

1 A bill to be entitled
 2 An act relating to the Florida Hurricane Catastrophe Fund;
 3 amending s. 215.555, F.S.; revising legislative findings
 4 and purpose; revising definitions; creating the Division
 5 of the Florida Hurricane Catastrophe Fund within the State
 6 Board of Administration; transferring the powers, duties,
 7 and responsibilities of administration of the fund from
 8 the State Board of Administration to the division;
 9 requiring the State Board of Administration to appoint a
 10 director; revising provisions to conform; providing
 11 penalties and interest for failing to collect and remit
 12 certain assessments; increasing the membership of the
 13 board of directors of the Florida Hurricane Catastrophe
 14 Fund Finance Corporation; revising the methodology for
 15 calculating TICL coverage multiples for purposes of
 16 reducing an insurer's fund coverage limit; increasing the
 17 percentage of reimbursement of an insurer's TICL coverage
 18 under the TICL options addendum; amending ss. 215.557,
 19 215.5586, and 215.5595, F.S.; revising provisions to
 20 conform; amending s. 627.0628, F.S.; assigning the Florida
 21 Commission on Hurricane Loss Projection Methodology to the
 22 division; revising provisions to conform; amending ss.
 23 215.559, 624.424, and 627.351, F.S.; correcting cross-
 24 references; providing an effective date.

25
 26 Be It Enacted by the Legislature of the State of Florida:
 27

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28 Section 1. Section 215.555, Florida Statutes, is amended
29 to read:

30 215.555 Florida Hurricane Catastrophe Fund.--

31 (1) FINDINGS AND PURPOSE.--The Legislature finds and
32 declares as follows:

33 (a) There is a compelling state interest in maintaining a
34 viable and orderly private sector market for property insurance
35 in this state. To the extent that the private sector is unable
36 to maintain a viable and orderly market for property insurance
37 in this state, state actions to maintain such a viable and
38 orderly market are valid and necessary exercises of the police
39 power.

40 (b) As a result of unprecedented levels of catastrophic
41 insured losses in recent years, and especially as a result of
42 Hurricane Andrew, numerous insurers have determined that in
43 order to protect their solvency, it is necessary for them to
44 reduce their exposure to hurricane losses. Also as a result of
45 these events, world reinsurance capacity has significantly
46 contracted, increasing the pressure on insurers to reduce their
47 catastrophic exposures.

48 (c) Mortgages require reliable property insurance, and the
49 unavailability of reliable property insurance would therefore
50 make most real estate transactions impossible. In addition, the
51 public health, safety, and welfare demand that structures
52 damaged or destroyed in a catastrophe be repaired or
53 reconstructed as soon as possible. Therefore, the inability of
54 the private sector insurance and reinsurance markets to maintain
55 sufficient capacity to enable residents of this state to obtain

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56 | property insurance coverage in the private sector endangers the
57 | economy of the state and endangers the public health, safety,
58 | and welfare. Accordingly, state action to correct for this
59 | inability of the private sector constitutes a valid and
60 | necessary public and governmental purpose.

61 | (d) The insolvencies and financial impairments resulting
62 | from Hurricane Andrew demonstrate that many property insurers
63 | are unable or unwilling to maintain reserves, surplus, and
64 | reinsurance sufficient to enable the insurers to pay all claims
65 | in full in the event of a catastrophe. State action is therefore
66 | necessary to protect the public from an insurer's unwillingness
67 | or inability to maintain sufficient reserves, surplus, and
68 | reinsurance.

69 | (e) A state program to provide a stable and ongoing source
70 | of reimbursement to insurers for a portion of their catastrophic
71 | hurricane losses will create additional insurance capacity
72 | sufficient to ameliorate the current dangers to the state's
73 | economy and to the public health, safety, and welfare.

74 | (f) It is essential to the functioning of a state program
75 | to increase insurance capacity that revenues received be exempt
76 | from federal taxation. It is therefore the intent of the
77 | Legislature that this program be structured as a state trust
78 | fund under the direction and control of the Division of the
79 | Florida Hurricane Catastrophe fund within the State Board of
80 | Administration and operate exclusively for the purpose of
81 | protecting and advancing the state's interest in maintaining
82 | insurance capacity in this state.

83 (g) Hurricane Andrew, which caused insured and uninsured
 84 losses in excess of \$20 billion, will likely not be the last
 85 major windstorm to strike Florida. Recognizing that a future
 86 wind catastrophe could cause damages in excess of \$60 billion,
 87 especially if a major urban area or series of urban areas were
 88 hit, it is the intent of the Legislature to balance equitably
 89 its concerns about mitigation of hurricane impact, insurance
 90 affordability and availability, and the risk of insurer and
 91 joint underwriting association insolvency, as well as assessment
 92 and bonding limitations.

93 (2) DEFINITIONS.--As used in this section:

94 (a) ~~(m)~~ "Actual claims-paying capacity" means the sum of
 95 the balance of the fund as of December 31 of a contract year,
 96 plus any reinsurance purchased by the fund, plus the amount the
 97 board is able to raise through the issuance of revenue bonds
 98 under subsection (7) ~~(6)~~.

99 (b) ~~(a)~~ "Actuarially indicated" means, with respect to
 100 premiums paid by insurers for reimbursement provided by the
 101 fund, an amount determined according to principles of actuarial
 102 science to be adequate, but not excessive, in the aggregate, to
 103 pay current and future obligations and expenses of the fund,
 104 including additional amounts if needed to pay debt service on
 105 revenue bonds issued under this section and to provide required
 106 debt service coverage in excess of the amounts required to pay
 107 actual debt service on revenue bonds issued under subsection (7)
 108 ~~(6)~~, and determined according to principles of actuarial science
 109 to reflect each insurer's relative exposure to hurricane losses.

110 (c) "Board" means the governing board of the division,

111 which shall be composed of the Governor and the Cabinet. The
 112 Governor shall be chair of the governing board of the division,
 113 the Attorney General shall be the secretary of the board, and
 114 the Chief Financial Officer shall be treasurer of the board.

115 (d)~~(g)~~ "Bond" means any bond, debenture, note, or other
 116 evidence of financial indebtedness issued under this section.

117 (e)~~(n)~~ "Corporation" means the Florida Hurricane
 118 Catastrophe Fund Finance Corporation created in paragraph (7)
 119 ~~(6)~~(d).

120 (f)~~(b)~~ "Covered event" means any one storm declared to be
 121 a hurricane by the National Hurricane Center, which storm causes
 122 insured losses in this state.

123 (g)~~(e)~~ "Covered policy" means any insurance policy
 124 covering residential property in this state, including, but not
 125 limited to, any homeowner's, mobile home owner's, farm owner's,
 126 condominium association, condominium unit owner's, tenant's, or
 127 apartment building policy, or any other policy covering a
 128 residential structure or its contents issued by any authorized
 129 insurer, including a commercial self-insurance fund holding a
 130 certificate of authority issued by the Office of Insurance
 131 Regulation under s. 624.462, the Citizens Property Insurance
 132 Corporation, and any joint underwriting association or similar
 133 entity created under law. The term "covered policy" includes any
 134 collateral protection insurance policy covering personal
 135 residences which protects both the borrower's and the lender's
 136 financial interests, in an amount at least equal to the coverage
 137 for the dwelling in place under the lapsed homeowner's policy,
 138 if such policy can be accurately reported as required in

139 subsection (6)~~(5)~~. Additionally, covered policies include
 140 policies covering the peril of wind removed from the Florida
 141 Residential Property and Casualty Joint Underwriting Association
 142 or from the Citizens Property Insurance Corporation, created
 143 under s. 627.351(6), or from the Florida Windstorm Underwriting
 144 Association, created under s. 627.351(2), by an authorized
 145 insurer under the terms and conditions of an executed assumption
 146 agreement between the authorized insurer and such association or
 147 Citizens Property Insurance Corporation. Each assumption
 148 agreement between the association and such authorized insurer or
 149 Citizens Property Insurance Corporation must be approved by the
 150 Office of Insurance Regulation before the effective date of the
 151 assumption, and the Office of Insurance Regulation must provide
 152 written notification to the division ~~board~~ within 15 working
 153 days after such approval. "Covered policy" does not include any
 154 policy that excludes wind coverage or hurricane coverage or any
 155 reinsurance agreement and does not include any policy otherwise
 156 meeting this definition which is issued by a surplus lines
 157 insurer or a reinsurer. All commercial residential excess
 158 policies and all deductible buy-back policies that, based on
 159 sound actuarial principles, require individual ratemaking shall
 160 be excluded by rule if the actuarial soundness of the fund is
 161 not jeopardized. For this purpose, the term "excess policy"
 162 means a policy that provides insurance protection for large
 163 commercial property risks and that provides a layer of coverage
 164 above a primary layer insured by another insurer.

165 (h) "Debt service" means the amount required in any fiscal
 166 year to pay the principal of, redemption premium, if any, and

167 interest on revenue bonds and any amounts required by the terms
 168 of documents authorizing, securing, or providing liquidity for
 169 revenue bonds necessary to maintain in effect any such liquidity
 170 or security arrangements.

171 (i) "Debt service coverage" means the amount, if any,
 172 required by the documents under which revenue bonds are issued,
 173 which amount is to be received in any fiscal year in excess of
 174 the amount required to pay debt service for such fiscal year.

175 (j) "Director" means the chief administrator of the
 176 division, who shall act on behalf of the division as authorized
 177 by the board.

178 (k) "Division" means the Division of the Florida Hurricane
 179 Catastrophe Fund.

180 (l) "Estimated claims-paying capacity" means the sum of
 181 the projected year-end balance of the fund as of December 31 of
 182 a contract year, plus any reinsurance purchased by the fund,
 183 plus the division's ~~board's~~ estimate of the board's borrowing
 184 capacity.

185 (m) "Fund" or "FCHF" means the Florida Hurricane
 186 Catastrophe Fund.

187 (n) ~~(j)~~ "Local government" means a unit of general purpose
 188 local government as defined in s. 218.31(2).

189 (o) ~~(d)~~ "Losses" means direct incurred losses under covered
 190 policies, which shall include losses for additional living
 191 expenses not to exceed 40 percent of the insured value of a
 192 residential structure or its contents and shall exclude loss
 193 adjustment expenses. "Losses" does not include losses for fair

194 rental value, loss of rent or rental income, or business
 195 interruption losses.

196 (p)~~(k)~~ "Pledged revenues" means all or any portion of
 197 revenues to be derived from reimbursement premiums under
 198 subsection (6) ~~(5)~~ or from emergency assessments under paragraph
 199 (7)~~(6)~~(b), as determined by the board.

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

203 1. The division ~~board~~ shall calculate and report to each
 204 insurer the retention multiples for that year. For the contract
 205 year beginning June 1, 2005, the retention multiple shall be
 206 equal to \$4.5 billion divided by the total estimated
 207 reimbursement premium for the contract year; for subsequent
 208 years, the retention multiple shall be equal to \$4.5 billion,
 209 adjusted based upon the reported exposure from the prior
 210 contract year to reflect the percentage growth in exposure to
 211 the fund for covered policies since 2004, divided by the total
 212 estimated reimbursement premium for the contract year. Total
 213 reimbursement premium for purposes of the calculation under this
 214 subparagraph shall be estimated using the assumption that all
 215 insurers have selected the 90-percent coverage level.

216 2. The retention multiple as determined under subparagraph
 217 1. shall be adjusted to reflect the coverage level elected by
 218 the insurer. For insurers electing the 90-percent coverage
 219 level, the adjusted retention multiple is 100 percent of the
 220 amount determined under subparagraph 1. For insurers electing
 221 the 75-percent coverage level, the retention multiple is 120

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

226 3. An insurer shall determine its provisional retention by
 227 multiplying its provisional reimbursement premium by the
 228 applicable adjusted retention multiple and shall determine its
 229 actual retention by multiplying its actual reimbursement premium
 230 by the applicable adjusted retention multiple.

231 4. For insurers who experience multiple covered events
 232 causing loss during the contract year, beginning June 1, 2005,
 233 each insurer's full retention shall be applied to each of the
 234 covered events causing the two largest losses for that insurer.
 235 For each other covered event resulting in losses, the insurer's
 236 retention shall be reduced to one-third of the full retention.
 237 The reimbursement contract shall provide for the reimbursement
 238 of losses for each covered event based on the full retention
 239 with adjustments made to reflect the reduced retentions after
 240 January 1 of the contract year provided the insurer reports its
 241 losses as specified in the reimbursement contract.

242 (r) ~~(f)~~ "Workers' compensation" includes both workers'
 243 compensation and excess workers' compensation insurance.

244 (3) DIVISION OF THE FLORIDA HURRICANE CATASTROPHE FUND
 245 CREATED.--The Division of the Florida Hurricane Catastrophe Fund
 246 is created within the State Board of Administration as a
 247 division of the State Board of Administration, which shall
 248 administer the Florida Hurricane Catastrophe Fund. For purposes
 249 of this section, the board of the division shall consist of the

250 Governor and Cabinet.
 251 ~~(4)-(3)~~ FLORIDA HURRICANE CATASTROPHE FUND CREATED.--There
 252 is created the Florida Hurricane Catastrophe Fund within ~~to be~~
 253 ~~administered by~~ the State Board of Administration. Moneys in the
 254 fund may not be expended, loaned, or appropriated except to pay
 255 obligations of the fund arising out of reimbursement contracts
 256 entered into under subsection (5) ~~(4)~~, payment of debt service
 257 on revenue bonds issued under subsection (7) ~~(6)~~, costs of the
 258 mitigation program under subsection (8) ~~(7)~~, costs of procuring
 259 reinsurance, and costs of administration of the fund. The State
 260 Board of Administration ~~board~~ shall invest the moneys in the
 261 fund pursuant to ss. 215.44-215.52. Except as otherwise provided
 262 in this section, earnings from all investments shall be retained
 263 in the fund. The State Board of Administration shall appoint a
 264 director of the division who shall be responsible for the
 265 administration of the fund. The appointment of the division
 266 director shall be subject to the approval by a majority vote of
 267 the board. The division ~~board~~ may employ or contract with such
 268 staff and professionals as the division ~~board~~ deems necessary
 269 for the administration of the fund. The board may adopt such
 270 rules as are reasonable and necessary to implement this section
 271 and shall specify interest due on any delinquent remittances,
 272 which interest may not exceed the fund's rate of return plus 5
 273 percent. Such rules must conform to the Legislature's specific
 274 intent in establishing the fund as expressed in subsection (1),
 275 must enhance the fund's potential ability to respond to claims
 276 for covered events, must contain general provisions so that the
 277 rules can be applied with reasonable flexibility so as to

278 accommodate insurers in situations of an unusual nature or where
 279 undue hardship may result, except that such flexibility may not
 280 in any way impair, override, supersede, or constrain the public
 281 purpose of the fund, and must be consistent with sound insurance
 282 practices. The board may, by rule, provide for the exemption
 283 from subsections (5) ~~(4)~~ and (6) ~~(5)~~ of insurers writing covered
 284 policies with less than \$10 million in aggregate exposure for
 285 covered policies if the exemption does not affect the actuarial
 286 soundness of the fund. The division may sue and be sued in the
 287 name of the division.

288 (5) ~~(4)~~ REIMBURSEMENT CONTRACTS.--

289 (a) The division ~~board~~ shall enter into a contract with
 290 each insurer writing covered policies in this state to provide
 291 to the insurer the reimbursement described in paragraphs (b) and
 292 (d), in exchange for the reimbursement premium paid into the
 293 fund under subsection (6) ~~(5)~~. As a condition of doing business
 294 in this state, each such insurer shall enter into such a
 295 contract.

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

301 2. The insurer must elect one of the percentage coverage
 302 levels specified in this paragraph and may, upon renewal of a
 303 reimbursement contract, elect a lower percentage coverage level
 304 if no revenue bonds issued under subsection (7) ~~(6)~~ after a
 305 covered event are outstanding, or elect a higher percentage

306 coverage level, regardless of whether or not revenue bonds are
 307 outstanding. All members of an insurer group must elect the same
 308 percentage coverage level. Any joint underwriting association,
 309 risk apportionment plan, or other entity created under s.
 310 627.351 must elect the 90-percent coverage level.

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

314 4. Notwithstanding any other provision contained in this
 315 section, the board shall make available to insurers that
 316 purchased coverage provided by this subparagraph in 2006,
 317 insurers qualifying as limited apportionment companies under s.
 318 627.351(6)(c), and insurers that were approved to participate in
 319 2006 or that are approved in 2007 for the Insurance Capital
 320 Build-Up Incentive Program pursuant to s. 215.5595, a contract
 321 or contract addendum that provides an additional amount of
 322 reimbursement coverage of up to \$10 million. The premium to be
 323 charged for this additional reimbursement coverage shall be 50
 324 percent of the additional reimbursement coverage provided, which
 325 shall include one prepaid reinstatement. The minimum retention
 326 level that an eligible participating insurer must retain
 327 associated with this additional coverage layer is 30 percent of
 328 the insurer's surplus as of December 31, 2006. This coverage
 329 shall be in addition to all other coverage that may be provided
 330 under this section. The coverage provided by the fund under this
 331 subparagraph shall be in addition to the claims-paying capacity
 332 as defined in subparagraph (c)1., but only with respect to those
 333 insurers that select the additional coverage option and meet the

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334 requirements of this subparagraph. The claims-paying capacity
335 with respect to all other participating insurers and limited
336 apportionment companies that do not select the additional
337 coverage option shall be limited to their reimbursement
338 premium's proportionate share of the actual claims-paying
339 capacity otherwise defined in subparagraph (c)1. and as provided
340 for under the terms of the reimbursement contract. Coverage
341 provided in the reimbursement contract will not be affected by
342 the additional premiums paid by participating insurers
343 exercising the additional coverage option allowed in this
344 subparagraph. This subparagraph expires on May 31, 2008.

345 (c)1. The contract shall also provide that the obligation
346 of the division board ~~board~~ with respect to all contracts covering a
347 particular contract year shall not exceed the actual claims-
348 paying capacity of the fund up to a limit of \$15 billion for
349 that contract year adjusted based upon the reported exposure
350 from the prior contract year to reflect the percentage growth in
351 exposure to the fund for covered policies since 2003, provided
352 the dollar growth in the limit may not increase in any year by
353 an amount greater than the dollar growth of the balance of the
354 fund as of December 31, less any premiums or interest
355 attributable to optional coverage, as defined by rule which
356 occurred over the prior calendar year.

357 2. In May before the start of the upcoming contract year
358 and in October during the contract year, the division board ~~board~~
359 shall publish in the Florida Administrative Weekly a statement
360 of the fund's estimated borrowing capacity and the projected
361 balance of the fund as of December 31. After the end of each

362 calendar year, the division board shall notify insurers of the
 363 estimated borrowing capacity and the balance of the fund as of
 364 December 31 to provide insurers with data necessary to assist
 365 them in determining their retention and projected payout from
 366 the fund for loss reimbursement purposes. In conjunction with
 367 the development of the premium formula, as provided for in
 368 subsection (6) ~~(5)~~, the division board shall publish factors or
 369 multiples that assist insurers in determining their retention
 370 and projected payout for the next contract year. For all
 371 regulatory and reinsurance purposes, an insurer may calculate
 372 its projected payout from the fund as its share of the total
 373 fund premium for the current contract year multiplied by the sum
 374 of the projected balance of the fund as of December 31 and the
 375 estimated borrowing capacity for that contract year as reported
 376 under this subparagraph.

377 (d)1. For purposes of determining potential liability and
 378 to aid in the sound administration of the fund, the contract
 379 shall require each insurer to report such insurer's losses from
 380 each covered event on an interim basis, as directed by the
 381 division board. The contract shall require the insurer to report
 382 to the division board no later than December 31 of each year,
 383 and quarterly thereafter, its reimbursable losses from covered
 384 events for the year. The contract shall require the division
 385 ~~board~~ to determine and pay, as soon as practicable after
 386 receiving these reports of reimbursable losses, the initial
 387 amount of reimbursement due and adjustments to this amount based
 388 on later loss information. The adjustments to reimbursement
 389 amounts shall require the division board to pay, or the insurer

390 to return, amounts reflecting the most recent calculation of
 391 losses.

392 2. In determining reimbursements pursuant to this
 393 subsection, the contract shall provide that the division ~~board~~
 394 shall pay to each insurer such insurer's projected payout, which
 395 is the amount of reimbursement it is owed, up to an amount equal
 396 to the insurer's share of the actual premium paid for that
 397 contract year, multiplied by the actual claims-paying capacity
 398 available for that contract year.

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

411 2. With respect only to an entity created under s.
 412 627.351, the contract shall also provide that the division ~~board~~
 413 may, upon application by such entity, advance to such entity, at
 414 market interest rates, up to 90 percent of the lesser of:

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

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

434 3. The contract shall also provide specifically and solely
435 with respect to any limited apportionment company under s.
436 627.351(2)(b)3. that the division ~~board~~ may, upon application by
437 such company, advance to such company the amount of the
438 estimated reimbursement payable to such company as calculated
439 pursuant to paragraph (d), at market interest rates, if the
440 division ~~board~~ determines that the fund's assets are sufficient
441 and are sufficiently liquid to permit the division ~~board~~ to make
442 an advance to such company and at the same time fulfill its
443 reimbursement obligations to the insurers that are participants
444 in the fund. Such company's final reimbursement for any contract

445 year in which an advance pursuant to this subparagraph has been
446 made shall be reduced by an amount equal to the amount of the
447 advance and interest thereon. In order to determine what
448 amounts, if any, are due to such company, the division ~~board~~ may
449 require such company to report its exposure and its losses at
450 such times as may be required to determine retention levels and
451 loss reimbursements payable.

452 (f) In order to ensure that insurers have properly
453 reported the insured values on which the reimbursement premium
454 is based and to ensure that insurers have properly reported the
455 losses for which reimbursements have been made, the division
456 ~~board~~ shall inspect, examine, and verify the records of each
457 insurer's covered policies at such times as the division ~~board~~
458 deems appropriate and according to standards established by rule
459 for the specific purpose of validating the accuracy of exposures
460 and losses required to be reported under the terms and
461 conditions of the reimbursement contract. The costs of the
462 examinations shall be borne by the division ~~board~~. However, in
463 order to remove any incentive for an insurer to delay
464 preparations for an examination, the division ~~board~~ shall be
465 reimbursed by the insurer for any examination expenses incurred
466 in addition to the usual and customary costs of the examination,
467 which additional expenses were incurred as a result of an
468 insurer's failure, despite proper notice, to be prepared for the
469 examination or as a result of an insurer's failure to provide
470 requested information while the examination is in progress. If
471 the division ~~board~~ finds any insurer's records or other
472 necessary information to be inadequate or inadequately posted,

473 recorded, or maintained, the division board ~~board~~ may employ experts
 474 to reconstruct, rewrite, record, post, or maintain such records
 475 or information, at the expense of the insurer being examined, if
 476 such insurer has failed to maintain, complete, or correct such
 477 records or deficiencies after the division board ~~board~~ has given the
 478 insurer notice and a reasonable opportunity to do so. Any
 479 information contained in an examination report, which
 480 information is described in s. 215.557, is confidential and
 481 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
 482 of the State Constitution, as provided in s. 215.557. Nothing in
 483 this paragraph expands the exemption in s. 215.557.

484 (g) The contract shall provide that in the event of the
 485 insolvency of an insurer, the fund shall pay directly to the
 486 Florida Insurance Guaranty Association for the benefit of
 487 Florida policyholders of the insurer the net amount of all
 488 reimbursement moneys owed to the insurer. As used in this
 489 paragraph, the term "net amount of all reimbursement moneys"
 490 means that amount which remains after reimbursement for:

491 1. Preliminary or duplicate payments owed to private
 492 reinsurers or other inuring reinsurance payments to private
 493 reinsurers that satisfy statutory or contractual obligations of
 494 the insolvent insurer attributable to covered events to such
 495 reinsurers; or

496 2. Funds owed to a bank or other financial institution to
 497 cover obligations of the insolvent insurer under a credit
 498 agreement that assists the insolvent insurer in paying claims
 499 attributable to covered events.

500

501 The private reinsurers, banks, or other financial institutions
 502 shall be reimbursed or otherwise paid prior to payment to the
 503 Florida Insurance Guaranty Association, notwithstanding any law
 504 to the contrary. The guaranty association shall pay all claims
 505 up to the maximum amount permitted by chapter 631; thereafter,
 506 any remaining moneys shall be paid pro rata to claims not fully
 507 satisfied. This paragraph does not apply to a joint underwriting
 508 association, risk apportionment plan, or other entity created
 509 under s. 627.351.

510 (6)~~(5)~~ REIMBURSEMENT PREMIUMS.--

511 (a) Each reimbursement contract shall require the insurer
 512 to annually pay to the fund an actuarially indicated premium for
 513 the reimbursement.

514 (b) The division ~~State Board of Administration~~ shall
 515 select an independent consultant to develop a formula for
 516 determining the actuarially indicated premium to be paid to the
 517 fund. The formula shall specify, for each zip code or other
 518 limited geographical area, the amount of premium to be paid by
 519 an insurer for each \$1,000 of insured value under covered
 520 policies in that zip code or other area. In establishing
 521 premiums, the division ~~board~~ shall consider the coverage elected
 522 under paragraph (5)~~(4)~~(b) and any factors that tend to enhance
 523 the actuarial sophistication of ratemaking for the fund,
 524 including deductibles, type of construction, type of coverage
 525 provided, relative concentration of risks, and other such
 526 factors deemed by the division ~~board~~ to be appropriate. The
 527 formula may provide for a procedure to determine the premiums to
 528 be paid by new insurers that begin writing covered policies

529 after the beginning of a contract year, taking into
 530 consideration when the insurer starts writing covered policies,
 531 the potential exposure of the insurer, the potential exposure of
 532 the fund, the administrative costs to the insurer and to the
 533 fund, and any other factors deemed appropriate by the division
 534 ~~board~~. The formula must be approved by unanimous vote of the
 535 board. The board may, at any time, revise the formula pursuant
 536 to the procedure provided in this paragraph.

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

551 (d) All premiums paid to the fund under reimbursement
 552 contracts shall be treated as premium for approved reinsurance
 553 for all accounting and regulatory purposes.

554 (e) If Citizens Property Insurance Corporation assumes or
 555 otherwise provides coverage for policies of an insurer placed in
 556 liquidation under chapter 631 pursuant to s. 627.351(6), the

557 corporation may, pursuant to conditions mutually agreed to
 558 between the corporation and the division, ~~State Board of~~
 559 ~~Administration~~, obtain coverage for such policies under its
 560 contract with the fund or accept an assignment of the liquidated
 561 insurer's contract with the fund. If Citizens Property Insurance
 562 Corporation elects to cover these policies under the
 563 corporation's contract with the division, ~~fund~~, it shall notify
 564 the division ~~board~~ of its insured values with respect to such
 565 policies within a specified time mutually agreed to between the
 566 corporation and the division, ~~board~~, after such assumption or
 567 other coverage transaction, and the division ~~fund~~ shall treat
 568 such policies as having been in effect as of June 30 of that
 569 year. In the event of an assignment, the fund shall apply that
 570 contract to such policies and treat Citizens Property Insurance
 571 Corporation as if the corporation were the liquidated insurer
 572 for the remaining term of the contract, and the corporation
 573 shall have all rights and duties of the liquidated insurer
 574 beginning on the date it provides coverage for such policies,
 575 but the corporation is not subject to any preexisting rights,
 576 liabilities, or duties of the liquidated insurer. The
 577 assignment, including any unresolved issues between the
 578 liquidated insurer and Citizens Property Insurance Corporation
 579 under the contract, shall be provided for in the liquidation
 580 order or otherwise determined by the court. However, if a
 581 covered event occurs before the effective date of the
 582 assignment, the corporation may not obtain coverage for such
 583 policies under its contract with the fund and shall accept an

584 assignment of the liquidated insurer's contract as provided in
 585 this paragraph.

586 (7)~~(6)~~ REVENUE BONDS.--

587 (a) General provisions.--

588 1. Upon the occurrence of a hurricane and a determination
 589 that the moneys in the fund are or will be insufficient to pay
 590 reimbursement at the levels promised in the reimbursement
 591 contracts, the board may take the necessary steps under
 592 paragraph (c) or paragraph (d) for the issuance of revenue bonds
 593 for the benefit of the fund. The proceeds of such revenue bonds
 594 may be used to make reimbursement payments under reimbursement
 595 contracts; to refinance or replace previously existing
 596 borrowings or financial arrangements; to pay interest on bonds;
 597 to fund reserves for the bonds; to pay expenses incident to the
 598 issuance or sale of any bond issued under this section,
 599 including costs of validating, printing, and delivering the
 600 bonds, costs of printing the official statement, costs of
 601 publishing notices of sale of the bonds, and related
 602 administrative expenses; or for such other purposes related to
 603 the financial obligations of the fund as the board may
 604 determine. The term of the bonds may not exceed 30 years. The
 605 board may pledge or authorize the corporation to pledge all or a
 606 portion of all revenues under subsection (6) ~~(5)~~ and under
 607 paragraph (b) to secure such revenue bonds and the division
 608 ~~board~~ may execute such agreements between the division ~~board~~ and
 609 the issuer of any revenue bonds and providers of other financing
 610 arrangements under paragraph (8) ~~(7)~~ (b) as the board deems
 611 necessary to evidence, secure, preserve, and protect such

612 | pledge. If reimbursement premiums received under subsection (6)
 613 | ~~(5)~~ or earnings on such premiums are used to pay debt service on
 614 | revenue bonds, such premiums and earnings shall be used only
 615 | after the use of the moneys derived from assessments under
 616 | paragraph (b). The funds, credit, property, or taxing power of
 617 | the state or political subdivisions of the state shall not be
 618 | pledged for the payment of such bonds. The division ~~board~~ may
 619 | also enter into agreements under paragraph (c) or paragraph (d)
 620 | for the purpose of issuing revenue bonds in the absence of a
 621 | hurricane upon a determination that such action would maximize
 622 | the ability of the fund to meet future obligations.

623 | 2. The Legislature finds and declares that the issuance of
 624 | bonds under this subsection is for the public purpose of paying
 625 | the proceeds of the bonds to insurers, thereby enabling insurers
 626 | to pay the claims of policyholders to assure that policyholders
 627 | are able to pay the cost of construction, reconstruction,
 628 | repair, restoration, and other costs associated with damage to
 629 | property of policyholders of covered policies after the
 630 | occurrence of a hurricane.

631 | (b) Emergency assessments.--

632 | 1. If the board determines that the amount of revenue
 633 | produced under subsection (6) ~~(5)~~ is insufficient to fund the
 634 | obligations, costs, and expenses of the fund and the
 635 | corporation, including repayment of revenue bonds and that
 636 | portion of the debt service coverage not met by reimbursement
 637 | premiums, the board shall direct the Office of Insurance
 638 | Regulation to levy, by order, an emergency assessment on direct
 639 | premiums for all property and casualty lines of business in this

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640 state, including property and casualty business of surplus lines
641 insurers regulated under part VIII of chapter 626, but not
642 including any workers' compensation premiums or medical
643 malpractice premiums. As used in this subsection, the term
644 "property and casualty business" includes all lines of business
645 identified on Form 2, Exhibit of Premiums and Losses, in the
646 annual statement required of authorized insurers by s. 624.424
647 and any rule adopted under this section, except for those lines
648 identified as accident and health insurance and except for
649 policies written under the National Flood Insurance Program. The
650 assessment shall be specified as a percentage of direct written
651 premium and is subject to annual adjustments by the board in
652 order to meet debt obligations. The same percentage shall apply
653 to all policies in lines of business subject to the assessment
654 issued or renewed during the 12-month period beginning on the
655 effective date of the assessment.

656 2. A premium is not subject to an annual assessment under
657 this paragraph in excess of 6 percent of premium with respect to
658 obligations arising out of losses attributable to any one
659 contract year, and a premium is not subject to an aggregate
660 annual assessment under this paragraph in excess of 10 percent
661 of premium. An annual assessment under this paragraph shall
662 continue as long as the revenue bonds issued with respect to
663 which the assessment was imposed are outstanding, including any
664 bonds the proceeds of which were used to refund the revenue
665 bonds, unless adequate provision has been made for the payment
666 of the bonds under the documents authorizing issuance of the
667 bonds.

668 3. Emergency assessments shall be collected from
 669 policyholders. Emergency assessments shall be remitted by
 670 insurers as a percentage of direct written premium for the
 671 preceding calendar quarter as specified in the order from the
 672 Office of Insurance Regulation. The office shall verify the
 673 accurate and timely collection and remittance of emergency
 674 assessments and shall report the information to the division
 675 ~~board~~ in a form and at a time specified by the division ~~board~~.
 676 Each insurer collecting assessments shall provide the
 677 information with respect to premiums and collections as may be
 678 required by the office to enable the office to monitor and
 679 verify compliance with this paragraph.

680 4. With respect to assessments of surplus lines premiums,
 681 each surplus lines agent shall collect the assessment at the
 682 same time as the agent collects the surplus lines tax required
 683 by s. 626.932, and the surplus lines agent shall remit the
 684 assessment to the Florida Surplus Lines Service Office created
 685 by s. 626.921 at the same time as the agent remits the surplus
 686 lines tax to the Florida Surplus Lines Service Office. The
 687 emergency assessment on each insured procuring coverage and
 688 filing under s. 626.938 shall be remitted by the insured to the
 689 Florida Surplus Lines Service Office at the time the insured
 690 pays the surplus lines tax to the Florida Surplus Lines Service
 691 Office. Failure to collect and remit the assessment as required
 692 by this subparagraph is a violation of this subparagraph and the
 693 surplus lines agent and insureds procuring coverage shall pay
 694 penalties and interest as provided by s. 626.936(2). The Florida
 695 Surplus Lines Service Office shall remit the collected

696 assessments to the fund or corporation as provided in the order
 697 levied by the Office of Insurance Regulation. The Florida
 698 Surplus Lines Service Office shall verify the proper application
 699 of such emergency assessments and shall assist the division
 700 ~~board~~ in ensuring the accurate and timely collection and
 701 remittance of assessments as required by the board. The Florida
 702 Surplus Lines Service Office shall annually calculate the
 703 aggregate written premium on property and casualty business,
 704 other than workers' compensation and medical malpractice,
 705 procured through surplus lines agents and insureds procuring
 706 coverage and filing under s. 626.938 and shall report the
 707 information to the division ~~board~~ in a form and at a time
 708 specified by the division ~~board~~.

709 5. Any assessment authority not used for a particular
 710 contract year may be used for a subsequent contract year. If,
 711 for a subsequent contract year, the board determines that the
 712 amount of revenue produced under subsection (6) ~~(5)~~ is
 713 insufficient to fund the obligations, costs, and expenses of the
 714 fund and the corporation, including repayment of revenue bonds
 715 and that portion of the debt service coverage not met by
 716 reimbursement premiums, the board shall direct the Office of
 717 Insurance Regulation to levy an emergency assessment up to an
 718 amount not exceeding the amount of unused assessment authority
 719 from a previous contract year or years, plus an additional 4
 720 percent provided that the assessments in the aggregate do not
 721 exceed the limits specified in subparagraph 2.

722 6. The assessments otherwise payable to the corporation
 723 under this paragraph shall be paid to the fund unless and until

724 the Office of Insurance Regulation and the Florida Surplus Lines
 725 Service Office have received from the corporation and the fund a
 726 notice, which shall be conclusive and upon which they may rely
 727 without further inquiry, that the corporation has issued bonds
 728 and the fund has no agreements in effect with local governments
 729 under paragraph (c). On or after the date of the notice and
 730 until the date the corporation has no bonds outstanding, the
 731 fund shall have no right, title, or interest in or to the
 732 assessments, except as provided in the fund's agreement with the
 733 corporation.

734 7. Emergency assessments are not premium and are not
 735 subject to the premium tax, to the surplus lines tax, to any
 736 fees, or to any commissions. An insurer is liable for all
 737 assessments that it collects and must treat the failure of an
 738 insured to pay an assessment as a failure to pay the premium. An
 739 insurer is not liable for uncollectible assessments.

740 8. When an insurer is required to return an unearned
 741 premium, it shall also return any collected assessment
 742 attributable to the unearned premium. A credit adjustment to the
 743 collected assessment may be made by the insurer with regard to
 744 future remittances that are payable to the fund or corporation,
 745 but the insurer is not entitled to a refund.

746 9. When a surplus lines insured or an insured who has
 747 procured coverage and filed under s. 626.938 is entitled to the
 748 return of an unearned premium, the Florida Surplus Lines Service
 749 Office shall provide a credit or refund to the agent or such
 750 insured for the collected assessment attributable to the

751 unearned premium prior to remitting the emergency assessment
 752 collected to the fund or corporation.

753 10. The exemption of medical malpractice insurance
 754 premiums from emergency assessments under this paragraph is
 755 repealed May 31, 2010, and medical malpractice insurance
 756 premiums shall be subject to emergency assessments attributable
 757 to loss events occurring in the contract years commencing on
 758 June 1, 2010.

759 (c) Revenue bond issuance through counties or
 760 municipalities.--

761 1. If the board elects to enter into agreements with local
 762 governments for the issuance of revenue bonds for the benefit of
 763 the fund, the division board shall enter into such contracts
 764 with one or more local governments, including agreements
 765 providing for the pledge of revenues, as are necessary to effect
 766 such issuance. The governing body of a county or municipality is
 767 authorized to issue bonds as defined in s. 125.013 or s. 166.101
 768 from time to time to fund an assistance program, in conjunction
 769 with the Florida Hurricane Catastrophe Fund, for the purposes
 770 set forth in this section or for the purpose of paying the costs
 771 of construction, reconstruction, repair, restoration, and other
 772 costs associated with damage to properties of policyholders of
 773 covered policies due to the occurrence of a hurricane by
 774 assuring that policyholders located in this state are able to
 775 recover claims under property insurance policies after a covered
 776 event.

777 2. In order to avoid needless and indiscriminate
 778 proliferation, duplication, and fragmentation of such assistance

779 programs, any local government may provide for the payment of
 780 fund reimbursements, regardless of whether or not the losses for
 781 which reimbursement is made occurred within or outside of the
 782 territorial jurisdiction of the local government.

783 3. The state hereby covenants with holders of bonds issued
 784 under this paragraph that the state will not repeal or abrogate
 785 the power of the board to direct the Office of Insurance
 786 Regulation to levy the assessments and to collect the proceeds
 787 of the revenues pledged to the payment of such bonds as long as
 788 any such bonds remain outstanding unless adequate provision has
 789 been made for the payment of such bonds pursuant to the
 790 documents authorizing the issuance of such bonds.

791 4. There shall be no liability on the part of, and no
 792 cause of action shall arise against any members or employees of
 793 the governing body of a local government for any actions taken
 794 by them in the performance of their duties under this paragraph.

795 (d) Florida Hurricane Catastrophe Fund Finance
 796 Corporation.--

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

799 a. The public benefits corporation created under this
 800 paragraph will provide a mechanism necessary for the cost-
 801 effective and efficient issuance of bonds. This mechanism will
 802 eliminate unnecessary costs in the bond issuance process,
 803 thereby increasing the amounts available to pay reimbursement
 804 for losses to property sustained as a result of hurricane
 805 damage.

806 b. The purpose of such bonds is to fund reimbursements
 807 through the Florida Hurricane Catastrophe Fund to pay for the
 808 costs of construction, reconstruction, repair, restoration, and
 809 other costs associated with damage to properties of
 810 policyholders of covered policies due to the occurrence of a
 811 hurricane.

812 c. The efficacy of the financing mechanism will be
 813 enhanced by the corporation's ownership of the assessments, by
 814 the insulation of the assessments from possible bankruptcy
 815 proceedings, and by covenants of the state with the
 816 corporation's bondholders.

817 2.a. There is created a public benefits corporation, which
 818 is an instrumentality of the state, to be known as the Florida
 819 Hurricane Catastrophe Fund Finance Corporation.

820 b. The corporation shall operate under a six ~~five~~-member
 821 board of directors consisting of the Governor or a designee, the
 822 Chief Financial Officer or a designee, the Attorney General or a
 823 designee, the Commissioner of Agriculture or a designee, the
 824 director of the Division of Bond Finance of the State Board of
 825 Administration, and the director ~~senior employee~~ of the Division
 826 ~~State Board of Administration responsible for operations~~ of the
 827 Florida Hurricane Catastrophe Fund.

828 c. The corporation has all of the powers of corporations
 829 under chapter 607 and under chapter 617, subject only to the
 830 provisions of this subsection.

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

834 e. The corporation may invest in any of the investments
835 authorized under s. 215.47.

836 f. There shall be no liability on the part of, and no
837 cause of action shall arise against, any board members or
838 employees of the corporation for any actions taken by them in
839 the performance of their duties under this paragraph.

840 3.a. In actions under chapter 75 to validate any bonds
841 issued by the corporation, the notice required by s. 75.06 shall
842 be published only in Leon County and in two newspapers of
843 general circulation in the state, and the complaint and order of
844 the court shall be served only on the State Attorney of the
845 Second Judicial Circuit.

846 b. The state hereby covenants with holders of bonds of the
847 corporation that the state will not repeal or abrogate the power
848 of the board to direct the Office of Insurance Regulation to
849 levy the assessments and to collect the proceeds of the revenues
850 pledged to the payment of such bonds as long as any such bonds
851 remain outstanding unless adequate provision has been made for
852 the payment of such bonds pursuant to the documents authorizing
853 the issuance of such bonds.

854 4. The bonds of the corporation are not a debt of the
855 state or of any political subdivision, and neither the state nor
856 any political subdivision is liable on such bonds. The
857 corporation does not have the power to pledge the credit, the
858 revenues, or the taxing power of the state or of any political
859 subdivision. The credit, revenues, or taxing power of the state
860 or of any political subdivision shall not be deemed to be
861 pledged to the payment of any bonds of the corporation.

862 5.a. The property, revenues, and other assets of the
863 corporation; the transactions and operations of the corporation
864 and the income from such transactions and operations; and all
865 bonds issued under this paragraph and interest on such bonds are
866 exempt from taxation by the state and any political subdivision,
867 including the intangibles tax under chapter 199 and the income
868 tax under chapter 220. This exemption does not apply to any tax
869 imposed by chapter 220 on interest, income, or profits on debt
870 obligations owned by corporations other than the Florida
871 Hurricane Catastrophe Fund Finance Corporation.

872 b. All bonds of the corporation shall be and constitute
873 legal investments without limitation for all public bodies of
874 this state; for all banks, trust companies, savings banks,
875 savings associations, savings and loan associations, and
876 investment companies; for all administrators, executors,
877 trustees, and other fiduciaries; for all insurance companies and
878 associations and other persons carrying on an insurance
879 business; and for all other persons who are now or may hereafter
880 be authorized to invest in bonds or other obligations of the
881 state and shall be and constitute eligible securities to be
882 deposited as collateral for the security of any state, county,
883 municipal, or other public funds. This sub-subparagraph shall be
884 considered as additional and supplemental authority and shall
885 not be limited without specific reference to this sub-
886 subparagraph.

887 6. The corporation and its corporate existence shall
888 continue until terminated by law; however, no such law shall
889 take effect as long as the corporation has bonds outstanding

890 unless adequate provision has been made for the payment of such
 891 bonds pursuant to the documents authorizing the issuance of such
 892 bonds. Upon termination of the existence of the corporation, all
 893 of its rights and properties in excess of its obligations shall
 894 pass to and be vested in the state.

895 (e) Protection of bondholders.--

896 1. As long as the corporation has any bonds outstanding,
 897 neither the fund nor the corporation shall have the authority to
 898 file a voluntary petition under chapter 9 of the federal
 899 Bankruptcy Code or such corresponding chapter or sections as may
 900 be in effect, from time to time, and neither any public officer
 901 nor any organization, entity, or other person shall authorize
 902 the fund or the corporation to be or become a debtor under
 903 chapter 9 of the federal Bankruptcy Code or such corresponding
 904 chapter or sections as may be in effect, from time to time,
 905 during any such period.

906 2. The state hereby covenants with holders of bonds of the
 907 corporation that the state will not limit or alter the denial of
 908 authority under this paragraph or the rights under this section
 909 vested in the fund or the corporation to fulfill the terms of
 910 any agreements made with such bondholders or in any way impair
 911 the rights and remedies of such bondholders as long as any such
 912 bonds remain outstanding unless adequate provision has been made
 913 for the payment of such bonds pursuant to the documents
 914 authorizing the issuance of such bonds.

915 3. Notwithstanding any other provision of law, any pledge
 916 of or other security interest in revenue, money, accounts,
 917 contract rights, general intangibles, or other personal property

918 made or created by the fund or the corporation shall be valid,
 919 binding, and perfected from the time such pledge is made or
 920 other security interest attaches without any physical delivery
 921 of the collateral or further act and the lien of any such pledge
 922 or other security interest shall be valid, binding, and
 923 perfected against all parties having claims of any kind in tort,
 924 contract, or otherwise against the fund or the corporation
 925 irrespective of whether or not such parties have notice of such
 926 claims. No instrument by which such a pledge or security
 927 interest is created nor any financing statement need be recorded
 928 or filed.

929 (8)~~(7)~~ ADDITIONAL POWERS AND DUTIES.--

930 (a) The board may authorize the division to procure
 931 reinsurance from reinsurers acceptable to the Office of
 932 Insurance Regulation for the purpose of maximizing the capacity
 933 of the fund and may enter into capital market transactions,
 934 including, but not limited to, industry loss warranties,
 935 catastrophe bonds, side-car arrangements, or financial contracts
 936 permissible for the State Board of Administration's ~~board's~~
 937 usage under s. 215.47(10) and (11), consistent with prudent
 938 management of the fund.

939 (b) In addition to borrowing under subsection (7) ~~(6)~~, the
 940 board may also authorize the division to borrow from, or enter
 941 into other financing arrangements with, any market sources at
 942 prevailing interest rates.

943 (c) Each fiscal year, the Legislature shall appropriate
 944 from the investment income of the Florida Hurricane Catastrophe
 945 Fund an amount no less than \$10 million and no more than 35

946 percent of the investment income based upon the most recent
 947 fiscal year-end audited financial statements for the purpose of
 948 providing funding for local governments, state agencies, public
 949 and private educational institutions, and nonprofit
 950 organizations to support programs intended to improve hurricane
 951 preparedness, reduce potential losses in the event of a
 952 hurricane, provide research into means to reduce such losses,
 953 educate or inform the public as to means to reduce hurricane
 954 losses, assist the public in determining the appropriateness of
 955 particular upgrades to structures or in the financing of such
 956 upgrades, or protect local infrastructure from potential damage
 957 from a hurricane. Moneys shall first be available for
 958 appropriation under this paragraph in fiscal year 1997-1998.
 959 Moneys in excess of the \$10 million specified in this paragraph
 960 shall not be available for appropriation under this paragraph if
 961 the board ~~State Board of Administration~~ finds that an
 962 appropriation of investment income from the fund would
 963 jeopardize the actuarial soundness of the fund.

964 (d) The division ~~board~~ may allow insurers to comply with
 965 reporting requirements and reporting format requirements by
 966 using alternative methods of reporting if the proper
 967 administration of the fund is not thereby impaired and if the
 968 alternative methods produce data which is consistent with the
 969 purposes of this section.

970 (e) In order to assure the equitable operation of the
 971 fund, the division ~~board~~ may impose a reasonable fee on an
 972 insurer to recover costs involved in reprocessing inaccurate,
 973 incomplete, or untimely exposure data submitted by the insurer.

974 (9)~~(8)~~ ADVISORY COUNCIL.--The State Board of
 975 Administration shall appoint a nine-member advisory council that
 976 consists of an actuary, a meteorologist, an engineer, a
 977 representative of insurers, a representative of insurance
 978 agents, a representative of reinsurers, and three consumers who
 979 shall also be representatives of other affected professions and
 980 industries, to provide the board with information and advice in
 981 connection with its duties under this section. Members of the
 982 advisory council shall serve at the pleasure of the board and
 983 are eligible for per diem and travel expenses under s. 112.061.

984 (10)~~(9)~~ APPLICABILITY OF S. 19, ART. III OF THE STATE
 985 CONSTITUTION.--The Legislature finds that the Florida Hurricane
 986 Catastrophe Fund created by this section is a trust fund
 987 established for bond covenants, indentures, or resolutions
 988 within the meaning of s. 19(f)(3), Art. III of the State
 989 Constitution.

990 (11)~~(10)~~ VIOLATIONS.--Any violation of this section or of
 991 rules adopted under this section constitutes a violation of the
 992 insurance code.

993 (12)~~(11)~~ LEGAL PROCEEDINGS.--The division may ~~board is~~
 994 ~~authorized to~~ take any action necessary to enforce the rules,
 995 and the provisions and requirements of the reimbursement
 996 contract, required by and adopted pursuant to this section.

997 (13)~~(12)~~ FEDERAL OR MULTISTATE CATASTROPHIC FUNDS.--Upon
 998 the creation of a federal or multistate catastrophic insurance
 999 or reinsurance program intended to serve purposes similar to the
 1000 purposes of the fund created by this section, the division, upon
 1001 approval by the board ~~State Board of Administration~~ shall

1002 promptly make recommendations to the Legislature for
 1003 coordination with the federal or multistate program, for
 1004 termination of the fund, or for such other actions as the board
 1005 finds appropriate in the circumstances.

1006 (14)~~(13)~~ REVERSION OF FUND ASSETS UPON TERMINATION.--The
 1007 fund, the division, and the duties of the board under this
 1008 section may be terminated only by law. Upon termination of the
 1009 fund, all assets of the fund shall revert to the General Revenue
 1010 Fund.

1011 (15)~~(14)~~ SEVERABILITY.--If any provision of this section
 1012 or its application to any person or circumstance is held
 1013 invalid, the invalidity does not affect other provisions or
 1014 applications of the section which can be given effect without
 1015 the invalid provision or application, and to this end the
 1016 provisions of this section are declared severable.

1017 (16)~~(15)~~ COLLATERAL PROTECTION INSURANCE.--As used in this
 1018 section and ss. 627.311 and 627.351, the term "collateral
 1019 protection insurance" means commercial property insurance of
 1020 which a creditor is the primary beneficiary and policyholder and
 1021 which protects or covers an interest of the creditor arising out
 1022 of a credit transaction secured by real or personal property.
 1023 Initiation of such coverage is triggered by the mortgagor's
 1024 failure to maintain insurance coverage as required by the
 1025 mortgage or other lending document. Collateral protection
 1026 insurance is not residential coverage.

1027 (17)~~(16)~~ TEMPORARY EMERGENCY ADDITIONAL COVERAGE OPTIONS
 1028 ~~FOR ADDITIONAL COVERAGE~~.--

1029 (a) Findings and intent.--

1030 1. The Legislature finds that:

1031 a. Because of temporary disruptions in the market for

1032 catastrophic reinsurance, many property insurers were unable to

1033 procure reinsurance for the 2006 hurricane season with an

1034 attachment point below the insurers' respective Florida

1035 Hurricane Catastrophe Fund attachment points, were unable to

1036 procure sufficient amounts of such reinsurance, or were able to

1037 procure such reinsurance only by incurring substantially higher

1038 costs than in prior years.

1039 b. The reinsurance market problems were responsible, at

1040 least in part, for substantial premium increases to many

1041 consumers and increases in the number of policies issued by the

1042 Citizens Property Insurance Corporation.

1043 c. It is likely that the reinsurance market disruptions

1044 will not significantly abate prior to the 2007 hurricane season.

1045 2. It is the intent of the Legislature to create a

1046 temporary emergency program, applicable to the 2007, 2008, and

1047 2009 hurricane seasons, to address these market disruptions and

1048 enable insurers, at their option, to procure additional coverage

1049 from the Florida Hurricane Catastrophe Fund.

1050 (b) Applicability of other provisions of this

1051 section.--All provisions of this section and the rules adopted

1052 under this section apply to the program created by this

1053 subsection unless specifically superseded by this subsection.

1054 (c) Optional coverage.--For the contract year commencing

1055 June 1, 2007, and ending May 31, 2008, the contract year

1056 commencing June 1, 2008, and ending May 31, 2009, and the

1057 contract year commencing June 1, 2009, and ending May 31, 2010,

1058 the board shall offer for each of such years the optional
 1059 coverage as provided in this subsection.

1060 (d) Additional definitions.--As used in this subsection,
 1061 the term:

1062 1. "TEACO options" means the temporary emergency
 1063 additional coverage options created under this subsection.

1064 2. "TEACO insurer" means an insurer that has opted to
 1065 obtain coverage under the TEACO options in addition to the
 1066 coverage provided to the insurer under its reimbursement
 1067 contract.

1068 3. "TEACO reimbursement premium" means the premium charged
 1069 by the fund for coverage provided under the TEACO options.

1070 4. "TEACO retention" means the amount of losses below
 1071 which a TEACO insurer is not entitled to reimbursement from the
 1072 fund under the TEACO option selected. A TEACO insurer's
 1073 retention options shall be calculated as follows:

1074 a. The division ~~board~~ shall calculate and report to each
 1075 TEACO insurer the TEACO retention multiples. There shall be
 1076 three TEACO retention multiples for defining coverage. Each
 1077 multiple shall be calculated by dividing \$3 billion, \$4 billion,
 1078 or \$5 billion by the total estimated mandatory FHCF
 1079 reimbursement premium assuming all insurers selected the 90-
 1080 percent coverage level.

1081 b. The TEACO retention multiples as determined under sub-
 1082 subparagraph a. shall be adjusted to reflect the coverage level
 1083 elected by the insurer. For insurers electing the 90-percent
 1084 coverage level, the adjusted retention multiple is 100 percent
 1085 of the amount determined under sub-subparagraph a. For insurers

1086 electing the 75-percent coverage level, the retention multiple
 1087 is 120 percent of the amount determined under sub-subparagraph
 1088 a. For insurers electing the 45-percent coverage level, the
 1089 adjusted retention multiple is 200 percent of the amount
 1090 determined under sub-subparagraph a.

1091 c. An insurer shall determine its provisional TEACO
 1092 retention by multiplying its estimated mandatory FHCF
 1093 reimbursement premium by the applicable adjusted TEACO retention
 1094 multiple and shall determine its actual TEACO retention by
 1095 multiplying its actual mandatory FHCF reimbursement premium by
 1096 the applicable adjusted TEACO retention multiple.

1097 d. For TEACO insurers who experience multiple covered
 1098 events causing loss during the contract year, the insurer's full
 1099 TEACO retention shall be applied to each of the covered events
 1100 causing the two largest losses for that insurer. For other
 1101 covered events resulting in losses, the TEACO option does not
 1102 apply and the insurer's retention shall be one-third of the full
 1103 retention as calculated under paragraph (2) (g) ~~(e)~~.

1104 5. "TEACO addendum" means an addendum to the reimbursement
 1105 contract reflecting the obligations of the fund and TEACO
 1106 insurers under the program created by this subsection.

1107 6. "FHCF" means the Florida Hurricane Catastrophe Fund.

1108 (e) TEACO addendum.--

1109 1. The TEACO addendum shall provide for reimbursement of
 1110 TEACO insurers for covered events occurring during the contract
 1111 year, in exchange for the TEACO reimbursement premium paid into
 1112 the fund under paragraph (f). Any insurer writing covered

1113 policies has the option of choosing to accept the TEACO addendum
 1114 for any of the 3 contract years that the coverage is offered.

1115 2. The TEACO addendum shall contain a promise by the
 1116 division board to reimburse the TEACO insurer for 45 percent, 75
 1117 percent, or 90 percent of its losses from each covered event in
 1118 excess of the insurer's TEACO retention, plus 5 percent of the
 1119 reimbursed losses to cover loss adjustment expenses. The
 1120 percentage shall be the same as the coverage level selected by
 1121 the insurer under paragraph (5)~~(4)~~(b).

1122 3. The TEACO addendum shall provide that reimbursement
 1123 amounts shall not be reduced by reinsurance paid or payable to
 1124 the insurer from other sources.

1125 4. The TEACO addendum shall also provide that the
 1126 obligation of the division board with respect to all TEACO
 1127 addenda shall not exceed an amount equal to two times the
 1128 difference between the industry retention level calculated under
 1129 paragraph (2) (q)~~(e)~~ and the \$3 billion, \$4 billion, or \$5
 1130 billion industry TEACO retention level options actually
 1131 selected, but in no event may the division's board's obligation
 1132 exceed the actual claims-paying capacity of the fund plus the
 1133 additional capacity created in paragraph (g). If the actual
 1134 claims-paying capacity and the additional capacity created under
 1135 paragraph (g) fall short of the division's board's obligations
 1136 under the reimbursement contract, each insurer's share of the
 1137 fund's capacity shall be prorated based on the premium an
 1138 insurer pays for its mandatory reimbursement coverage and the
 1139 premium paid for its optional TEACO coverage as each such

1140 premium bears to the total premiums paid to the fund times the
 1141 available capacity.

1142 5. The priorities, schedule, and method of reimbursements
 1143 under the TEACO addendum shall be the same as provided under
 1144 subsection (5)~~(4)~~.

1145 6. A TEACO insurer's maximum reimbursement for a single
 1146 event shall be equal to the product of multiplying its mandatory
 1147 FHCF premium by the difference between its FHCF retention
 1148 multiple and its TEACO retention multiple under the TEACO option
 1149 selected and by the coverage selected under paragraph (5)~~(4)~~(b),
 1150 plus an additional 5 percent for loss adjustment expenses. A
 1151 TEACO insurer's maximum reimbursement under the TEACO option
 1152 selected for a TEACO insurer's two largest events shall be twice
 1153 its maximum reimbursement for a single event.

1154 (f) TEACO reimbursement premiums.--

1155 1. Each TEACO insurer shall pay to the fund, in the manner
 1156 and at the time provided in the reimbursement contract for
 1157 payment of reimbursement premiums, a TEACO reimbursement premium
 1158 calculated as specified in this paragraph.

1159 2. The insurer's TEACO reimbursement premium associated
 1160 with the \$3 billion retention option shall be equal to 85
 1161 percent of a TEACO insurer's maximum reimbursement for a single
 1162 event as calculated under subparagraph (e)6. The TEACO
 1163 reimbursement premium associated with the \$4 billion retention
 1164 option shall be equal to 80 percent of a TEACO insurer's maximum
 1165 reimbursement for a single event as calculated under
 1166 subparagraph (e)6. The TEACO premium associated with the \$5
 1167 billion retention option shall be equal to 75 percent of a TEACO

1168 insurer's maximum reimbursement for a single event as calculated
 1169 under subparagraph (e)6.

1170 (g) Effect on claims-paying capacity of the fund.--For the
 1171 contract term commencing June 1, 2007, the contract year
 1172 commencing June 1, 2008, and the contract term beginning June 1,
 1173 2009, the program created by this subsection shall increase the
 1174 claims-paying capacity of the fund as provided in subparagraph
 1175 (5)~~(4)~~(c)1. by an amount equal to two times the difference
 1176 between the industry retention level calculated under paragraph
 1177 (2)(g)~~(e)~~ and the \$3 billion industry TEACO retention level
 1178 specified in sub-subparagraph (d)4.a. The additional capacity
 1179 shall apply only to the additional coverage provided by the
 1180 TEACO option and shall not otherwise affect any insurer's
 1181 reimbursement from the fund.

1182 (18)~~(17)~~ TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.--

1183 (a) Findings and intent.--

1184 1. The Legislature finds that:

1185 a. Because of temporary disruptions in the market for
 1186 catastrophic reinsurance, many property insurers were unable to
 1187 procure sufficient amounts of reinsurance for the 2006 hurricane
 1188 season or were able to procure such reinsurance only by
 1189 incurring substantially higher costs than in prior years.

1190 b. The reinsurance market problems were responsible, at
 1191 least in part, for substantial premium increases to many
 1192 consumers and increases in the number of policies issued by
 1193 Citizens Property Insurance Corporation.

1194 c. It is likely that the reinsurance market disruptions
 1195 will not significantly abate prior to the 2008 ~~2007~~ hurricane
 1196 season.

1197 2. It is the intent of the Legislature to create options
 1198 for insurers to purchase a temporary increased coverage limit
 1199 above the statutorily determined limit in subparagraph
 1200 (5)~~(4)~~(c)1., applicable for the ~~2007~~, 2008, and 2009 hurricane
 1201 seasons, to address market disruptions and enable insurers, at
 1202 their option, to procure additional coverage from the Florida
 1203 Hurricane Catastrophe Fund.

1204 (b) Applicability of other provisions of this
 1205 section.--All provisions of this section and the rules adopted
 1206 under this section apply to the coverage created by this
 1207 subsection unless specifically superseded by provisions in this
 1208 subsection.

1209 (c) Optional coverage.--For the contract year commencing
 1210 ~~June 1, 2007, and ending May 31, 2008, the contract year~~
 1211 ~~commencing~~ June 1, 2008, and ending May 31, 2009, and the
 1212 contract year commencing June 1, 2009, and ending May 31, 2010,
 1213 the board shall offer, for each of such years, the optional
 1214 coverage as provided in this subsection.

1215 (d) Additional definitions.--As used in this subsection,
 1216 the term:

1217 ~~1. "FHCF" means Florida Hurricane Catastrophe Fund.~~

1218 1.2. "FHCF reimbursement premium" means the premium paid
 1219 by an insurer for its coverage as a mandatory participant in the
 1220 FHCF, but does not include additional premiums for optional
 1221 coverages.

1222 ~~2.3.~~ "Payout multiple" means the number or multiple
 1223 created by dividing the statutorily defined claims-paying
 1224 capacity as determined in subparagraph ~~(5)-(4)~~(c)1. by the
 1225 aggregate reimbursement premiums paid by all insurers estimated
 1226 or projected as of calendar year-end.

1227 ~~3.4.~~ "TICL" means the temporary increase in coverage
 1228 limit.

1229 ~~4.5.~~ "TICL options" means the temporary increase in
 1230 coverage options created under this subsection.

1231 ~~5.6.~~ "TICL insurer" means an insurer that has opted to
 1232 obtain coverage under the TICL options addendum in addition to
 1233 the coverage provided to the insurer under its FHCF
 1234 reimbursement contract.

1235 ~~6.7.~~ "TICL reimbursement premium" means the premium
 1236 charged by the fund for coverage provided under the TICL option.

1237 ~~7.8.~~ "TICL coverage multiple" means the coverage multiple
 1238 when multiplied by an insurer's FHCF's reimbursement premium
 1239 that defines the temporary increase in coverage limit.

1240 ~~8.9.~~ "TICL coverage" means the coverage for an insurer's
 1241 losses above the insurer's statutorily determined claims-paying
 1242 capacity based on the claims-paying limit in subparagraph
 1243 ~~(5)-(4)~~(c)1., which an insurer selects as its temporary increase
 1244 in coverage from the fund under the TICL options selected. A
 1245 TICL insurer's increased coverage limit options shall be
 1246 calculated as follows:

1247 a. The division board shall calculate and report to each
 1248 TICL insurer the TICL coverage multiples based on 9 ~~12~~ options
 1249 for increasing the insurer's FHCF coverage limit. Each TICL

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1250 coverage multiple shall be calculated by dividing \$1 billion, \$2
 1251 billion, \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7
 1252 billion, \$8 billion, and \$9 billion, ~~\$10 billion, \$11 billion,~~
 1253 ~~or \$12 billion~~ by the total estimated aggregate FHCF
 1254 reimbursement premiums for ~~the 2007-2008 contract year~~, the
 1255 2008-2009 contract year, and the 2009-2010 contract year.

1256 b. The TICL insurer's increased coverage shall be the FHCF
 1257 reimbursement premium multiplied by the TICL coverage multiple
 1258 for the TICL option selected. In order to determine an insurer's
 1259 total limit of coverage, an insurer shall add its TICL coverage
 1260 multiple to its payout multiple. The total shall represent a
 1261 number that, when multiplied by an insurer's FHCF reimbursement
 1262 premium for a given reimbursement contract year, defines an
 1263 insurer's total limit of FHCF reimbursement coverage for that
 1264 reimbursement contract year.

1265 ~~9.10.~~ "TICL options addendum" means an addendum to the
 1266 reimbursement contract reflecting the obligations of the fund
 1267 and insurers selecting an option to increase an insurer's FHCF
 1268 coverage limit.

1269 (e) TICL options addendum.--

1270 1. The TICL options addendum shall provide for
 1271 reimbursement of TICL insurers for covered events occurring
 1272 between June 1, 2007, and May 31, 2008, and between June 1,
 1273 2008, and May 31, 2009, or between June 1, 2009, and May 31,
 1274 2010, in exchange for the TICL reimbursement premium paid into
 1275 the fund under paragraph (f). Any insurer writing covered
 1276 policies has the option of selecting an increased limit of
 1277 coverage under the TICL options addendum and shall select such

1278 coverage at the time that it executes the FHCF reimbursement
1279 contract.

1280 2. The TICL addendum shall contain a promise by the board
1281 to reimburse the TICL insurer for 70 ~~45~~ percent of the TICL
1282 coverage based on the TICL option selected for the insurer's, ~~75~~
1283 ~~percent, or 90 percent of its~~ losses from each covered event in
1284 excess of the insurer's retention, plus 5 percent of the
1285 reimbursed losses to cover loss adjustment expenses. ~~The~~
1286 ~~percentage shall be the same as the coverage level selected by~~
1287 ~~the insurer under paragraph (4) (b).~~

1288 3. The TICL addendum shall provide that reimbursement
1289 amounts shall not be reduced by reinsurance paid or payable to
1290 the insurer from other sources.

1291 4. The priorities, schedule, and method of reimbursements
1292 under the TICL addendum shall be the same as provided under
1293 subsection (5) ~~(4)~~.

1294 (f) TICL reimbursement premiums.--Each TICL insurer shall
1295 pay to the fund, in the manner and at the time provided in the
1296 reimbursement contract for payment of reimbursement premiums, a
1297 TICL reimbursement premium determined as specified in subsection
1298 (6) ~~(5)~~.

1299 (g) Effect on claims-paying capacity of the fund.--For the
1300 contract terms commencing ~~June 1, 2007,~~ June 1, 2008, and June
1301 1, 2009, the program created by this subsection shall increase
1302 the claims-paying capacity of the fund as provided in
1303 subparagraph (5) ~~(4)~~ (c) 1. by an amount not to exceed \$9 ~~\$12~~
1304 billion and shall depend on the TICL coverage options selected
1305 and the number of insurers that select the TICL optional

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1306 coverage. The additional capacity shall apply only to the
 1307 additional coverage provided under the TICL options and shall
 1308 not otherwise affect any insurer's reimbursement from the fund
 1309 if the insurer chooses not to select the temporary option to
 1310 increase its limit of coverage under the FHCF.

1311 (h) Increasing the claims-paying capacity of the
 1312 fund.--For the contract years commencing ~~June 1, 2007,~~ June 1,
 1313 2008, and June 1, 2009, the board may increase the claims-paying
 1314 capacity of the fund as provided in paragraph (g) by an amount
 1315 not to exceed \$4 billion in four \$1 billion options and shall
 1316 depend on the TICL coverage options selected and the number of
 1317 insurers that select the TICL optional coverage. Each insurer's
 1318 TICL premium shall be calculated based upon the additional limit
 1319 of increased coverage that the insurer selects. Such limit is
 1320 determined by multiplying the TICL multiple associated with one
 1321 of the four options times the insurer's FHCF reimbursement
 1322 premium. The reimbursement premium associated with the
 1323 additional coverage provided in this paragraph shall be
 1324 determined as specified in subsection (6) ~~(5)~~.

1325 Section 2. Section 215.557, Florida Statutes, is amended
 1326 to read:

1327 215.557 Reports of insured values.--The reports of insured
 1328 values under covered policies by zip code submitted to the
 1329 Division of the Florida Hurricane Catastrophe Fund ~~State Board~~
 1330 ~~of Administration~~ pursuant to s. 215.555, as created by s. 1,
 1331 ch. 93-409, Laws of Florida, or similar legislation, are
 1332 confidential and exempt from the provisions of s. 119.07(1) and
 1333 s. 24(a), Art. I of the State Constitution.

1334 Section 3. Paragraph (h) of subsection (4) of section
 1335 215.5586, Florida Statutes, is amended to read:

1336 215.5586 My Safe Florida Home Program.--There is
 1337 established within the Department of Financial Services the My
 1338 Safe Florida Home Program. The department shall provide fiscal
 1339 accountability, contract management, and strategic leadership
 1340 for the program, consistent with this section. This section does
 1341 not create an entitlement for property owners or obligate the
 1342 state in any way to fund the inspection or retrofitting of
 1343 residential property in this state. Implementation of this
 1344 program is subject to annual legislative appropriations. It is
 1345 the intent of the Legislature that the My Safe Florida Home
 1346 Program provide inspections for at least 400,000 site-built,
 1347 single-family, residential properties and provide grants to at
 1348 least 35,000 applicants before June 30, 2009. The program shall
 1349 develop and implement a comprehensive and coordinated approach
 1350 for hurricane damage mitigation that shall include the
 1351 following:

1352 (4) ADVISORY COUNCIL.--There is created an advisory
 1353 council to provide advice and assistance to the department
 1354 regarding administration of the program. The advisory council
 1355 shall consist of:

1356 (h) The director ~~senior officer~~ of the Division of the
 1357 Florida Hurricane Catastrophe Fund.

1358
 1359 Members appointed under paragraphs (a) - (d) shall serve at the
 1360 pleasure of the Financial Services Commission. Members appointed
 1361 under paragraphs (e) and (f) shall serve at the pleasure of the

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1362 appointing officer. All other members shall serve voting ex
 1363 officio. Members of the advisory council shall serve without
 1364 compensation but may receive reimbursement as provided in s.
 1365 112.061 for per diem and travel expenses incurred in the
 1366 performance of their official duties.

1367 Section 4. Subsection (1) of section 215.559, Florida
 1368 Statutes, is amended to read:

1369 215.559 Hurricane Loss Mitigation Program.--

1370 (1) There is created a Hurricane Loss Mitigation Program.
 1371 The Legislature shall annually appropriate \$10 million of the
 1372 moneys authorized for appropriation under s. 215.555 (8) ~~(7)~~ (c)
 1373 from the Florida Hurricane Catastrophe Fund to the Department of
 1374 Community Affairs for the purposes set forth in this section.

1375 Section 5. Subsections (2), (3), (6), and (7) of section
 1376 215.5595, Florida Statutes, are amended to read:

1377 215.5595 Insurance Capital Build-Up Incentive Program.--

1378 (2) The purpose of this section is to provide surplus
 1379 notes to new or existing authorized residential property
 1380 insurers under the Insurance Capital Build-Up Incentive Program
 1381 administered by the division ~~State Board of Administration~~,
 1382 under the following conditions:

1383 (a) The amount of the surplus note for any insurer or
 1384 insurer group, other than an insurer writing only manufactured
 1385 housing policies, may not exceed \$25 million or 20 percent of
 1386 the total amount of funds available under the program, whichever
 1387 is greater. The amount of the surplus note for any insurer or
 1388 insurer group writing residential property insurance covering
 1389 only manufactured housing may not exceed \$7 million.

1390 (b) The insurer must contribute an amount of new capital
 1391 to its surplus which is at least equal to the amount of the
 1392 surplus note and must apply to the board by July 1, 2006. If an
 1393 insurer applies after July 1, 2006, but before June 1, 2007, the
 1394 amount of the surplus note is limited to one-half of the new
 1395 capital that the insurer contributes to its surplus, except that
 1396 an insurer writing only manufactured housing policies is
 1397 eligible to receive a surplus note of up to \$7 million. For
 1398 purposes of this section, new capital must be in the form of
 1399 cash or cash equivalents as specified in s. 625.012(1).

1400 (c) The insurer's surplus, new capital, and the surplus
 1401 note must total at least \$50 million, except for insurers
 1402 writing residential property insurance covering only
 1403 manufactured housing. The insurer's surplus, new capital, and
 1404 the surplus note must total at least \$14 million for insurers
 1405 writing only residential property insurance covering
 1406 manufactured housing policies as provided in paragraph (a).

1407 (d) The insurer must commit to meeting a minimum writing
 1408 ratio of net written premium to surplus of at least 2:1 for the
 1409 term of the surplus note, which shall be determined by the
 1410 Office of Insurance Regulation and certified quarterly to the
 1411 board. For this purpose, the term "net written premium" means
 1412 net written premium for residential property insurance in this
 1413 state ~~Florida~~, including the peril of wind, and "surplus" refers
 1414 to the entire surplus of the insurer. If the required ratio is
 1415 not maintained during the term of the surplus note, the division
 1416 ~~board~~ may increase the interest rate, accelerate the repayment
 1417 of interest and principal, or shorten the term of the surplus

1418 | note, subject to approval by the Commissioner of Insurance of
 1419 | payments by the insurer of principal and interest as provided in
 1420 | paragraph (f).

1421 | (e) If the requirements of this section are met, the
 1422 | division board ~~board~~ may approve an application by an insurer for a
 1423 | surplus note, unless the division board ~~board~~ determines that the
 1424 | financial condition of the insurer and its business plan for
 1425 | writing residential property insurance in this state ~~Florida~~
 1426 | places an unreasonably high level of financial risk to the state
 1427 | of nonpayment in full of the interest and principal. The
 1428 | division board ~~board~~ shall consult with the Office of Insurance
 1429 | Regulation and may contract with independent financial and
 1430 | insurance consultants in making this determination.

1431 | (f) The surplus note must be repayable to the state with a
 1432 | term of 20 years. The surplus note shall accrue interest on the
 1433 | unpaid principal balance at a rate equivalent to the 10-year
 1434 | U.S. Treasury Bond rate, require the payment only of interest
 1435 | during the first 3 years, and include such other terms as
 1436 | approved by the division board ~~board~~. Payment of principal or interest
 1437 | by the insurer on the surplus note must be approved by the
 1438 | Commissioner of Insurance, who shall approve such payment unless
 1439 | the commissioner determines that such payment will substantially
 1440 | impair the financial condition of the insurer. If such a
 1441 | determination is made, the commissioner shall approve such
 1442 | payment that will not substantially impair the financial
 1443 | condition of the insurer.

1444 | (g) The total amount of funds available for the program is
 1445 | limited to the amount appropriated by the Legislature for this

1446 purpose. If the amount of surplus notes requested by insurers
 1447 exceeds the amount of funds available, the division ~~board~~ may
 1448 prioritize insurers that are eligible and approved, with
 1449 priority for funding given to insurers writing only manufactured
 1450 housing policies, regardless of the date of application, based
 1451 on the financial strength of the insurer, the viability of its
 1452 proposed business plan for writing additional residential
 1453 property insurance in the state, and the effect on competition
 1454 in the residential property insurance market. Between insurers
 1455 writing residential property insurance covering manufactured
 1456 housing, priority shall be given to the insurer writing the
 1457 highest percentage of its policies covering manufactured
 1458 housing.

1459 (h) The division ~~board~~ may allocate portions of the funds
 1460 available for the program and establish dates for insurers to
 1461 apply for surplus notes from such allocation which are earlier
 1462 than the dates established in paragraph (b).

1463 (i) Notwithstanding paragraph (d), a newly formed
 1464 manufactured housing insurer that is eligible for a surplus note
 1465 under this section shall meet the premium to surplus ratio
 1466 provisions of s. 624.4095.

1467 (j) As used in this section, "an insurer writing only
 1468 manufactured housing policies" includes:

- 1469 1. A Florida domiciled insurer that begins writing
 1470 personal lines residential manufactured housing policies in
 1471 Florida after March 1, 2007, and that removes a minimum of
 1472 50,000 policies from Citizens Property Insurance Corporation
 1473 without accepting a bonus, provided at least 25 percent of its

1474 policies cover manufactured housing. Such an insurer may count
 1475 any funds above the minimum capital and surplus requirement that
 1476 were contributed into the insurer after March 1, 2007, as new
 1477 capital under this section.

1478 2. A Florida domiciled insurer that writes at least 40
 1479 percent of its policies covering manufactured housing in this
 1480 state Florida.

1481 (3) As used in this section, the term:

1482 (a) "Division Board" means the Division of the Florida
 1483 Hurricane Catastrophe Fund of the State Board of Administration
 1484 established in s. 215.555.

1485 (b) "Program" means the Insurance Capital Build-Up
 1486 Incentive Program established by this section.

1487 (6) The division board shall adopt rules prescribing the
 1488 procedures, administration, and criteria for approving the
 1489 issuance of surplus notes pursuant to this section, which may be
 1490 adopted pursuant to the procedures for emergency rules of
 1491 chapter 120. Otherwise, actions and determinations by the
 1492 division board pursuant to this section are exempt from chapter
 1493 120.

1494 (7) The division board shall invest and reinvest the funds
 1495 appropriated for the program in accordance with s. 215.47 and
 1496 consistent with division board policy.

1497 Section 6. Paragraph (c) of subsection (1), paragraphs
 1498 (a), (b), (d), (f), and (g) of subsection (2), and paragraph (b)
 1499 of subsection (3) of section 627.0628, Florida Statutes, are
 1500 amended to read:

1501 627.0628 Florida Commission on Hurricane Loss Projection
 1502 Methodology; public records exemption; public meetings
 1503 exemption.--

1504 (1) LEGISLATIVE FINDINGS AND INTENT.--

1505 (c) It is the intent of the Legislature to create the
 1506 Florida Commission on Hurricane Loss Projection Methodology as a
 1507 panel of experts to provide the most actuarially sophisticated
 1508 guidelines and standards for projection of hurricane losses
 1509 possible, given the current state of actuarial science. It is
 1510 the further intent of the Legislature that such standards and
 1511 guidelines must be used by the Division of the Florida Hurricane
 1512 Catastrophe Fund of the State Board of Administration in
 1513 developing reimbursement premium rates for the Florida Hurricane
 1514 Catastrophe Fund, and, subject to paragraph (3)(c), may be used
 1515 by insurers in rate filings under s. 627.062 unless the way in
 1516 which such standards and guidelines were applied by the insurer
 1517 was erroneous, as shown by a preponderance of the evidence.

1518 (2) COMMISSION CREATED.--

1519 (a) There is created the Florida Commission on Hurricane
 1520 Loss Projection Methodology, which is assigned to the Division
 1521 of the Florida Hurricane Catastrophe Fund of the State Board of
 1522 Administration. For the purposes of this section, the term
 1523 "commission" means the Florida Commission on Hurricane Loss
 1524 Projection Methodology. The commission shall be administratively
 1525 housed within the State Board of Administration, but it shall
 1526 independently exercise the powers and duties specified in this
 1527 section.

- 1528 (b) The commission shall consist of the following 11
 1529 members:
- 1530 1. The insurance consumer advocate.
 - 1531 2. The director of the Division of the Florida Hurricane
 1532 Catastrophe Fund ~~senior employee~~ of the State Board of
 1533 Administration ~~responsible for operations of the Florida~~
 1534 ~~Hurricane Catastrophe Fund~~.
 - 1535 3. The Executive Director of the Citizens Property
 1536 Insurance Corporation.
 - 1537 4. The Director of the Division of Emergency Management of
 1538 the Department of Community Affairs.
 - 1539 5. The actuary member of the Florida Hurricane Catastrophe
 1540 Fund Advisory Council.
 - 1541 6. An employee of the office who is an actuary responsible
 1542 for property insurance rate filings and who is appointed by the
 1543 director of the office.
 - 1544 7. Five members appointed by the Chief Financial Officer,
 1545 as follows:
 - 1546 a. An actuary who is employed full time by a property and
 1547 casualty insurer which was responsible for at least 1 percent of
 1548 the aggregate statewide direct written premium for homeowner's
 1549 insurance in the calendar year preceding the member's
 1550 appointment to the commission.
 - 1551 b. An expert in insurance finance who is a full-time
 1552 member of the faculty of the State University System and who has
 1553 a background in actuarial science.

1554 c. An expert in statistics who is a full-time member of
 1555 the faculty of the State University System and who has a
 1556 background in insurance.

1557 d. An expert in computer system design who is a full-time
 1558 member of the faculty of the State University System.

1559 e. An expert in meteorology who is a full-time member of
 1560 the faculty of the State University System and who specializes
 1561 in hurricanes.

1562 (d) The board of the Division of the Florida Hurricane
 1563 Catastrophe Fund of the State Board of Administration shall
 1564 annually appoint one of the members of the commission to serve
 1565 as chair.

1566 (f) The Division of the Florida Hurricane Catastrophe Fund
 1567 of the State Board of Administration shall, as a cost of
 1568 administration of the Florida Hurricane Catastrophe Fund,
 1569 provide for travel, expenses, and staff support for the
 1570 commission.

1571 (g) There shall be no liability on the part of, and no
 1572 cause of action of any nature shall arise against, any member of
 1573 the commission, any member of the Division of the Florida
 1574 Hurricane Catastrophe Fund ~~State Board of Administration~~, or any
 1575 employee of the Division of the Florida Hurricane Catastrophe
 1576 Fund ~~State Board of Administration~~ for any action taken in the
 1577 performance of their duties under this section. In addition, the
 1578 commission may, in writing, waive any potential cause of action
 1579 for negligence of a consultant, contractor, or contract employee
 1580 engaged to assist the commission.

1581 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

1582 (b) In establishing reimbursement premiums for the Florida
 1583 Hurricane Catastrophe Fund, the Division of the Florida
 1584 Hurricane Catastrophe Fund ~~State Board of Administration~~ must,
 1585 to the extent feasible, employ actuarial methods, principles,
 1586 standards, models, or output ranges found by the commission to
 1587 be accurate or reliable.

1588 Section 7. Subsection (10) of section 624.424, Florida
 1589 Statutes, is amended to read:

1590 624.424 Annual statement and other information.--

1591 (10) Each insurer or insurer group doing business in this
 1592 state shall file on a quarterly basis in conjunction with
 1593 financial reports required by paragraph (1)(a) a supplemental
 1594 report on an individual and group basis on a form prescribed by
 1595 the commission with information on personal lines and commercial
 1596 lines residential property insurance policies in this state. The
 1597 supplemental report shall include separate information for
 1598 personal lines property policies and for commercial lines
 1599 property policies and totals for each item specified, including
 1600 premiums written for each of the property lines of business as
 1601 described in ss. 215.555(2) (g) ~~(e)~~ and 627.351(6) (a). The report
 1602 shall include the following information for each county on a
 1603 monthly basis:

1604 (a) Total number of policies in force at the end of each
 1605 month.

1606 (b) Total number of policies canceled.

1607 (c) Total number of policies nonrenewed.

1608 (d) Number of policies canceled due to hurricane risk.

1609 (e) Number of policies nonrenewed due to hurricane risk.

1610 (f) Number of new policies written.

1611 (g) Total dollar value of structure exposure under
 1612 policies that include wind coverage.

1613 (h) Number of policies that exclude wind coverage.

1614 Section 8. Paragraph (u) of subsection (6) of section
 1615 627.351, Florida Statutes, is amended to read:

1616 627.351 Insurance risk apportionment plans.--

1617 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

1618 (u)1. Effective July 1, 2002, policies of the Residential
 1619 Property and Casualty Joint Underwriting Association shall
 1620 become policies of the corporation. All obligations, rights,
 1621 assets and liabilities of the Residential Property and Casualty
 1622 Joint Underwriting Association, including bonds, note and debt
 1623 obligations, and the financing documents pertaining to them
 1624 become those of the corporation as of July 1, 2002. The
 1625 corporation is not required to issue endorsements or
 1626 certificates of assumption to insureds during the remaining term
 1627 of in-force transferred policies.

1628 2. Effective July 1, 2002, policies of the Florida
 1629 Windstorm Underwriting Association are transferred to the
 1630 corporation and shall become policies of the corporation. All
 1631 obligations, rights, assets, and liabilities of the Florida
 1632 Windstorm Underwriting Association, including bonds, note and
 1633 debt obligations, and the financing documents pertaining to them
 1634 are transferred to and assumed by the corporation on July 1,
 1635 2002. The corporation is not required to issue endorsements or
 1636 certificates of assumption to insureds during the remaining term
 1637 of in-force transferred policies.

1638 3. The Florida Windstorm Underwriting Association and the
1639 Residential Property and Casualty Joint Underwriting Association
1640 shall take all actions as may be proper to further evidence the
1641 transfers and shall provide the documents and instruments of
1642 further assurance as may reasonably be requested by the
1643 corporation for that purpose. The corporation shall execute
1644 assumptions and instruments as the trustees or other parties to
1645 the financing documents of the Florida Windstorm Underwriting
1646 Association or the Residential Property and Casualty Joint
1647 Underwriting Association may reasonably request to further
1648 evidence the transfers and assumptions, which transfers and
1649 assumptions, however, are effective on the date provided under
1650 this paragraph whether or not, and regardless of the date on
1651 which, the assumptions or instruments are executed by the
1652 corporation. Subject to the relevant financing documents
1653 pertaining to their outstanding bonds, notes, indebtedness, or
1654 other financing obligations, the moneys, investments,
1655 receivables, choses in action, and other intangibles of the
1656 Florida Windstorm Underwriting Association shall be credited to
1657 the high-risk account of the corporation, and those of the
1658 personal lines residential coverage account and the commercial
1659 lines residential coverage account of the Residential Property
1660 and Casualty Joint Underwriting Association shall be credited to
1661 the personal lines account and the commercial lines account,
1662 respectively, of the corporation.

1663 4. Effective July 1, 2002, a new applicant for property
1664 insurance coverage who would otherwise have been eligible for
1665 coverage in the Florida Windstorm Underwriting Association is

1666 eligible for coverage from the corporation as provided in this
 1667 subsection.

1668 5. The transfer of all policies, obligations, rights,
 1669 assets, and liabilities from the Florida Windstorm Underwriting
 1670 Association to the corporation and the renaming of the
 1671 Residential Property and Casualty Joint Underwriting Association
 1672 as the corporation shall in no way affect the coverage with
 1673 respect to covered policies as defined in s. 215.555(2) (g) ~~(e)~~
 1674 provided to these entities by the Florida Hurricane Catastrophe
 1675 Fund. The coverage provided by the Florida Hurricane Catastrophe
 1676 Fund to the Florida Windstorm Underwriting Association based on
 1677 its exposures as of June 30, 2002, and each June 30 thereafter
 1678 shall be redesignated as coverage for the high-risk account of
 1679 the corporation. Notwithstanding any other provision of law, the
 1680 coverage provided by the Florida Hurricane Catastrophe Fund to
 1681 the Residential Property and Casualty Joint Underwriting
 1682 Association based on its exposures as of June 30, 2002, and each
 1683 June 30 thereafter shall be transferred to the personal lines
 1684 account and the commercial lines account of the corporation.
 1685 Notwithstanding any other provision of law, the high-risk
 1686 account shall be treated, for all Florida Hurricane Catastrophe
 1687 Fund purposes, as if it were a separate participating insurer
 1688 with its own exposures, reimbursement premium, and loss
 1689 reimbursement. Likewise, the personal lines and commercial lines
 1690 accounts shall be viewed together, for all Florida Hurricane
 1691 Catastrophe Fund purposes, as if the two accounts were one and
 1692 represent a single, separate participating insurer with its own
 1693 exposures, reimbursement premium, and loss reimbursement. The

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1694 coverage provided by the Florida Hurricane Catastrophe Fund to
1695 the corporation shall constitute and operate as a full transfer
1696 of coverage from the Florida Windstorm Underwriting Association
1697 and Residential Property and Casualty Joint Underwriting to the
1698 corporation.

1699 Section 9. This act shall take effect July 1, 2008.