

By the Committee on Insurance and Representative Waters

1 A bill to be entitled
2 An act relating to the Florida Hurricane
3 Catastrophe Fund; amending s. 215.555, F.S.;
4 clarifying legislative findings; revising
5 definitions; revising reimbursement contract
6 provisions relating to equalization charges,
7 reimbursable loss reporting, auditing of
8 insurers, and confidentiality of certain audit
9 information; revising reimbursement premium
10 provisions relating to collection of interest;
11 revising revenue bond provisions relating to
12 emergency assessments against insurers,
13 legislative findings as to the Florida
14 Hurricane Catastrophe Fund Finance Corporation,
15 and protections for bondholders; authorizing
16 the State Board of Administration to enforce
17 reimbursement contracts; providing
18 severability; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Paragraph (e) of subsection (1), paragraphs
23 (c) and (e) of subsection (2), subsection (4), paragraph (c)
24 of subsection (5), and subsection (6) of section 215.555,
25 Florida Statutes, 1998 Supplement, are amended, paragraphs (l)
26 and (m) are added to subsection (2), subsections (11) and (12)
27 of said section are renumbered as subsections (12) and (13),
28 respectively, and new subsections (11) and (14) are added to
29 said section, to read:

30 215.555 Florida Hurricane Catastrophe Fund.--
31

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

3 (e) A state program to provide a stable and ongoing
4 source of reimbursement to insurers for a portion of their
5 catastrophic hurricane losses will create additional insurance
6 capacity sufficient to ameliorate the current dangers to the
7 state's economy and to the public health, safety, and welfare.

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

9 (c) "Covered policy" means any insurance policy
10 covering residential property in this state, including, but
11 not limited to, any homeowner's, mobile home owner's, farm
12 owner's, condominium association, condominium unit owner's,
13 tenant's, or apartment building policy, or any other policy
14 covering a residential structure or its contents issued by any
15 authorized insurer, including any joint underwriting
16 association or similar entity created pursuant to law.
17 "Covered policy" does not include any policy that excludes
18 wind coverage or hurricane coverage or any reinsurance
19 agreement and does not include any policy otherwise meeting
20 this definition which is issued by a surplus lines insurer or
21 a reinsurer.

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

25 1. The board shall calculate and report to each
26 insurer the retention multiples for that year. For the
27 contract year beginning June 1, 1995, the retention multiple
28 shall be equal to \$3 billion divided by the total estimated
29 reimbursement premium for the contract year; for subsequent
30 years, the retention multiple shall be equal to \$3 billion,
31 adjusted to reflect the percentage growth in exposure to the

1 ~~fund premium~~ for covered policies since 1998 ~~1995~~, divided by
2 the total estimated reimbursement premium for the contract
3 year. Total reimbursement premium for purposes of the
4 calculation under this subparagraph shall be estimated using
5 the assumption that all insurers have selected the 90-percent
6 coverage level.

7 2. The retention multiple as determined under
8 subparagraph 1. shall be adjusted to reflect the coverage
9 level elected by the insurer. For insurers electing the
10 90-percent coverage level, the adjusted retention multiple is
11 100 percent of the amount determined under subparagraph 1. For
12 insurers electing the 75-percent coverage level, the retention
13 multiple is 120 percent of the amount determined under
14 subparagraph 1. For insurers electing the 45-percent coverage
15 level, the adjusted retention multiple is 200 percent of the
16 amount determined under subparagraph 1.

17 3. An insurer shall determine its provisional
18 retention by multiplying its provisional reimbursement premium
19 by the applicable adjusted retention multiple and shall
20 determine its actual retention by multiplying its actual
21 reimbursement premium by the applicable adjusted retention
22 multiple.

23 (l) "Estimated claims-paying capacity" means the sum
24 of the projected year-end balance of the fund as of December
25 31 of a contract year, plus any reinsurance purchased by the
26 fund, plus the board's estimate of the board's borrowing
27 capacity.

28 (m) "Actual claims-paying capacity" means the sum of
29 the balance of the fund as of December 31 of a contract year,
30 plus any reinsurance purchased by the fund, plus the amount
31

1 the board is able to raise through the issuance of revenue
2 bonds under subsection (6).

3 (4) REIMBURSEMENT CONTRACTS.--

4 (a) The board shall enter into a contract with each
5 insurer writing covered policies in this state to provide to
6 the insurer the reimbursement described in paragraph (b), in
7 exchange for the reimbursement premium paid into the fund
8 under subsection (5). As a condition of doing business in this
9 state, each such insurer shall enter into such a contract.

10 (b)

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

16 2. The insurer must elect one of the percentage
17 coverage levels specified in this paragraph and may, upon
18 renewal of a reimbursement contract, elect a lower percentage
19 coverage level if no revenue bonds issued under subsection (6)
20 after a covered event are outstanding, or elect a higher
21 percentage coverage level, regardless of whether or not
22 revenue bonds are outstanding, ~~if it pays to the fund an~~
23 ~~actuarially appropriate equalization charge as determined by~~
24 ~~the board.~~ All members of an insurer group must elect the same
25 percentage coverage level. Any joint underwriting
26 association, risk apportionment plan, or other entity created
27 under s. 627.351 must elect the 90-percent coverage level.

28 3. The contract shall provide that reimbursement
29 amounts shall not be reduced by reinsurance paid or payable to
30 the insurer from other sources; however, recoveries from such
31 other sources, taken together with reimbursements under the

1 contract, may not exceed 100 percent of the insurer's losses
2 from covered events. If such recoveries and reimbursements
3 exceed 100 percent of the insurer's losses from covered
4 events, and if there is no agreement between the insurer and
5 the reinsurer to the contrary, any amount in excess of 100
6 percent of the insurer's losses shall be returned to the fund.

7 (c)1. The contract shall also provide that the
8 obligation of the board with respect to all contracts covering
9 a particular contract year shall not exceed the actual
10 claims-paying capacity of the fund up to a limit of \$11
11 billion for that contract year, unless the board determines
12 that there is sufficient estimated claims-paying capacity to
13 provide \$11 billion of capacity for the current contract year
14 and an additional \$11 billion of capacity for subsequent
15 contract years. Upon such determination being made, the
16 estimated claims-paying capacity for the current contract year
17 shall be determined by adding to the \$11 billion limit one
18 half of the fund's estimated claims-paying capacity in excess
19 of \$22 billion balance of the fund as of December 31 of that
20 year, together with the maximum amount that the board is able
21 to raise through the issuance of revenue bonds under
22 subsection (6).

23 2. The contract shall require the board to annually
24 notify insurers of the fund's estimated ~~anticipated~~ borrowing
25 capacity for the next contract year, the projected year-end
26 balance of the fund, and the insurer's estimated share of
27 total reimbursement premium to be paid to the fund. For all
28 regulatory and reinsurance purposes, an insurer may calculate
29 its projected payout from the fund as its share of the total
30 fund premium for the current contract year multiplied by the
31 sum of the projected year-end fund balance and the estimated

1 ~~anticipated~~ borrowing capacity for that contract year as
2 reported under this paragraph. In May and October of each
3 year, the board shall publish in the Florida Administrative
4 Weekly a statement of the fund's estimated ~~anticipated~~
5 borrowing capacity and the projected year-end balance of the
6 fund for the current contract year.

7 (d)

8 1. For purposes of determining potential liability and
9 to aid in the sound administration of the fund, the contract
10 shall require each insurer to report such insurer's losses
11 from each covered event on an interim basis, as directed by
12 the board. The contract shall require the insurer to report
13 to the board, ~~as directed by the board, but~~ no later than
14 December 31 of each year, and quarterly thereafter, its
15 reimbursable losses from covered events for the year. The
16 contract shall require the board to determine and pay, as soon
17 as practicable after receiving these reports of reimbursable
18 losses, the initial amount of reimbursement due and
19 adjustments to this amount based on later loss information.
20 The adjustments to reimbursement amounts shall require the
21 board to pay, or the insurer to return, amounts reflecting the
22 most recent calculation of losses.

23 2. If the board determines that the projected year-end
24 balance of the fund, together with the amount that the board
25 determines that it is possible to raise through revenue bonds
26 issued under subsection (6) and through other borrowing and
27 financing arrangements under paragraph (7)(b), are
28 insufficient to pay reimbursement to all insurers at the level
29 promised in the contract, the board shall:

30 a. First reimburse insurers writing covered policies,
31 which insurers are in full compliance with this section and

1 have petitioned the Department of Insurance and qualified as
2 limited apportionment companies under s. 627.351(2)(b)3. The
3 amount of such reimbursement shall be the lesser of \$10
4 million or an amount equal to 10 times the insurer's
5 reimbursement premium for the current year. The amount of
6 reimbursement paid under this sub-subparagraph may not exceed
7 the full amount of reimbursement promised in the reimbursement
8 contract. This sub-subparagraph does not apply with respect to
9 any contract year in which the year-end projected cash balance
10 of the fund, exclusive of any bonding capacity of the fund,
11 exceeds \$2 billion. Only one member of any insurer group may
12 receive reimbursement under this sub-subparagraph.

13 b. Next pay to each insurer such insurer's projected
14 payout, which is the amount of reimbursement it is owed, up to
15 an amount equal to the insurer's share of the actual premium
16 paid for that contract year, multiplied by the actual
17 claims-paying capacity available for that contract year,
18 provided, entities created pursuant to s. 627.351 shall be
19 further reimbursed in accordance with sub-subparagraph c. This
20 determination shall be adjusted to reflect payments made under
21 sub-subparagraph a.

22 c. Thereafter, establish, based on reimbursable
23 losses, the prorated reimbursement level at the highest level
24 for which any remaining fund balance or bond proceeds are
25 sufficient to reimburse entities created pursuant to s.
26 627.351 for losses exceeding the amounts payable pursuant to
27 sub-subparagraph b. for the current contract year.

28 (e)

29 1. Except as provided in subparagraphs 2. and 3., the
30 contract shall provide that if an insurer demonstrates to the
31 board that it is likely to qualify for reimbursement under the

1 contract, and demonstrates to the board that the immediate
2 receipt of moneys from the board is likely to prevent the
3 insurer from becoming insolvent, the board shall advance the
4 insurer, at market interest rates, the amounts necessary to
5 maintain the solvency of the insurer, up to 50 percent of the
6 board's estimate of the reimbursement due the insurer. The
7 insurer's reimbursement shall be reduced by an amount equal to
8 the amount of the advance loan and interest thereon.

9 2. With respect only to an entity created under s.
10 627.351, the contract shall also provide that the board may,
11 upon application by such entity, advance to such entity, at
12 market interest rates, up to 90 percent of the lesser of:

13 a. The board's estimate of the amount of reimbursement
14 due to such entity; or

15 b. The entity's share of the actual reimbursement
16 premium paid for that contract year, multiplied by the
17 currently available liquid assets of the fund. In order for
18 the entity to qualify for an advance under this subparagraph,
19 the entity must demonstrate to the board that the advance is
20 essential to allow the entity to pay claims for a covered
21 event and the board must determine that the fund's assets are
22 sufficient and are sufficiently liquid to allow the board to
23 make an advance to the entity and still fulfill the board's
24 reimbursement obligations to other insurers. The entity's
25 final reimbursement for any contract year in which an advance
26 has been made under this subparagraph must be reduced by an
27 amount equal to the amount of the advance and any interest on
28 such advance. In order to determine what amounts, if any, are
29 due the entity, the board may require the entity to report its
30 exposure and its losses at any time to determine retention
31 levels and reimbursements payable.

1 3. The contract shall also provide specifically and
2 solely with respect to any limited apportionment company under
3 s. 627.351(2)(b)3. that the board may, upon application by
4 such company, advance to such company the amount of the
5 estimated reimbursement payable to such company as calculated
6 pursuant to paragraph (d), at market interest rates, if the
7 board determines that the fund's assets are sufficient and are
8 sufficiently liquid to permit the board to make an advance to
9 such company and at the same time fulfill its reimbursement
10 obligations to the insurers that are participants in the fund.
11 Such company's final reimbursement for any contract year in
12 which an advance pursuant to this subparagraph has been made
13 shall be reduced by an amount equal to the amount of the
14 advance and interest thereon. In order to determine what
15 amounts, if any, are due to such company, the board may
16 require such company to report its exposure and its losses at
17 such times as may be required to determine retention levels
18 and loss reimbursements payable.

19 (f) In order to ensure that insurers have properly
20 reported the insured values on which the reimbursement premium
21 is based and to ensure that insurers have properly reported
22 the losses for which reimbursements have been made, the board
23 shall inspect, examine, and audit the records of each
24 insurer's covered policies at such times as the board deems
25 appropriate and in such manner as is consistent with generally
26 accepted auditing standards. The costs of the audits shall be
27 borne by the board. However, in order to remove any incentive
28 for an insurer to delay preparations for an audit, the board
29 shall be reimbursed by the insurer for any audit expenses
30 incurred in addition to the usual and customary costs of the
31 audit, which additional expenses were incurred as a result of

1 an insurer's failure, despite proper notice, to be prepared
2 for the audit or as a result of an insurer's failure to
3 provide requested information while the audit is in progress.
4 If the board finds any insurer's records or other necessary
5 information to be inadequate or inadequately posted, recorded,
6 or maintained, the board may employ experts to reconstruct,
7 rewrite, record, post, or maintain such records or
8 information, at the expense of the insurer being audited, if
9 such insurer has failed to maintain, complete, or correct such
10 records or deficiencies after the board has given the insurer
11 notice and a reasonable opportunity to do so. Any information
12 contained in an audit report, which information is described
13 in s. 215.557, is confidential and exempt from the provisions
14 of s. 119.07(1) and s. 24(a), Art. I of the State
15 Constitution, as provided in s. 215.557. Nothing in this
16 paragraph expands the exemption in s. 215.557.

17 (g)(f) The contract shall provide that in the event of
18 the insolvency of an insurer, the fund shall pay directly to
19 the Florida Insurance Guaranty Association for the benefit of
20 Florida policyholders of the insurer the net amount of all
21 reimbursement moneys owed to the insurer. As used in this
22 paragraph, the term "net amount of all reimbursement moneys"
23 means that amount which remains after reimbursement for:

24 1. Preliminary or duplicate payments owed to private
25 reinsurers or other inuring reinsurance payments to private
26 reinsurers that satisfy statutory or contractual obligations
27 of the insolvent insurer attributable to covered events to
28 such reinsurers; or

29 2. Funds owed to a bank or other financial institution
30 to cover obligations of the insolvent insurer under a credit
31

1 agreement that assists the insolvent insurer in paying claims
2 attributable to covered events.

3
4 Such private reinsurers, banks, or other financial
5 institutions shall be reimbursed or otherwise paid prior to
6 payment to the Florida Insurance Guaranty Association,
7 notwithstanding any law to the contrary. The guaranty
8 association shall pay all claims up to the maximum amount
9 permitted by chapter 631; thereafter, any remaining moneys
10 shall be paid pro rata to claims not fully satisfied. This
11 paragraph does not apply to a joint underwriting association,
12 risk apportionment plan, or other entity created under s.
13 627.351.

14 (5) REIMBURSEMENT PREMIUMS.--

15 (c) No later than September 1 of each year, each
16 insurer shall notify the board of its insured values under
17 covered policies by zip code, as of June 30 of that year. On
18 the basis of these reports, the board shall calculate the
19 premium due from the insurer, based on the formula adopted
20 under paragraph (b). The insurer shall pay the required annual
21 premium pursuant to a periodic payment plan specified in the
22 contract. The board shall provide for payment of reimbursement
23 premium in periodic installments and for the adjustment of
24 provisional premium installments collected prior to submission
25 of the exposure report to reflect data in the exposure report.
26 The board shall collect interest on late reimbursement premium
27 payments consistent with the assumptions made in developing
28 the premium formula in accordance with paragraph (b).

29 (6) REVENUE BONDS.--

30 (a) General provisions.--

31

1 1. Upon the occurrence of a hurricane and a
2 determination that the moneys in the fund are or will be
3 insufficient to pay reimbursement at the levels promised in
4 the reimbursement contracts, the board may take the necessary
5 steps under paragraph (b) or paragraph (c) for the issuance of
6 revenue bonds for the benefit of the fund. The proceeds of
7 such revenue bonds may be used to make reimbursement payments
8 under reimbursement contracts; to refinance or replace
9 previously existing borrowings or financial arrangements; to
10 pay interest on bonds; to fund reserves for the bonds; to pay
11 expenses incident to the issuance or sale of any bond issued
12 under this section, including costs of validating, printing,
13 and delivering the bonds, costs of printing the official
14 statement, costs of publishing notices of sale of the bonds,
15 and related administrative expenses; or for such other
16 purposes related to the financial obligations of the fund as
17 the board may determine. The term of the bonds may not exceed
18 30 years. The board may pledge or authorize the corporation to
19 pledge all or a portion of all revenues under subsection (5)
20 and under subparagraph 3. to secure such revenue bonds and the
21 board may execute such agreements between the board and the
22 issuer of any revenue bonds and providers of other financing
23 arrangements under paragraph (7)(b) as the board deems
24 necessary to evidence, secure, preserve, and protect such
25 pledge. If reimbursement premiums received under subsection
26 (5) or earnings on such premiums are used to pay debt service
27 on revenue bonds, such premiums and earnings shall be used
28 only after the use of the moneys derived from assessments
29 under subparagraph 3. The funds, credit, property, or taxing
30 power of the state or political subdivisions of the state
31 shall not be pledged for the payment of such bonds. The board

1 may also enter into agreements under paragraph (b) or
2 paragraph (c) for the purpose of issuing revenue bonds in the
3 absence of a hurricane upon a determination that such action
4 would maximize the ability of the fund to meet future
5 obligations.

6 2. The Legislature finds and declares that the
7 issuance of bonds under this subsection is for the public
8 purpose of paying the proceeds of the bonds to insurers,
9 thereby enabling insurers to pay the claims of policyholders
10 to assure that policyholders are able to pay the cost of
11 construction, reconstruction, repair, restoration, and other
12 costs associated with damage to property of policyholders of
13 covered policies after the occurrence of a hurricane. Revenue
14 bonds may not be issued under this subsection until validated
15 under chapter 75. The validation of at least the first
16 obligations incurred pursuant to this subsection shall be
17 appealed to the Supreme Court, to be handled on an expedited
18 basis.

19 3. If the board determines that the amount of revenue
20 produced under subsection (5) is insufficient to fund the
21 obligations, costs, and expenses of the fund and the
22 corporation, including repayment of revenue bonds, the board
23 shall direct the Department of Insurance to levy an emergency
24 assessment on each insurer writing property and casualty
25 business in this state. Pursuant to the emergency assessment,
26 each such insurer shall pay to the corporation ~~fund~~ by July 1
27 of each year an amount set by the board not exceeding 2
28 percent of its gross direct written premium for the prior year
29 from all property and casualty business in this state except
30 for workers' compensation, except that, if the Governor has
31 declared a state of emergency under s. 252.36 due to the

1 occurrence of a covered event, the amount of the assessment
2 for the contract year may be increased to an amount not
3 exceeding 4 percent of such premium. Any assessment authority
4 not used for the contract year may be used for a subsequent
5 contract year. If, for a subsequent contract year, the board
6 determines that the amount of revenue produced under
7 subsection (5) is insufficient to fund the obligations, costs,
8 and expenses of the fund and the corporation, including
9 repayment of revenue bonds for that contract year, the board
10 shall direct the Department of Insurance to levy an emergency
11 assessment up to an amount not exceeding the amount of unused
12 assessment authority from a previous contract year or years,
13 plus an additional 2 percent if the Governor has declared a
14 state of emergency under s. 252.36 due to the occurrence of a
15 covered event. Any assessment authority not used for the
16 contract year may be used for a subsequent contract year.As
17 used in this subsection, the term "property and casualty
18 business" includes all lines of business identified on Form 2,
19 Exhibit of Premiums and Losses, in the annual statement
20 required by s. 624.424 and any rules adopted under such
21 section, except for those lines identified as accident and
22 health insurance. The annual assessments under this
23 subparagraph shall continue as long as the revenue bonds
24 issued with respect to which the assessment was imposed are
25 outstanding, unless adequate provision has been made for the
26 payment of such bonds pursuant to the documents authorizing
27 issuance of the bonds. An insurer shall not at any time be
28 subject to aggregate annual assessments under this
29 subparagraph of more than 2 percent of premium, except that in
30 the case of a declared emergency, an insurer shall not at any
31 time be subject to aggregate annual assessments under this

1 subparagraph of more than ~~6~~ 4 percent of premium, provided, no
2 more than 4 percent may be assessed for any one contract year.
3 Any rate filing or portion of a rate filing reflecting a rate
4 change attributable entirely to the assessment levied under
5 this subparagraph shall be deemed approved when made, subject
6 to the authority of the Department of Insurance to require
7 actuarial justification as to the adequacy of any rate at any
8 time. If the rate filing reflects only a rate change
9 attributable to the assessment under this paragraph, the
10 filing may consist of a certification so stating. The
11 assessments otherwise payable to the corporation pursuant to
12 this subparagraph shall be paid instead to the fund unless and
13 until the Department of Insurance has received from the
14 corporation and the fund a notice, which shall be conclusive
15 and upon which the Department of Insurance may rely without
16 further inquiry, that the corporation has issued bonds and the
17 fund has no agreements in effect with local governments
18 pursuant to paragraph (6)(b). On or after the date of such
19 notice and until such date as the corporation has no bonds
20 outstanding, the fund shall have no right, title, or interest
21 in or to the assessments, except as provided in the fund's
22 agreements with the corporation.

23 (b) Revenue bond issuance through counties or
24 municipalities.--

25 1. If the board elects to enter into agreements with
26 local governments for the issuance of revenue bonds for the
27 benefit of the fund, the board shall enter into such contracts
28 with one or more local governments, including agreements
29 providing for the pledge of revenues, as are necessary to
30 effect such issuance. The governing body of a county or
31 municipality is authorized to issue bonds as defined in s.

1 125.013 or s. 166.101 from time to time to fund an assistance
2 program, in conjunction with the Florida Hurricane Catastrophe
3 Fund, for the purposes set forth in this section or for the
4 purpose of paying the costs of construction, reconstruction,
5 repair, restoration, and other costs associated with damage to
6 properties of policyholders of covered policies due to the
7 occurrence of a hurricane by assuring that policyholders
8 located in this state are able to recover claims under
9 property insurance policies after a covered event.

10 2. In order to avoid needless and indiscriminate
11 proliferation, duplication, and fragmentation of such
12 assistance programs, any local government may provide for the
13 payment of fund reimbursements, regardless of whether or not
14 the losses for which reimbursement is made occurred within or
15 outside of the territorial jurisdiction of the local
16 government.

17 3. The state hereby covenants with holders of bonds
18 issued under this paragraph that the state will not repeal or
19 abrogate the power of the board to direct the Department of
20 Insurance to levy the assessments and to collect the proceeds
21 of the revenues pledged to the payment of such bonds as long
22 as any such bonds remain outstanding unless adequate provision
23 has been made for the payment of such bonds pursuant to the
24 documents authorizing the issuance of such bonds.

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

30 (c) Florida Hurricane Catastrophe Fund Finance
31 Corporation.--

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

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

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

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

21 2.

22 a. There is created a public benefits corporation,
23 that is an instrumentality of the state,to be known as the
24 Florida Hurricane Catastrophe Fund Finance Corporation.

25 b. The corporation shall operate under a five-member
26 board of directors consisting of the Governor or a designee,
27 the Comptroller or a designee, the Treasurer or a designee,
28 the director of the Division of Bond Finance of the State
29 Board of Administration, and the chief operating officer of
30 the Florida Hurricane Catastrophe Fund.

31

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

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

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

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

13 3.

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

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

28 4. The bonds of the corporation are not a debt of the
29 state or of any political subdivision, and neither the state
30 nor any political subdivision is liable on such bonds. The
31 corporation does not have the power to pledge the credit, the

1 revenues, or the taxing power of the state or of any political
2 subdivision. The credit, revenues, or taxing power of the
3 state or of any political subdivision shall not be deemed to
4 be pledged to the payment of any bonds of the corporation.

5 5.

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

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

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

9 (d) Protection of bondholders.--

10 1. As long as the corporation has any bonds
11 outstanding, neither the fund nor the corporation shall have
12 the authority to file a voluntary petition under chapter 9 of
13 the federal bankruptcy code or such corresponding chapter or
14 sections as may be in effect, from time to time, and neither
15 any public officer nor any organization, entity, or other
16 person shall authorize the fund or the corporation to be or
17 become a debtor under chapter 9 of the federal bankruptcy code
18 or such corresponding chapter or sections as may be in effect,
19 from time to time, during any such period.

20 2. The state hereby covenants with holders of bonds of
21 the corporation that the state will not limit or alter the
22 denial of authority under this paragraph or the rights under
23 this section vested in the fund or the corporation to fulfill
24 the terms of any agreements made with such bondholders or in
25 any way impair the rights and remedies of such bondholders as
26 long as any such bonds remain outstanding unless adequate
27 provision has been made for the payment of such bonds pursuant
28 to the documents authorizing the issuance of such bonds.

29 3. Notwithstanding any other provision of law, any
30 pledge of or other security interest in revenue, money,
31 accounts, contract rights, general intangibles, or other

1 personal property made or created by the fund or the
2 corporation shall be valid, binding, and perfected from the
3 time such pledge is made or other security interest attaches
4 without any physical delivery of the collateral or further act
5 and the lien of any such pledge or other security interest
6 shall be valid, binding, and perfected against all parties
7 having claims of any kind in tort, contract, or otherwise
8 against the fund or the corporation irrespective of whether or
9 not such parties have notice of such claims. No instrument by
10 which such a pledge or security interest is created nor any
11 financing statement need be recorded or filed.

12 (11) LEGAL PROCEEDINGS.--The board is authorized to
13 take any action necessary to enforce the rules, and the
14 provisions and requirements of the reimbursement contract,
15 required by and adopted pursuant to this section.

16 (14) SEVERABILITY.--If any clause, sentence,
17 paragraph, or other part of this section be adjudged by any
18 court of competent jurisdiction to be invalid, such judgment
19 shall not affect, impair, or invalidate the remainder thereof
20 but shall be confined in its operation to the clause,
21 sentence, paragraph, or other part thereof directly involved
22 in the controversy in which such judgment shall have been
23 rendered.

24 Section 2. This act shall take effect October 1, 1999.
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