A bill to be entitled
An act relating to the Florida Hurricane Catastrophe Fund; amending s. 215.555, F.S.; revising the definition of the term "corporation"; deleting an outdated coverage level; revising coverage levels available under the reimbursement contract; revising aggregate coverage limits; providing for the phase-in of changes to coverage levels and limits; requiring the board to perform certain calculations under specified circumstances; revising the exemption of medical malpractice insurance premiums from emergency assessments if certain revenues are determined to be insufficient to fund the obligations, costs, and expenses of the Florida Hurricane Catastrophe Fund and the Florida Hurricane Catastrophe Fund Finance Corporation; changing the name of the Florida Hurricane Catastrophe Fund Finance Corporation; amending s. 215.555, F.S.; deleting provisions relating to temporary emergency options for additional coverage; amending s. 627.0629, F.S.; conforming a cross-reference; providing effective dates.

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

Section 1. Effective June 1, 2013, paragraph (n) of subsection (2), paragraphs (b) and (c) of subsection (4), and paragraphs (b) and (d) of subsection (6) of section 215.555, Florida Statutes, are amended to read:
215.555 Florida Hurricane Catastrophe Fund.—

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

(n) "Corporation" means the State Board of Administration Florida Hurricane Catastrophe Fund Finance Corporation created in paragraph (6)(d).

(4) REIMBURSEMENT CONTRACTS.—

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

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

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

4. Notwithstanding any other provision contained in this section, the board shall make available to insurers that purchased coverage provided by this subparagraph in 2008, insurers qualifying as limited apportionment companies under s.
627.351(6)(c), and insurers that have been approved to
participate in the Insurance Capital Build-Up Incentive Program
pursuant to s. 215.5595 a contract or contract addendum that
provides an additional amount of reimbursement coverage of up to
$10 million. The premium to be charged for this additional
reimbursement coverage shall be 50 percent of the additional
reimbursement coverage provided, which shall include one prepaid
reinstatement. The minimum retention level that an eligible
participating insurer must retain associated with this
additional coverage layer is 30 percent of the insurer's surplus
as of December 31, 2008, for the 2009-2010 contract year; as of
December 31, 2009, for the 2010-2011 contract year; and as of
December 31, 2010, for the 2011-2012 contract year. This
coverage shall be in addition to all other coverage that may be
provided under this section. The coverage provided by the fund
under this subparagraph shall be in addition to the claims-
paying capacity as defined in subparagraph (c)1., but only with
respect to those insurers that select the additional coverage
option and meet the requirements of this subparagraph. The
claims-paying capacity with respect to all other participating
insurers and limited apportionment companies that do not select
the additional coverage option shall be limited to their
reimbursement premium's proportionate share of the actual
claims-paying capacity otherwise defined in subparagraph (c)1.
and as provided for under the terms of the reimbursement
contract. The optional coverage retention as specified shall be
accessed before the mandatory coverage under the reimbursement
contract, but once the limit of coverage selected under this
option is exhausted, the insurer's retention under the mandatory
coverage will apply. This coverage will apply and be paid
concurrently with mandatory coverage. This subparagraph expires
on May 31, 2012.

(c)(1). The contract shall also provide that the obligation
of the board with respect to all contracts covering a particular
contract year shall not exceed the actual claims-paying capacity
of the fund up to the limit specified in this subparagraph.

a. For the 2013-2014 contract year, the limit is $17
billion.

b. For the 2014-2015 contract year, and subsequent
contract years, the limit is $16.5 billion.

c. For contract years after the 2014-2015 contract year,
if a limit of $17 billion for that contract year, unless the
board determines that there is sufficient estimated claims-
paying capacity to provide $16.5 billion of capacity for the
current contract year and an additional $16.5 billion of
capacity for subsequent contract years. If the board makes such
a determination, the estimated claims-paying capacity for the
particular contract year shall be determined by adding to the
$16.5 billion limit one-half of the fund's estimated claims-
paying capacity in excess of $33 billion. However, the
dollar growth in the limit may not increase in any year by an
amount greater than the dollar growth of the balance of the fund
as of December 31, less any premiums or interest attributable to
optional coverage, as defined by rule which occurred over the
prior calendar year.

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

(6) REVENUE BONDS.—

(b) Emergency assessments—

1. If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy, by order, an emergency assessment on direct

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CODING: Words stricken are deletions; words underlined are additions.
premises for all property and casualty lines of business in this state, including property and casualty business of surplus lines insurers regulated under part VIII of chapter 626, but not including any workers' compensation premiums or medical malpractice premiums. As used in this subsection, the term "property and casualty business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers by s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance Program. The assessment shall be specified as a percentage of direct written premium and is subject to annual adjustments by the board in order to meet debt obligations. The same percentage shall apply to all policies in lines of business subject to the assessment issued or renewed during the 12-month period beginning on the effective date of the assessment.

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

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CODING: Words stricken are deletions; words underlined are additions.
3. Emergency assessments shall be collected from policyholders. Emergency assessments shall be remitted by insurers as a percentage of direct written premium for the preceding calendar quarter as specified in the order from the Office of Insurance Regulation. The office shall verify the accurate and timely collection and remittance of emergency assessments and shall report the information to the board in a form and at a time specified by the board. Each insurer collecting assessments shall provide the information with respect to premiums and collections as may be required by the office to enable the office to monitor and verify compliance with this paragraph.

4. With respect to assessments of surplus lines premiums, each surplus lines agent shall collect the assessment at the same time as the agent collects the surplus lines tax required by s. 626.932, and the surplus lines agent shall remit the assessment to the Florida Surplus Lines Service Office created by s. 626.921 at the same time as the agent remits the surplus lines tax to the Florida Surplus Lines Service Office. The emergency assessment on each insured procuring coverage and filing under s. 626.938 shall be remitted by the insured to the Florida Surplus Lines Service Office at the time the insured pays the surplus lines tax to the Florida Surplus Lines Service Office. The Florida Surplus Lines Service Office shall remit the collected assessments to the fund or corporation as provided in the order levied by the Office of Insurance Regulation. The Florida Surplus Lines Service Office shall verify the proper
application of such emergency assessments and shall assist the
board in ensuring the accurate and timely collection and
remittance of assessments as required by the board. The Florida
Surplus Lines Service Office shall annually calculate the
aggregate written premium on property and casualty business,
other than workers' compensation and medical malpractice,
procured through surplus lines agents and insureds procuring
coverage and filing under s. 626.938 and shall report the
information to the board in a form and at a time specified by
the board.

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

6. The assessments otherwise payable to the corporation
under this paragraph shall be paid to the fund unless and until
the Office of Insurance Regulation and the Florida Surplus Lines
Service Office have received from the corporation and the fund a
notice, which shall be conclusive and upon which they may rely
without further inquiry, that the corporation has issued bonds and the fund has no agreements in effect with local governments under paragraph (c). On or after the date of the notice and until the date the corporation has no bonds outstanding, the fund shall have no right, title, or interest in or to the assessments, except as provided in the fund's agreement with the corporation.

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

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

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

10. The exemption of medical malpractice insurance premiums from emergency assessments under this paragraph is
repealed May 31, 2016, and medical malpractice insurance premiums shall be subject to emergency assessments attributable to loss events occurring in the contract years commencing on June 1, 2016.

(d) State Board of Administration Florida Hurricane Catastrophe Fund Finance Corporation.—

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

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

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

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

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

b. The corporation shall operate under a five-member board of directors consisting of the Governor or a designee, the Chief Financial Officer or a designee, the Attorney General or a designee, the director of the Division of Bond Finance of the State Board of Administration, and the Chief Operating Officer senior employee of the State Board of Administration responsible for operations of the Florida Hurricane Catastrophe Fund.

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

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

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

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

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

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

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

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

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

6. The corporation and its corporate existence shall
continue until terminated by law; however, no such law shall
take effect as long as the corporation has bonds outstanding
unless adequate provision has been made for the payment of such
bonds pursuant to the documents authorizing the issuance of such
bonds. Upon termination of the existence of the corporation, all
of its rights and properties in excess of its obligations shall
pass to and be vested in the state.

7. The State Board of Administration Finance Corporation
is for all purposes the successor to the Florida Hurricane
Catastrophe Fund Finance Corporation.

Section 2. Effective June 1, 2013, subsections (17) and
(18) of section 215.555, Florida Statutes, are renumbered as
subsections (16) and (17), respectively, and present subsection
(16) of that section is amended to read:

215.555 Florida Hurricane Catastrophe Fund.
(16) TEMPORARY EMERGENCY OPTIONS FOR ADDITIONAL COVERAGE.—

(a) Findings and intent.—

1. The Legislature finds that:

a. Because of temporary disruptions in the market for catastrophic reinsurance, many property insurers were unable to procure reinsurance for the 2006 hurricane season with an attachment point below the insurers' respective Florida Hurricane Catastrophe Fund attachment points, were unable to procure sufficient amounts of such reinsurance, or were able to procure such reinsurance only by incurring substantially higher costs than in prior years.

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

c. It is likely that the reinsurance market disruptions will not significantly abate prior to the 2007 hurricane season.

2. It is the intent of the Legislature to create a temporary emergency program, applicable to the 2007, 2008, and 2009 hurricane seasons, to address these market disruptions and enable insurers, at their option, to procure additional coverage from the Florida Hurricane Catastrophe Fund.

(b) Applicability of other provisions of this section. All provisions of this section and the rules adopted under this section apply to the program created by this subsection unless specifically superseded by this subsection.

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

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

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

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

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

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

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

b. The TEACO retention multiples as determined under sub-
subparagraph a. shall be adjusted to reflect the coverage level
elected by the insurer. For insurers electing the 90-percent
coverage level, the adjusted retention multiple is 100 percent of the amount determined under sub-subparagraph a. For insurers electing the 75 percent coverage level, the retention multiple is 120 percent of the amount determined under sub-subparagraph a. For insurers electing the 45 percent coverage level, the adjusted retention multiple is 200 percent of the amount determined under sub-subparagraph a.

e. An insurer shall determine its provisional TEACO retention by multiplying its estimated mandatory FHCF reimbursement premium by the applicable adjusted TEACO retention multiple and shall determine its actual TEACO retention by multiplying its actual mandatory FHCF reimbursement premium by the applicable adjusted TEACO retention multiple.

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

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

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

(e) TEACO addendum.—

1. The TEACO addendum shall provide for reimbursement of TEACO insurers for covered events occurring during the contract year, in exchange for the TEACO reimbursement premium paid into
the fund under paragraph (f). Any insurer writing covered
policies has the option of choosing to accept the TEACO addendum
for any of the 3 contract years that the coverage is offered.

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

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

4. The TEACO addendum shall also provide that the
obligation of the board with respect to all TEACO addenda shall
not exceed an amount equal to two times the difference between
the industry retention level calculated under paragraph (2)(e)
and the $3 billion, $4 billion, or $5 billion industry TEACO
retention level options actually selected, but in no event may
the board's obligation exceed the actual claims-paying capacity
of the fund plus the additional capacity created in paragraph
(g). If the actual claims-paying capacity and the additional
capacity created under paragraph (g) fall short of the board's
obligations under the reimbursement contract, each insurer's
share of the fund's capacity shall be prorated based on the
premium an insurer pays for its mandatory reimbursement coverage
and the premium paid for its optional TEACO coverage as each
such premium bears to the total premiums paid to the fund times
the available capacity.

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

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

(f) TEACO reimbursement premiums.—

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

2. The insurer's TEACO reimbursement premium associated with the $3 billion retention option shall be equal to 85 percent of a TEACO insurer's maximum reimbursement for a single event as calculated under subparagraph (e)6. The TEACO reimbursement premium associated with the $4 billion retention option shall be equal to 80 percent of a TEACO insurer's maximum reimbursement for a single event as calculated under subparagraph (e)6. The TEACO premium associated with the $5 billion retention option shall be equal to 75 percent of a TEACO insurer's maximum reimbursement for a single event as calculated
(g) Effect on claims paying capacity of the fund. For the contract term commencing June 1, 2007, the contract year commencing June 1, 2008, and the contract term beginning June 1, 2009, the program created by this subsection shall increase the claims paying capacity of the fund as provided in subparagraph (4)(c)1. by an amount equal to two times the difference between the industry retention level calculated under paragraph (2)(c) and the $3 billion industry TEACO retention level specified in subparagraph (d)1.a. The additional capacity shall apply only to the additional coverage provided by the TEACO option and shall not otherwise affect any insurer's reimbursement from the fund.

Section 3. Subsection (5) of section 627.0629, Florida Statutes, is amended to read:

627.0629 Residential property insurance; rate filings.—

(5) In order to provide an appropriate transition period, an insurer may implement an approved rate filing for residential property insurance over a period of years. Such insurer must provide an informational notice to the office setting out its schedule for implementation of the phased-in rate filing. The insurer may include in its rate the actual cost of private market reinsurance that corresponds to available coverage of the Temporary Increase in Coverage Limits, TICL, from the Florida Hurricane Catastrophe Fund. The insurer may also include the cost of reinsurance to replace the TICL reduction implemented pursuant to s. 215.555(16)(d)9, 215.555(17)(d)9. However, this cost for reinsurance may not include any expense or profit load
or result in a total annual base rate increase in excess of 10 percent.

Section 4. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.