

HB 1107

2013

1 A bill to be entitled
2 An act relating to the Florida Hurricane Catastrophe
3 Fund; amending s. 215.555, F.S.; revising the
4 definitions of the terms "covered policy,"
5 "retention," and "corporation"; providing for
6 calculation of an insurer's reimbursement premium and
7 retention under the reimbursement contract; revising
8 coverage levels available under the reimbursement
9 contract; revising aggregate coverage limits;
10 providing for the phase-in of changes to coverage
11 levels and limits; deleting the scheduled repeal of an
12 exemption of medical malpractice insurance premiums
13 from emergency assessments if certain revenues are
14 determined to be insufficient to fund the obligations,
15 costs, and expenses of the Florida Hurricane
16 Catastrophe Fund and the Florida Hurricane Catastrophe
17 Fund Finance Corporation; changing the name of the
18 Florida Hurricane Catastrophe Fund Finance
19 Corporation; amending s. 215.555, F.S.; deleting
20 provisions relating to temporary emergency options for
21 additional coverage; amending s. 627.062, F.S.;
22 providing for recoupment of certain costs of
23 reinsurance; amending s. 627.0629, F.S.; conforming a
24 cross-reference; providing effective dates.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Effective June 1, 2013, paragraphs (c), (e),

29 and (n) of subsection (2), paragraphs (b) and (c) of subsection
 30 (4), and paragraphs (b) and (d) of subsection (6) of section
 31 215.555, Florida Statutes, are amended to read:

32 215.555 Florida Hurricane Catastrophe Fund.—

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

34 (c) "Covered policy" means any insurance policy covering
 35 residential property in this state, including, but not limited
 36 to, any homeowner's, mobile home owner's, farm owner's,
 37 condominium association, condominium unit owner's, tenant's, or
 38 apartment building policy, or any other policy covering a
 39 residential structure or its contents issued by any authorized
 40 insurer, including ~~a commercial self-insurance fund holding a~~
 41 ~~certificate of authority issued by the Office of Insurance~~
 42 ~~Regulation under s. 624.462, the Citizens Property Insurance~~
 43 ~~Corporation,~~ and any joint underwriting association or similar
 44 entity created under law. The term "covered policy" includes any
 45 collateral protection insurance policy covering personal
 46 residences which protects both the borrower's and the lender's
 47 financial interests, in an amount at least equal to the coverage
 48 for the dwelling in place under the lapsed homeowner's policy,
 49 if such policy can be accurately reported as required in
 50 subsection (5). Additionally, covered policies include policies
 51 covering the peril of wind removed from the Florida Residential
 52 Property and Casualty Joint Underwriting Association or from the
 53 Citizens Property Insurance Corporation, created under s.
 54 627.351(6), or from the Florida Windstorm Underwriting
 55 Association, created under s. 627.351(2), by an authorized
 56 insurer under the terms and conditions of an executed assumption

HB 1107

2013

57 | agreement between the authorized insurer and such association or
58 | Citizens Property Insurance Corporation. Each assumption
59 | agreement between the association and such authorized insurer or
60 | Citizens Property Insurance Corporation must be approved by the
61 | Office of Insurance Regulation before the effective date of the
62 | assumption, and the Office of Insurance Regulation must provide
63 | written notification to the board within 15 working days after
64 | such approval. "Covered policy" does not include any policy that
65 | excludes wind coverage or hurricane coverage or any reinsurance
66 | agreement and does not include any policy otherwise meeting this
67 | definition which is issued by a surplus lines insurer or a
68 | reinsurer. All commercial residential excess policies and all
69 | deductible buy-back policies that, based on sound actuarial
70 | principles, require individual ratemaking shall be excluded by
71 | rule if the actuarial soundness of the fund is not jeopardized.
72 | For this purpose, the term "excess policy" means a policy that
73 | provides insurance protection for large commercial property
74 | risks and that provides a layer of coverage above a primary
75 | layer insured by another insurer.

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

79 | 1.a. The board shall calculate and report to each insurer
80 | the retention multiples for that year. For the contract year
81 | beginning June 1, 2005, the retention multiple shall be equal to
82 | \$4.5 billion divided by the total estimated reimbursement
83 | premium for the contract year; for subsequent years, the
84 | retention multiple shall be equal to \$4.5 billion, adjusted

HB 1107

2013

85 based upon the reported exposure for the contract year occurring
86 2 years before the particular contract year to reflect the
87 percentage growth in exposure to the fund for covered policies
88 since 2004, divided by the total estimated reimbursement premium
89 for the contract year. Total reimbursement premium for purposes
90 of the calculation under this subparagraph shall be estimated
91 using the assumption that all insurers have selected the 90-
92 percent coverage level.

93 b. In order to implement the phase-in of reduced coverage
94 levels as provided in paragraph (4) (b), total reimbursement
95 premium for purposes of the calculation under this subparagraph
96 shall be estimated using the following assumptions:

97 (I) For the 2013-2014 contract year, the assumption is
98 that all insurers have selected the 90 percent coverage level.

99 (II) For the 2014-2015 contract year, the assumption is
100 that all insurers have selected the 85 percent coverage level.

101 (III) For the 2015-2016 contract year, the assumption is
102 that all insurers have selected the 80 percent coverage level.

103 (IV) For the 2016-2017 contract year and subsequent
104 contract years, the assumption is that all insurers have
105 selected the 75 percent coverage level.

106 2. The retention multiple as determined under subparagraph
107 1. shall be adjusted to reflect the coverage level elected by
108 the insurer.

109 a. For an insurer electing the maximum coverage level
110 available under paragraph (4) (b) for a particular contract year
111 ~~For insurers electing the 90-percent coverage level, the~~
112 adjusted retention multiple is 100 percent of the amount

113 determined under subparagraph 1.

114 b. In order to implement the phase-in of reduced coverage
115 levels as provided in paragraph (4) (b), for an insurer electing
116 a coverage level other than the maximum coverage level, the
117 adjusted retention multiple is as follows:

118 (I) With respect to the 2013-2014 contract year, for an
119 insurer ~~For insurers~~ electing the 75-percent coverage level, the
120 retention multiple is 90/75ths ~~120 percent~~ of the amount
121 determined under subparagraph 1., and for an insurer ~~For~~
122 ~~insurers~~ electing the 45-percent coverage level, the adjusted
123 retention multiple is 90/45ths ~~200 percent~~ of the amount
124 determined under subparagraph 1.

125 (II) With respect to the 2014-2015 contract year, for an
126 insurer electing the 75-percent coverage level, the retention
127 multiple is 85/75ths of the amount determined under subparagraph
128 1., and for an insurer electing the 45-percent coverage level,
129 the retention multiple is 85/45ths of the amount determined
130 under subparagraph 1.

131 (III) With respect to the 2015-2016 contract year, for an
132 insurer electing the 75-percent coverage level, the retention
133 multiple is 80/75ths of the amount determined under subparagraph
134 1., and for an insurer electing the 45-percent coverage level,
135 the retention multiple is 80/45ths of the amount determined
136 under subparagraph 1.

137 (IV) With respect to the 2016-2017 contract year and
138 subsequent contract years, for an insurer electing the 45-
139 percent coverage level, the retention multiple is 75/45ths of
140 the amount determined under subparagraph 1.

HB 1107

2013

141 3. An insurer shall determine its provisional retention by
142 multiplying its provisional reimbursement premium by the
143 applicable adjusted retention multiple and shall determine its
144 actual retention by multiplying its actual reimbursement premium
145 by the applicable adjusted retention multiple.

146 4. For insurers who experience multiple covered events
147 causing loss during the contract year, beginning June 1, 2005,
148 each insurer's full retention shall be applied to each of the
149 covered events causing the two largest losses for that insurer.
150 For each other covered event resulting in losses, the insurer's
151 retention shall be reduced to one-third of the full retention.
152 The reimbursement contract shall provide for the reimbursement
153 of losses for each covered event based on the full retention
154 with adjustments made to reflect the reduced retentions on or
155 after January 1 of the contract year provided the insurer
156 reports its losses as specified in the reimbursement contract.

157 (n) "Corporation" means the State Board of Administration
158 ~~Florida Hurricane Catastrophe Fund~~ Finance Corporation created
159 in paragraph (6) (d).

160 (4) REIMBURSEMENT CONTRACTS.—

161 (b)1.a. The contract shall contain a promise by the board
162 to reimburse the insurer for a specified percentage ~~45 percent,~~
163 ~~75 percent, or 90 percent~~ of its losses from each covered event
164 in excess of the insurer's retention, plus 10 ~~5~~ percent of the
165 reimbursed losses to cover loss adjustment expenses.

166 b. The available coverage levels are as follows:

167 (I) For the 2013-2014 contract year, 90 percent, 75
168 percent, and 45 percent.

169 (II) For the 2014-2015 contract year, 85 percent, 75
 170 percent, and 45 percent.

171 (III) For the 2015-2016 contract year, 80 percent, 75
 172 percent, and 45 percent.

173 (IV) For the 2016-2017 contract year and subsequent
 174 contract years, 75 percent and 45 percent.

175 2.a. The insurer must elect one of the percentage coverage
 176 levels specified in this paragraph and may, upon renewal of a
 177 reimbursement contract, elect a lower percentage coverage level
 178 if no revenue bonds issued under subsection (6) after a covered
 179 event are outstanding, or elect a higher percentage coverage
 180 level, regardless of whether or not revenue bonds are
 181 outstanding. All members of an insurer group must elect the same
 182 percentage coverage level. Any joint underwriting association,
 183 risk apportionment plan, or other entity created under s.
 184 627.351 must elect the maximum ~~90 percent~~ coverage level
 185 available under subparagraph 1.

186 b. In order to implement the phase-in of reduced coverage
 187 levels as provided in subparagraph 1., and notwithstanding any
 188 provisions of sub-subparagraph a. to the contrary, if revenue
 189 bonds issued under subsection (6) after a covered event are
 190 outstanding and the insurer has elected the maximum coverage
 191 level available under subparagraph 1., the insurer must, upon
 192 renewal of the reimbursement contract, elect the maximum
 193 coverage level available under subparagraph 1. for the renewal
 194 contract year.

195 3. The contract shall provide that reimbursement amounts
 196 shall not be reduced by reinsurance paid or payable to the

HB 1107

2013

197 insurer from other sources.

198 ~~4. Notwithstanding any other provision contained in this~~
199 ~~section, the board shall make available to insurers that~~
200 ~~purchased coverage provided by this subparagraph in 2008,~~
201 ~~insurers qualifying as limited apportionment companies under s.~~
202 ~~627.351(6)(c), and insurers that have been approved to~~
203 ~~participate in the Insurance Capital Build-Up Incentive Program~~
204 ~~pursuant to s. 215.5595 a contract or contract addendum that~~
205 ~~provides an additional amount of reimbursement coverage of up to~~
206 ~~\$10 million. The premium to be charged for this additional~~
207 ~~reimbursement coverage shall be 50 percent of the additional~~
208 ~~reimbursement coverage provided, which shall include one prepaid~~
209 ~~reinstatement. The minimum retention level that an eligible~~
210 ~~participating insurer must retain associated with this~~
211 ~~additional coverage layer is 30 percent of the insurer's surplus~~
212 ~~as of December 31, 2008, for the 2009-2010 contract year; as of~~
213 ~~December 31, 2009, for the 2010-2011 contract year; and as of~~
214 ~~December 31, 2010, for the 2011-2012 contract year. This~~
215 ~~coverage shall be in addition to all other coverage that may be~~
216 ~~provided under this section. The coverage provided by the fund~~
217 ~~under this subparagraph shall be in addition to the claims-~~
218 ~~paying capacity as defined in subparagraph (c)1., but only with~~
219 ~~respect to those insurers that select the additional coverage~~
220 ~~option and meet the requirements of this subparagraph. The~~
221 ~~claims-paying capacity with respect to all other participating~~
222 ~~insurers and limited apportionment companies that do not select~~
223 ~~the additional coverage option shall be limited to their~~
224 ~~reimbursement premium's proportionate share of the actual~~

HB 1107

2013

225 ~~claims-paying capacity otherwise defined in subparagraph (c)1.~~
226 ~~and as provided for under the terms of the reimbursement~~
227 ~~contract. The optional coverage retention as specified shall be~~
228 ~~accessed before the mandatory coverage under the reimbursement~~
229 ~~contract, but once the limit of coverage selected under this~~
230 ~~option is exhausted, the insurer's retention under the mandatory~~
231 ~~coverage will apply. This coverage will apply and be paid~~
232 ~~concurrently with mandatory coverage. This subparagraph expires~~
233 ~~on May 31, 2012.~~

234 (c)1. The contract shall also provide that the obligation
235 of the board with respect to all contracts covering a particular
236 contract year shall not exceed the actual claims-paying capacity
237 of the fund up to the limit specified in this subparagraph.

238 a. For the 2013-2014 contract year, the limit is \$17
239 billion.

240 b. For the 2014-2015 contract year, the limit is \$16
241 billion.

242 c. For the 2015-2016 contract year, the limit is \$15
243 billion.

244 d. For the 2016-2017 contract year and subsequent contract
245 years, the limit is \$14 billion.

246 e. For contract years after the 2016-2017 contract year,
247 if a limit of \$17 billion for that contract year, unless the
248 board determines that there is sufficient estimated claims-
249 paying capacity to provide \$14 ~~\$17~~ billion of capacity for the
250 current contract year and an additional \$14 ~~\$17~~ billion of
251 capacity for subsequent contract years. ~~If the board makes such~~
252 ~~a determination,~~ the estimated claims-paying capacity for the

HB 1107

2013

253 particular contract year shall be determined by adding to the
254 \$14 ~~\$17~~ billion limit one-half of the fund's estimated claims-
255 paying capacity in excess of \$28 ~~\$34~~ billion. However, the
256 dollar growth in the limit may not increase in any year by an
257 amount greater than the dollar growth of the balance of the fund
258 as of December 31, ~~less any premiums or interest attributable to~~
259 ~~optional coverage~~, as defined by rule which occurred over the
260 prior calendar year.

261 2. In May and October of the contract year, the board
262 shall publish in the Florida Administrative Weekly a statement
263 of the fund's estimated borrowing capacity, the fund's estimated
264 claims-paying capacity, and the projected balance of the fund as
265 of December 31. After the end of each calendar year, the board
266 shall notify insurers of the estimated borrowing capacity,
267 estimated claims-paying capacity, and the balance of the fund as
268 of December 31 to provide insurers with data necessary to assist
269 them in determining their retention and projected payout from
270 the fund for loss reimbursement purposes. In conjunction with
271 the development of the premium formula, as provided for in
272 subsection (5), the board shall publish factors or multiples
273 that assist insurers in determining their retention and
274 projected payout for the next contract year. For all regulatory
275 and reinsurance purposes, an insurer may calculate its projected
276 payout from the fund as its share of the total fund premium for
277 the current contract year multiplied by the sum of the projected
278 balance of the fund as of December 31 and the estimated
279 borrowing capacity for that contract year as reported under this
280 subparagraph.

281 (6) REVENUE BONDS.—

282 (b) Emergency assessments—

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

307 2. A premium is not subject to an annual assessment under
 308 this paragraph in excess of 6 percent of premium with respect to

309 obligations arising out of losses attributable to any one
310 contract year, and a premium is not subject to an aggregate
311 annual assessment under this paragraph in excess of 10 percent
312 of premium. An annual assessment under this paragraph shall
313 continue as long as the revenue bonds issued with respect to
314 which the assessment was imposed are outstanding, including any
315 bonds the proceeds of which were used to refund the revenue
316 bonds, unless adequate provision has been made for the payment
317 of the bonds under the documents authorizing issuance of the
318 bonds.

319 3. Emergency assessments shall be collected from
320 policyholders. Emergency assessments shall be remitted by
321 insurers as a percentage of direct written premium for the
322 preceding calendar quarter as specified in the order from the
323 Office of Insurance Regulation. The office shall verify the
324 accurate and timely collection and remittance of emergency
325 assessments and shall report the information to the board in a
326 form and at a time specified by the board. Each insurer
327 collecting assessments shall provide the information with
328 respect to premiums and collections as may be required by the
329 office to enable the office to monitor and verify compliance
330 with this paragraph.

331 4. With respect to assessments of surplus lines premiums,
332 each surplus lines agent shall collect the assessment at the
333 same time as the agent collects the surplus lines tax required
334 by s. 626.932, and the surplus lines agent shall remit the
335 assessment to the Florida Surplus Lines Service Office created
336 by s. 626.921 at the same time as the agent remits the surplus

HB 1107

2013

337 lines tax to the Florida Surplus Lines Service Office. The
338 emergency assessment on each insured procuring coverage and
339 filing under s. 626.938 shall be remitted by the insured to the
340 Florida Surplus Lines Service Office at the time the insured
341 pays the surplus lines tax to the Florida Surplus Lines Service
342 Office. The Florida Surplus Lines Service Office shall remit the
343 collected assessments to the fund or corporation as provided in
344 the order levied by the Office of Insurance Regulation. The
345 Florida Surplus Lines Service Office shall verify the proper
346 application of such emergency assessments and shall assist the
347 board in ensuring the accurate and timely collection and
348 remittance of assessments as required by the board. The Florida
349 Surplus Lines Service Office shall annually calculate the
350 aggregate written premium on property and casualty business,
351 other than workers' compensation and medical malpractice,
352 procured through surplus lines agents and insureds procuring
353 coverage and filing under s. 626.938 and shall report the
354 information to the board in a form and at a time specified by
355 the board.

356 5. Any assessment authority not used for a particular
357 contract year may be used for a subsequent contract year. If,
358 for a subsequent contract year, the board determines that the
359 amount of revenue produced under subsection (5) is insufficient
360 to fund the obligations, costs, and expenses of the fund and the
361 corporation, including repayment of revenue bonds and that
362 portion of the debt service coverage not met by reimbursement
363 premiums, the board shall direct the Office of Insurance
364 Regulation to levy an emergency assessment up to an amount not

365 exceeding the amount of unused assessment authority from a
366 previous contract year or years, plus an additional 4 percent
367 provided that the assessments in the aggregate do not exceed the
368 limits specified in subparagraph 2.

369 6. The assessments otherwise payable to the corporation
370 under this paragraph shall be paid to the fund unless and until
371 the Office of Insurance Regulation and the Florida Surplus Lines
372 Service Office have received from the corporation and the fund a
373 notice, which shall be conclusive and upon which they may rely
374 without further inquiry, that the corporation has issued bonds
375 and the fund has no agreements in effect with local governments
376 under paragraph (c). On or after the date of the notice and
377 until the date the corporation has no bonds outstanding, the
378 fund shall have no right, title, or interest in or to the
379 assessments, except as provided in the fund's agreement with the
380 corporation.

381 7. Emergency assessments are not premium and are not
382 subject to the premium tax, to the surplus lines tax, to any
383 fees, or to any commissions. An insurer is liable for all
384 assessments that it collects and must treat the failure of an
385 insured to pay an assessment as a failure to pay the premium. An
386 insurer is not liable for uncollectible assessments.

387 8. When an insurer is required to return an unearned
388 premium, it shall also return any collected assessment
389 attributable to the unearned premium. A credit adjustment to the
390 collected assessment may be made by the insurer with regard to
391 future remittances that are payable to the fund or corporation,
392 but the insurer is not entitled to a refund.

HB 1107

2013

393 9. When a surplus lines insured or an insured who has
394 procured coverage and filed under s. 626.938 is entitled to the
395 return of an unearned premium, the Florida Surplus Lines Service
396 Office shall provide a credit or refund to the agent or such
397 insured for the collected assessment attributable to the
398 unearned premium prior to remitting the emergency assessment
399 collected to the fund or corporation.

400 ~~10. The exemption of medical malpractice insurance~~
401 ~~premiums from emergency assessments under this paragraph is~~
402 ~~repealed May 31, 2013, and medical malpractice insurance~~
403 ~~premiums shall be subject to emergency assessments attributable~~
404 ~~to loss events occurring in the contract years commencing on~~
405 ~~June 1, 2013.~~

406 (d) State Board of Administration ~~Florida Hurricane~~
407 ~~Catastrophe Fund~~ Finance Corporation.-

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

410 a. The public benefits corporation created under this
411 paragraph will provide a mechanism necessary for the cost-
412 effective and efficient issuance of bonds. This mechanism will
413 eliminate unnecessary costs in the bond issuance process,
414 thereby increasing the amounts available to pay reimbursement
415 for losses to property sustained as a result of hurricane
416 damage.

417 b. The purpose of such bonds is to fund reimbursements
418 through the Florida Hurricane Catastrophe Fund to pay for the
419 costs of construction, reconstruction, repair, restoration, and
420 other costs associated with damage to properties of

HB 1107

2013

421 policyholders of covered policies due to the occurrence of a
422 hurricane.

423 c. The efficacy of the financing mechanism will be
424 enhanced by the corporation's ownership of the assessments, by
425 the insulation of the assessments from possible bankruptcy
426 proceedings, and by covenants of the state with the
427 corporation's bondholders.

428 2.a. There is created a public benefits corporation, which
429 is an instrumentality of the state, to be known as the State
430 Board of Administration ~~Florida Hurricane Catastrophe Fund~~
431 Finance Corporation.

432 b. The corporation shall operate under a five-member board
433 of directors consisting of the Governor or a designee, the Chief
434 Financial Officer or a designee, the Attorney General or a
435 designee, the director of the Division of Bond Finance of the
436 State Board of Administration, and the Chief Operating Officer
437 ~~senior employee of the State Board of Administration responsible~~
438 ~~for operations~~ of the Florida Hurricane Catastrophe Fund.

439 c. The corporation has all of the powers of corporations
440 under chapter 607 and under chapter 617, subject only to the
441 provisions of this subsection.

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

445 e. The corporation may invest in any of the investments
446 authorized under s. 215.47.

447 f. There shall be no liability on the part of, and no
448 cause of action shall arise against, any board members or

HB 1107

2013

449 employees of the corporation for any actions taken by them in
450 the performance of their duties under this paragraph.

451 3.a. In actions under chapter 75 to validate any bonds
452 issued by the corporation, the notice required by s. 75.06 shall
453 be published in two newspapers of general circulation in the
454 state, and the complaint and order of the court shall be served
455 only on the State Attorney of the Second Judicial Circuit.

456 b. The state hereby covenants with holders of bonds of the
457 corporation that the state will not repeal or abrogate the power
458 of the board to direct the Office of Insurance Regulation to
459 levy the assessments and to collect the proceeds of the revenues
460 pledged to the payment of such bonds as long as any such bonds
461 remain outstanding unless adequate provision has been made for
462 the payment of such bonds pursuant to the documents authorizing
463 the issuance of such bonds.

464 4. The bonds of the corporation are not a debt of the
465 state or of any political subdivision, and neither the state nor
466 any political subdivision is liable on such bonds. The
467 corporation does not have the power to pledge the credit, the
468 revenues, or the taxing power of the state or of any political
469 subdivision. The credit, revenues, or taxing power of the state
470 or of any political subdivision shall not be deemed to be
471 pledged to the payment of any bonds of the corporation.

472 5.a. The property, revenues, and other assets of the
473 corporation; the transactions and operations of the corporation
474 and the income from such transactions and operations; and all
475 bonds issued under this paragraph and interest on such bonds are
476 exempt from taxation by the state and any political subdivision,

HB 1107

2013

477 including the intangibles tax under chapter 199 and the income
478 tax under chapter 220. This exemption does not apply to any tax
479 imposed by chapter 220 on interest, income, or profits on debt
480 obligations owned by corporations other than the State Board of
481 Administration ~~Florida Hurricane Catastrophe Fund~~ Finance
482 Corporation.

483 b. All bonds of the corporation shall be and constitute
484 legal investments without limitation for all public bodies of
485 this state; for all banks, trust companies, savings banks,
486 savings associations, savings and loan associations, and
487 investment companies; for all administrators, executors,
488 trustees, and other fiduciaries; for all insurance companies and
489 associations and other persons carrying on an insurance
490 business; and for all other persons who are now or may hereafter
491 be authorized to invest in bonds or other obligations of the
492 state and shall be and constitute eligible securities to be
493 deposited as collateral for the security of any state, county,
494 municipal, or other public funds. This sub-subparagraph shall be
495 considered as additional and supplemental authority and shall
496 not be limited without specific reference to this sub-
497 subparagraph.

498 6. The corporation and its corporate existence shall
499 continue until terminated by law; however, no such law shall
500 take effect as long as the corporation has bonds outstanding
501 unless adequate provision has been made for the payment of such
502 bonds pursuant to the documents authorizing the issuance of such
503 bonds. Upon termination of the existence of the corporation, all
504 of its rights and properties in excess of its obligations shall

HB 1107

2013

505 pass to and be vested in the state.

506 7. The State Board of Administration Finance Corporation
507 is for all purposes the successor to the Florida Hurricane
508 Catastrophe Fund Finance Corporation.

509 Section 2. Effective June 1, 2013, subsections (17) and
510 (18) of section 215.555, Florida Statutes, are renumbered as
511 subsections (16) and (17), respectively, and present subsection
512 (16) of that section is amended to read:

513 215.555 Florida Hurricane Catastrophe Fund.—

514 ~~(16) TEMPORARY EMERGENCY OPTIONS FOR ADDITIONAL COVERAGE.—~~

515 ~~(a) Findings and intent.—~~

516 ~~1. The Legislature finds that:~~

517 ~~a. Because of temporary disruptions in the market for~~
518 ~~eatastrophic reinsurance, many property insurers were unable to~~
519 ~~procure reinsurance for the 2006 hurricane season with an~~
520 ~~attachment point below the insurers' respective Florida~~
521 ~~Hurricane Catastrophe Fund attachment points, were unable to~~
522 ~~procure sufficient amounts of such reinsurance, or were able to~~
523 ~~procure such reinsurance only by incurring substantially higher~~
524 ~~costs than in prior years.~~

525 ~~b. The reinsurance market problems were responsible, at~~
526 ~~least in part, for substantial premium increases to many~~
527 ~~consumers and increases in the number of policies issued by the~~
528 ~~Citizens Property Insurance Corporation.~~

529 ~~e. It is likely that the reinsurance market disruptions~~
530 ~~will not significantly abate prior to the 2007 hurricane season.~~

531 ~~2. It is the intent of the Legislature to create a~~
532 ~~temporary emergency program, applicable to the 2007, 2008, and~~

HB 1107

2013

533 | ~~2009 hurricane seasons, to address these market disruptions and~~
534 | ~~enable insurers, at their option, to procure additional coverage~~
535 | ~~from the Florida Hurricane Catastrophe Fund.~~

536 | ~~(b) Applicability of other provisions of this section. All~~
537 | ~~provisions of this section and the rules adopted under this~~
538 | ~~section apply to the program created by this subsection unless~~
539 | ~~specifically superseded by this subsection.~~

540 | ~~(c) Optional coverage. For the contract year commencing~~
541 | ~~June 1, 2007, and ending May 31, 2008, the contract year~~
542 | ~~commencing June 1, 2008, and ending May 31, 2009, and the~~
543 | ~~contract year commencing June 1, 2009, and ending May 31, 2010,~~
544 | ~~the board shall offer for each of such years the optional~~
545 | ~~coverage as provided in this subsection.~~

546 | ~~(d) Additional definitions. As used in this subsection,~~
547 | ~~the term:~~

548 | ~~1. "TEACO options" means the temporary emergency~~
549 | ~~additional coverage options created under this subsection.~~

550 | ~~2. "TEACO insurer" means an insurer that has opted to~~
551 | ~~obtain coverage under the TEACO options in addition to the~~
552 | ~~coverage provided to the insurer under its reimbursement~~
553 | ~~contract.~~

554 | ~~3. "TEACO reimbursement premium" means the premium charged~~
555 | ~~by the fund for coverage provided under the TEACO options.~~

556 | ~~4. "TEACO retention" means the amount of losses below~~
557 | ~~which a TEACO insurer is not entitled to reimbursement from the~~
558 | ~~fund under the TEACO option selected. A TEACO insurer's~~
559 | ~~retention options shall be calculated as follows:~~

560 | ~~a. The board shall calculate and report to each TEACO~~

HB 1107

2013

561 ~~insurer the TEACO retention multiples. There shall be three~~
562 ~~TEACO retention multiples for defining coverage. Each multiple~~
563 ~~shall be calculated by dividing \$3 billion, \$4 billion, or \$5~~
564 ~~billion by the total estimated mandatory FHCF reimbursement~~
565 ~~premium assuming all insurers selected the 90-percent coverage~~
566 ~~level.~~

567 ~~b. The TEACO retention multiples as determined under sub-~~
568 ~~subparagraph a. shall be adjusted to reflect the coverage level~~
569 ~~elected by the insurer. For insurers electing the 90-percent~~
570 ~~coverage level, the adjusted retention multiple is 100 percent~~
571 ~~of the amount determined under sub-subparagraph a. For insurers~~
572 ~~electing the 75-percent coverage level, the retention multiple~~
573 ~~is 120 percent of the amount determined under sub-subparagraph~~
574 ~~a. For insurers electing the 45-percent coverage level, the~~
575 ~~adjusted retention multiple is 200 percent of the amount~~
576 ~~determined under sub-subparagraph a.~~

577 ~~e. An insurer shall determine its provisional TEACO~~
578 ~~retention by multiplying its estimated mandatory FHCF~~
579 ~~reimbursement premium by the applicable adjusted TEACO retention~~
580 ~~multiple and shall determine its actual TEACO retention by~~
581 ~~multiplying its actual mandatory FHCF reimbursement premium by~~
582 ~~the applicable adjusted TEACO retention multiple.~~

583 ~~d. For TEACO insurers who experience multiple covered~~
584 ~~events causing loss during the contract year, the insurer's full~~
585 ~~TEACO retention shall be applied to each of the covered events~~
586 ~~causing the two largest losses for that insurer. For other~~
587 ~~covered events resulting in losses, the TEACO option does not~~
588 ~~apply and the insurer's retention shall be one-third of the full~~

HB 1107

2013

589 ~~retention as calculated under paragraph (2) (e).~~

590 ~~5. "TEACO addendum" means an addendum to the reimbursement~~
591 ~~contract reflecting the obligations of the fund and TEACO~~
592 ~~insurers under the program created by this subsection.~~

593 ~~6. "FHCF" means the Florida Hurricane Catastrophe Fund.~~

594 ~~(e) TEACO addendum.~~

595 ~~1. The TEACO addendum shall provide for reimbursement of~~
596 ~~TEACO insurers for covered events occurring during the contract~~
597 ~~year, in exchange for the TEACO reimbursement premium paid into~~
598 ~~the fund under paragraph (f). Any insurer writing covered~~
599 ~~policies has the option of choosing to accept the TEACO addendum~~
600 ~~for any of the 3 contract years that the coverage is offered.~~

601 ~~2. The TEACO addendum shall contain a promise by the board~~
602 ~~to reimburse the TEACO insurer for 45 percent, 75 percent, or 90~~
603 ~~percent of its losses from each covered event in excess of the~~
604 ~~insurer's TEACO retention, plus 5 percent of the reimbursed~~
605 ~~losses to cover loss adjustment expenses. The percentage shall~~
606 ~~be the same as the coverage level selected by the insurer under~~
607 ~~paragraph (4) (b).~~

608 ~~3. The TEACO addendum shall provide that reimbursement~~
609 ~~amounts shall not be reduced by reinsurance paid or payable to~~
610 ~~the insurer from other sources.~~

611 ~~4. The TEACO addendum shall also provide that the~~
612 ~~obligation of the board with respect to all TEACO addenda shall~~
613 ~~not exceed an amount equal to two times the difference between~~
614 ~~the industry retention level calculated under paragraph (2) (e)~~
615 ~~and the \$3 billion, \$4 billion, or \$5 billion industry TEACO~~
616 ~~retention level options actually selected, but in no event may~~

HB 1107

2013

617 ~~the board's obligation exceed the actual claims-paying capacity~~
618 ~~of the fund plus the additional capacity created in paragraph~~
619 ~~(g). If the actual claims-paying capacity and the additional~~
620 ~~capacity created under paragraph (g) fall short of the board's~~
621 ~~obligations under the reimbursement contract, each insurer's~~
622 ~~share of the fund's capacity shall be prorated based on the~~
623 ~~premium an insurer pays for its mandatory reimbursement coverage~~
624 ~~and the premium paid for its optional TEACO coverage as each~~
625 ~~such premium bears to the total premiums paid to the fund times~~
626 ~~the available capacity.~~

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

630 ~~6. A TEACO insurer's maximum reimbursement for a single~~
631 ~~event shall be equal to the product of multiplying its mandatory~~
632 ~~FHCF premium by the difference between its FHCF retention~~
633 ~~multiple and its TEACO retention multiple under the TEACO option~~
634 ~~selected and by the coverage selected under paragraph (4) (b),~~
635 ~~plus an additional 5 percent for loss adjustment expenses. A~~
636 ~~TEACO insurer's maximum reimbursement under the TEACO option~~
637 ~~selected for a TEACO insurer's two largest events shall be twice~~
638 ~~its maximum reimbursement for a single event.~~

639 ~~(f) TEACO reimbursement premiums.—~~

640 ~~1. Each TEACO insurer shall pay to the fund, in the manner~~
641 ~~and at the time provided in the reimbursement contract for~~
642 ~~payment of reimbursement premiums, a TEACO reimbursement premium~~
643 ~~calculated as specified in this paragraph.~~

644 ~~2. The insurer's TEACO reimbursement premium associated~~

HB 1107

2013

645 ~~with the \$3 billion retention option shall be equal to 85~~
646 ~~percent of a TEACO insurer's maximum reimbursement for a single~~
647 ~~event as calculated under subparagraph (e)6. The TEACO~~
648 ~~reimbursement premium associated with the \$4 billion retention~~
649 ~~option shall be equal to 80 percent of a TEACO insurer's maximum~~
650 ~~reimbursement for a single event as calculated under~~
651 ~~subparagraph (e)6. The TEACO premium associated with the \$5~~
652 ~~billion retention option shall be equal to 75 percent of a TEACO~~
653 ~~insurer's maximum reimbursement for a single event as calculated~~
654 ~~under subparagraph (e)6.~~

655 ~~(g) Effect on claims paying capacity of the fund. For the~~
656 ~~contract term commencing June 1, 2007, the contract year~~
657 ~~commencing June 1, 2008, and the contract term beginning June 1,~~
658 ~~2009, the program created by this subsection shall increase the~~
659 ~~claims paying capacity of the fund as provided in subparagraph~~
660 ~~(4)(c)1. by an amount equal to two times the difference between~~
661 ~~the industry retention level calculated under paragraph (2)(c)~~
662 ~~and the \$3 billion industry TEACO retention level specified in~~
663 ~~sub-subparagraph (d)4.a. The additional capacity shall apply~~
664 ~~only to the additional coverage provided by the TEACO option and~~
665 ~~shall not otherwise affect any insurer's reimbursement from the~~
666 ~~fund.~~

667 Section 3. Subsection (5) of section 627.062, Florida
668 Statutes, is amended to read:

669 627.062 Rate standards.—

670 (5) With respect to a rate filing involving coverage of
671 the type for which the insurer is required to pay a
672 reimbursement premium to the Florida Hurricane Catastrophe Fund,

HB 1107

2013

673 the insurer may fully recoup in its property insurance premiums
674 any reimbursement premiums paid to the fund, together with
675 reasonable costs of other reinsurance; ~~however, except as~~
676 ~~otherwise provided in this section, the insurer may not recoup~~
677 ~~reinsurance costs that duplicate coverage provided by the fund.~~
678 An insurer may not recoup more than 1 year of reimbursement
679 premium at a time. Any under-recoupment from the prior year may
680 be added to the following year's reimbursement premium, and any
681 over-recoupment must be subtracted from the following year's
682 reimbursement premium.

683 Section 4. Subsection (5) of section 627.0629, Florida
684 Statutes, is amended to read:

685 627.0629 Residential property insurance; rate filings.—

686 (5) In order to provide an appropriate transition period,
687 an insurer may implement an approved rate filing for residential
688 property insurance over a period of years. Such insurer must
689 provide an informational notice to the office setting out its
690 schedule for implementation of the phased-in rate filing. The
691 insurer may include in its rate the actual cost of private
692 market reinsurance that corresponds to available coverage of the
693 Temporary Increase in Coverage Limits, TICL, from the Florida
694 Hurricane Catastrophe Fund. The insurer may also include the
695 cost of reinsurance to replace the TICL reduction implemented
696 pursuant to s. 215.555(16)(d)9. ~~215.555(17)(d)9.~~ However, this
697 cost for reinsurance may not include any expense or profit load
698 or result in a total annual base rate increase in excess of 10
699 percent.

700 Section 5. Except as otherwise expressly provided in this

HB 1107

2013

701 | act, this act shall take effect upon becoming a law.