A bill to be entitled

An act relating to insurers; reenacting and amending s. 215.555, F.S.; revising the definition of the term "retention" for the purpose of reimbursement from the Florida Hurricane Catastrophe Fund; revising the reimbursement amount promised by the board in the contract with property insurers; revising the minimum of loss adjustment expenses; providing the hurricane loss portion of the formula that determines the actuarially indicated premiums to be paid to the fund; authorizing, rather than requiring, such formula to provide for cash build-up factors; removing obsolete language; revising the cash build-up factor for a specified contract year; amending s. 627.944, F.S.; providing that risk retention groups registered to do business in this state are deemed insurance companies authorized to do business in this state; reenacting s. 215.5551(3)(b), F.S., relating to Reinsurance to Assist Policyholders program, to incorporate the amendments made to s. 215.555, F.S., in a reference thereto; 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), and paragraph (b) of subsection (5) of section 215.555, Florida Statutes, are amended, and paragraphs (c), (d), and (e) of subsection (4), paragraph (c) of subsection (5), and paragraphs (a) and (d) of subsection (16) of that section are reenacted, 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, 2026 ~~2005~~, the retention multiple must ~~shall~~ be equal to $4.5 billion ~~divided by the total estimated reimbursement premium for the contract year; for subsequent years, the retention multiple shall be equal to $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. shall be adjusted to reflect the coverage level elected by the insurer. For insurers electing the 90-percent coverage level, the adjusted retention multiple is 100 percent of the amount determined under subparagraph 1. For insurers electing the 75-percent coverage level, the retention multiple is 120 percent of the amount determined under subparagraph 1. For insurers electing the 45-percent coverage level, the adjusted retention multiple is 200 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 45 percent, 75 percent, or 90 percent of its losses and applicable loss adjustment expenses from each covered event in excess of the insurer's retention~~, plus 5 percent of the reimbursed losses to cover loss adjustment expenses~~. For contracts and rates effective on or after June 1, 2026 ~~2019~~, the loss adjustment expense included ~~reimbursement~~ must be the lesser of 15 ~~10~~ percent of the total subject losses before reimbursement or the total subject actual loss adjustment expenses ~~reimbursed losses~~.

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.

(c)1. The contract shall also provide that the obligation

of the board with respect to all contracts covering a particular contract year shall 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.

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

2. In determining reimbursements pursuant to this

subsection, the contract shall provide that the board shall pay to each insurer such insurer's projected payout, which is the amount of reimbursement it is owed, up to an amount equal to the insurer's share of the actual premium paid for that contract year, multiplied by the actual claims-paying capacity available for that contract year.

3. The board may reimburse insurers for amounts up to the published factors or multiples for determining each participating insurer's retention and projected payout derived as a result of the development of the premium formula in those situations in which the total reimbursement of losses to such insurers would not exceed the estimated claims-paying capacity of the fund. Otherwise, the projected payout factors or multiples shall be reduced uniformly among all insurers to reflect the estimated claims-paying capacity.

(e)1. Except as provided in subparagraphs 2. and 3., the contract shall provide that if an insurer demonstrates to the board that it is likely to qualify for reimbursement under the contract, and demonstrates to the board that the immediate receipt of moneys from the board is likely to prevent the insurer from becoming insolvent, the board shall advance the insurer, at market interest rates, the amounts necessary to maintain the solvency of the insurer, up to 50 percent of the board's estimate of the reimbursement due the insurer. The insurer's reimbursement shall be reduced by an amount equal to

the amount of the advance and interest thereon.

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

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

b. The entity's share of the actual reimbursement premium paid for that contract year, multiplied by the currently available liquid assets of the fund. In order for the entity to qualify for an advance under this subparagraph, the entity must demonstrate to the board that the advance is essential to allow the entity to pay claims for a covered event and the board must determine that the fund's assets are sufficient and are sufficiently liquid to allow the board to make an advance to the entity and still fulfill the board's reimbursement obligations to other insurers. The entity's final reimbursement for any contract year in which an advance has been made under this subparagraph must be reduced by an amount equal to the amount of the advance and any interest on such advance. In order to determine what amounts, if any, are due the entity, the board may require the entity to report its exposure and its losses at any time to determine retention levels and reimbursements payable.

3. The contract shall also provide specifically and solely

with respect to any limited apportionment company under s. 627.351(2)(b)3. that the board may, upon application by such company, advance to such company the amount of the estimated reimbursement payable to such company as calculated pursuant to paragraph (d), at market interest rates, if the board determines that the fund's assets are sufficient and are sufficiently liquid to permit the board to make an advance to such company and at the same time fulfill its reimbursement obligations to the insurers that are participants in the fund. Such company's final reimbursement for any contract year in which an advance pursuant to this subparagraph has been made shall be reduced by an amount equal to the amount of the advance and interest thereon. In order to determine what amounts, if any, are due to such company, the board may require such company to report its exposure and its losses at such times as may be required to determine retention levels and loss reimbursements payable.

(5) REIMBURSEMENT PREMIUMS.—

(b) The State Board of Administration shall select an independent consultant to develop a formula for determining the actuarially indicated premium to be paid to the fund. The hurricane loss portion of the formula must be determined by averaging the results of all the catastrophe models accepted by the Florida Commission on Hurricane Loss Projection Methodology. The formula 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 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. The formula may ~~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; however, the cash build-up factor must be zero in the 2026-2027 contract year. The 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.

(c) No later than September 1 of each year, each insurer shall notify the board of its insured values under covered policies by zip code, as of June 30 of that year. On the basis of these reports, the board shall calculate the premium due from the insurer, based on the formula adopted under paragraph (b). The insurer shall pay the required annual premium pursuant to a periodic payment plan specified in the contract. The board shall provide for payment of reimbursement premium in periodic installments and for the adjustment of provisional premium installments collected prior to submission of the exposure report to reflect data in the exposure report. The board shall collect interest on late reimbursement premium payments consistent with the assumptions made in developing the premium formula in accordance with paragraph (b).

(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.

(d) The board shall publish in the Florida Administrative Register the maximum statutory adjusted capacity for the mandatory coverage for a particular contract year, the maximum statutory coverage for any optional coverage for the particular contract year, and the aggregate fund retention used to calculate individual insurer's retention multiples for the particular contract year no later than January 1 of the immediately preceding contract year.

Section 2. Section 627.944, Florida Statutes, is amended to read:

627.944 Risk retention groups not certificated in this state.—Risk retention groups registered to do business in this state pursuant to this section are deemed insurance companies authorized to do business in this state. Risk retention groups certificated or licensed in states other than this state and seeking to do business as a risk retention group in this state must observe and abide by the laws of this state as follows:

(1) NOTICE OF OPERATIONS AND DESIGNATION OF CHIEF FINANCIAL OFFICER AS AGENT.—Before offering insurance in this state, a risk retention group shall submit to the office:

(a) A statement identifying the state or states in which the risk retention group is certificated or licensed as a liability insurance company, date of certification or licensing, its principal place of business, and such other information, including information on its membership, as the office may require to verify that the risk retention group is qualified as a risk retention group under the provisions of this part.

(b) A copy of its plan of operations or a feasibility study and revisions of such plan or study submitted to its state of domicile; provided, however, that the provision relating to the submission of a plan of operation or a feasibility study shall not apply with respect to any line or classification of liability insurance which was defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986, and which was offered before such date by any risk retention group which had been certificated or licensed and operating for not less than 3 years before such date.

(c) A statement of registration which designates the Chief Financial Officer or her or his designee as its agent for the purpose of receiving service of legal documents of process.

(2) FINANCIAL CONDITION.—Any risk retention group doing business in this state shall submit to the office:

(a) A copy of the group's financial statement submitted to its state of domicile, which shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or a qualified loss reserve specialist under criteria established by rule of the commission after considering any criteria established by the National Association of Insurance Commissioners.

(b) A copy of each examination of the risk retention group as certified by the insurance commissioner or public official conducting the examination.

(c) Upon request by the office, a copy of any audit performed with respect to the risk retention group.

(d) Such information as may be required to verify its continuing qualification as a risk retention group under the provisions of this part.

(3) TAXATION.—All premiums paid for insurance or coverages on risks located within this state to a risk retention group shall be subject to taxation at the same rate and subject to the same interest, fines, and penalties for nonpayment as that applicable to eligible surplus lines insurers. Each agent utilized in any transaction shall report and pay the taxes for the premiums for risks which they have placed with or on behalf of a risk retention group not certificated in this state. In the event that an agent fails to pay the tax, each risk retention

group shall pay the tax for insured or covered risks located within this state. Further, each risk retention group shall report all premiums paid to it for insured or covered risks located within this state.

(4) COMPLIANCE WITH UNFAIR CLAIM SETTLEMENT PRACTICES LAW.—Any risk retention group, its agents, and its representatives shall comply with the unfair claim settlement practices law of this state as set forth in s. 626.9541(1)(i).

(5) DECEPTIVE, FALSE, OR FRAUDULENT PRACTICES.—Any risk retention group shall comply with and be subject to the laws of this state regarding deceptive, false, or fraudulent acts or practices, including the provisions of part IX of chapter 626. If the office seeks an injunction regarding conduct in violation of these laws, the injunction may be obtained from any Florida court of competent jurisdiction.

(6) EXAMINATION REGARDING FINANCIAL CONDITION.—Any risk retention group must submit to an examination by the office to determine its financial condition if the insurance commissioner of the jurisdiction in which the group is certificated or licensed has not initiated an examination or does not initiate an examination within 30 days after a request by the office. Any examination shall be coordinated to avoid unjustified repetition and conducted in an expeditious manner.

(7) NOTICE TO PURCHASERS.—Any policy issued by a risk retention group shall contain in 10-point type on the front page

and the declaration page, the following provision: "Notice, this policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty funds are not available for your risk retention group."

(8) PROHIBITED ACTS REGARDING SOLICITATION OR SALE.—The following acts by a risk retention group are hereby prohibited:

(a) The solicitation or sale of insurance by a risk retention group to any person who is not eligible for membership in the group.

(b) The solicitation or sale of insurance by, or operation of, a risk retention group that is in a hazardous financial condition or is financially impaired.

(9) PROHIBITED OWNERSHIP BY AN INSURANCE COMPANY.—No risk retention group shall be allowed to do business in this state if an insurer is directly or indirectly a member or owner of the risk retention group, other than in the case of a risk retention group all of whose members are insurers.

(10) PROHIBITED COVERAGE.—No risk retention group may offer insurance coverage prohibited by the Florida Insurance Code or declared unlawful by the highest court of this state.

(11) DELINQUENCY PROCEEDINGS.—A risk retention group not domiciled in this state but doing business in this state shall comply with a lawful order issued in a voluntary dissolution

proceeding or in a delinquency proceeding commenced by the office if there has been a finding of financial impairment after an examination under subsection (6).

(12) UTILIZATION OF AGENT.—A risk retention group shall utilize an agent licensed and appointed in this state in order to solicit, transact, underwrite, or provide insurance on a risk of a group member, which risk is located in this state.

Section 3. For the purpose of incorporating the amendment made by this act to section 215.555, Florida Statutes, in a reference thereto, paragraph (b) of subsection (3) of section 215.5551, Florida Statutes, is reenacted to read:

215.5551 Reinsurance to Assist Policyholders program.—

(3) COVERAGE.—

(b) The board shall provide a reimbursement layer of $2 billion below the FHCF retention prior to the third event dropdown of the FHCF retention set forth in s. 215.555(2)(e). Subject to the mandatory notice provisions in subsection (5), the board shall enter into a RAP reimbursement contract with each eligible RAP insurer writing covered policies in this state to provide to the insurer the reimbursement described in this section.

Section 4. This act shall take effect July 1, 2026.