A bill to be entitled

An act relating to the Florida Hurricane Catastrophe Fund; amending s. 215.555, F.S.; specifying the retention multiple for specified contracts; deleting obsolete language; providing the adjusted retention multiple for insurers electing the 100-percent coverage level; requiring that the reimbursement contract contain a promise by the State Board of Administration to reimburse the insurer a specified percentage of its losses and applicable loss adjustment expenses; specifying the loss adjustment expense for specified contracts and rates; modifying the contract obligation of the board for a contract year; deleting provisions regarding reimbursements; requiring that the hurricane loss portion of a specified formula be determined by averaging the results of certain catastrophe models; authorizing, rather than requiring, a certain formula to provide for a cash build-up factor; requiring the cash build-up factor to be frozen beginning in a specified contract year and to freeze for a specified period ending by a specified date; requiring the savings realized as a result of the freeze of the cash build-up factor to be passed to consumers; requiring the board to file certain premiums with the Office of

Insurance Regulation; requiring the office to review such premiums; prohibiting certain costs from being added to the cost of the reimbursement contracts; providing an effective date.

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

Section 1. Paragraph (e) of subsection (2), paragraphs (b), (c), and (d) of subsection (4), paragraph (b) of subsection (5), and paragraph (a) of subsection (7) 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, 2026 ~~2005~~, the retention multiple must ~~shall~~ be equal to $8.5 ~~$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. <u>For insurers electing the 100-percent coverage level, the adjusted retention multiple is 90 percent of the amount determined under subparagraph 1.</u> 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 must ~~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 must ~~shall~~ contain a promise by the board to reimburse the insurer for 45 percent, 75 percent, ~~or~~ 90 percent, or 100 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 25 ~~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 must ~~shall~~ provide that reimbursement amounts may ~~shall~~ not be reduced by reinsurance paid or payable to the insurer from other sources.

(c)1. The contract must ~~shall~~ also provide that the obligation of the board with respect to all contracts covering a particular contract year is ~~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 must ~~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 must ~~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 must ~~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 must ~~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.~~

(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 approved by the Florida Commission on Hurricane Loss Projection Methodology. The 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 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 frozen beginning in the 2026-2027 contract year and must freeze for a 12-month period ending no later than July 1, 2027. Any savings realized as a result of the freeze of the cash build-up factor must be passed directly to the consumer. 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. The board shall file the premiums to be paid with the Office of Insurance Regulation, and the office shall review such premiums.

(7) ADDITIONAL POWERS AND DUTIES.—

(a) The board may procure reinsurance from reinsurers acceptable to the Office of Insurance Regulation for the purpose of maximizing the capacity of the fund and may enter into capital market transactions, including, but not limited to, industry loss warranties, catastrophe bonds, side-car arrangements, or financial contracts permissible for the board's usage under s. 215.47(11) and (12), consistent with prudent management of the fund. The cost of any reinsurance or other capital market transaction other than issuing bonds secured by assessments purchased by the board to maximize the claims-paying capacity of the fund may not be added to the actuarially determined cost of the reimbursement contracts.

Section 2. This act shall take effect upon becoming a law.