



HB 1353

2003

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

A bill to be entitled  
 An act relating to the Florida Hurricane Catastrophe Fund;  
 amending s. 215.555, F.S.; revising definitions; including  
 certain accounts, formerly certain associations, within  
 the Citizens Property Insurance Corporation; including the  
 Citizens Property Insurance Corporation within the  
 operation of certain definitions; authorizing the State  
 Board of Administration to charge interest on delinquent  
 remittances to the Florida Hurricane Catastrophe Fund;  
 expanding the insurers eligible for exemptions from  
 certain reimbursement contract and premium provisions  
 authorized by the board under certain circumstances;  
 revising a reimbursement contract requirement; revising  
 emergency assessment authority of the board relating to  
 service of certain debt obligations; revising  
 requirements, procedures, and limitations; providing  
 responsibilities of surplus lines agents and the Florida  
 Surplus Lines Service Office; revising powers and duties  
 of the board; providing an effective date.

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

Section 1. Paragraph (c) of subsection (2), subsection  
 (3), paragraphs (c) and (d) of subsection (4), subsection (6),  
 and paragraphs (a) and (c) of subsection (7) of section 215.555,  
 Florida Statutes, are amended, and paragraphs (n) and (o) are  
 added to subsection (2) of said section, to read:

215.555 Florida Hurricane Catastrophe Fund.--  
 (2) DEFINITIONS.--As used in this section:



HB 1353

2003

30 (c) "Covered policy" means any insurance policy covering  
31 residential property in this state, including, but not limited  
32 to, any homeowner's, mobile home owner's, farm owner's,  
33 condominium association, condominium unit owner's, tenant's, or  
34 apartment building policy, or any other policy covering a  
35 residential structure or its contents issued by any authorized  
36 insurer, including the Citizen's Property Insurance Corporation  
37 and any joint underwriting association or similar entity created  
38 pursuant to law. The term "covered policy" includes any  
39 collateral protection insurance policy covering personal  
40 residences which protects both the borrower's and the lender's  
41 financial interests, in an amount at least equal to the coverage  
42 for the dwelling in place under the lapsed homeowner's policy,  
43 if such policy can be accurately reported as required in  
44 subsection (5). Additionally, covered policies include policies  
45 covering the peril of wind removed from the Citizen's Property  
46 Insurance Corporation ~~the Florida Residential Property and~~  
47 ~~Casualty Joint Underwriting Association, created pursuant to s.~~  
48 ~~627.351(6), or from the Florida Windstorm Underwriting~~  
49 ~~Association, created pursuant to s. 627.351(2),~~ by an authorized  
50 insurer under the terms and conditions of an executed assumption  
51 agreement between the authorized insurer and the Citizen's  
52 Property Insurance Corporation ~~either such association~~. Each  
53 assumption agreement between the Citizen's Property Insurance  
54 Corporation ~~either association~~ and such authorized insurer must  
55 be approved by the Office of Insurance Regulation within the  
56 Florida Department of Financial Services ~~Insurance~~ prior to the  
57 effective date of the assumption, and the Office ~~Department~~ of  
58 Insurance Regulation must provide written notification to the  
59 board within 15 working days after such approval. "Covered



HB 1353

2003

60 policy" does not include any policy that excludes wind coverage  
 61 or hurricane coverage or any reinsurance agreement and does not  
 62 include any policy otherwise meeting this definition which is  
 63 issued by a surplus lines insurer or a reinsurer. Policies  
 64 which, based upon sound actuarial principles, require individual  
 65 ratemaking may be excluded by type or category as covered  
 66 policies by rule if the actuarial soundness of the fund is not  
 67 jeopardized.

68 (n) "Citizens Property Insurance Corporation" or  
 69 "Citizens" means the entity created pursuant to s. 627.351(6),  
 70 and includes both the High Risk Account, formerly the Florida  
 71 Windstorm Underwriting Association, and the Personal Lines and  
 72 Commercial Lines Accounts, formerly the Florida Residential  
 73 Property and Casualty Joint Underwriting Association.

74 (o) "Corporation" means the Florida Hurricane Catastrophe  
 75 Fund Finance Corporation created in paragraph (6)(d).

76 (p) "Pledged revenues" means all or any portion of  
 77 revenues to be derived from reimbursement premiums under  
 78 subsection (5) of from emergency assessments under paragraph  
 79 (6)(b)., as determined by the board.

80 (3) FLORIDA HURRICANE CATASTROPHE FUND CREATED.--There is  
 81 created the Florida Hurricane Catastrophe Fund to be  
 82 administered by the State Board of Administration. Moneys in the  
 83 fund may not be expended, loaned, or appropriated except to pay  
 84 obligations of the fund arising out of reimbursement contracts  
 85 entered into under subsection (4), payment of debt service on  
 86 revenue bonds issued under subsection (6), costs of the  
 87 mitigation program under subsection (7), costs of procuring  
 88 reinsurance, and costs of administration of the fund. The board  
 89 shall invest the moneys in the fund pursuant to ss. 215.44-



HB 1353

2003

90 215.52. Except as otherwise provided in this section, earnings  
91 from all investments shall be retained in the fund. The board  
92 may employ or contract with such staff and professionals as the  
93 board deems necessary for the administration of the fund. The  
94 board may adopt such rules as are reasonable and necessary to  
95 implement this section and may specify interest on any  
96 delinquent remittances. Such rules must conform to the  
97 Legislature's specific intent in establishing the fund as  
98 expressed in subsection (1), must enhance the fund's potential  
99 ability to respond to claims for covered events, must contain  
100 general provisions so that the rules can be applied with  
101 reasonable flexibility so as to accommodate insurers in  
102 situations of an unusual nature or where undue hardship may  
103 result, except that such flexibility may not in any way impair,  
104 override, supersede, or constrain the public purpose of the  
105 fund, and must be consistent with sound insurance practices. The  
106 board may, by rule, provide for the exemption from subsections  
107 (4) and (5) of insurers writing covered policies with less than  
108 \$3 million ~~\$500,000~~ in aggregate exposure for covered policies,  
109 which exposure results in a de minimis reimbursement premium, if  
110 the exemption does not affect the actuarial soundness of the  
111 fund.

112 (4) REIMBURSEMENT CONTRACTS.--

113 (c)1. The contract shall also provide that the obligation  
114 of the board with respect to all contracts covering a particular  
115 contract year shall not exceed the actual claims-paying capacity  
116 of the fund up to a limit of \$11 billion for that contract year  
117 adjusted based upon the reported exposure from the prior  
118 contract year to reflect the percentage growth in exposure to  
119 the fund for covered policies since 2002, ~~unless the board~~



HB 1353

2003

120 ~~determines that there is sufficient estimated claims-paying~~  
121 ~~capacity to provide \$11 billion of capacity for the current~~  
122 ~~contract year and an additional \$11 billion of capacity for~~  
123 ~~subsequent contract years. Upon such determination being made,~~  
124 ~~the estimated claims-paying capacity for the current contract~~  
125 ~~year shall be determined by adding to the \$11 billion limit one-~~  
126 ~~half of the fund's estimated claims-paying capacity in excess of~~  
127 ~~\$22 billion.~~

128         2. The contract shall require the board to annually notify  
129 insurers of the fund's estimated borrowing capacity for the next  
130 contract year, the projected year-end balance of the fund, and  
131 the insurer's estimated share of total reimbursement premium to  
132 be paid to the fund. For all regulatory and reinsurance  
133 purposes, an insurer may calculate its projected payout from the  
134 fund as its share of the total fund premium for the current  
135 contract year multiplied by the sum of the projected year-end  
136 fund balance and the estimated borrowing capacity for that  
137 contract year as reported under this paragraph. In May and  
138 October of each year, the board shall publish in the Florida  
139 Administrative Weekly a statement of the fund's estimated  
140 borrowing capacity and the projected year-end balance of the  
141 fund for the current contract year.

142         (d)1. For purposes of determining potential liability and  
143 to aid in the sound administration of the fund, the contract  
144 shall require each insurer to report such insurer's losses from  
145 each covered event on an interim basis, as directed by the  
146 board. The contract shall require the insurer to report to the  
147 board no later than December 31 of each year, and quarterly  
148 thereafter, its reimbursable losses from covered events for the  
149 year. The contract shall require the board to determine and pay,



HB 1353

2003

150 as soon as practicable after receiving these reports of  
151 reimbursable losses, the initial amount of reimbursement due and  
152 adjustments to this amount based on later loss information. The  
153 adjustments to reimbursement amounts shall require the board to  
154 pay, or the insurer to return, amounts reflecting the most  
155 recent calculation of losses.

156 2. In determining reimbursements pursuant to this  
157 subsection, the contract shall provide that the board shall:

158 a. First reimburse insurers writing covered policies,  
159 which insurers are in full compliance with this section and have  
160 petitioned the Office of Department of Insurance Regulation and  
161 qualified as limited apportionment companies under s.

162 627.351(2)(b)3. The amount of such reimbursement shall be the  
163 lesser of \$10 million or an amount equal to 10 times the  
164 insurer's reimbursement premium for the current year. The amount  
165 of reimbursement paid under this sub-subparagraph may not exceed  
166 the full amount of reimbursement promised in the reimbursement  
167 contract. This sub-subparagraph does not apply with respect to  
168 any contract year in which the year-end projected cash balance  
169 of the fund, exclusive of any bonding capacity of the fund,  
170 exceeds \$2 billion. Only one member of any insurer group may  
171 receive reimbursement under this sub-subparagraph.

172 b. Next pay to each insurer such insurer's projected  
173 payout, which is the amount of reimbursement it is owed, up to  
174 an amount equal to the insurer's share of the actual premium  
175 paid for that contract year, multiplied by the actual claims-  
176 paying capacity available for that contract year; provided,  
177 entities created pursuant to s. 627.351 shall be further  
178 reimbursed in accordance with sub-subparagraph c.



HB 1353

2003

179 c. Thereafter, establish, based on reimbursable losses,  
 180 the prorated reimbursement level at the highest level for which  
 181 any remaining fund balance or bond proceeds are sufficient to  
 182 reimburse entities created pursuant to s. 627.351 for losses  
 183 exceeding the amounts payable pursuant to sub-subparagraph b.  
 184 for the current contract year.

185 (6) REVENUE BONDS.--

186 (a) General provisions.--

187 1. Upon the occurrence of a hurricane and a determination  
 188 that the moneys in the fund are or will be insufficient to pay  
 189 reimbursement at the levels promised in the reimbursement  
 190 contracts, the board may take the necessary steps under  
 191 paragraph (c)~~(b)~~ or paragraph (d)~~(e)~~ for the issuance of revenue  
 192 bonds for the benefit of the fund. The proceeds of such revenue  
 193 bonds may be used to make reimbursement payments under  
 194 reimbursement contracts; to refinance or replace previously  
 195 existing borrowings or financial arrangements; to pay interest  
 196 on bonds; to fund reserves for the bonds; to pay expenses  
 197 incident to the issuance or sale of any bond issued under this  
 198 section, including costs of validating, printing, and delivering  
 199 the bonds, costs of printing the official statement, costs of  
 200 publishing notices of sale of the bonds, and related  
 201 administrative expenses; or for such other purposes related to  
 202 the financial obligations of the fund as the board may  
 203 determine. The term of the bonds may not exceed 30 years. The  
 204 board may pledge or authorize the corporation to pledge all or a  
 205 portion of all revenues under subsection (5) and under paragraph  
 206 (b) ~~subparagraph 3.~~ to secure such revenue bonds and the board  
 207 may execute such agreements between the board and the issuer of  
 208 any revenue bonds and providers of other financing arrangements



HB 1353

2003

209 under paragraph (7)(b) as the board deems necessary to evidence,  
 210 secure, preserve, and protect such pledge. If reimbursement  
 211 premiums received under subsection (5) or earnings on such  
 212 premiums are used to pay debt service on revenue bonds, such  
 213 premiums and earnings shall be used only after the use of the  
 214 moneys derived from assessments under paragraph (b) ~~subparagraph~~  
 215 ~~3~~. The funds, credit, property, or taxing power of the state or  
 216 political subdivisions of the state shall not be pledged for the  
 217 payment of such bonds. The board may also enter into agreements  
 218 under paragraph (c)~~(b)~~ or paragraph (d)~~(e)~~ for the purpose of  
 219 issuing revenue bonds in the absence of a hurricane upon a  
 220 determination that such action would maximize the ability of the  
 221 fund to meet future obligations.

222 2. The Legislature finds and declares that the issuance of  
 223 bonds under this subsection is for the public purpose of paying  
 224 the proceeds of the bonds to insurers, thereby enabling insurers  
 225 to pay the claims of policyholders to assure that policyholders  
 226 are able to pay the cost of construction, reconstruction,  
 227 repair, restoration, and other costs associated with damage to  
 228 property of policyholders of covered policies after the  
 229 occurrence of a hurricane. Revenue bonds may not be issued under  
 230 this subsection until validated under chapter 75. The validation  
 231 of at least the first obligations incurred pursuant to this  
 232 subsection shall be appealed to the Supreme Court, to be handled  
 233 on an expedited basis.

234 (b)3- Emergency assessments.-- If the board determines  
 235 that the amount of revenue produced under subsection (5) is  
 236 insufficient to fund the obligations, costs, and expenses of the  
 237 fund and the corporation, including repayment of revenue bonds,  
 238 the board shall direct the Office ~~Department~~ of Insurance





HB 1353

2003

239 Regulation to levy an emergency assessment on each insurer  
 240 writing property and casualty business in this state, referred  
 241 to in this subsection as an assessable insurer, and on those  
 242 insureds procuring one or more lines of property and casualty  
 243 business in this state pursuant to part VIII of chapter 626,  
 244 referred to in this subsection as assessable insureds.

245 1. Pursuant to the emergency assessment, each such  
 246 assessable insurer shall pay to the corporation by July 1 of  
 247 each year an amount set by the board not exceeding 3 2 percent  
 248 of its gross direct written premium for the prior year from all  
 249 property and casualty business in this state except for workers'  
 250 compensation, except that, if the Governor has declared a state  
 251 of emergency under s. 252.36 due to the occurrence of a covered  
 252 event, the amount of the assessment for the contract year may be  
 253 increased to an amount not exceeding 5 4 percent of such  
 254 premium.

255 2.a. Pursuant to the emergency assessment, each such  
 256 assessable insured shall pay an amount set by the board not  
 257 exceeding 3 percent of the gross written premium each year for  
 258 all property and casualty business procured in this state except  
 259 workers' compensation, provided, however, if the Governor has  
 260 declared a state of emergency under s. 252.36 due to the  
 261 occurrence of a covered event, the amount of the assessment for  
 262 the contract year may be increased to an amount not exceeding 5  
 263 percent of such premium.

264 b. The emergency assessment on each such assessable  
 265 insured shall be collected by the surplus lines agent at the  
 266 time such agent collects the surplus lines tax required by s.  
 267 626.932 and shall be remitted by the agent to the Florida  
 268 Surplus Lines Service Office created pursuant to s. 626.921 at



HB 1353

2003

269 the time the agent pays the surplus lines tax to the Florida  
 270 Surplus Lines Service Office. The emergency assessment on each  
 271 assessable insured procuring coverage and filing under s.  
 272 626.938 shall be remitted by the insured to the Florida Surplus  
 273 Lines Service Office at the time the insured pays the surplus  
 274 lines tax to the Florida Surplus Lines Service Office. The  
 275 emergency assessments collected shall be transferred to the  
 276 corporation or to the fund pursuant to subparagraph 5. on a  
 277 periodic basis as determined by the board. The Florida Surplus  
 278 Lines Service Office shall verify the proper application by  
 279 surplus lines agents of the emergency assessments and shall  
 280 assist the board in ensuring the accurate, timely collection and  
 281 payment of assessments by surplus lines agents as required by  
 282 the board. The Florida Surplus Lines Service Office shall  
 283 determine annually the aggregate written premium on property and  
 284 casualty business, except workers' compensation, procured by  
 285 assessable insureds and shall report such information to the  
 286 board in a form and at a time specified by the board to ensure  
 287 that the fund and the corporation can meet their financing  
 288 obligations.

289 3. Any assessment authority not used for the contract year  
 290 may be used for a subsequent contract year. If, for a subsequent  
 291 contract year, the board determines that the amount of revenue  
 292 produced under subsection (5) is insufficient to fund the  
 293 obligations, costs, and expenses of the fund and the  
 294 corporation, including repayment of revenue bonds for that  
 295 contract year, the board shall direct the Office ~~Department~~ of  
 296 Insurance Regulation to levy an emergency assessment up to an  
 297 amount not exceeding the amount of unused assessment authority  
 298 from a previous contract year or years, plus an additional 3 ~~2~~



HB 1353

2003

299 percent if the Governor has declared a state of emergency under  
 300 s. 252.36 due to the occurrence of a covered event. Any  
 301 assessment authority not used for the contract year may be used  
 302 for a subsequent contract year. As used in this subsection, the  
 303 term "property and casualty business" includes all lines of  
 304 business identified on Form 2, Exhibit of Premiums and Losses,  
 305 in the annual statement required of authorized insurers by s.  
 306 624.424 and any rules adopted under such section, except for  
 307 those lines identified as accident and health insurance. The  
 308 annual assessments under this subparagraph shall continue as  
 309 long as the revenue bonds issued with respect to which the  
 310 assessment was imposed are outstanding, unless adequate  
 311 provision has been made for the payment of such bonds pursuant  
 312 to the documents authorizing issuance of the bonds. An  
 313 assessable insurer or assessable insured shall not at any time  
 314 be subject to aggregate annual assessments under this  
 315 subparagraph of more than 3 2 percent of premium, except that in  
 316 the case of a declared emergency, an assessable insurer or  
 317 assessable insured shall not at any time be subject to aggregate  
 318 annual assessments under this subparagraph of more than 8 6  
 319 percent of premium; provided, no more than 5 4 percent may be  
 320 assessed for obligations arising due to losses in any one  
 321 contract year.

322 4. Any rate filing or portion of a rate filing reflecting  
 323 a rate change attributable entirely to the assessment levied  
 324 under this paragraph ~~subparagraph~~ shall be deemed approved when  
 325 made, subject to the authority of the Office ~~Department~~ of  
 326 Insurance Regulation to require actuarial justification as to  
 327 the adequacy of any rate at any time. If the rate filing  
 328 reflects only a rate change attributable to the assessment under



HB 1353

2003

329 | this paragraph, the filing may consist of a certification so  
330 | stating.

331 |       5. The assessments otherwise payable to the corporation  
332 | pursuant to this ~~paragraph subparagraph~~ shall be paid instead to  
333 | the fund unless and until the Office Department of Insurance  
334 | Regulation and the Florida Surplus Lines Service Office have ~~has~~  
335 | received from the corporation and the fund a notice, which shall  
336 | be conclusive and upon which they ~~the Department of Insurance~~  
337 | may rely without further inquiry, that the corporation has  
338 | issued bonds and the fund has no agreements in effect with local  
339 | governments pursuant to paragraph (c)~~(b)~~. On or after the date  
340 | of such notice and until such date as the corporation has no  
341 | bonds outstanding, the fund shall have no right, title, or  
342 | interest in or to the assessments, except as provided in the  
343 | fund's agreements with the corporation.

344 |       6. Emergency assessments are not premium and are not  
345 | subject to premium or surplus lines tax, fees, or commissions,  
346 | however, the failure by an assessable insured to pay an  
347 | emergency assessment shall be treated as a failure to pay  
348 | premium.

349 |       (c)~~(b)~~ Revenue bond issuance through counties or  
350 | municipalities.--

351 |       1. If the board elects to enter into agreements with local  
352 | governments for the issuance of revenue bonds for the benefit of  
353 | the fund, the board shall enter into such contracts with one or  
354 | more local governments, including agreements providing for the  
355 | pledge of revenues, as are necessary to effect such issuance.  
356 | The governing body of a county or municipality is authorized to  
357 | issue bonds as defined in s. 125.013 or s. 166.101 from time to  
358 | time to fund an assistance program, in conjunction with the



HB 1353

2003

359 Florida Hurricane Catastrophe Fund, for the purposes set forth  
360 in this section or for the purpose of paying the costs of  
361 construction, reconstruction, repair, restoration, and other  
362 costs associated with damage to properties of policyholders of  
363 covered policies due to the occurrence of a hurricane by  
364 assuring that policyholders located in this state are able to  
365 recover claims under property insurance policies after a covered  
366 event.

367 2. In order to avoid needless and indiscriminate  
368 proliferation, duplication, and fragmentation of such assistance  
369 programs, any local government may provide for the payment of  
370 fund reimbursements, regardless of whether or not the losses for  
371 which reimbursement is made occurred within or outside of the  
372 territorial jurisdiction of the local government.

373 3. The state hereby covenants with holders of bonds issued  
374 under this paragraph that the state will not repeal or abrogate  
375 the power of the board to direct the Office ~~Department~~ of  
376 Insurance Regulation to levy the assessments and to collect the  
377 proceeds of the revenues pledged to the payment of such bonds as  
378 long as any such bonds remain outstanding unless adequate  
379 provision has been made for the payment of such bonds pursuant  
380 to the documents authorizing the issuance of such bonds.

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

385 (d)~~(e)~~ Florida Hurricane Catastrophe Fund Finance  
386 Corporation.--

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



HB 1353

2003

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

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

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

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

410 b. The corporation shall operate under a five-member board  
411 of directors consisting of the Governor or a designee, the  
412 Comptroller or a designee, the Treasurer or a designee, the  
413 director of the Division of Bond Finance of the State Board of  
414 Administration, and the chief operating officer of the Florida  
415 Hurricane Catastrophe Fund.

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



HB 1353

2003

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

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

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

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

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

442 4. The bonds of the corporation are not a debt of the  
443 state or of any political subdivision, and neither the state nor  
444 any political subdivision is liable on such bonds. The  
445 corporation does not have the power to pledge the credit, the  
446 revenues, or the taxing power of the state or of any political  
447 subdivision. The credit, revenues, or taxing power of the state



HB 1353

2003

448 or of any political subdivision shall not be deemed to be  
449 pledged to the payment of any bonds of the corporation.

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

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

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





HB 1353

2003

478 unless adequate provision has been made for the payment of such  
479 bonds pursuant to the documents authorizing the issuance of such  
480 bonds. Upon termination of the existence of the corporation, all  
481 of its rights and properties in excess of its obligations shall  
482 pass to and be vested in the state.

483 (e)~~(d)~~ Protection of bondholders.--

484 1. As long as the corporation has any bonds outstanding,  
485 neither the fund nor the corporation shall have the authority to  
486 file a voluntary petition under chapter 9 of the federal  
487 Bankruptcy Code or such corresponding chapter or sections as may  
488 be in effect, from time to time, and neither any public officer  
489 nor any organization, entity, or other person shall authorize  
490 the fund or the corporation to be or become a debtor under  
491 chapter 9 of the federal Bankruptcy Code or such corresponding  
492 chapter or sections as may be in effect, from time to time,  
493 during any such period.

494 2. The state hereby covenants with holders of bonds of the  
495 corporation that the state will not limit or alter the denial of  
496 authority under this paragraph or the rights under this section  
497 vested in the fund or the corporation to fulfill the terms of  
498 any agreements made with such bondholders or in any way impair  
499 the rights and remedies of such bondholders as long as any such  
500 bonds remain outstanding unless adequate provision has been made  
501 for the payment of such bonds pursuant to the documents  
502 authorizing the issuance of such bonds.

503 3. Notwithstanding any other provision of law, any pledge  
504 of or other security interest in revenue, money, accounts,  
505 contract rights, general intangibles, or other personal property  
506 made or created by the fund or the corporation shall be valid,  
507 binding, and perfected from the time such pledge is made or



HB 1353

2003

508 other security interest attaches without any physical delivery  
509 of the collateral or further act and the lien of any such pledge  
510 or other security interest shall be valid, binding, and  
511 perfected against all parties having claims of any kind in tort,  
512 contract, or otherwise against the fund or the corporation  
513 irrespective of whether or not such parties have notice of such  
514 claims. No instrument by which such a pledge or security  
515 interest is created nor any financing statement need be recorded  
516 or filed.

517 (7) ADDITIONAL POWERS AND DUTIES.--

518 (a) The board may procure reinsurance from reinsurers  
519 acceptable to the Office of Insurance Regulation ~~approved under~~  
520 ~~s. 624.610~~ for the purpose of maximizing the capacity of the  
521 fund.

522 (c) Each fiscal year, the Legislature shall appropriate  
523 from the investment income of the Florida Hurricane Catastrophe  
524 Fund an amount no less than \$10 million and no more than 35  
525 percent of the investment income based upon the most recent  
526 fiscal year-end audited financial statements ~~from the prior~~  
527 ~~fiscal year~~ for the purpose of providing funding for local  
528 governments, state agencies, public and private educational  
529 institutions, and nonprofit organizations to support programs  
530 intended to improve hurricane preparedness, reduce potential  
531 losses in the event of a hurricane, provide research into means  
532 to reduce such losses, educate or inform the public as to means  
533 to reduce hurricane losses, assist the public in determining the  
534 appropriateness of particular upgrades to structures or in the  
535 financing of such upgrades, or protect local infrastructure from  
536 potential damage from a hurricane. Moneys shall first be  
537 available for appropriation under this paragraph in fiscal year



HB 1353

2003

538 1997-1998. Moneys in excess of the \$10 million specified in this  
539 paragraph shall not be available for appropriation under this  
540 paragraph if the State Board of Administration finds that an  
541 appropriation of investment income from the fund would  
542 jeopardize the actuarial soundness of the fund.

543 Section 2. This act shall take effect upon becoming a law.