

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 and providing definitions; creating  
5 the Division of the Florida Hurricane Catastrophe Fund  
6 within the State Board of Administration; transferring the  
7 powers, duties, and responsibilities of administration of  
8 the fund from the State Board of Administration to the  
9 division; requiring the State Board of Administration to  
10 appoint a director; extending for an additional year the  
11 offer of reimbursement coverage for specified insurers;  
12 revising the qualifying criteria for such insurers;  
13 revising provisions to conform; providing penalties and  
14 interest for failing to collect and remit certain  
15 assessments; increasing the membership of the board of  
16 directors of the Florida Hurricane Catastrophe Fund  
17 Finance Corporation; revising the methodology for  
18 calculating TICL coverage multiples for purposes of  
19 reducing an insurer's fund coverage limit; increasing the  
20 percentage of reimbursement of an insurer's TICL coverage  
21 under the TICL options addendum; amending ss. 215.557,  
22 215.5586, and 215.5595, F.S.; revising provisions to  
23 conform; amending s. 627.0628, F.S.; assigning the Florida  
24 Commission on Hurricane Loss Projection Methodology to the  
25 division; revising provisions to conform; amending ss.  
26 215.559, 624.424, and 627.351, F.S.; correcting cross-  
27 references; providing an effective date.

28

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

30

31 Section 1. Section 215.555, Florida Statutes, is amended  
32 to read:

33 215.555 Florida Hurricane Catastrophe Fund.--

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

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

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

51 (c) Mortgages require reliable property insurance, and the  
52 unavailability of reliable property insurance would therefore  
53 make most real estate transactions impossible. In addition, the  
54 public health, safety, and welfare demand that structures  
55 damaged or destroyed in a catastrophe be repaired or  
56 reconstructed as soon as possible. Therefore, the inability of

57 | the private sector insurance and reinsurance markets to maintain  
58 | sufficient capacity to enable residents of this state to obtain  
59 | property insurance coverage in the private sector endangers the  
60 | economy of the state and endangers the public health, safety,  
61 | and welfare. Accordingly, state action to correct for this  
62 | inability of the private sector constitutes a valid and  
63 | necessary public and governmental purpose.

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

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

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

84 protecting and advancing the state's interest in maintaining  
85 insurance capacity in this state.

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

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

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

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

111 ~~(6)~~, and determined according to principles of actuarial science  
 112 to reflect each insurer's relative exposure to hurricane losses.

113 (c) "Board" means the governing board of the division,  
 114 which shall be composed of the Governor and Cabinet. The  
 115 Governor shall be chair of the governing board of the division,  
 116 the Attorney General shall be the secretary of the board, and  
 117 the Chief Financial Officer shall be treasurer of the board.

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

120 (e)~~(n)~~ "Corporation" means the Florida Hurricane  
 121 Catastrophe Fund Finance Corporation created in paragraph  
 122 (7)~~(6)~~(d) .

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

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

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

166 commercial property risks and that provides a layer of coverage  
 167 above a primary layer insured by another insurer.

168 (h) "Debt service" means the amount required in any fiscal  
 169 year to pay the principal of, redemption premium, if any, and  
 170 interest on revenue bonds and any amounts required by the terms  
 171 of documents authorizing, securing, or providing liquidity for  
 172 revenue bonds necessary to maintain in effect any such liquidity  
 173 or security arrangements.

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

178 (j) "Director" means the chief administrator of the  
 179 division, who shall act on behalf of the division as authorized  
 180 by the board.

181 (k) "Division" means the Division of the Florida Hurricane  
 182 Catastrophe Fund.

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

188 (m) "Fund" or "FHCF" means the Florida Hurricane  
 189 Catastrophe Fund.

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

192 (o) ~~(d)~~ "Losses" means direct incurred losses under covered  
 193 policies, which shall include losses for additional living

194 expenses not to exceed 40 percent of the insured value of a  
195 residential structure or its contents and shall exclude loss  
196 adjustment expenses. "Losses" does not include losses for fair  
197 rental value, loss of rent or rental income, or business  
198 interruption losses.

199 (p) ~~(k)~~ "Pledged revenues" means all or any portion of  
200 revenues to be derived from reimbursement premiums under  
201 subsection (6) ~~(5)~~ or from emergency assessments under paragraph  
202 (7) ~~(6)~~(b), as determined by the board.

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

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

219 2. The retention multiple as determined under subparagraph  
220 1. shall be adjusted to reflect the coverage level elected by  
221 the insurer. For insurers electing the 90-percent coverage

222 level, the adjusted retention multiple is 100 percent of the  
223 amount determined under subparagraph 1. For insurers electing  
224 the 75-percent coverage level, the retention multiple is 120  
225 percent of the amount determined under subparagraph 1. For  
226 insurers electing the 45-percent coverage level, the adjusted  
227 retention multiple is 200 percent of the amount determined under  
228 subparagraph 1.

229 3. An insurer shall determine its provisional retention by  
230 multiplying its provisional reimbursement premium by the  
231 applicable adjusted retention multiple and shall determine its  
232 actual retention by multiplying its actual reimbursement premium  
233 by the applicable adjusted retention multiple.

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

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

247 (3) DIVISION OF THE FLORIDA HURRICANE CATASTROPHE FUND  
248 CREATED.--The Division of the Florida Hurricane Catastrophe Fund  
249 is created within the State Board of Administration for the

250 purpose of administering the Florida Hurricane Catastrophe Fund.  
 251 For purposes of this section, the board of the division shall  
 252 consist of the Governor and Cabinet.

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

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

290 (5)~~(4)~~ REIMBURSEMENT CONTRACTS.--

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

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

303 2. The insurer must elect one of the percentage coverage  
304 levels specified in this paragraph and may, upon renewal of a  
305 reimbursement contract, elect a lower percentage coverage level

306 if no revenue bonds issued under subsection (7) ~~(6)~~ after a  
 307 covered event are outstanding, or elect a higher percentage  
 308 coverage level, regardless of whether or not revenue bonds are  
 309 outstanding. All members of an insurer group must elect the same  
 310 percentage coverage level. Any joint underwriting association,  
 311 risk apportionment plan, or other entity created under s.  
 312 627.351 must elect the 90-percent coverage level.

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

316 4. Notwithstanding any other provision contained in this  
 317 section, the board shall make available to insurers that  
 318 purchased coverage provided by this subparagraph in 2007 ~~2006~~,  
 319 insurers qualifying as limited apportionment companies under s.  
 320 627.351(6)(c), and insurers that have been ~~were~~ approved to  
 321 participate in ~~2006 or that are approved in 2007~~ for the  
 322 Insurance Capital Build-Up Incentive Program pursuant to s.  
 323 215.5595~~7~~, a contract or contract addendum that provides an  
 324 additional amount of reimbursement coverage of up to \$10  
 325 million. The premium to be charged for this additional  
 326 reimbursement coverage shall be 50 percent of the additional  
 327 reimbursement coverage provided, which shall include one prepaid  
 328 reinstatement. The minimum retention level that an eligible  
 329 participating insurer must retain associated with this  
 330 additional coverage layer is 30 percent of the insurer's surplus  
 331 as of December 31, 2007 ~~2006~~. This coverage shall be in addition  
 332 to all other coverage that may be provided under this section.  
 333 The coverage provided by the fund under this subparagraph shall

334 be in addition to the claims-paying capacity as defined in  
 335 subparagraph (c)1., but only with respect to those insurers that  
 336 select the additional coverage option and meet the requirements  
 337 of this subparagraph. The claims-paying capacity with respect to  
 338 all other participating insurers and limited apportionment  
 339 companies that do not select the additional coverage option  
 340 shall be limited to their reimbursement premium's proportionate  
 341 share of the actual claims-paying capacity otherwise defined in  
 342 subparagraph (c)1. and as provided for under the terms of the  
 343 reimbursement contract. Coverage provided in the reimbursement  
 344 contract shall ~~will~~ not be affected by the additional premiums  
 345 paid by participating insurers exercising the additional  
 346 coverage option allowed in this subparagraph. This subparagraph  
 347 expires on May 31, 2009 ~~2008~~.

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

360 2. In May before the start of the upcoming contract year  
 361 and in October during the contract year, the division board ~~board~~

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

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

390 amount of reimbursement due and adjustments to this amount based  
 391 on later loss information. The adjustments to reimbursement  
 392 amounts shall require the division ~~board~~ to pay, or the insurer  
 393 to return, amounts reflecting the most recent calculation of  
 394 losses.

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

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

414 2. With respect only to an entity created under s.  
 415 627.351, the contract shall also provide that the division ~~board~~  
 416 may, upon application by such entity, advance to such entity, at  
 417 market interest rates, up to 90 percent of the lesser of:

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

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

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

446 reimbursement obligations to the insurers that are participants  
447 in the fund. Such company's final reimbursement for any contract  
448 year in which an advance pursuant to this subparagraph has been  
449 made shall be reduced by an amount equal to the amount of the  
450 advance and interest thereon. In order to determine what  
451 amounts, if any, are due to such company, the division ~~board~~ may  
452 require such company to report its exposure and its losses at  
453 such times as may be required to determine retention levels and  
454 loss reimbursements payable.

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

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

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

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

499 2. Funds owed to a bank or other financial institution to  
 500 cover obligations of the insolvent insurer under a credit

501 agreement that assists the insolvent insurer in paying claims  
 502 attributable to covered events.

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

513 (6)~~(5)~~ REIMBURSEMENT PREMIUMS.--

514 (a) Each reimbursement contract shall require the insurer  
 515 to annually pay to the fund an actuarially indicated premium for  
 516 the reimbursement.

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

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

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

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

557 (e) If Citizens Property Insurance Corporation assumes or  
558 otherwise provides coverage for policies of an insurer placed in  
559 liquidation under chapter 631 pursuant to s. 627.351(6), the  
560 corporation may, pursuant to conditions mutually agreed to  
561 between the corporation and the division ~~State Board of~~  
562 ~~Administration~~, obtain coverage for such policies under its  
563 contract with the division ~~fund~~ or accept an assignment of the  
564 liquidated insurer's contract with the division ~~fund~~. If  
565 Citizens Property Insurance Corporation elects to cover these  
566 policies under the corporation's contract with the division  
567 ~~fund~~, it shall notify the division ~~board~~ of its insured values  
568 with respect to such policies within a specified time mutually  
569 agreed to between the corporation and the division ~~board~~, after  
570 such assumption or other coverage transaction, and the division  
571 ~~fund~~ shall treat such policies as having been in effect as of  
572 June 30 of that year. In the event of an assignment, the  
573 division ~~fund~~ shall apply that contract to such policies and  
574 treat Citizens Property Insurance Corporation as if the  
575 corporation were the liquidated insurer for the remaining term  
576 of the contract, and the corporation shall have all rights and  
577 duties of the liquidated insurer beginning on the date it  
578 provides coverage for such policies, but the corporation is not  
579 subject to any preexisting rights, liabilities, or duties of the  
580 liquidated insurer. The assignment, including any unresolved  
581 issues between the liquidated insurer and Citizens Property  
582 Insurance Corporation under the contract, shall be provided for  
583 in the liquidation order or otherwise determined by the court.  
584 However, if a covered event occurs before the effective date of

585 the assignment, the corporation may not obtain coverage for such  
586 policies under its contract with the division ~~fund~~ and shall  
587 accept an assignment of the liquidated insurer's contract as  
588 provided in this paragraph.

589 (7)~~(6)~~ REVENUE BONDS.--

590 (a) General provisions.--

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

613 arrangements under paragraph (8)~~(7)~~(b) as the board deems  
 614 necessary to evidence, secure, preserve, and protect such  
 615 pledge. If reimbursement premiums received under subsection (6)  
 616 ~~(5)~~ or earnings on such premiums are used to pay debt service on  
 617 revenue bonds, such premiums and earnings shall be used only  
 618 after the use of the moneys derived from assessments under  
 619 paragraph (b). The funds, credit, property, or taxing power of  
 620 the state or political subdivisions of the state shall not be  
 621 pledged for the payment of such bonds. The division ~~board~~ may  
 622 also enter into agreements under paragraph (c) or paragraph (d)  
 623 for the purpose of issuing revenue bonds in the absence of a  
 624 hurricane upon a determination that such action would maximize  
 625 the ability of the fund to meet future obligations.

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

634 (b) Emergency assessments.--

635 1. If the board determines that the amount of revenue  
 636 produced under subsection (6) ~~(5)~~ is insufficient to fund the  
 637 obligations, costs, and expenses of the fund and the  
 638 corporation, including repayment of revenue bonds and that  
 639 portion of the debt service coverage not met by reimbursement  
 640 premiums, the board shall direct the Office of Insurance

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

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

669 of the bonds under the documents authorizing issuance of the  
 670 bonds.

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

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

697 pay penalties and interest as provided by s. 626.936(2). The  
 698 Florida Surplus Lines Service Office shall remit the collected  
 699 assessments to the fund or corporation as provided in the order  
 700 levied by the Office of Insurance Regulation. The Florida  
 701 Surplus Lines Service Office shall verify the proper application  
 702 of such emergency assessments and shall assist the division  
 703 ~~board~~ in ensuring the accurate and timely collection and  
 704 remittance of assessments as required by the board. The Florida  
 705 Surplus Lines Service Office shall annually calculate the  
 706 aggregate written premium on property and casualty business,  
 707 other than workers' compensation and medical malpractice,  
 708 procured through surplus lines agents and insureds procuring  
 709 coverage and filing under s. 626.938 and shall report the  
 710 information to the division ~~board~~ in a form and at a time  
 711 specified by the division ~~board~~.

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

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

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

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

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

753 insured for the collected assessment attributable to the  
754 unearned premium prior to remitting the emergency assessment  
755 collected to the fund or corporation.

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

762 (c) Revenue bond issuance through counties or  
763 municipalities.--

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

780           2. In order to avoid needless and indiscriminate  
 781 proliferation, duplication, and fragmentation of such assistance  
 782 programs, any local government may provide for the payment of  
 783 fund reimbursements, regardless of whether or not the losses for  
 784 which reimbursement is made occurred within or outside of the  
 785 territorial jurisdiction of the local government.

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

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

798           (d) Florida Hurricane Catastrophe Fund Finance  
 799 Corporation.--

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

802           a. The public benefits corporation created under this  
 803 paragraph will provide a mechanism necessary for the cost-  
 804 effective and efficient issuance of bonds. This mechanism will  
 805 eliminate unnecessary costs in the bond issuance process,  
 806 thereby increasing the amounts available to pay reimbursement

807 for losses to property sustained as a result of hurricane  
808 damage.

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

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

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

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

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

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

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

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

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

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

858           4. The bonds of the corporation are not a debt of the  
859 state or of any political subdivision, and neither the state nor  
860 any political subdivision is liable on such bonds. The  
861 corporation does not have the power to pledge the credit, the  
862 revenues, or the taxing power of the state or of any political

863 subdivision. The credit, revenues, or taxing power of the state  
864 or of any political subdivision shall not be deemed to be  
865 pledged to the payment of any bonds of the corporation.

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

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

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

899           (e) Protection of bondholders.--

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

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

919           3. Notwithstanding any other provision of law, any pledge  
920 of or other security interest in revenue, money, accounts,  
921 contract rights, general intangibles, or other personal property  
922 made or created by the fund or the corporation shall be valid,  
923 binding, and perfected from the time such pledge is made or  
924 other security interest attaches without any physical delivery  
925 of the collateral or further act and the lien of any such pledge  
926 or other security interest shall be valid, binding, and  
927 perfected against all parties having claims of any kind in tort,  
928 contract, or otherwise against the division ~~fund~~ or the  
929 corporation irrespective of whether or not such parties have  
930 notice of such claims. No instrument by which such a pledge or  
931 security interest is created nor any financing statement need be  
932 recorded or filed.

933           ~~(8)~~~~(7)~~ ADDITIONAL POWERS AND DUTIES.--

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

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

947 (c) Each fiscal year, the Legislature shall appropriate  
948 from the investment income of the Florida Hurricane Catastrophe  
949 Fund an amount no less than \$10 million and no more than 35  
950 percent of the investment income based upon the most recent  
951 fiscal year-end audited financial statements for the purpose of  
952 providing funding for local governments, state agencies, public  
953 and private educational institutions, and nonprofit  
954 organizations to support programs intended to improve hurricane  
955 preparedness, reduce potential losses in the event of a  
956 hurricane, provide research into means to reduce such losses,  
957 educate or inform the public as to means to reduce hurricane  
958 losses, assist the public in determining the appropriateness of  
959 particular upgrades to structures or in the financing of such  
960 upgrades, or protect local infrastructure from potential damage  
961 from a hurricane. Moneys shall first be available for  
962 appropriation under this paragraph in fiscal year 1997-1998.  
963 Moneys in excess of the \$10 million specified in this paragraph  
964 shall not be available for appropriation under this paragraph if  
965 the ~~State board of Administration~~ finds that an appropriation of  
966 investment income from the fund would jeopardize the actuarial  
967 soundness of the fund.

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

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

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

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

994 (11) ~~(10)~~ VIOLATIONS.--Any violation of this section or of  
 995 rules adopted under this section constitutes a violation of the  
 996 insurance code.

997 (12) ~~(11)~~ LEGAL PROCEEDINGS.--The division ~~may board~~ ~~is~~  
 998 ~~authorized to~~ take any action necessary to enforce the rules,  
 999 and the provisions and requirements of the reimbursement  
 1000 contract, required by and adopted pursuant to this section.

1001        (13)~~(12)~~ FEDERAL OR MULTISTATE CATASTROPHIC FUNDS.--Upon  
 1002 the creation of a federal or multistate catastrophic insurance  
 1003 or reinsurance program intended to serve purposes similar to the  
 1004 purposes of the fund created by this section, the division, upon  
 1005 approval by the State board, ~~of Administration~~ shall promptly  
 1006 make recommendations to the Legislature for coordination with  
 1007 the federal or multistate program, for termination of the fund,  
 1008 or for such other actions as the division ~~board~~ finds  
 1009 appropriate in the circumstances.

1010        (14)~~(13)~~ REVERSION OF FUND ASSETS UPON TERMINATION.--The  
 1011 fund, the division, and the duties of the board under this  
 1012 section may be terminated only by law. Upon termination of the  
 1013 fund, all assets of the fund shall revert to the General Revenue  
 1014 Fund.

1015        (15)~~(14)~~ SEVERABILITY.--If any provision of this section  
 1016 or its application to any person or circumstance is held  
 1017 invalid, the invalidity does not affect other provisions or  
 1018 applications of the section which can be given effect without  
 1019 the invalid provision or application, and to this end the  
 1020 provisions of this section are declared severable.

1021        (16)~~(15)~~ COLLATERAL PROTECTION INSURANCE.--As used in this  
 1022 section and ss. 627.311 and 627.351, the term "collateral  
 1023 protection insurance" means commercial property insurance of  
 1024 which a creditor is the primary beneficiary and policyholder and  
 1025 which protects or covers an interest of the creditor arising out  
 1026 of a credit transaction secured by real or personal property.  
 1027 Initiation of such coverage is triggered by the mortgagor's  
 1028 failure to maintain insurance coverage as required by the

1029 mortgage or other lending document. Collateral protection  
 1030 insurance is not residential coverage.

1031 (17)~~(16)~~ TEMPORARY EMERGENCY ADDITIONAL COVERAGE OPTIONS  
 1032 ~~FOR ADDITIONAL COVERAGE.~~--

1033 (a) Findings and intent.--

1034 1. The Legislature finds that:

1035 a. Because of temporary disruptions in the market for  
 1036 catastrophic reinsurance, many property insurers were unable to  
 1037 procure reinsurance for the 2006 hurricane season with an  
 1038 attachment point below the insurers' respective Florida  
 1039 Hurricane Catastrophe Fund attachment points, were unable to  
 1040 procure sufficient amounts of such reinsurance, or were able to  
 1041 procure such reinsurance only by incurring substantially higher  
 1042 costs than in prior years.

1043 b. The reinsurance market problems were responsible, at  
 1044 least in part, for substantial premium increases to many  
 1045 consumers and increases in the number of policies issued by the  
 1046 Citizens Property Insurance Corporation.

1047 c. It is likely that the reinsurance market disruptions  
 1048 will not significantly abate prior to the 2007 hurricane season.

1049 2. It is the intent of the Legislature to create a  
 1050 temporary emergency program, applicable to the 2007, 2008, and  
 1051 2009 hurricane seasons, to address these market disruptions and  
 1052 enable insurers, at their option, to procure additional coverage  
 1053 from the Florida Hurricane Catastrophe Fund.

1054 (b) Applicability of other provisions of this  
 1055 section.--All provisions of this section and the rules adopted

1056 under this section apply to the program created by this  
 1057 subsection unless specifically superseded by this subsection.

1058 (c) Optional coverage.--For the contract year commencing  
 1059 June 1, 2007, and ending May 31, 2008, the contract year  
 1060 commencing June 1, 2008, and ending May 31, 2009, and the  
 1061 contract year commencing June 1, 2009, and ending May 31, 2010,  
 1062 the board shall offer for each of such years the optional  
 1063 coverage as provided in this subsection.

1064 (d) Additional definitions.--As used in this subsection,  
 1065 the term:

1066 1. "TEACO options" means the temporary emergency  
 1067 additional coverage options created under this subsection.

1068 2. "TEACO insurer" means an insurer that has opted to  
 1069 obtain coverage under the TEACO options in addition to the  
 1070 coverage provided to the insurer under its reimbursement  
 1071 contract.

1072 3. "TEACO reimbursement premium" means the premium charged  
 1073 by the fund for coverage provided under the TEACO options.

1074 4. "TEACO retention" means the amount of losses below  
 1075 which a TEACO insurer is not entitled to reimbursement from the  
 1076 fund under the TEACO option selected. A TEACO insurer's  
 1077 retention options shall be calculated as follows:

1078 a. The division ~~board~~ shall calculate and report to each  
 1079 TEACO insurer the TEACO retention multiples. There shall be  
 1080 three TEACO retention multiples for defining coverage. Each  
 1081 multiple shall be calculated by dividing \$3 billion, \$4 billion,  
 1082 or \$5 billion by the total estimated mandatory FHCF

1083 reimbursement premium assuming all insurers selected the 90-  
1084 percent coverage level.

1085       b. The TEACO retention multiples as determined under sub-  
1086 subparagraph a. shall be adjusted to reflect the coverage level  
1087 elected by the insurer. For insurers electing the 90-percent  
1088 coverage level, the adjusted retention multiple is 100 percent  
1089 of the amount determined under sub-subparagraph a. For insurers  
1090 electing the 75-percent coverage level, the retention multiple  
1091 is 120 percent of the amount determined under sub-subparagraph  
1092 a. For insurers electing the 45-percent coverage level, the  
1093 adjusted retention multiple is 200 percent of the amount  
1094 determined under sub-subparagraph a.

1095       c. An insurer shall determine its provisional TEACO  
1096 retention by multiplying its estimated mandatory FHCF  
1097 reimbursement premium by the applicable adjusted TEACO retention  
1098 multiple and shall determine its actual TEACO retention by  
1099 multiplying its actual mandatory FHCF reimbursement premium by  
1100 the applicable adjusted TEACO retention multiple.

1101       d. For TEACO insurers who experience multiple covered  
1102 events causing loss during the contract year, the insurer's full  
1103 TEACO retention shall be applied to each of the covered events  
1104 causing the two largest losses for that insurer. For other  
1105 covered events resulting in losses, the TEACO option does not  
1106 apply and the insurer's retention shall be one-third of the full  
1107 retention as calculated under paragraph (2) (g) ~~(e)~~.

1108       5. "TEACO addendum" means an addendum to the reimbursement  
1109 contract reflecting the obligations of the fund and TEACO  
1110 insurers under the program created by this subsection.

1111           6. "FHCF" means the Florida Hurricane Catastrophe Fund.  
 1112           (e) TEACO addendum.--

1113           1. The TEACO addendum shall provide for reimbursement of  
 1114 TEACO insurers for covered events occurring during the contract  
 1115 year, in exchange for the TEACO reimbursement premium paid into  
 1116 the fund under paragraph (f). Any insurer writing covered  
 1117 policies has the option of choosing to accept the TEACO addendum  
 1118 for any of the 3 contract years that the coverage is offered.

1119           2. The TEACO addendum shall contain a promise by the  
 1120 division ~~board~~ to reimburse the TEACO insurer for 45 percent, 75  
 1121 percent, or 90 percent of its losses from each covered event in  
 1122 excess of the insurer's TEACO retention, plus 5 percent of the  
 1123 reimbursed losses to cover loss adjustment expenses. The  
 1124 percentage shall be the same as the coverage level selected by  
 1125 the insurer under paragraph (5)~~(4)~~(b).

1126           3. The TEACO addendum shall provide that reimbursement  
 1127 amounts shall not be reduced by reinsurance paid or payable to  
 1128 the insurer from other sources.

1129           4. The TEACO addendum shall also provide that the  
 1130 obligation of the division ~~board~~ with respect to all TEACO  
 1131 addenda shall not exceed an amount equal to two times the  
 1132 difference between the industry retention level calculated under  
 1133 paragraph (2) (g)~~(e)~~ and the \$3 billion, \$4 billion, or \$5  
 1134 billion industry TEACO retention level options actually  
 1135 selected, but in no event may the division's ~~board's~~ obligation  
 1136 exceed the actual claims-paying capacity of the fund plus the  
 1137 additional capacity created in paragraph (g). If the actual  
 1138 claims-paying capacity and the additional capacity created under

1139 paragraph (g) fall short of the division's ~~board's~~ obligations  
1140 under the reimbursement contract, each insurer's share of the  
1141 fund's capacity shall be prorated based on the premium an  
1142 insurer pays for its mandatory reimbursement coverage and the  
1143 premium paid for its optional TEACO coverage as each such  
1144 premium bears to the total premiums paid to the fund times the  
1145 available capacity.

1146 5. The priorities, schedule, and method of reimbursements  
1147 under the TEACO addendum shall be the same as provided under  
1148 subsection (5) ~~(4)~~.

1149 6. A TEACO insurer's maximum reimbursement for a single  
1150 event shall be equal to the product of multiplying its mandatory  
1151 FHCF premium by the difference between its FHCF retention  
1152 multiple and its TEACO retention multiple under the TEACO option  
1153 selected and by the coverage selected under paragraph (5) ~~(4)~~ (b),  
1154 plus an additional 5 percent for loss adjustment expenses. A  
1155 TEACO insurer's maximum reimbursement under the TEACO option  
1156 selected for a TEACO insurer's two largest events shall be twice  
1157 its maximum reimbursement for a single event.

1158 (f) TEACO reimbursement premiums.--

1159 1. Each TEACO insurer shall pay to the fund, in the manner  
1160 and at the time provided in the reimbursement contract for  
1161 payment of reimbursement premiums, a TEACO reimbursement premium  
1162 calculated as specified in this paragraph.

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

1167 reimbursement premium associated with the \$4 billion retention  
 1168 option shall be equal to 80 percent of a TEACO insurer's maximum  
 1169 reimbursement for a single event as calculated under  
 1170 subparagraph (e)6. The TEACO premium associated with the \$5  
 1171 billion retention option shall be equal to 75 percent of a TEACO  
 1172 insurer's maximum reimbursement for a single event as calculated  
 1173 under subparagraph (e)6.

1174 (g) Effect on claims-paying capacity of the fund.--For the  
 1175 contract term commencing June 1, 2007, the contract year  
 1176 commencing June 1, 2008, and the contract term beginning June 1,  
 1177 2009, the program created by this subsection shall increase the  
 1178 claims-paying capacity of the fund as provided in subparagraph  
 1179 (5)~~(4)~~(c)1. by an amount equal to two times the difference  
 1180 between the industry retention level calculated under paragraph  
 1181 (2)(g)~~(e)~~ and the \$3 billion industry TEACO retention level  
 1182 specified in sub-subparagraph (d)4.a. The additional capacity  
 1183 shall apply only to the additional coverage provided by the  
 1184 TEACO option and shall not otherwise affect any insurer's  
 1185 reimbursement from the fund.

1186 (18)~~(17)~~ TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.--

1187 (a) Findings and intent.--

1188 1. The Legislature finds that:

1189 a. Because of temporary disruptions in the market for  
 1190 catastrophic reinsurance, many property insurers were unable to  
 1191 procure sufficient amounts of reinsurance for the 2006 hurricane  
 1192 season or were able to procure such reinsurance only by  
 1193 incurring substantially higher costs than in prior years.

1194           b. The reinsurance market problems were responsible, at  
 1195 least in part, for substantial premium increases to many  
 1196 consumers and increases in the number of policies issued by  
 1197 Citizens Property Insurance Corporation.

1198           c. It is likely that the reinsurance market disruptions  
 1199 will not significantly abate prior to the 2008 ~~2007~~ hurricane  
 1200 season.

1201           2. It is the intent of the Legislature to create options  
 1202 for insurers to purchase a temporary increased coverage limit  
 1203 above the statutorily determined limit in subparagraph  
 1204 (5) ~~(4)~~ (c)1., applicable for the ~~2007~~, 2008, and 2009 hurricane  
 1205 seasons, to address market disruptions and enable insurers, at  
 1206 their option, to procure additional coverage from the Florida  
 1207 Hurricane Catastrophe Fund.

1208           (b) Applicability of other provisions of this  
 1209 section.--All provisions of this section and the rules adopted  
 1210 under this section apply to the coverage created by this  
 1211 subsection unless specifically superseded by provisions in this  
 1212 subsection.

1213           (c) Optional coverage.--For the contract year commencing  
 1214 ~~June 1, 2007, and ending May 31, 2008, the contract year~~  
 1215 ~~commencing~~ June 1, 2008, and ending May 31, 2009, and the  
 1216 contract year commencing June 1, 2009, and ending May 31, 2010,  
 1217 the board shall offer, for each of such years, the optional  
 1218 coverage as provided in this subsection.

1219           (d) Additional definitions.--As used in this subsection,  
 1220 the term:

1221           1. "FHCF" means Florida Hurricane Catastrophe Fund.

1222           2. "FHCF reimbursement premium" means the premium paid by  
 1223 an insurer for its coverage as a mandatory participant in the  
 1224 FHCF, but does not include additional premiums for optional  
 1225 coverages.

1226           3. "Payout multiple" means the number or multiple created  
 1227 by dividing the statutorily defined claims-paying capacity as  
 1228 determined in subparagraph (5)~~(4)~~(c)1. by the aggregate  
 1229 reimbursement premiums paid by all insurers estimated or  
 1230 projected as of calendar year-end.

1231           4. "TICL" means the temporary increase in coverage limit.

1232           5. "TICL options" means the temporary increase in coverage  
 1233 options created under this subsection.

1234           6. "TICL insurer" means an insurer that has opted to  
 1235 obtain coverage under the TICL options addendum in addition to  
 1236 the coverage provided to the insurer under its FHCF  
 1237 reimbursement contract.

1238           7. "TICL reimbursement premium" means the premium charged  
 1239 by the fund for coverage provided under the TICL option.

1240           8. "TICL coverage multiple" means the coverage multiple  
 1241 when multiplied by an insurer's FHCF reimbursement premium that  
 1242 defines the temporary increase in coverage limit.

1243           9. "TICL coverage" means the coverage for an insurer's  
 1244 losses above the insurer's statutorily determined claims-paying  
 1245 capacity based on the claims-paying limit in subparagraph  
 1246 (5)~~(4)~~(c)1., which an insurer selects as its temporary increase  
 1247 in coverage from the fund under the TICL options selected. A  
 1248 TICL insurer's increased coverage limit options shall be  
 1249 calculated as follows:

1250           a. The division board ~~board~~ shall calculate and report to each  
 1251 TICL insurer the TICL coverage multiples based on 9 ~~12~~ options  
 1252 for increasing the insurer's FHCF coverage limit. Each TICL  
 1253 coverage multiple shall be calculated by dividing \$1 billion, \$2  
 1254 billion, \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7  
 1255 billion, \$8 billion, and \$9 billion, ~~\$10 billion, \$11 billion,~~  
 1256 ~~or \$12 billion~~ by the total estimated aggregate FHCF  
 1257 reimbursement premiums for ~~the 2007-2008 contract year,~~ the  
 1258 2008-2009 contract year, and the 2009-2010 contract year.

1259           b. The TICL insurer's increased coverage shall be the FHCF  
 1260 reimbursement premium multiplied by the TICL coverage multiple  
 1261 for the TICL option selected. In order to determine an insurer's  
 1262 total limit of coverage, an insurer shall add its TICL coverage  
 1263 multiple to its payout multiple. The total shall represent a  
 1264 number that, when multiplied by an insurer's FHCF reimbursement  
 1265 premium for a given reimbursement contract year, defines an  
 1266 insurer's total limit of FHCF reimbursement coverage for that  
 1267 reimbursement contract year.

1268           10. "TICL options addendum" means an addendum to the  
 1269 reimbursement contract reflecting the obligations of the fund  
 1270 and insurers selecting an option to increase an insurer's FHCF  
 1271 coverage limit.

1272           (e) TICL options addendum.--

1273           1. The TICL options addendum shall provide for  
 1274 reimbursement of TICL insurers for covered events occurring  
 1275 between June 1, 2007, and May 31, 2008, and between June 1,  
 1276 2008, and May 31, 2009, or between June 1, 2009, and May 31,  
 1277 2010, in exchange for the TICL reimbursement premium paid into

1278 the fund under paragraph (f). Any insurer writing covered  
 1279 policies has the option of selecting an increased limit of  
 1280 coverage under the TICL options addendum and shall select such  
 1281 coverage at the time that it executes the FHCF reimbursement  
 1282 contract.

1283 2. The TICL addendum shall contain a promise by the board  
 1284 to reimburse the TICL insurer for 70 ~~45~~ percent of the TICL  
 1285 coverage based on the TICL option selected for the insurer's, ~~75~~  
 1286 ~~percent, or 90 percent of its~~ losses from each covered event in  
 1287 excess of the insurer's retention, plus 5 percent of the  
 1288 reimbursed losses to cover loss adjustment expenses. ~~The~~  
 1289 ~~percentage shall be the same as the coverage level selected by~~  
 1290 ~~the insurer under paragraph (4) (b).~~

1291 3. The TICL addendum shall provide that reimbursement  
 1292 amounts shall not be reduced by reinsurance paid or payable to  
 1293 the insurer from other sources.

1294 4. The priorities, schedule, and method of reimbursements  
 1295 under the TICL addendum shall be the same as provided under  
 1296 subsection (5) ~~(4)~~.

1297 (f) TICL reimbursement premiums.--Each TICL insurer shall  
 1298 pay to the fund, in the manner and at the time provided in the  
 1299 reimbursement contract for payment of reimbursement premiums, a  
 1300 TICL reimbursement premium determined as specified in subsection  
 1301 (6) ~~(5)~~.

1302 (g) Effect on claims-paying capacity of the fund.--For the  
 1303 contract terms commencing ~~June 1, 2007,~~ June 1, 2008, and June  
 1304 1, 2009, the program created by this subsection shall increase  
 1305 the claims-paying capacity of the fund as provided in

1306 subparagraph (5)~~(4)~~(c)1. by an amount not to exceed \$9 ~~\$12~~  
 1307 billion and shall depend on the TICL coverage options selected  
 1308 and the number of insurers that select the TICL optional  
 1309 coverage. The additional capacity shall apply only to the  
 1310 additional coverage provided under the TICL options and shall  
 1311 not otherwise affect any insurer's reimbursement from the fund  
 1312 if the insurer chooses not to select the temporary option to  
 1313 increase its limit of coverage under the FHCF.

1314 (h) Increasing the claims-paying capacity of the  
 1315 fund.--For the contract years commencing ~~June 1, 2007,~~ June 1,  
 1316 2008, and June 1, 2009, the board may increase the claims-paying  
 1317 capacity of the fund as provided in paragraph (g) by an amount  
 1318 not to exceed \$4 billion in four \$1 billion options and shall  
 1319 depend on the TICL coverage options selected and the number of  
 1320 insurers that select the TICL optional coverage. Each insurer's  
 1321 TICL premium shall be calculated based upon the additional limit  
 1322 of increased coverage that the insurer selects. Such limit is  
 1323 determined by multiplying the TICL multiple associated with one  
 1324 of the four options times the insurer's FHCF reimbursement  
 1325 premium. The reimbursement premium associated with the  
 1326 additional coverage provided in this paragraph shall be  
 1327 determined as specified in subsection (6) ~~(5)~~.

1328 Section 2. Section 215.557, Florida Statutes, is amended  
 1329 to read:

1330 215.557 Reports of insured values.--The reports of insured  
 1331 values under covered policies by zip code submitted to the  
 1332 Division of the Florida Hurricane Catastrophe Fund State Board  
 1333 ~~of Administration~~ pursuant to s. 215.555, as created by s. 1,

1334 ch. 93-409, Laws of Florida, or similar legislation, are  
 1335 confidential and exempt from the provisions of s. 119.07(1) and  
 1336 s. 24(a), Art. I of the State Constitution.

1337 Section 3. Paragraph (h) of subsection (4) of section  
 1338 215.5586, Florida Statutes, is amended to read:

1339 215.5586 My Safe Florida Home Program.--There is  
 1340 established within the Department of Financial Services the My  
 1341 Safe Florida Home Program. The department shall provide fiscal  
 1342 accountability, contract management, and strategic leadership  
 1343 for the program, consistent with this section. This section does  
 1344 not create an entitlement for property owners or obligate the  
 1345 state in any way to fund the inspection or retrofitting of  
 1346 residential property in this state. Implementation of this  
 1347 program is subject to annual legislative appropriations. It is  
 1348 the intent of the Legislature that the My Safe Florida Home  
 1349 Program provide inspections for at least 400,000 site-built,  
 1350 single-family, residential properties and provide grants to at  
 1351 least 35,000 applicants before June 30, 2009. The program shall  
 1352 develop and implement a comprehensive and coordinated approach  
 1353 for hurricane damage mitigation that shall include the  
 1354 following:

1355 (4) ADVISORY COUNCIL.--There is created an advisory  
 1356 council to provide advice and assistance to the department  
 1357 regarding administration of the program. The advisory council  
 1358 shall consist of:

1359 (h) The director ~~senior officer~~ of the Division of the  
 1360 Florida Hurricane Catastrophe Fund.

1361

1362 Members appointed under paragraphs (a)-(d) shall serve at the  
 1363 pleasure of the Financial Services Commission. Members appointed  
 1364 under paragraphs (e) and (f) shall serve at the pleasure of the  
 1365 appointing officer. All other members shall serve voting ex  
 1366 officio. Members of the advisory council shall serve without  
 1367 compensation but may receive reimbursement as provided in s.  
 1368 112.061 for per diem and travel expenses incurred in the  
 1369 performance of their official duties.

1370 Section 4. Subsection (1) of section 215.559, Florida  
 1371 Statutes, is amended to read:

1372 215.559 Hurricane Loss Mitigation Program.--

1373 (1) There is created a Hurricane Loss Mitigation Program.  
 1374 The Legislature shall annually appropriate \$10 million of the  
 1375 moneys authorized for appropriation under s. 215.555 (8) ~~(7)~~ (c)  
 1376 from the Florida Hurricane Catastrophe Fund to the Department of  
 1377 Community Affairs for the purposes set forth in this section.

1378 Section 5. Subsections (2), (3), (6), and (7) of section  
 1379 215.5595, Florida Statutes, are amended to read:

1380 215.5595 Insurance Capital Build-Up Incentive Program.--

1381 (2) The purpose of this section is to provide surplus  
 1382 notes to new or existing authorized residential property  
 1383 insurers under the Insurance Capital Build-Up Incentive Program  
 1384 administered by the division ~~State Board of Administration~~,  
 1385 under the following conditions:

1386 (a) The amount of the surplus note for any insurer or  
 1387 insurer group, other than an insurer writing only manufactured  
 1388 housing policies, may not exceed \$25 million or 20 percent of  
 1389 the total amount of funds available under the program, whichever

1390 is greater. The amount of the surplus note for any insurer or  
1391 insurer group writing residential property insurance covering  
1392 only manufactured housing may not exceed \$7 million.

1393 (b) The insurer must contribute an amount of new capital  
1394 to its surplus which is at least equal to the amount of the  
1395 surplus note and must apply to the board by July 1, 2006. If an  
1396 insurer applies after July 1, 2006, but before June 1, 2007, the  
1397 amount of the surplus note is limited to one-half of the new  
1398 capital that the insurer contributes to its surplus, except that  
1399 an insurer writing only manufactured housing policies is  
1400 eligible to receive a surplus note of up to \$7 million. For  
1401 purposes of this section, new capital must be in the form of  
1402 cash or cash equivalents as specified in s. 625.012(1).

1403 (c) The insurer's surplus, new capital, and the surplus  
1404 note must total at least \$50 million, except for insurers  
1405 writing residential property insurance covering only  
1406 manufactured housing. The insurer's surplus, new capital, and  
1407 the surplus note must total at least \$14 million for insurers  
1408 writing only residential property insurance covering  
1409 manufactured housing policies as provided in paragraph (a).

1410 (d) The insurer must commit to meeting a minimum writing  
1411 ratio of net written premium to surplus of at least 2:1 for the  
1412 term of the surplus note, which shall be determined by the  
1413 Office of Insurance Regulation and certified quarterly to the  
1414 board. For this purpose, the term "net written premium" means  
1415 net written premium for residential property insurance in this  
1416 state ~~Florida~~, including the peril of wind, and "surplus" refers  
1417 to the entire surplus of the insurer. If the required ratio is

1418 not maintained during the term of the surplus note, the division  
1419 ~~board~~ may increase the interest rate, accelerate the repayment  
1420 of interest and principal, or shorten the term of the surplus  
1421 note, subject to approval by the Commissioner of Insurance of  
1422 payments by the insurer of principal and interest as provided in  
1423 paragraph (f).

1424 (e) If the requirements of this section are met, the  
1425 division ~~board~~ may approve an application by an insurer for a  
1426 surplus note, unless the division ~~board~~ determines that the  
1427 financial condition of the insurer and its business plan for  
1428 writing residential property insurance in this state ~~Florida~~  
1429 places an unreasonably high level of financial risk to the state  
1430 of nonpayment in full of the interest and principal. The  
1431 division ~~board~~ shall consult with the Office of Insurance  
1432 Regulation and may contract with independent financial and  
1433 insurance consultants in making this determination.

1434 (f) The surplus note must be repayable to the state with a  
1435 term of 20 years. The surplus note shall accrue interest on the  
1436 unpaid principal balance at a rate equivalent to the 10-year  
1437 U.S. Treasury Bond rate, require the payment only of interest  
1438 during the first 3 years, and include such other terms as  
1439 approved by the division ~~board~~. Payment of principal or interest  
1440 by the insurer on the surplus note must be approved by the  
1441 Commissioner of Insurance, who shall approve such payment unless  
1442 the commissioner determines that such payment will substantially  
1443 impair the financial condition of the insurer. If such a  
1444 determination is made, the commissioner shall approve such

1445 payment that will not substantially impair the financial  
1446 condition of the insurer.

1447 (g) The total amount of funds available for the program is  
1448 limited to the amount appropriated by the Legislature for this  
1449 purpose. If the amount of surplus notes requested by insurers  
1450 exceeds the amount of funds available, the division ~~board~~ may  
1451 prioritize insurers that are eligible and approved, with  
1452 priority for funding given to insurers writing only manufactured  
1453 housing policies, regardless of the date of application, based  
1454 on the financial strength of the insurer, the viability of its  
1455 proposed business plan for writing additional residential  
1456 property insurance in the state, and the effect on competition  
1457 in the residential property insurance market. Between insurers  
1458 writing residential property insurance covering manufactured  
1459 housing, priority shall be given to the insurer writing the  
1460 highest percentage of its policies covering manufactured  
1461 housing.

1462 (h) The division ~~board~~ may allocate portions of the funds  
1463 available for the program and establish dates for insurers to  
1464 apply for surplus notes from such allocation which are earlier  
1465 than the dates established in paragraph (b).

1466 (i) Notwithstanding paragraph (d), a newly formed  
1467 manufactured housing insurer that is eligible for a surplus note  
1468 under this section shall meet the premium to surplus ratio  
1469 provisions of s. 624.4095.

1470 (j) As used in this section, "an insurer writing only  
1471 manufactured housing policies" includes:

1472 1. A Florida domiciled insurer that begins writing  
 1473 personal lines residential manufactured housing policies in  
 1474 Florida after March 1, 2007, and that removes a minimum of  
 1475 50,000 policies from Citizens Property Insurance Corporation  
 1476 without accepting a bonus, provided at least 25 percent of its  
 1477 policies cover manufactured housing. Such an insurer may count  
 1478 any funds above the minimum capital and surplus requirement that  
 1479 were contributed into the insurer after March 1, 2007, as new  
 1480 capital under this section.

1481 2. A Florida domiciled insurer that writes at least 40  
 1482 percent of its policies covering manufactured housing in this  
 1483 state Florida.

1484 (3) As used in this section, the term:

1485 (a) "Division Board" means the Division of the Florida  
 1486 Hurricane Catastrophe Fund of the State Board of Administration  
 1487 established in s. 215.555.

1488 (b) "Program" means the Insurance Capital Build-Up  
 1489 Incentive Program established by this section.

1490 (6) The division board shall adopt rules prescribing the  
 1491 procedures, administration, and criteria for approving the  
 1492 issuance of surplus notes pursuant to this section, which may be  
 1493 adopted pursuant to the procedures for emergency rules of  
 1494 chapter 120. Otherwise, actions and determinations by the  
 1495 division board pursuant to this section are exempt from chapter  
 1496 120.

1497 (7) The division board shall invest and reinvest the funds  
 1498 appropriated for the program in accordance with s. 215.47 and  
 1499 consistent with division board policy.

1500 Section 6. Paragraph (c) of subsection (1), paragraphs  
 1501 (a), (b), (d), (f), and (g) of subsection (2), and paragraph (b)  
 1502 of subsection (3) of section 627.0628, Florida Statutes, are  
 1503 amended to read:

1504 627.0628 Florida Commission on Hurricane Loss Projection  
 1505 Methodology; public records exemption; public meetings  
 1506 exemption.--

1507 (1) LEGISLATIVE FINDINGS AND INTENT.--

1508 (c) It is the intent of the Legislature to create the  
 1509 Florida Commission on Hurricane Loss Projection Methodology as a  
 1510 panel of experts to provide the most actuarially sophisticated  
 1511 guidelines and standards for projection of hurricane losses  
 1512 possible, given the current state of actuarial science. It is  
 1513 the further intent of the Legislature that such standards and  
 1514 guidelines must be used by the Division of the Florida Hurricane  
 1515 Catastrophe Fund of the State Board of Administration in  
 1516 developing reimbursement premium rates for the Florida Hurricane  
 1517 Catastrophe Fund, and, subject to paragraph (3)(c), may be used  
 1518 by insurers in rate filings under s. 627.062 unless the way in  
 1519 which such standards and guidelines were applied by the insurer  
 1520 was erroneous, as shown by a preponderance of the evidence.

1521 (2) COMMISSION CREATED.--

1522 (a) There is created the Florida Commission on Hurricane  
 1523 Loss Projection Methodology, which is assigned to the Division  
 1524 of the Florida Hurricane Catastrophe Fund of the State Board of  
 1525 Administration. For the purposes of this section, the term  
 1526 "commission" means the Florida Commission on Hurricane Loss  
 1527 Projection Methodology. The commission shall be administratively

1528 | housed within the State Board of Administration, but it shall  
 1529 | independently exercise the powers and duties specified in this  
 1530 | section.

1531 |         (b) The commission shall consist of the following 11  
 1532 | members:

1533 |             1. The insurance consumer advocate.

1534 |             2. The director of the Division of the Florida Hurricane  
 1535 | Catastrophe Fund ~~senior employee~~ of the State Board of  
 1536 | Administration ~~responsible for operations of the Florida~~  
 1537 | ~~Hurricane Catastrophe Fund.~~

1538 |             3. The Executive Director of the Citizens Property  
 1539 | Insurance Corporation.

1540 |             4. The Director of the Division of Emergency Management of  
 1541 | the Department of Community Affairs.

1542 |             5. The actuary member of the Florida Hurricane Catastrophe  
 1543 | Fund Advisory Council.

1544 |             6. An employee of the office who is an actuary responsible  
 1545 | for property insurance rate filings and who is appointed by the  
 1546 | director of the office.

1547 |             7. Five members appointed by the Chief Financial Officer,  
 1548 | as follows:

1549 |                 a. An actuary who is employed full time by a property and  
 1550 | casualty insurer which was responsible for at least 1 percent of  
 1551 | the aggregate statewide direct written premium for homeowner's  
 1552 | insurance in the calendar year preceding the member's  
 1553 | appointment to the commission.

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

1557           c. An expert in statistics who is a full-time member of  
 1558 the faculty of the State University System and who has a  
 1559 background in insurance.

1560           d. An expert in computer system design who is a full-time  
 1561 member of the faculty of the State University System.

1562           e. An expert in meteorology who is a full-time member of  
 1563 the faculty of the State University System and who specializes  
 1564 in hurricanes.

1565           (d) The board of the Division of the Florida Hurricane  
 1566 Catastrophe Fund of the State Board of Administration shall  
 1567 annually appoint one of the members of the commission to serve  
 1568 as chair.

1569           (f) The Division of the Florida Hurricane Catastrophe Fund  
 1570 of the State Board of Administration shall, as a cost of  
 1571 administration of the Florida Hurricane Catastrophe Fund,  
 1572 provide for travel, expenses, and staff support for the  
 1573 commission.

1574           (g) There shall be no liability on the part of, and no  
 1575 cause of action of any nature shall arise against, any member of  
 1576 the commission, any member of the Division of the Florida  
 1577 Hurricane Catastrophe Fund ~~State Board of Administration~~, or any  
 1578 employee of the Division of the Florida Hurricane Catastrophe  
 1579 Fund ~~State Board of Administration~~ for any action taken in the  
 1580 performance of their duties under this section. In addition, the  
 1581 commission may, in writing, waive any potential cause of action

1582 for negligence of a consultant, contractor, or contract employee  
 1583 engaged to assist the commission.

1584 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

1585 (b) In establishing reimbursement premiums for the Florida  
 1586 Hurricane Catastrophe Fund, the Division of the Florida  
 1587 Hurricane Catastrophe Fund ~~State Board of Administration~~ must,  
 1588 to the extent feasible, employ actuarial methods, principles,  
 1589 standards, models, or output ranges found by the commission to  
 1590 be accurate or reliable.

1591 Section 7. Subsection (10) of section 624.424, Florida  
 1592 Statutes, is amended to read:

1593 624.424 Annual statement and other information.--

1594 (10) Each insurer or insurer group doing business in this  
 1595 state shall file on a quarterly basis in conjunction with  
 1596 financial reports required by paragraph (1)(a) a supplemental  
 1597 report on an individual and group basis on a form prescribed by  
 1598 the commission with information on personal lines and commercial  
 1599 lines residential property insurance policies in this state. The  
 1600 supplemental report shall include separate information for  
 1601 personal lines property policies and for commercial lines  
 1602 property policies and totals for each item specified, including  
 1603 premiums written for each of the property lines of business as  
 1604 described in ss. 215.555(2) (g) ~~(e)~~ and 627.351(6)(a). The report  
 1605 shall include the following information for each county on a  
 1606 monthly basis:

1607 (a) Total number of policies in force at the end of each  
 1608 month.

1609 (b) Total number of policies canceled.

1610 (c) Total number of policies nonrenewed.  
 1611 (d) Number of policies canceled due to hurricane risk.  
 1612 (e) Number of policies nonrenewed due to hurricane risk.  
 1613 (f) Number of new policies written.  
 1614 (g) Total dollar value of structure exposure under  
 1615 policies that include wind coverage.  
 1616 (h) Number of policies that exclude wind coverage.  
 1617 Section 8. Paragraph (u) of subsection (6) of section  
 1618 627.351, Florida Statutes, is amended to read:  
 1619 627.351 Insurance risk apportionment plans.--  
 1620 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--  
 1621 (u)1. Effective July 1, 2002, policies of the Residential  
 1622 Property and Casualty Joint Underwriting Association shall  
 1623 become policies of the corporation. All obligations, rights,  
 1624 assets and liabilities of the Residential Property and Casualty  
 1625 Joint Underwriting Association, including bonds, note and debt  
 1626 obligations, and the financing documents pertaining to them  
 1627 become those of the corporation as of July 1, 2002. The  
 1628 corporation is not required to issue endorsements or  
 1629 certificates of assumption to insureds during the remaining term  
 1630 of in-force transferred policies.  
 1631 2. Effective July 1, 2002, policies of the Florida  
 1632 Windstorm Underwriting Association are transferred to the  
 1633 corporation and shall become policies of the corporation. All  
 1634 obligations, rights, assets, and liabilities of the Florida  
 1635 Windstorm Underwriting Association, including bonds, note and  
 1636 debt obligations, and the financing documents pertaining to them  
 1637 are transferred to and assumed by the corporation on July 1,

1638 2002. The corporation is not required to issue endorsements or  
1639 certificates of assumption to insureds during the remaining term  
1640 of in-force transferred policies.

1641 3. The Florida Windstorm Underwriting Association and the  
1642 Residential Property and Casualty Joint Underwriting Association  
1643 shall take all actions as may be proper to further evidence the  
1644 transfers and shall provide the documents and instruments of  
1645 further assurance as may reasonably be requested by the  
1646 corporation for that purpose. The corporation shall execute  
1647 assumptions and instruments as the trustees or other parties to  
1648 the financing documents of the Florida Windstorm Underwriting  
1649 Association or the Residential Property and Casualty Joint  
1650 Underwriting Association may reasonably request to further  
1651 evidence the transfers and assumptions, which transfers and  
1652 assumptions, however, are effective on the date provided under  
1653 this paragraph whether or not, and regardless of the date on  
1654 which, the assumptions or instruments are executed by the  
1655 corporation. Subject to the relevant financing documents  
1656 pertaining to their outstanding bonds, notes, indebtedness, or  
1657 other financing obligations, the moneys, investments,  
1658 receivables, choses in action, and other intangibles of the  
1659 Florida Windstorm Underwriting Association shall be credited to  
1660 the high-risk account of the corporation, and those of the  
1661 personal lines residential coverage account and the commercial  
1662 lines residential coverage account of the Residential Property  
1663 and Casualty Joint Underwriting Association shall be credited to  
1664 the personal lines account and the commercial lines account,  
1665 respectively, of the corporation.

1666           4. Effective July 1, 2002, a new applicant for property  
 1667 insurance coverage who would otherwise have been eligible for  
 1668 coverage in the Florida Windstorm Underwriting Association is  
 1669 eligible for coverage from the corporation as provided in this  
 1670 subsection.

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

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1694 Catastrophe Fund purposes, as if the two accounts were one and  
1695 represent a single, separate participating insurer with its own  
1696 exposures, reimbursement premium, and loss reimbursement. The  
1697 coverage provided by the Florida Hurricane Catastrophe Fund to  
1698 the corporation shall constitute and operate as a full transfer  
1699 of coverage from the Florida Windstorm Underwriting Association  
1700 and Residential Property and Casualty Joint Underwriting to the  
1701 corporation.

1702 Section 9. This act shall take effect June 1, 2008.