



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:



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, Engrossed 1

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. All commercial
64 residential excess policies and all deductible buy-back policies
65 that, based on sound actuarial principles, require individual
66 ratemaking shall be excluded by rule if the actuarial soundness
67 of the fund is not jeopardized. For this purpose, the term
68 "excess policy" means a policy that provides insurance
69 protection for large commercial property risks and that provides
70 a layer of coverage above a primary layer insured by another
71 insurer.

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

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

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

84 (3) FLORIDA HURRICANE CATASTROPHE FUND CREATED.--There is
85 created the Florida Hurricane Catastrophe Fund to be
86 administered by the State Board of Administration. Moneys in the
87 fund may not be expended, loaned, or appropriated except to pay
88 obligations of the fund arising out of reimbursement contracts
89 entered into under subsection (4), payment of debt service on



HB 1353, Engrossed 1

2003

90 revenue bonds issued under subsection (6), costs of the
 91 mitigation program under subsection (7), costs of procuring
 92 reinsurance, and costs of administration of the fund. The board
 93 shall invest the moneys in the fund pursuant to ss. 215.44-
 94 215.52. Except as otherwise provided in this section, earnings
 95 from all investments shall be retained in the fund. The board
 96 may employ or contract with such staff and professionals as the
 97 board deems necessary for the administration of the fund. The
 98 board may adopt such rules as are reasonable and necessary to
 99 implement this section and shall specify interest due on any
 100 delinquent remittances which may not exceed the fund's rate of
 101 return, plus 5 percent. Such rules must conform to the
 102 Legislature's specific intent in establishing the fund as
 103 expressed in subsection (1), must enhance the fund's potential
 104 ability to respond to claims for covered events, must contain
 105 general provisions so that the rules can be applied with
 106 reasonable flexibility so as to accommodate insurers in
 107 situations of an unusual nature or where undue hardship may
 108 result, except that such flexibility may not in any way impair,
 109 override, supersede, or constrain the public purpose of the
 110 fund, and must be consistent with sound insurance practices. The
 111 board may, by rule, provide for the exemption from subsections
 112 (4) and (5) of insurers writing covered policies with less than
 113 \$3 million ~~\$500,000~~ in aggregate exposure for covered policies,
 114 which exposure results in a de minimis reimbursement premium, if
 115 the exemption does not affect the actuarial soundness of the
 116 fund.

117 (4) REIMBURSEMENT CONTRACTS.--

118 (c)1. The contract shall also provide that the obligation
 119 of the board with respect to all contracts covering a particular



HB 1353, Engrossed 1

2003

120 contract year shall not exceed the actual claims-paying capacity
121 of the fund up to a limit of \$11 billion for that contract year
122 adjusted based upon the reported exposure from the prior
123 contract year to reflect the percentage growth in exposure to
124 the fund for covered policies since 2002, unless the board
125 determines that there is sufficient estimated claims-paying
126 capacity to provide \$11 billion of capacity for the current
127 contract year and an additional \$11 billion of capacity for
128 subsequent contract years. Upon such determination being made,
129 the estimated claims-paying capacity for the current contract
130 year shall be determined by adding to the \$11 billion limit one-
131 half of the fund's estimated claims-paying capacity in excess of
132 \$22 billion.

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

147 (d)1. For purposes of determining potential liability and
148 to aid in the sound administration of the fund, the contract
149 shall require each insurer to report such insurer's losses from



HB 1353, Engrossed 1

2003

150 each covered event on an interim basis, as directed by the
151 board. The contract shall require the insurer to report to the
152 board no later than December 31 of each year, and quarterly
153 thereafter, its reimbursable losses from covered events for the
154 year. The contract shall require the board to determine and pay,
155 as soon as practicable after receiving these reports of
156 reimbursable losses, the initial amount of reimbursement due and
157 adjustments to this amount based on later loss information. The
158 adjustments to reimbursement amounts shall require the board to
159 pay, or the insurer to return, amounts reflecting the most
160 recent calculation of losses.

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

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

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

177 b. Next pay to each insurer such insurer's projected
178 payout, which is the amount of reimbursement it is owed, up to
179 an amount equal to the insurer's share of the actual premium



HB 1353, Engrossed 1

2003

180 paid for that contract year, multiplied by the actual claims-
181 paying capacity available for that contract year; provided,
182 entities created pursuant to s. 627.351 shall be further
183 reimbursed in accordance with sub-subparagraph c.

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

190 (6) REVENUE BONDS.--

191 (a) General provisions.--

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



HB 1353, Engrossed 1

2003

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

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



239 (b)3- Emergency assessments.-- If the board determines
 240 that the amount of revenue produced under subsection (5) is
 241 insufficient to fund the obligations, costs, and expenses of the
 242 fund and the corporation, including repayment of revenue bonds,
 243 the board shall direct the Office ~~Department~~ of Insurance
 244 Regulation to levy an emergency assessment on each insurer
 245 writing property and casualty business in this state, referred
 246 to in this subsection as an assessable insurer, and on those
 247 insureds procuring one or more lines of property and casualty
 248 business in this state pursuant to part VIII of chapter 626,
 249 referred to in this subsection as assessable insureds.

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

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



269 b. The emergency assessment on each such assessable
 270 insured shall be collected by the surplus lines agent at the
 271 time such agent collects the surplus lines tax required by s.
 272 626.932 and shall be remitted by the agent to the Florida
 273 Surplus Lines Service Office created pursuant to s. 626.921 at
 274 the time the agent pays the surplus lines tax to the Florida
 275 Surplus Lines Service Office. The emergency assessment on each
 276 assessable insured procuring coverage and filing under s.
 277 626.938 shall be remitted by the insured to the Florida Surplus
 278 Lines Service Office at the time the insured pays the surplus
 279 lines tax to the Florida Surplus Lines Service Office. The
 280 emergency assessments collected shall be transferred to the
 281 corporation or to the fund pursuant to subparagraph 5. on a
 282 periodic basis as determined by the board. The Florida Surplus
 283 Lines Service Office shall verify the proper application by
 284 surplus lines agents of the emergency assessments and shall
 285 assist the board in ensuring the accurate, timely collection and
 286 payment of assessments by surplus lines agents as required by
 287 the board. The Florida Surplus Lines Service Office shall
 288 determine annually the aggregate written premium on property and
 289 casualty business, except workers' compensation, procured by
 290 assessable insureds and shall report such information to the
 291 board in a form and at a time specified by the board to ensure
 292 that the fund and the corporation can meet their financing
 293 obligations.

294 3. Any assessment authority not used for the contract year
 295 may be used for a subsequent contract year. If, for a subsequent
 296 contract year, the board determines that the amount of revenue
 297 produced under subsection (5) is insufficient to fund the
 298 obligations, costs, and expenses of the fund and the



HB 1353, Engrossed 1

2003

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

327 4. Any rate filing or portion of a rate filing reflecting
 328 a rate change attributable entirely to the assessment levied



HB 1353, Engrossed 1

2003

329 under this paragraph ~~subparagraph~~ shall be deemed approved when
 330 made, subject to the authority of the Office ~~Department~~ of
 331 Insurance Regulation to require actuarial justification as to
 332 the adequacy of any rate at any time. If the rate filing
 333 reflects only a rate change attributable to the assessment under
 334 this paragraph, the filing may consist of a certification so
 335 stating.

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

349 6. Emergency assessments are not premium and are not
 350 subject to premium or surplus lines tax, fees, or commissions,
 351 however, the failure by an assessable insured to pay an
 352 emergency assessment shall be treated as a failure to pay
 353 premium.

354 (c) ~~(b)~~ Revenue bond issuance through counties or
 355 municipalities.--

356 1. If the board elects to enter into agreements with local
 357 governments for the issuance of revenue bonds for the benefit of
 358 the fund, the board shall enter into such contracts with one or



HB 1353, Engrossed 1

2003

359 more local governments, including agreements providing for the
360 pledge of revenues, as are necessary to effect such issuance.
361 The governing body of a county or municipality is authorized to
362 issue bonds as defined in s. 125.013 or s. 166.101 from time to
363 time to fund an assistance program, in conjunction with the
364 Florida Hurricane Catastrophe Fund, for the purposes set forth
365 in this section or for the purpose of paying the costs of
366 construction, reconstruction, repair, restoration, and other
367 costs associated with damage to properties of policyholders of
368 covered policies due to the occurrence of a hurricane by
369 assuring that policyholders located in this state are able to
370 recover claims under property insurance policies after a covered
371 event.

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

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

386 4. There shall be no liability on the part of, and no
387 cause of action shall arise against any members or employees of



HB 1353, Engrossed 1

2003

388 the governing body of a local government for any actions taken
389 by them in the performance of their duties under this paragraph.

390 (d)~~(e)~~ Florida Hurricane Catastrophe Fund Finance
391 Corporation.--

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

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

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

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

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

415 b. The corporation shall operate under a five-member board
416 of directors consisting of the Governor or a designee, the
417 Comptroller or a designee, the Treasurer or a designee, the



HB 1353, Engrossed 1

2003

418 director of the Division of Bond Finance of the State Board of
419 Administration, and the chief operating officer of the Florida
420 Hurricane Catastrophe Fund.

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

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

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

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

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

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



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

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

465 b. All bonds of the corporation shall be and constitute
466 legal investments without limitation for all public bodies of
467 this state; for all banks, trust companies, savings banks,
468 savings associations, savings and loan associations, and
469 investment companies; for all administrators, executors,
470 trustees, and other fiduciaries; for all insurance companies and
471 associations and other persons carrying on an insurance
472 business; and for all other persons who are now or may hereafter
473 be authorized to invest in bonds or other obligations of the
474 state and shall be and constitute eligible securities to be
475 deposited as collateral for the security of any state, county,
476 municipal, or other public funds. This sub-subparagraph shall be



HB 1353, Engrossed 1

2003

477 considered as additional and supplemental authority and shall
478 not be limited without specific reference to this sub-
479 subparagraph.

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

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

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

499 2. The state hereby covenants with holders of bonds of the
500 corporation that the state will not limit or alter the denial of
501 authority under this paragraph or the rights under this section
502 vested in the fund or the corporation to fulfill the terms of
503 any agreements made with such bondholders or in any way impair
504 the rights and remedies of such bondholders as long as any such
505 bonds remain outstanding unless adequate provision has been made



506 for the payment of such bonds pursuant to the documents
 507 authorizing the issuance of such bonds.

508 3. Notwithstanding any other provision of law, any pledge
 509 of or other security interest in revenue, money, accounts,
 510 contract rights, general intangibles, or other personal property
 511 made or created by the fund or the corporation shall be valid,
 512 binding, and perfected from the time such pledge is made or
 513 other security interest attaches without any physical delivery
 514 of the collateral or further act and the lien of any such pledge
 515 or other security interest shall be valid, binding, and
 516 perfected against all parties having claims of any kind in tort,
 517 contract, or otherwise against the fund or the corporation
 518 irrespective of whether or not such parties have notice of such
 519 claims. No instrument by which such a pledge or security
 520 interest is created nor any financing statement need be recorded
 521 or filed.

522 (7) ADDITIONAL POWERS AND DUTIES.--

523 (a) The board may procure reinsurance from reinsurers
 524 acceptable to the Office of Insurance Regulation ~~approved under~~
 525 ~~s. 624.610~~ for the purpose of maximizing the capacity of the
 526 fund.

527 (c) Each fiscal year, the Legislature shall appropriate
 528 from the investment income of the Florida Hurricane Catastrophe
 529 Fund an amount no less than \$10 million and no more than 35
 530 percent of the investment income based upon the most recent
 531 fiscal year-end audited financial statements ~~from the prior~~
 532 ~~fiscal year~~ for the purpose of providing funding for local
 533 governments, state agencies, public and private educational
 534 institutions, and nonprofit organizations to support programs
 535 intended to improve hurricane preparedness, reduce potential



HB 1353, Engrossed 1

2003

536 losses in the event of a hurricane, provide research into means
537 to reduce such losses, educate or inform the public as to means
538 to reduce hurricane losses, assist the public in determining the
539 appropriateness of particular upgrades to structures or in the
540 financing of such upgrades, or protect local infrastructure from
541 potential damage from a hurricane. Moneys shall first be
542 available for appropriation under this paragraph in fiscal year
543 1997-1998. Moneys in excess of the \$10 million specified in this
544 paragraph shall not be available for appropriation under this
545 paragraph if the State Board of Administration finds that an
546 appropriation of investment income from the fund would
547 jeopardize the actuarial soundness of the fund.

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