# ASSEMBLY, No. 1983

# STATE OF NEW JERSEY

## 214th LEGISLATURE

INTRODUCED FEBRUARY 8, 2010

**Sponsored by:**
**Assemblyman HERB CONAWAY, JR.**
**District 7 (Burlington and Camden)**

**SYNOPSIS**

The "New Jersey Consumer Catastrophe Preparedness and Protection Act"; creates "New Jersey Catastrophe Fund"; appropriates $10,000,000.

**CURRENT VERSION OF TEXT**

As introduced.

**AN ACT** establishing the New Jersey Catastrophe Fund, supplementing Title 17 of the Revised Statutes and making an appropriation therefor.

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

1. This act shall be known and may be cited as the "New Jersey Consumer Catastrophe Preparedness and Protection Act."

2. The Legislature finds and declares that:

a. The exposure in New Jersey to major catastrophes is greater than commonly understood, particularly catastrophes involving hurricanes, earthquakes and other natural disasters.

b. All New Jersey residents, regardless of location, are susceptible to the devastating and unpredictable consequences of catastrophes, thereby necessitating a Statewide preparedness and proactive program of catastrophe management.

c. There is a compelling State interest in maintaining a viable and orderly private sector market for property insurance in this State. To the extent that the private sector is unable to maintain a viable and orderly market for property insurance in this State, encouraging and assisting such a viable and orderly market are valid and necessary exercises of the police power.

d. The failure of the State to properly prepare for a potential catastrophe could result in a devastating impact on New Jersey families, as well as the entire State's economy.

e. The current approach to dealing with catastrophes is an after-the-fact response model that is inadequate to protect New Jersey residents from catastrophic loss. New Jersey consumers need a public-private partnership which improves the means to provide financial assistance to families that are victims of catastrophes, enhances prevention and mitigation measures, improves recovery and rebuilding processes and educates homeowners on issues surrounding catastrophe management.

f. The result of unprecedented levels of insured losses from natural catastrophes in recent years, as evidenced by Hurricane Andrew, the 2004 four-storm hurricane season in Florida, tsunamis in Asia, the Northridge Earthquake in California, Hurricane Wilma in Florida and the most recent devastation in Louisiana, Mississippi, Alabama and Texas from hurricanes Katrina and Rita, have resulted in numerous insurers determining that in order to protect their solvency, it is necessary for them to reduce their exposure to catastrophic losses. The instability of the global reinsurance market which leads to increased reinsurance costs, also caused in part by these events, has also increased the pressure on insurers to reduce their exposure to catastrophic loss. This pressure will result in an increase in reinsurance costs and could force an increase in homeowners insurance premiums.

g. The State of New Jersey is commonly viewed as one of the states in the region that is exposed to catastrophic events. Given the scope and magnitude of hurricanes Katrina and Rita, and given that New Jersey is the most densely populated state in the nation and because of the size of New Jersey, it is likely that a Category 3 or better storm could devastate the State.

h. Mortgage lenders require reliable property insurance, and the unavailability of reliable property insurance would therefore make most real estate transactions impossible. In addition, the public health, safety and welfare demand that structures damaged or destroyed in a catastrophe be repaired or reconstructed as soon as possible. Therefore, the potential inability of the private sector insurance and reinsurance markets to maintain sufficient capacity to enable residents of this State to obtain property insurance coverage in the private sector endangers the economy of the State and endangers the public health, safety and welfare. Accordingly, State action to correct for this inability of the private sector constitutes a valid and necessary public and governmental purpose.

i. Insurer insolvencies and financial impairments resulting from Hurricane Andrew and other events in other states demonstrate that many property insurers have not collected and retained premiums sufficient to maintain reserves, surplus and reinsurance in amounts to enable the insurers to pay all claims in full in the event of a major catastrophe. Consequently, these extraterritorial insolvencies and financial pressures may serve as an impediment to New Jersey's preparedness for catastrophic events.

j. A public-private partnership that strengthens and builds on the existing private insurance market through the creation of a State catastrophe fund will result in additional insurance capacity sufficient to ameliorate the current dangers to the State's economy and to the public health, safety and welfare.

k. Successful public-private partnerships recognize that government has an important and appropriate role to take reasonable steps to enhance the ability of the private sector to meet critical public needs.

l. It is essential to the efficient functioning of a State program to increase insurance capacity that revenues received by a State catastrophe fund be exempt from State and federal taxation. It is therefore the intent of the Legislature that this program be structured as a State trust fund under the direction and control of the State Treasurer and operate exclusively for the purpose of protecting and advancing the State's interest in maintaining insurance capacity in this State.

m. It is therefore appropriate for the Legislature to better prepare and protect New Jersey residents from the perils of catastrophes by creating a public-private partnership to protect the economic integrity of the homeowners insurance market; ensure proper consumer education; improve rebuilding and recovery processes; and recognize the need for continuous recognition and implementation of improved catastrophe management programs.

3. As used in this act:

"Actuarially indicated" means, with respect to premiums paid by insurers for reimbursement provided by the fund, an amount determined according to principles of actuarial science to be adequate, but not excessive, in the aggregate, to pay current and future obligations and expenses of the fund, including additional amounts if needed to retire bonds issued under section 7 of this act, and determined according to principles of actuarial science to reflect each insurer's relative exposure to losses from covered events.

“Authority” means the New Jersey Economic Development Authority.

“Commissioner” means the Commissioner of Banking and Insurance, unless otherwise specified.

“Council” means the New Jersey Catastrophe Fund Advisory Council established pursuant to section 9 of this act.

“Covered event” means:

(1) All storms, regardless of quantity, that occur in a calendar year, that are declared to be hurricanes by the National Hurricane Center, which storms cause insured losses in this State;

(2) All earthquakes, regardless of quantity, that occur in a calendar year, that are declared to be earthquakes by the United States Geological Survey, which earthquakes cause insured losses in this State; and

(3) All ice storms, regardless of quantity, that occur in a calendar year, which storms cause insured losses in this State.

“Covered loss” means loss under a covered policy resulting from a covered event.

"Covered policy" means any insurance policy covering residential property in this State, including, but not limited to, any homeowner's, mobile home owner's, farm owner's, condominium association, condominium unit owner's, tenant's, or apartment building policy, or any other policy covering a residential structure or its contents issued by any authorized insurer, including the New Jersey Insurance Underwriting Association, created pursuant to P.L. 1968, c.129 (C.17:37A-1 et seq.), or any other similar entity created pursuant to law. "Covered policy" does not include any reinsurance agreement or any policy that excludes coverage for covered losses.

“Fund” means the New Jersey Catastrophe Fund created pursuant to section 4 of this act.

"Losses" means direct incurred losses under covered policies in a calendar year, including losses attributable to additional living expense coverage not to exceed 40 percent of the insured value of a residential structure or its contents, and excluding loss adjustment expenses and fair rental value losses and business interruption losses.

"Retention" means the minimum amount of losses below which an insurer is not entitled to reimbursement from the fund. An insurer's retention shall be calculated as follows:

(1) The Treasurer shall calculate and report to each insurer the retention multiples for each year. For the contract year beginning in 2011, the retention multiple shall be equal to $2.0 billion, divided by the total estimated reimbursement premium for the contract year; for subsequent years, the retention multiple shall be equal to $2.0 billion adjusted to reflect the percentage growth in insured values for covered policies since 2011, divided by the total estimated reimbursement premium for the contract year.

(2) The retention multiple determined under paragraph (1) of this definition shall be adjusted to reflect the coverage level elected by the insurer. For insurers electing the 90-percent coverage level, the adjusted retention multiple is 100 percent of the amount determined under paragraph (1). For insurers electing the 75-percent coverage level, the retention multiple is 120 percent of the amount determined under paragraph (1). For insurers electing the 45-percent coverage level, the adjusted retention multiple is 200 percent of the amount determined under paragraph (1).

(3) An insurer shall determine its provisional retention by multiplying its provisional reimbursement premium by the applicable adjusted retention multiple, and shall determine its actual retention by multiplying its actual reimbursement premium by the applicable adjusted retention multiple.

(4) To the extent that the New Jersey Catastrophe Fund collects federal backstop or reinsurance monies designed to provide protection above the financial capacity of the fund as provided by this act, the insurer elected coverage levels shall automatically become 100 percent.

4. There is created the New Jersey Catastrophe Fund to be administered by the Treasurer. Moneys in the fund may not be expended, loaned, or appropriated except to pay obligations of the fund arising out of reimbursement contracts entered into pursuant to section 5 of this act; payment of debts including obligations arising out of bonds issued under section 7 of this act; costs of the mitigation programs under section 8 of this act; costs of procuring reinsurance; and costs of administration of the fund. The Treasurer shall invest the moneys in the fund. Except as otherwise provided in this act, earnings from all investments shall be retained in the fund. The Treasurer may employ or contract with such staff and professionals, as the Treasurer deems necessary for the administration of the fund.

5. a. The Treasurer shall enter into an annual, calendar year contract with each insurer writing covered policies in this State to provide to the insurer the reimbursement described in subsection b. of this section, in exchange for the reimbursement premium paid to the fund pursuant to section 6 of this act. Insurers writing covered policies shall enter into the contract as a condition of doing business in this State.

b. (1) The contract shall contain a promise by the Treasurer to reimburse the insurer for 45 percent, 75 percent, or 90 percent of its losses from each covered loss in excess of the insurer's retention, plus 10 percent of the reimbursed losses to cover loss adjustment expenses, subject to the provisions of paragraph (4) of the definition of retention in section 3 of this act.

(2) The insurer shall elect one of the payment percentages specified in this subsection and may, upon renewal of a reimbursement contract:

(a) Elect a lower payment percentage if no bonds issued under subsection a. of section 7 of this act after a covered event are outstanding; or

(b) Elect a higher payment percentage if it pays to the fund an actuarially appropriate equalization charge as determined by the Treasurer.

(3) All members of an insurer group shall elect the same payment percentage. The New Jersey Insurance Underwriting Association or any other similar plan or other residual market entity shall elect the 90 percent payment percentage.

(4) The contract shall provide that reimbursement amounts shall not be reduced by reinsurance paid or payable to the insurer from other sources; however, recoveries from such other sources, taken together with reimbursements under the contract, may not exceed 100 percent of the insurer's losses from covered events. If those recoveries and reimbursements exceed 100 percent of the insurer's losses from covered events, and if there is no agreement between the insurer and the reinsurer to the contrary, any amount in excess of 100 percent of the insurer's losses shall be returned to the fund.

c. The contract shall also provide that the obligation of the Treasurer with respect to all contracts covering a particular year shall not exceed the current balance of the fund, together with the maximum amount that the Treasurer is able to raise through the issuance of bonds under section 7 of this act. The contract shall require the Treasurer to annually notify insurers of the fund's anticipated borrowing capacity for the next year, the current balance of the fund, and the insurer's estimated share of total reimbursement to be paid to the fund. For all regulatory and reinsurance purposes, an insurer may calculate its projected payout from the fund as its share of the total fund premium multiplied by the sum of current fund balance and bonding capacity as reported under this subsection. In May and October of each year, the Treasurer shall publish in the

New Jersey Register a statement of the fund's anticipated borrowing capacity and the current balance of the fund.

d. (1) The contract shall require the insurer to report the insurer's losses from covered events for the year to the Treasurer on December 31 of each year, and quarterly thereafter. The contract shall require the Treasurer to determine and pay, as soon as practicable after receiving these reports, the initial amount of reimbursement due and adjustments to this amount based on later loss information. The adjustments to reimbursement amounts shall require the Treasurer to pay, or the insurer to return, amounts reflecting the most recent calculation of losses.

(2) If the Treasurer determines that the current balance of the fund, together with the amount that the Treasurer determines that it is possible to raise through bonds issued under section 7 of this act, are insufficient to pay reimbursement to all insurers at the level promised in the contract, the Treasurer shall:

(a) Pay to each insurer the amount of reimbursement it is owed, up to an amount equal to the projected payout determined under subsection c. of this section; and

(b) Thereafter, establish the prorated reimbursement level at the highest level for which any remaining fund balance or bond proceeds are sufficient.

e. The contract shall provide that if an insurer demonstrates to the Treasurer that it is likely to qualify for reimbursement under the contract, and demonstrates to the Treasurer that the immediate receipt of moneys is likely to prevent the insurer from becoming insolvent, the Treasurer shall loan the insurer, at market interest rates, the amounts necessary to maintain the solvency of the insurer, up to 50 percent of the Treasurer’s estimate of the reimbursement due the insurer. The insurer's reimbursement shall be reduced by an amount equal to the amount of the loan and interest thereon.

f. The contract shall provide that in the event of the insolvency of an insurer, the fund shall pay directly to the New Jersey Property-Liability Insurance Guaranty Association, established pursuant to P.L.1974, c.17 (C.17:30A-1 et seq.), the net amount of reimbursement moneys owed to the insurer. As used in this subsection, the "net amount of reimbursement moneys" means that amount which remains after reimbursement for preliminary or duplicate payments owed to private reinsurers or other reinsurance payments inuring to private reinsurers that satisfy statutory or contractual obligations of the insolvent insurer attributable to covered events to those reinsurers. Private reinsurers shall be reimbursed or otherwise paid prior to payment to the New Jersey Property-Liability Insurance Guaranty Association, notwithstanding any law to the contrary. The New Jersey Property-Liability Insurance Guaranty Association shall pay all claims up to the maximum amount permitted by law. Thereafter, any remaining moneys shall be paid pro rata to claims not fully satisfied.

g. The Treasurer shall adopt the initial contract form no later than September 1, 2010 and shall adopt the initial premium formula no later than October 1, 2010. Initial reimbursement contracts under this act shall be entered into no earlier than November 1, 2010 and no later than December 15, 2010.

6. a. Each reimbursement contract shall require the insurer to annually pay to the fund an actuarially indicated premium for the reimbursement promised.

b. The Treasurer shall select an independent consultant to develop a formula for determining the actuarially indicated premium to be paid to the fund. The formula shall specify, for each zip code or other limited geographical area, the amount to be paid by an insurer for each $1,000 of insured value under covered policies in that zip code or other area. In establishing premiums, the Treasurer shall consider the coverage level elected under subsection b. of section 5 of this act and any factors that tend to enhance the actuarial sophistication of ratemaking for the fund, including deductibles, type of construction, type of coverage provided, relative concentration of risks, a factor providing for more rapid cash buildup in the fund until the fund capacity for a single covered season is fully funded and other factors determined by the Treasurer to be appropriate. The Treasurer may, at any time, revise the formula pursuant to the procedure provided in this subsection.

c. No later than September 1 of each year, each insurer shall notify the Treasurer of its insured values under covered policies by zip code, as of June 30 of that year. On the basis of these reports, the Treasurer shall calculate the premium due from the insurer, based on the formula adopted under subsection b. of this section. The insurer shall pay the required annual premium pursuant to a periodic payment plan specified in the contract. The Treasurer shall provide for payment of reimbursement premium in periodic installments and for the adjustment of provisional premium installments collected prior to submission of the exposure report to reflect data in the exposure report.

d. All premiums paid to the fund under reimbursement contracts shall be treated as premiums for approved reinsurance for all accounting and regulatory purposes.

e. In order to provide startup moneys for the administration of the fund, each insurer subject to this section shall pay to the fund an advance premium payment of $1,000 no later than January 1, 2009. The commissioner shall collect the advance premium payment required by this subsection on behalf of the Treasurer. The insurer shall receive a credit against future premiums for the advance payment.

7. a. Upon the occurrence of a covered event and a determination that the moneys in the fund are or will be insufficient to pay

reimbursement at the levels promised in the reimbursement contracts, the Treasurer, upon authorization of the Governor, shall enter into agreements with the New Jersey Economic Development Authority, hereinafter the "authority" for the issuance of bonds for the benefit of the fund.

b. Any agreement entered into or any payments made or to be made thereunder may be assigned and pledged by the authority as security for its bonds notes, or other obligations.

c. Any such agreements shall provide that the obligation of the Treasurer or of the State to fund or to pay the amounts therein provided for shall not constitute a debt of the State within the meaning of Article VIII of the New Jersey Constitution or any other constitutional or statutory provision if the authority assigns or pledges the service contract payments as security for its bonds, notes, or other obligations, and shall be deemed executory only to the extent monies are available and then no liability shall be incurred by the State beyond the monies available for that purpose, and that such obligation is subject to annual appropriations by the Legislature.

d. Any agreement entered into pursuant to this section shall provide for State commitments to provide annually to the authority a sum or sums, upon terms and conditions as determined to be appropriate by the Treasurer, to fund the principal, interest, or other related payments required for any bonds, notes, or other obligations of the authority issued pursuant to this section.

e. To obtain funds for the purposes of this section, the authority shall have power from time to time to issue negotiable bonds or notes. Unless the context clearly indicates otherwise, whenever the word "bond" or "bonds" are used in this section, those words shall include a note or notes of the authority.

f. The State of New Jersey hereby covenants with the purchasers, holders, and owners from time to time of the bonds of the authority issued pursuant to this section that it will not repeal, revoke, rescind, modify or amend the provisions of this section which relate to the making of annual agreement payments to the authority with respect to those bonds so as to limit, impair or impede the rights and remedies granted to bondholders under "The New Jersey Economic Development Authority Act," P.L.1974, c.80 (C.34:1B-1 et seq.) or otherwise diminish the security pledged to the purchasers, holders, and owners or significantly impair the prospect of payment of any such bond.

g. If the Treasurer determines that the amount of revenue produced under section 6 of this act is insufficient to fund bonds to pay reimbursement at the levels promised in the reimbursement contracts, the Treasurer shall direct the commissioner to levy an emergency assessment on direct premiums for all property and casualty lines of business in this State, except for policies written under the National Flood Insurance Program, medical malpractice, workers' compensation and accident and health insurance. The assessment shall be specified as a percentage of future premium collections and is subject to annual adjustments by the Treasurer to reflect changes in premiums subject to assessments collected under this subsection in order to meet debt obligations. The same percentage shall apply to all policies in lines of business subject to the assessment issued or renewed during the 12-month period beginning on the effective date of the assessment. A premium is not subject to an annual assessment under this subsection in excess of six percent of premium with respect to obligations arising out of losses attributable to any one contract year, and a premium is not subject to an aggregate annual assessment under this subsection in excess of 10 percent of premium. An annual assessment under this subsection shall continue until the bonds issued with respect to which the assessment was imposed are no longer outstanding, including any bonds the proceeds of which were used to refund the bonds, unless adequate provision has been made for the payment of the bonds under the documents authorizing issuance of the bonds. With respect to each insurer collecting premiums that are subject to the assessment, the insurer shall collect the assessment at the same time as it collects the premium payment for each policy and shall remit the assessment collected to the fund or authority as provided in the order issued by the commissioner. The commissioner shall verify the accurate and timely collection and remittance of emergency assessments and shall maintain reports and report his findings to the Treasurer. Each insurer collecting assessments shall provide the information with respect to premiums and collections as may be required by the commissioner to enable him to monitor and verify compliance with this subsection.

8. a. The Treasurer may procure reinsurance from licensed reinsurers for the purpose of maximizing the capacity of the fund.

b. In each fiscal year in which there are no outstanding obligations of the fund, the Legislature shall appropriate from the investment income of the fund an amount of not less than 10 percent and not more than 35 percent of the investment income from the prior fiscal year for the purpose of providing funding for local governments, State agencies, public and private educational institutions, and nonprofit organizations to support programs including, but not limited to "first responders," intended to improve catastrophe preparedness, prevent and reduce potential losses from a covered loss, provide research into means to prevent and reduce such losses, educate or inform the public as to means to reduce losses from covered events, assist the public in determining the appropriateness of particular upgrades to structures or in the financing of those upgrades, providing funding for the enforcement of catastrophe appropriate building codes, or protect local infrastructure from potential damage from a covered loss. Moneys shall first be available for appropriation pursuant to this subsection in fiscal year 2012. Moneys in excess of the 10 percent specified in this subsection shall not be available for appropriation under this subsection if the Treasurer determines that the appropriation of investment income from the fund would jeopardize the actuarial soundness of the fund.

c. The Treasurer may allow insurers to comply with reporting requirements and reporting format requirements using alternative methods of reporting if the proper administration of the fund is not impaired as a result and if the alternative methods produce data that is consistent for the purposes of this act.

d. In order to assure the equitable operation of the fund, the Treasurer may impose a reasonable fee on an insurer to recover costs involved in reprocessing inaccurate, incomplete, or untimely exposure data submitted by the insurer.

9. a. There is established in, but not of, the Department of Banking and Insurance, the New Jersey Catastrophe Fund Advisory Council. The council shall consist of 13 members, appointed by the Governor, after consultation with the Speaker of the General Assembly and the President of the Senate, and with the advice and consent of the Senate. Each of these members shall be appointed for a term of three years, except that, of the members first appointed, four shall serve for terms of one year, four shall serve for terms of two years and five shall serve for terms of three years. Of these members, one shall be an actuary, one shall be a meteorologist, one shall be an engineer, one shall be a representative of insurers, one shall be a representative of insurance producers, one shall be a representative of reinsurers, one shall be a consumer representative, one shall be a representative of organized labor, one shall be a representative of law enforcement, one shall be a representative of firefighters, one shall be a representative, ex officio from the Division of Codes and Standards in the Department of Community Affairs, one shall be a representative of the State Office of Emergency Management, and one shall be a member of the public at large.

b. A majority of the membership of the council shall constitute a quorum for the transaction of council business. Action may be taken and motions and resolutions adopted by the council at any meeting thereof by the affirmative vote of a majority of the full membership of the council.

c. The council shall meet regularly as it may determine, and shall also meet at the call of the commissioner.

d. The council shall appoint a chairperson from among its members and such other officers as may be necessary. The council may, within the limits of any funds appropriated or otherwise made available to it for this purpose, appoint such staff or hire such experts as it may require.

e. Members of the council shall serve without compensation, but the council may, within the limits of funds appropriated or otherwise made available for such purposes, reimburse its members for necessary expenses incurred in the discharge of their official duties.

f. In addition to providing the Treasurer with information and advice in connection with his duties with respect to the fund generally, the council shall be specifically charged with developing prevention and mitigation standards to include:

(1) The development and implementation of State mandated building codes appropriate for the risk, with no allowance for weaker codes to be adopted by local units;

(2) Adequate enforcement of risk appropriate building codes;

(3) Building materials that prevent or significantly reduce potential damage from the natural or manmade covered loss;

(4) Building methods that prevent or significantly reduce the potential damage from the natural or manmade covered loss; and

(5) Focus on prevention and mitigation for any substantially damaged structure;

as well as developing and recommending ideas that will aid in the recovery, rebuilding and renewal process, and in analyzing and developing ways to continuously improve the administration and purpose of the fund.

g. The council shall also analyze, study and develop actuarially appropriate insurance discounts to be offered to individuals who perform mitigation and prevention improvements to structures. The council shall report its findings to the Treasurer, who shall, in consultation with the commissioner, implement those discounts.

h. The Treasurer shall consider, and to the extent possible implement, the findings of the council, and annually report to the Legislature on any and all recommendations of the council that are consistent with the purposes and goals of this act.

10. Upon the creation of a federal or multi-state catastrophic insurance or reinsurance program intended to serve purposes similar to the purposes of the fund created by this act, the Treasurer shall promptly make recommendations to the Legislature as to how the fund can coordinate with the federal or multi-state program and for such other actions as the Treasurer determines are appropriate under the circumstances.

11. The fund and the duties of the Treasurer under this act may be terminated only by law. Upon termination of the fund, any and all assets remaining in the fund shall be returned to those insurers who have made contributions to the funds in proportion to the amount each contributed.

12. The Treasurer shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules necessary to implement the provisions of this act. The rules promulgated by the Treasurer shall: conform to the Legislature's specific intent in establishing the fund as expressed in section 2 of this act; enhance the fund's potential ability to respond to claims for covered events; contain general provisions so that they may be applied with reasonable flexibility so as to accommodate insurers in situations of an unusual nature or where undue hardship may result, except that such flexibility may not in any way impair, override, supersede or constrain the public purpose of the fund; and be consistent with sound insurance practices.

13. There is appropriated to the Department of the Treasury from the General Fund the sum of $10 million dollars for deposit in the New Jersey Catastrophe Fund for the purposes of the fund as provided pursuant to this act.

14. This act shall take effect immediately.

STATEMENT

This bill, the "New Jersey Consumer Catastrophe Preparedness and Protection Act," establishes the New Jersey Catastrophe Fund to help pay covered residential property damage insurance claims in the aftermath of a true catastrophe which affects New Jersey homeowners and their property/casualty insurers. The fund, which will consist of premiums paid by insurers, bond revenues, and appropriated State funds, will provide a backstop for companies to insure against covered catastrophic losses to avoid the collapse of the property insurance market in the wake of a major natural disaster or other catastrophe in the State, as specified by the bill.

Premiums will be set by the Treasurer, who shall select an independent consultant to develop a formula for determining the actuarially indicated premium. The Treasurer will calculate premiums based upon the insured values under the insurer's covered policies, as reported annually to the Treasurer.

In exchange for the reimbursement premium paid to the fund by insurers, the State Treasurer will enter into a contract with each insurer, promising to reimburse the insurer for a percentage of its losses in excess of the insurer's retention, plus 10% of that amount to cover loss adjustment expenses. The insurer will select the reimbursement percentage, at 45%, 75% or 90%, which may be adjusted under certain circumstances. Reimbursement amounts from the fund shall not be reduced by reinsurance paid or payable to the insurer, but the insurer's total recovery shall not exceed 100%

of the insurer's losses from covered events, and any excess shall be returned to the fund, unless there is an agreement to the contrary.

The bill further authorizes the issuance of bonds by the New Jersey Economic Development Authority if moneys in the fund are insufficient to pay reimbursement at the levels agreed to in the reimbursement contracts, upon the occurrence of a covered event. The Treasurer may procure reinsurance from licensed reinsurers to maximize the fund's capacity, and may borrow from other market sources at prevailing interest rates.

The bill also requires, in fiscal years in which there are no outstanding obligations of the fund, an annual appropriation of 10% to 35% of the fund's investment income for the purpose of providing funding for local governments, State agencies, public and private educational institutions, and nonprofit organizations to support programs including, but not limited to "first responders," intended to improve catastrophe preparedness, prevent and reduce potential losses from a covered loss, provide research into means to prevent and reduce such losses, educate or inform the public as to means to reduce losses from covered events, assist the public in determining the appropriateness of particular upgrades to structures or in the financing of those upgrades, providing funding for the enforcement of catastrophe appropriate building codes, or protect local infrastructure from potential damage from a covered loss.

The "New Jersey Catastrophe Fund Advisory Council" is established in but not of the Department of Banking and Insurance to assist the Treasurer with the administration of the fund and to develop prevention and mitigation standards, including:

(1) the development and implementation of State mandated building codes appropriate for the risk, with no allowance for weaker codes to be adopted by local units;

(2) adequate enforcement of risk appropriate building codes;

(3) building materials that prevent or significantly reduce potential damage from the natural or manmade covered loss;

(4) building methods that prevent or significantly reduce the potential damage from the natural or manmade covered loss; and

(5) focus on prevention and mitigation for any substantially damaged structure;

as well as developing and recommending ideas that will aid in the recovery, rebuilding and renewal process, and in analyzing and developing ways to continuously improve the administration and purpose of the fund.

In anticipation of the creation of a federal or multi-state catastrophic insurance fund or reinsurance program, the bill requires the Treasurer, following the creation of such fund or program, to make recommendations to the Legislature as to how the fund can coordinate with the federal or multi-state program and for such other actions as the Treasurer determines are appropriate under the circumstances.

Finally, the bill appropriates to the Department of the Treasury $10 million from the General Fund for deposit in the New Jersey Catastrophe Fund for the purposes of the fund. This State appropriation to the fund ensures tax-exempt status for premiums paid to the fund pursuant to the federal Internal Revenue Code of 1986.