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1 A bill to be entitled

2 An act relating to property insurance; amending s.
3 215.555, F.S.; providing that an insurer's projected
4 payout shall be treated as the insurer's coverage
5 amount under certain circumstances; amending s.
6 626.854, F.S.; revising applicability of provisions
7 relating to claims based on a state of emergency;
8 amending s. 627.062, F.S.; revising the factors
9 considered by the Office of Insurance Regulation when
10 reviewing rate filings; amending s. 627.0628, F.S.;
11 providing that an insurer is not prohibited from using
12 specified averages for rate filings; amending s.
13 627.0629, F.S.; deleting certain residential property
14 insurance filing requirements; revising private market
15 reinsurance criteria; amending s. 627.351, F.S.;
16 exempting certain personal lines residential
17 structures and single condominium units from annual
18 rate increases; amending s. 627.3518, F.S.; limiting
19 eligibility for coverage by the corporation for
20 personal lines risk; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Paragraph (d) of subsection (5) of section
25 215.555, Florida Statutes, is amended, and paragraph (c) of
26 subsection (4) is republished, to read:

27 | 215.555 Florida Hurricane Catastrophe Fund.—

28 | (4) REIMBURSEMENT CONTRACTS.—

29 | (c)1. The contract shall also provide that the obligation
30 | of the board with respect to all contracts covering a particular
31 | contract year shall not exceed the actual claims-paying capacity
32 | of the fund up to a limit of \$17 billion for that contract year,
33 | unless the board determines that there is sufficient estimated
34 | claims-paying capacity to provide \$17 billion of capacity for
35 | the current contract year and an additional \$17 billion of
36 | capacity for subsequent contract years. If the board makes such
37 | a determination, the estimated claims-paying capacity for the
38 | particular contract year shall be determined by adding to the
39 | \$17 billion limit one-half of the fund's estimated claims-paying
40 | capacity in excess of \$34 billion. However, the dollar growth in
41 | the limit may not increase in any year by an amount greater than
42 | the dollar growth of the balance of the fund as of December 31,
43 | less any premiums or interest attributable to optional coverage,
44 | as defined by rule which occurred over the prior calendar year.

45 | 2. In May and October of the contract year, the board
46 | shall publish in the Florida Administrative Register a statement
47 | of the fund's estimated borrowing capacity, the fund's estimated
48 | claims-paying capacity, and the projected balance of the fund as
49 | of December 31. After the end of each calendar year, the board
50 | shall notify insurers of the estimated borrowing capacity,
51 | estimated claims-paying capacity, and the balance of the fund as
52 | of December 31 to provide insurers with data necessary to assist

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53 | them in determining their retention and projected payout from
54 | the fund for loss reimbursement purposes. In conjunction with
55 | the development of the premium formula, as provided for in
56 | subsection (5), the board shall publish factors or multiples
57 | that assist insurers in determining their retention and
58 | projected payout for the next contract year. For all regulatory
59 | and reinsurance purposes, an insurer may calculate its projected
60 | payout from the fund as its share of the total fund premium for
61 | the current contract year multiplied by the sum of the projected
62 | balance of the fund as of December 31 and the estimated
63 | borrowing capacity for that contract year as reported under this
64 | subparagraph.

65 | (5) REIMBURSEMENT PREMIUMS.—

66 | (d) All premiums paid to the fund under reimbursement
67 | contracts shall be treated as premium for approved reinsurance
68 | for all accounting and regulatory purposes, and the insurer's
69 | projected payout if calculated under subparagraph (4) (c)2. shall
70 | be treated as the insurer's coverage amount.

71 | Section 2. Paragraph (b) of subsection (11) of section
72 | 626.854, Florida Statutes, is amended to read:

73 | 626.854 "Public adjuster" defined; prohibitions.—The
74 | Legislature finds that it is necessary for the protection of the
75 | public to regulate public insurance adjusters and to prevent the
76 | unauthorized practice of law.

77 | (11)

78 | (b) A public adjuster may not charge, agree to, or accept

79 | from any source compensation, payment, commission, fee, or any
 80 | other thing of value in excess of:

81 | 1. Ten percent of the amount of insurance claim payments
 82 | made by the insurer for claims based on events that are the
 83 | subject of a declaration of a state of emergency by the
 84 | Governor. ~~This provision applies to claims made during the year~~
 85 | ~~after the declaration of emergency. After that year, the~~
 86 | ~~limitations in subparagraph 2. apply.~~

87 | 2. Twenty percent of the amount of insurance claim
 88 | payments made by the insurer for claims that are not based on
 89 | events that are the subject of a declaration of a state of
 90 | emergency by the Governor.

91 | Section 3. Paragraph (b) of subsection (2) of section
 92 | 627.062, Florida Statutes, is amended to read:

93 | 627.062 Rate standards.—

94 | (2) As to all such classes of insurance:

95 | (b) Upon receiving a rate filing, the office shall review
 96 | the filing to determine if a rate is excessive, inadequate, or
 97 | unfairly discriminatory. In making that determination, the
 98 | office shall, in accordance with generally accepted and
 99 | reasonable actuarial techniques, consider the following factors:

100 | 1. Past and prospective loss experience within and without
 101 | this state.

102 | 2. Past and prospective expenses.

103 | 3. The degree of competition among insurers for the risk
 104 | insured.

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105 4. Investment income reasonably expected by the insurer,
106 consistent with the insurer's investment practices, from
107 investable premiums anticipated in the filing, plus any other
108 expected income from currently invested assets representing the
109 amount expected on unearned premium reserves and loss reserves.
110 The commission may adopt rules using reasonable techniques of
111 actuarial science and economics to specify the manner in which
112 insurers calculate investment income attributable to classes of
113 insurance written in this state and the manner in which
114 investment income is used to calculate insurance rates. Such
115 manner must contemplate allowances for an underwriting profit
116 factor and full consideration of investment income that produces
117 a reasonable rate of return; however, investment income from
118 invested surplus may not be considered.

119 5. The reasonableness of the judgment reflected in the
120 filing.

121 6. Dividends, savings, or unabsorbed premium deposits
122 allowed or returned to policyholders, members, or subscribers in
123 this state.

124 7. The adequacy of loss reserves.

125 8. The cost of reinsurance. The office may not disapprove
126 a rate as excessive solely due to the insurer having obtained
127 catastrophic reinsurance to cover the insurer's estimated 250-
128 year probable maximum loss or any lower level of loss.

129 9. Trend factors, including trends in actual losses per
130 insured unit for the insurer making the filing.

131 10. Conflagration and catastrophe hazards, if applicable.

132 11. Projected hurricane losses, if applicable, which must
 133 be estimated using a model, ~~or~~ method, or weighted average of
 134 models independently found to be acceptable or reliable by the
 135 Florida Commission on Hurricane Loss Projection Methodology, and
 136 as further provided in s. 627.0628.

137 12. Projected flood losses for personal residential
 138 property insurance, if applicable, which may be estimated using
 139 a model or method, or a straight average of model results or
 140 output ranges, independently found to be acceptable or reliable
 141 by the Florida Commission on Hurricane Loss Projection
 142 Methodology and as further provided in s. 627.0628.

143 13. A reasonable margin for underwriting profit and
 144 contingencies.

145 14. The cost of medical services, if applicable.

146 15. Other relevant factors that affect the frequency or
 147 severity of claims or expenses.

148

149 The provisions of this subsection do not apply to workers'
 150 compensation, employer's liability insurance, and motor vehicle
 151 insurance.

152 Section 4. Paragraph (d) of subsection (3) of section
 153 627.0628, Florida Statutes, is amended to read:

154 627.0628 Florida Commission on Hurricane Loss Projection
 155 Methodology; public records exemption; public meetings
 156 exemption.—

157 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—
 158 (d) With respect to a rate filing under s. 627.062, an
 159 insurer shall employ and may not modify or adjust actuarial
 160 methods, principles, standards, models, or output ranges found
 161 by the commission to be accurate or reliable in determining
 162 hurricane loss factors for use in a rate filing under s.
 163 627.062. An insurer shall employ and may not modify or adjust
 164 models found by the commission to be accurate or reliable in
 165 determining probable maximum loss levels pursuant to paragraph
 166 (b) with respect to a rate filing under s. 627.062 made more
 167 than 60 days after the commission has made such findings. This
 168 paragraph does not prohibit an insurer from averaging together
 169 the using a straight average of model results or output ranges
 170 or using a weighted average for the purposes of a rate filing
 171 ~~for personal lines residential flood insurance coverage~~ under s.
 172 627.062.

173 Section 5. Subsections (2) and (5) of section 627.0629,
 174 Florida Statutes, are amended to read:

175 627.0629 Residential property insurance; rate filings.—
 176 ~~(2)(a) A rate filing for residential property insurance~~
 177 ~~made on or before the implementation of paragraph (b) may~~
 178 ~~include rate factors that reflect the manner in which building~~
 179 ~~code enforcement in a particular jurisdiction addresses the risk~~
 180 ~~of wind damage; however, such a rate filing must also provide~~
 181 ~~for variations from such rate factors on an individual basis~~
 182 ~~based on an inspection of a particular structure by a licensed~~

183 ~~home inspector, which inspection may be at the cost of the~~
184 ~~insured.~~

185 ~~(b) A rate filing for residential property insurance made~~
186 ~~more than 150 days after approval by the office of a building~~
187 ~~code rating factor plan submitted by a statewide rating~~
188 ~~organization shall include positive and negative rate factors~~
189 ~~that reflect the manner in which building code enforcement in a~~
190 ~~particular jurisdiction addresses risk of wind damage. The rate~~
191 ~~filing shall include variations from standard rate factors on an~~
192 ~~individual basis based on inspection of a particular structure~~
193 ~~by a licensed home inspector. If an inspection is requested by~~
194 ~~the insured, the insurer may require the insured to pay the~~
195 ~~reasonable cost of the inspection. This paragraph applies to~~
196 ~~structures constructed or renovated after the implementation of~~
197 ~~this paragraph.~~

198 ~~(c) The premium notice shall specify the amount by which~~
199 ~~the rate has been adjusted as a result of this subsection and~~
200 ~~shall also specify the maximum possible positive and negative~~
201 ~~adjustments that are approved for use by the insurer under this~~
202 ~~subsection.~~

203 ~~(4)(5) An~~ An ~~In order to provide an appropriate transition~~
204 ~~period,~~ an insurer may implement an approved rate filing for
205 residential property insurance over a period of years. Such
206 insurer must provide an informational notice to the office
207 setting out its schedule for implementation of the phased-in
208 rate filing. The insurer may include in its rate the actual cost

209 of private market reinsurance as provided in ss. 627.062(2)(b)8.
 210 and 215.555(4)(c)2. and (5)(d) ~~that corresponds to available~~
 211 ~~coverage of the Temporary Increase in Coverage Limits, TICL,~~
 212 ~~from the Florida Hurricane Catastrophe Fund. The insurer may~~
 213 ~~also include the cost of reinsurance to replace the TICL~~
 214 ~~reduction implemented pursuant to s. 215.555(16)(d)9. However,~~
 215 ~~this cost for reinsurance may not include any expense or profit~~
 216 ~~load or result in a total annual base rate increase in excess of~~
 217 ~~10 percent.~~

218 Section 6. Paragraph (n) of subsection (6) of section
 219 627.351, Florida Statutes, is amended to read:

220 627.351 Insurance risk apportionment plans.—

221 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

222 (n)1. Rates for coverage provided by the corporation must
 223 be actuarially sound and subject to s. 627.062, except as
 224 otherwise provided in this paragraph. The corporation shall file
 225 its recommended rates with the office at least annually. The
 226 corporation shall provide any additional information regarding
 227 the rates which the office requires. The office shall consider
 228 the recommendations of the board and issue a final order
 229 establishing the rates for the corporation within 45 days after
 230 the recommended rates are filed. The corporation may not pursue
 231 an administrative challenge or judicial review of the final
 232 order of the office.

233 2. In addition to the rates otherwise determined pursuant
 234 to this paragraph, the corporation shall impose and collect an

235 amount equal to the premium tax provided in s. 624.509 to
236 augment the financial resources of the corporation.

237 3. After the public hurricane loss-projection model under
238 s. 627.06281 has been found to be accurate and reliable by the
239 Florida Commission on Hurricane Loss Projection Methodology, the
240 model shall serve as the minimum benchmark for determining the
241 windstorm portion of the corporation's rates. This subparagraph
242 does not require or allow the corporation to adopt rates lower
243 than the rates otherwise required or allowed by this paragraph.

244 4. The rate filings for the corporation which were
245 approved by the office and took effect January 1, 2007, are
246 rescinded, except for those rates that were lowered. As soon as
247 possible, the corporation shall begin using the lower rates that
248 were in effect on December 31, 2006, and provide refunds to
249 policyholders who paid higher rates as a result of that rate
250 filing. The rates in effect on December 31, 2006, remain in
251 effect for the 2007 and 2008 calendar years except for any rate
252 change that results in a lower rate. The next rate change that
253 may increase rates shall take effect pursuant to a new rate
254 filing recommended by the corporation and established by the
255 office, subject to this paragraph.

256 5. Beginning on July 15, 2009, and annually thereafter,
257 the corporation must make a recommended actuarially sound rate
258 filing for each personal and commercial line of business it
259 writes, to be effective no earlier than January 1, 2010.

260 6. ~~Beginning on or after January 1, 2010, and~~

261 Notwithstanding the board's recommended rates and the office's
262 final order regarding the corporation's filed rates under
263 subparagraph 1., the corporation shall annually implement a rate
264 increase which, except for sinkhole coverage or a personal lines
265 residential structure that has a dwelling replacement cost of
266 less than \$900,000, or a single condominium unit that has a
267 combined dwelling and contents replacement cost of less than
268 \$900,000, does not exceed 10 percent for any single policy
269 issued by the corporation, excluding coverage changes and
270 surcharges.

271 7. The corporation may also implement an increase to
272 reflect the effect on the corporation of the cash buildup factor
273 pursuant to s. 215.555(5) (b).

274 8. The corporation's implementation of rates as prescribed
275 in subparagraph 6. shall cease for any line of business written
276 by the corporation upon the corporation's implementation of
277 actuarially sound rates. Thereafter, the corporation shall
278 annually make a recommended actuarially sound rate filing for
279 each commercial and personal line of business the corporation
280 writes.

281 Section 7. Subsection (5) of section 627.3518, Florida
282 Statutes, is amended to read:

283 627.3518 Citizens Property Insurance Corporation
284 policyholder eligibility clearinghouse program.—The purpose of
285 this section is to provide a framework for the corporation to
286 implement a clearinghouse program by January 1, 2014.

287 (5) Notwithstanding s. 627.3517, any applicant for new
288 coverage from the corporation is not eligible for coverage from
289 the corporation if provided an offer of coverage from an
290 authorized insurer through the program at a premium that is at
291 or below the eligibility threshold established in s.
292 627.351(6)(c)5.a. Whenever an offer of coverage for a personal
293 lines risk is received for a policyholder of the corporation at
294 renewal from an authorized insurer through the program, if the
295 offer exceeds 5 percent of ~~is equal to or less than~~ the
296 corporation's renewal premium for comparable coverage, the risk
297 is ~~not~~ eligible for coverage with the corporation. In the event
298 an offer of coverage for a new applicant is received from an
299 authorized insurer through the program, and the premium offered
300 exceeds the eligibility threshold contained in s.
301 627.351(6)(c)5.a., the applicant or insured may elect to accept
302 such coverage, or may elect to accept or continue coverage with
303 the corporation. In the event an offer of coverage for a
304 personal lines risk is received from an authorized insurer at
305 renewal through the program, and the premium offered is more
306 than 5 percent of the corporation's renewal premium for
307 comparable coverage, the insured may elect to accept such
308 coverage, or may elect to accept or continue coverage with the
309 corporation. Section 627.351(6)(c)5.a.(I) does not apply to an
310 offer of coverage from an authorized insurer obtained through
311 the program. An applicant for coverage from the corporation who
312 was declared ineligible for coverage at renewal by the

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313 corporation in the previous 36 months due to an offer of
314 coverage pursuant to this subsection shall be considered a
315 renewal under this section if the corporation determines that
316 the authorized insurer making the offer of coverage pursuant to
317 this subsection continues to insure the applicant and increased
318 the rate on the policy in excess of the increase allowed for the
319 corporation under s. 627.351(6)(n)6., combined with the amount
320 contemplated for eligibility under this subsection.

321 Section 8. This act shall take effect upon becoming a law.