 commissioner shall approve such payment that will not
1543 substantially impair the financial condition of the insurer.

1544 (g) The total amount of funds available for the program is
1545 limited to the amount appropriated by the Legislature for this
1546 purpose. If the amount of surplus notes requested by insurers
1547 exceeds the amount of funds available, the board may prioritize
1548 insurers that are eligible and approved, with priority for
1549 funding given to insurers writing only manufactured housing
1550 policies, regardless of the date of application, based on the
1551 financial strength of the insurer, the viability of its proposed
1552 business plan for writing additional residential property
1553 insurance in the state, and the effect on competition in the
1554 residential property insurance market. Between insurers writing
1555 residential property insurance covering manufactured housing,
1556 priority shall be given to the insurer writing the highest
1557 percentage of its policies covering manufactured housing.

1558 (h) Notwithstanding paragraph (d), a newly formed
 1559 manufactured housing insurer that is eligible for a surplus note
 1560 under this section shall meet the premium to surplus ratio
 1561 provisions of s. 624.4095.

1562 (i) As used in this section, "an insurer writing only
 1563 manufactured housing policies" includes:

1564 1. A Florida domiciled insurer that begins writing
 1565 personal lines residential manufactured housing policies in
 1566 Florida after March 1, 2007, and that removes a minimum of
 1567 50,000 policies from Citizens Property Insurance Corporation
 1568 without accepting a bonus, provided at least 25 percent of its
 1569 policies cover manufactured housing. Such an insurer may count
 1570 any funds above the minimum capital and surplus requirement that
 1571 were contributed into the insurer after March 1, 2007, as new
 1572 capital under this section.

1573 2. A Florida domiciled insurer that writes at least 40
 1574 percent of its policies covering manufactured housing in
 1575 Florida.

1576 (3) As used in this section, the term:

1577 (a) "Board" means the Division of the Florida Hurricane
 1578 Catastrophe Fund of the State Board of Administration.

1579 Section 6. Paragraph (c) of subsection (1), paragraphs
 1580 (a), (b), (d), (f), and (g) of subsection (2), and paragraph (c)
 1581 of subsection (3) of section 627.0628, Florida Statutes, are
 1582 amended to read:

1583 627.0628 Florida Commission on Hurricane Loss Projection
 1584 Methodology; public records exemption; public meetings
 1585 exemption.--

1586 (1) LEGISLATIVE FINDINGS AND INTENT.--

1587 (c) It is the intent of the Legislature to create the
 1588 Florida Commission on Hurricane Loss Projection Methodology as a
 1589 panel of experts to provide the most actuarially sophisticated
 1590 guidelines and standards for projection of hurricane losses
 1591 possible, given the current state of actuarial science. It is
 1592 the further intent of the Legislature that such standards and
 1593 guidelines must be used by the Division of the Florida Hurricane
 1594 Catastrophe Fund of the State Board of Administration in
 1595 developing reimbursement premium rates for the Florida Hurricane
 1596 Catastrophe Fund, and, subject to paragraph (3) (d) ~~(3) (e)~~, must
 1597 be used by insurers in rate filings under s. 627.062 unless the
 1598 way in which such standards and guidelines were applied by the
 1599 insurer was erroneous, as shown by a preponderance of the
 1600 evidence.

1601 (2) COMMISSION CREATED.--

1602 (a) There is created the Florida Commission on Hurricane
 1603 Loss Projection Methodology, which is assigned to the Division
 1604 of the Florida Hurricane Catastrophe Fund of the State Board of
 1605 Administration. For the purposes of this section, the term
 1606 "commission" means the Florida Commission on Hurricane Loss
 1607 Projection Methodology. The commission shall be administratively
 1608 housed within the State Board of Administration, but it shall
 1609 independently exercise the powers and duties specified in this
 1610 section.

1611 (b) The commission shall consist of the following 11
 1612 members:

1613 1. The insurance consumer advocate.

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1614 2. The director of the Division of the Florida Hurricane
1615 Catastrophe Fund ~~senior employee~~ of the State Board of
1616 Administration ~~responsible for operations of the Florida~~
1617 ~~Hurricane Catastrophe Fund.~~

1618 3. The Executive Director of the Citizens Property
1619 Insurance Corporation.

1620 4. The Director of the Division of Emergency Management of
1621 the Department of Community Affairs.

1622 5. The actuary member of the Florida Hurricane Catastrophe
1623 Fund Advisory Council.

1624 6. An employee of the office who is an actuary responsible
1625 for property insurance rate filings and who is appointed by the
1626 director of the office.

1627 7. Five members appointed by the Chief Financial Officer,
1628 as follows:

1629 a. An actuary who is employed full time by a property and
1630 casualty insurer which was responsible for at least 1 percent of
1631 the aggregate statewide direct written premium for homeowner's
1632 insurance in the calendar year preceding the member's
1633 appointment to the commission.

1634 b. An expert in insurance finance who is a full-time
1635 member of the faculty of the State University System and who has
1636 a background in actuarial science.

1637 c. An expert in statistics who is a full-time member of
1638 the faculty of the State University System and who has a
1639 background in insurance.

1640 d. An expert in computer system design who is a full-time
1641 member of the faculty of the State University System.

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1642 e. An expert in meteorology who is a full-time member of
1643 the faculty of the State University System and who specializes
1644 in hurricanes.

1645 (d) The board of the Division of the Florida Hurricane
1646 Catastrophe Fund of the State Board of Administration shall
1647 annually appoint one of the members of the commission to serve
1648 as chair.

1649 (f) The Division of the Florida Hurricane Catastrophe Fund
1650 of the State Board of Administration shall, as a cost of
1651 administration of the Florida Hurricane Catastrophe Fund,
1652 provide for travel, expenses, and staff support for the
1653 commission.

1654 (g) There shall be no liability on the part of, and no
1655 cause of action of any nature shall arise against, any member of
1656 the commission, any member ~~of the State Board of Administration,~~
1657 or ~~any~~ employee of the Division of the Florida Hurricane
1658 Catastrophe Fund of the State Board of Administration for any
1659 action taken in the performance of their duties under this
1660 section. In addition, the commission may, in writing, waive any
1661 potential cause of action for negligence of a consultant,
1662 contractor, or contract employee engaged to assist the
1663 commission.

1664 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

1665 (c) In establishing reimbursement premiums for the Florida
1666 Hurricane Catastrophe Fund, the Division of the Florida
1667 Hurricane Catastrophe Fund ~~State Board of Administration~~ must,
1668 to the extent feasible, employ actuarial methods, principles,

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1669 | standards, models, or output ranges found by the commission to
1670 | be accurate or reliable.

1671 | Section 7. This act shall take effect July 1, 2009.