A bill to be entitled

An act relating to the Florida Hurricane Catastrophe Fund; amending s. 215.555, F.S.; revising an insurer's retention multiple and the beginning date in which it shall be used; specifying the method by which the retention multiple must be adjusted for certain coverage levels; requiring the fund's rate formula to provide for a rapid cash build-up under specified circumstances; specifying how the rapid cash build-up factor trigger is to be calculated; revising the amount of money the Legislature must appropriate each fiscal year; revising legislative intent; requiring participating insurers to make a one-time rate filing after a specified date; providing parameters and approval mechanism for such rate filing; revising the obligation of the board, with respect to certain contracts, on a specified date; providing an effective date.

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

Section 1. Paragraph (e) of subsection (2), paragraph (b) of subsection (4), paragraph (b) of subsection (5), paragraph (c) of subsection (7), and paragraph (a) of subsection (16) of section 215.555, Florida Statutes, are amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

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

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

1. The board shall calculate and report to each insurer the retention multiples for that year. For the contract year beginning June 1, 2020 ~~2005~~, the retention multiple shall be equal to $3.2 ~~$4.5~~ billion divided by the total estimated reimbursement premium for the contract year; for subsequent years, the retention multiple shall be equal to $3.2 ~~$4.5~~ billion, adjusted based upon the reported exposure for the contract year occurring 2 years before the particular contract year to reflect the percentage growth in exposure to the fund for covered policies since 2004, divided by the total estimated reimbursement premium for the contract year. Total reimbursement premium for purposes of the calculation under this subparagraph shall be estimated using the assumption that all insurers have selected the 90-percent coverage level.

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

a. For insurers electing the 90-percent coverage level, the ~~adjusted~~ retention multiple is 100 percent of the amount determined under subparagraph 1.

b. For insurers electing the 75-percent coverage level, the retention multiple is 120 percent of the amount determined under subparagraph 1.

c. For insurers electing the 60-percent coverage level, the retention multiple is 150 percent of the amount determined under subparagraph 1.

d. For insurers electing the 45-percent coverage level, the adjusted retention multiple is 200 percent of the amount determined under subparagraph 1.

e. For insurers electing the 25-percent coverage level, the retention multiple is 360 percent of the amount determined under subparagraph 1.

3. An insurer shall determine its provisional retention by multiplying its provisional reimbursement premium by the applicable adjusted retention multiple and shall determine its actual retention by multiplying its actual reimbursement premium by the applicable adjusted retention multiple.

4. For insurers who experience multiple covered events causing loss during the contract year, beginning June 1, 2005, each insurer's full retention shall be applied to each of the covered events causing the two largest losses for that insurer. For each other covered event resulting in losses, the insurer's retention shall be reduced to one-third of the full retention. The reimbursement contract shall provide for the reimbursement of losses for each covered event based on the full retention

with adjustments made to reflect the reduced retentions on or after January 1 of the contract year provided the insurer reports its losses as specified in the reimbursement contract.

(4) REIMBURSEMENT CONTRACTS.—

(b)1. The contract shall contain a promise by the board to reimburse the insurer for 25 percent, 45 percent, 60 percent, 75 percent, or 90 percent of its losses from each covered event in excess of the insurer's retention, plus ~~5 percent of~~ the actual reimbursed losses to cover loss adjustment expenses.

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

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

(5) REIMBURSEMENT PREMIUMS.—

(b) The State Board of Administration shall select an independent consultant to develop a rate formula for determining the actuarially indicated premium to be paid to the fund. The rate formula must ~~shall~~ specify, for each zip code or other limited geographical area, the amount of premium to be paid by an insurer for each $1,000 of insured value under covered policies in that zip code or other area. In establishing premiums, the board must ~~shall~~ consider the coverage elected under paragraph (4)(b) and any factors that tend to enhance the actuarial sophistication of ratemaking for the fund, including deductibles, type of construction, type of coverage provided, relative concentration of risks, and other such factors deemed by the board to be appropriate. Effective June 1, 2019, the fund's rate formula shall provide for a rapid cash build-up factor of up to 25 percent only when the available cash balance as of December 31 of the previous year is less than the full statutory capacity of the upcoming contract year. For the purpose of calculating the rapid cash build-up factor trigger, the available cash balance may not be reduced by reserves for projected participating insurer's reimbursements. ~~The formula must provide for a cash build-up factor. For the 2009-2010 contract year, the factor is 5 percent. For the 2010-2011 contract year, the factor is 10 percent. For the 2011-2012 contract year, the factor is 15 percent. For the 2012-2013 contract year, the factor is 20 percent. For the 2013-2014 contract year and thereafter, the factor is 25 percent.~~ The rate formula may provide for a procedure to determine the premiums to be paid by new insurers that begin writing covered policies after the beginning of a contract year, taking into consideration when the insurer starts writing covered policies, the potential exposure of the insurer, the potential exposure of the fund, the administrative costs to the insurer and to the fund, and any other factors deemed appropriate by the board. The formula must be approved by unanimous vote of the board. The board may, at any time, revise the formula pursuant to the procedure provided in this paragraph.

(7) ADDITIONAL POWERS AND DUTIES.—

(c) Each fiscal year, the Legislature shall appropriate the greater of $10 million or the full ~~from the~~ investment income of the Florida Hurricane Catastrophe Fund ~~an amount no less than $10 million and no more than 35 percent of the investment income~~ based upon the most recent fiscal year-end audited financial statements for the purpose of providing funding for local governments, state agencies, public and private educational institutions, and nonprofit organizations to support programs intended to improve hurricane preparedness, reduce potential losses in the event of a hurricane, provide research into means to reduce such losses, educate or inform the public as to means to reduce hurricane losses, assist the public in determining the appropriateness of particular upgrades to structures or in the financing of such upgrades, or protect local infrastructure from potential damage from a hurricane.

~~Moneys shall first be available for appropriation under this paragraph in fiscal year 1997-1998. Moneys in excess of the $10 million specified in this paragraph shall not be available for appropriation under this paragraph if the State Board of Administration finds that an appropriation of investment income from the fund would jeopardize the actuarial soundness of the fund.~~

(16) FACILITATION OF INSURERS' PRIVATE CONTRACT NEGOTIATIONS BEFORE THE START OF THE HURRICANE SEASON.—

(a) In addition to the legislative findings and intent provided elsewhere in this section, the Legislature finds that:

1.a. Because a regular session of the Legislature begins approximately 3 months before the start of a contract year and ends approximately 1 month before the start of a contract year, participants in the fund always face the possibility that legislative actions will change the coverage provided or offered by the fund with only a few days or weeks of advance notice.

b. The timing issues described in sub-subparagraph a. can create uncertainties and disadvantages for the residential property insurers that are required to participate in the fund when such insurers negotiate for the procurement of private reinsurance or other sources of capital.

c. Providing participating insurers with a greater degree of certainty regarding the coverage provided or offered by the fund and more time to negotiate for the procurement of private reinsurance or other sources of capital will enable the residential property insurance market to operate with greater stability.

d. Increased stability in the residential property insurance market serves a primary purpose of the fund and benefits Florida consumers by enabling insurers to operate more economically. In years when reinsurance and capital markets are experiencing a capital shortage, the last-minute rush by insurers only weeks before the start of the hurricane season to procure adequate coverage in order to meet their capital requirements can result in higher costs that are passed on to Florida consumers. However, if more time is available, residential property insurers should experience greater competition for their business with a corresponding beneficial effect for Florida consumers.

2. It is the intent of the Legislature to provide insurers with the terms and conditions of the reimbursement contract well in advance of the insurers' need to finalize their procurement of private reinsurance or other sources of capital, and thereby improve insurers' negotiating position with reinsurers and other sources of capital.

3. It is also the intent of the Legislature that the board publish the fund's maximum statutory limit of coverage and the fund's total retention early enough that residential property insurers can have the opportunity to better estimate their

coverage from the fund.

4. It is also the intent of the Legislature that participating insurers will be required to make one special rate filing after June 1, 2020, to reflect the rate impact of the increase or decrease in reinsurance costs. This one-time filing will be deemed approved if not acted upon by the Office of Insurance Regulation within 60 days after the rate filing is submitted to the office.

Section 2. Effective June 1, 2020, paragraph (c) of subsection (4) of section 215.555, Florida Statutes, is amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(4) REIMBURSEMENT CONTRACTS.—

(c)1. The contract must ~~shall~~ also provide that the obligation of the board with respect to all contracts covering a particular contract year shall be up to $7 billion, as determined by the aggregate reimbursement coverage selected by all participating insurers. Any cash surpluses exceeding the board's obligation up to $7 billion shall be preserved for subsequent contract years up to a maximum obligation of $7 billion per contract year ~~not exceed the actual claims-paying capacity of the fund up to a limit of $17 billion for that contract year, unless the board determines that there is sufficient estimated claims-paying capacity to provide $17 billion of capacity for the current contract year and an~~

~~additional $17 billion of capacity for subsequent contract years~~. ~~If the board makes such a determination, the estimated claims-paying capacity for the particular contract year shall be determined by adding to the $17 billion limit one-half of the fund's estimated claims-paying capacity in excess of $34 billion. However, the dollar growth in the limit may not increase in any year by an amount greater than the dollar growth of the balance of the fund as of December 31, less any premiums or interest attributable to optional coverage, as defined by rule which occurred over the prior calendar year~~.

2. In May and October of the contract year, the board shall publish in the Florida Administrative Register a statement of the fund's estimated borrowing capacity, the fund's estimated claims-paying capacity, and the projected balance of the fund as of December 31. After the end of each calendar year, the board shall notify insurers of the estimated borrowing capacity, estimated claims-paying capacity, and the balance of the fund as of December 31 to provide insurers with data necessary to assist them in determining their retention and projected payout from the fund for loss reimbursement purposes. In conjunction with the development of the premium formula, as provided for in subsection (5), the board shall publish factors or multiples that assist insurers in determining their retention and projected payout for the next contract year. For all regulatory and reinsurance purposes, an insurer may calculate its projected

payout from the fund as its share of the total fund premium for the current contract year multiplied by the sum of the projected balance of the fund as of December 31 and the estimated borrowing capacity for that contract year as reported under this subparagraph.

Section 3. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.