

By Senator Posey

24-1370A-03

1                                   A bill to be entitled  
2           An act relating to the Florida Hurricane  
3           Catastrophe Fund; amending s. 215.555, F.S.;  
4           revising the definition of "covered policy";  
5           conforming provisions to the creation of the  
6           Citizens Property Insurance Corporation;  
7           providing definitions; authorizing the State  
8           Board of Administration to adopt rules to  
9           specify interest on past due remittances;  
10          increasing the aggregate exposure of insurers  
11          who may be exempt by rule; revising the maximum  
12          amount for which the board is obligated to  
13          reimburse insurers for a contract year;  
14          authorizing the Office of Insurance Regulation,  
15          rather than the Department of Insurance, to  
16          take certain actions relative to the fund;  
17          providing that emergency assessments are to be  
18          levied against insureds procuring certain types  
19          of insurance from surplus lines insurers;  
20          increasing the maximum assessment that may be  
21          levied against assessable insurers and  
22          assessable insured; requiring that emergency  
23          assessments on assessable insureds be remitted  
24          to the Florida Surplus Lines Service Office;  
25          specifying that emergency assessments are not  
26          premiums subject to taxes, fees, or  
27          commissions; providing that reinsurance  
28          procured by the board must be from reinsurers  
29          acceptable to the Office of Insurance  
30          Regulation; clarifying the fiscal year used to  
31          determine investment income for purposes of

1           calculating the maximum amount that may be  
2           appropriated by the Legislature for mitigation  
3           purposes; providing an effective date.  
4

5 Be It Enacted by the Legislature of the State of Florida:  
6

7           Section 1. Paragraph (c) of subsection (2) of section  
8 215.555, Florida Statutes, is amended, paragraphs (n) and (o)  
9 are added to that subsection, subsection (3), paragraphs (c)  
10 and (d) of subsection (4), subsection (6), and paragraphs (a)  
11 and (c) of subsection (7) of that section are amended, to  
12 read:

13           215.555 Florida Hurricane Catastrophe Fund.--

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

15           (c) "Covered policy" means any insurance policy  
16 covering residential property in this state, including, but  
17 not limited to, any homeowner's, mobile home owner's, farm  
18 owner's, condominium association, condominium unit owner's,  
19 tenant's, or apartment building policy, or any other policy  
20 covering a residential structure or its contents issued by any  
21 authorized insurer, including the Citizens Property Insurance  
22 Corporation and any joint underwriting association or similar  
23 entity created pursuant to law. The term "covered policy"  
24 includes any collateral protection insurance policy covering  
25 personal residences which protects both the borrower's and the  
26 lender's financial interests, in an amount at least equal to  
27 the coverage for the dwelling in place under the lapsed  
28 homeowner's policy, if such policy can be accurately reported  
29 as required in subsection (5). Additionally, covered policies  
30 include policies covering the peril of wind removed from the  
31 Citizens Property Insurance Corporation ~~the Florida~~

1 ~~Residential Property and Casualty Joint Underwriting~~  
2 ~~Association, created pursuant to s. 627.351(6), or from the~~  
3 ~~Florida Windstorm Underwriting Association, created pursuant~~  
4 ~~to s. 627.351(2), by an authorized insurer under the terms and~~  
5 ~~conditions of an executed assumption agreement between the~~  
6 ~~authorized insurer and the Citizens Property Insurance~~  
7 ~~Corporation either such association.~~ Each assumption agreement  
8 between the Citizens Property Insurance Corporation ~~either~~  
9 ~~association~~ and such authorized insurer must be approved by  
10 the Office of Insurance Regulation of the Financial Services  
11 Commission ~~Florida Department of Insurance~~ prior to the  
12 effective date of the assumption, and such office ~~the~~  
13 ~~Department of Insurance~~ must provide written notification to  
14 the board within 15 working days after such approval. "Covered  
15 policy" does not include any policy that excludes wind  
16 coverage or hurricane coverage or any reinsurance agreement  
17 and does not include any policy otherwise meeting this  
18 definition which is issued by a surplus lines insurer or a  
19 reinsurer. Policies that, based on sound actuarial principles,  
20 require individual ratemaking may be excluded by type or  
21 category as covered policies by rule if the actuarial  
22 soundness of the fund is not jeopardized.

23 (n) "Citizens Property Insurance Corporation" means  
24 the entity created pursuant to s. 627.351(6) and includes both  
25 the high-risk account, formerly the Florida Windstorm  
26 Underwriting Association, and the personal lines and  
27 commercial lines account, formerly the Residential Property  
28 and Casualty Joint Underwriting Association.

29 (o) "Corporation" means the Florida Hurricane  
30 Catastrophe Fund Finance Corporation created in paragraph  
31 (6)(d).

1           (3) FLORIDA HURRICANE CATASTROPHE FUND CREATED.--There  
2 is created the Florida Hurricane Catastrophe Fund to be  
3 administered by the State Board of Administration. Moneys in  
4 the fund may not be expended, loaned, or appropriated except  
5 to pay obligations of the fund arising out of reimbursement  
6 contracts entered into under subsection (4), payment of debt  
7 service on revenue bonds issued under subsection (6), costs of  
8 the mitigation program under subsection (7), costs of  
9 procuring reinsurance, and costs of administration of the  
10 fund. The board shall invest the moneys in the fund pursuant  
11 to ss. 215.44-215.52. Except as otherwise provided in this  
12 section, earnings from all investments shall be retained in  
13 the fund. The board may employ or contract with such staff and  
14 professionals as the board deems necessary for the  
15 administration of the fund. The board may adopt such rules as  
16 are reasonable and necessary to implement this section and may  
17 specify interest due on any delinquent remittances. Such rules  
18 must conform to the Legislature's specific intent in  
19 establishing the fund as expressed in subsection (1), must  
20 enhance the fund's potential ability to respond to claims for  
21 covered events, must contain general provisions so that the  
22 rules can be applied with reasonable flexibility so as to  
23 accommodate insurers in situations of an unusual nature or  
24 where undue hardship may result, except that such flexibility  
25 may not in any way impair, override, supersede, or constrain  
26 the public purpose of the fund, and must be consistent with  
27 sound insurance practices. The board may, by rule, provide for  
28 the exemption from subsections (4) and (5) of insurers writing  
29 covered policies with less than \$3 million~~\$500,000~~ in  
30 aggregate exposure for covered policies, which exposure  
31

1 results in a de minimis reimbursement premium, if the  
2 exemption does not affect the actuarial soundness of the fund.

3 (4) REIMBURSEMENT CONTRACTS.--

4 (c)1. The contract shall also provide that the  
5 obligation of the board with respect to all contracts covering  
6 a particular contract year shall not exceed the actual  
7 claims-paying capacity of the fund up to a limit of \$11  
8 billion for that contract year, adjusted based on the reported  
9 exposure from the prior contract year to reflect the  
10 percentage growth in exposure of the fund for covered policies  
11 since 2002 unless the board determines that there is  
12 sufficient estimated claims-paying capacity to provide \$11  
13 billion of capacity for the current contract year and an  
14 additional \$11 billion of capacity for subsequent contract  
15 years. Upon such determination being made, the estimated  
16 claims-paying capacity for the current contract year shall be  
17 determined by adding to the \$11 billion limit one-half of the  
18 fund's estimated claims-paying capacity in excess of \$22  
19 billion.

20 2. The contract shall require the board to annually  
21 notify insurers of the fund's estimated borrowing capacity for  
22 the next contract year, the projected year-end balance of the  
23 fund, and the insurer's estimated share of total reimbursement  
24 premium to be paid to the fund. For all regulatory and  
25 reinsurance purposes, an insurer may calculate its projected  
26 payout from the fund as its share of the total fund premium  
27 for the current contract year multiplied by the sum of the  
28 projected year-end fund balance and the estimated borrowing  
29 capacity for that contract year as reported under this  
30 paragraph. In May and October of each year, the board shall  
31 publish in the Florida Administrative Weekly a statement of

1 the fund's estimated borrowing capacity and the projected  
2 year-end balance of the fund for the current contract year.

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

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

20 a. First reimburse insurers writing covered policies,  
21 which insurers are in full compliance with this section and  
22 have petitioned the Office of Insurance Regulation ~~Department~~  
23 ~~of Insurance~~ and qualified as limited apportionment companies  
24 under s. 627.351(2)(b)3. The amount of such reimbursement  
25 shall be the lesser of \$10 million or an amount equal to 10  
26 times the insurer's reimbursement premium for the current  
27 year. The amount of reimbursement paid under this  
28 sub-subparagraph may not exceed the full amount of  
29 reimbursement promised in the reimbursement contract. This  
30 sub-subparagraph does not apply with respect to any contract  
31 year in which the year-end projected cash balance of the fund,

1 exclusive of any bonding capacity of the fund, exceeds \$2  
2 billion. Only one member of any insurer group may receive  
3 reimbursement under this sub-subparagraph.

4           b. Next pay to each insurer such insurer's projected  
5 payout, which is the amount of reimbursement it is owed, up to  
6 an amount equal to the insurer's share of the actual premium  
7 paid for that contract year, multiplied by the actual  
8 claims-paying capacity available for that contract year;  
9 provided, entities created pursuant to s. 627.351 shall be  
10 further reimbursed in accordance with sub-subparagraph c.

11           c. Thereafter, establish, based on reimbursable  
12 losses, the prorated reimbursement level at the highest level  
13 for which any remaining fund balance or bond proceeds are  
14 sufficient to reimburse entities created pursuant to s.  
15 627.351 for losses exceeding the amounts payable pursuant to  
16 sub-subparagraph b. for the current contract year.

17           (6) REVENUE BONDS.--

18           (a) General provisions.--

19           1. Upon the occurrence of a hurricane and a  
20 determination that the moneys in the fund are or will be  
21 insufficient to pay reimbursement at the levels promised in  
22 the reimbursement contracts, the board may take the necessary  
23 steps under ~~paragraph (b) or~~ paragraph (c) or paragraph (d)  
24 for the issuance of revenue bonds for the benefit of the fund.  
25 The proceeds of such revenue bonds may be used to make  
26 reimbursement payments under reimbursement contracts; to  
27 refinance or replace previously existing borrowings or  
28 financial arrangements; to pay interest on bonds; to fund  
29 reserves for the bonds; to pay expenses incident to the  
30 issuance or sale of any bond issued under this section,  
31 including costs of validating, printing, and delivering the

1 | bonds, costs of printing the official statement, costs of  
2 | publishing notices of sale of the bonds, and related  
3 | administrative expenses; or for such other purposes related to  
4 | the financial obligations of the fund as the board may  
5 | determine. The term of the bonds may not exceed 30 years. The  
6 | board may pledge or authorize the corporation to pledge all or  
7 | a portion of all revenues under subsection (5) and under  
8 | paragraph (b)~~subparagraph 3~~ to secure such revenue bonds and  
9 | the board may execute such agreements between the board and  
10 | the issuer of any revenue bonds and providers of other  
11 | financing arrangements under paragraph (7)(b) as the board  
12 | deems necessary to evidence, secure, preserve, and protect  
13 | such pledge. If reimbursement premiums received under  
14 | subsection (5) or earnings on such premiums are used to pay  
15 | debt service on revenue bonds, such premiums and earnings  
16 | shall be used only after the use of the moneys derived from  
17 | assessments under paragraph (b)~~subparagraph 3~~. The funds,  
18 | credit, property, or taxing power of the state or political  
19 | subdivisions of the state shall not be pledged for the payment  
20 | of such bonds. The board may also enter into agreements under  
21 | ~~paragraph (b) or paragraph (c)~~ or paragraph (d) for the  
22 | purpose of issuing revenue bonds in the absence of a hurricane  
23 | upon a determination that such action would maximize the  
24 | ability of the fund to meet future obligations.

25 |         2. The Legislature finds and declares that the  
26 | issuance of bonds under this subsection is for the public  
27 | purpose of paying the proceeds of the bonds to insurers,  
28 | thereby enabling insurers to pay the claims of policyholders  
29 | to assure that policyholders are able to pay the cost of  
30 | construction, reconstruction, repair, restoration, and other  
31 | costs associated with damage to property of policyholders of



1 covered policies after the occurrence of a hurricane. Revenue  
2 bonds may not be issued under this subsection until validated  
3 under chapter 75. The validation of at least the first  
4 obligations incurred pursuant to this subsection shall be  
5 appealed to the Supreme Court, to be handled on an expedited  
6 basis.

7 (b)3. Emergency Assessments.--If the board determines  
8 that the amount of revenue produced under subsection (5) is  
9 insufficient to fund the obligations, costs, and expenses of  
10 the fund and the corporation, including repayment of revenue  
11 bonds, the board shall direct the Office of Insurance  
12 Regulation ~~Department of Insurance~~ to levy an emergency  
13 assessment on each insurer writing property and casualty  
14 business in this state, referred to in this section as an  
15 "assessable insurer" and on those insureds procuring one or  
16 more lines of property and casualty business in this state  
17 pursuant to part VII of chapter 626, referred to in this  
18 section as an "assessable insured."

19 1. Pursuant to the emergency assessment, each such  
20 assessable insurer shall pay to the corporation by July 1 of  
21 each year an amount set by the board not exceeding 3 ~~2~~ percent  
22 of its gross direct written premium for the prior year from  
23 all property and casualty business in this state except for  
24 workers' compensation, except that, if the Governor has  
25 declared a state of emergency under s. 252.36 due to the  
26 occurrence of a covered event, the amount of the assessment  
27 for the contract year may be increased to an amount not  
28 exceeding 5 ~~4~~ percent of such premium.

29 2.a. Pursuant to the emergency assessment, each  
30 assessable insured shall pay an amount set by the board not  
31 exceeding 3 percent of the gross written premium each year for

1 all property and casualty business procured in this state,  
2 except for workers' compensation. However, if the Governor has  
3 declared a state of emergency under s. 252.36 due to the  
4 occurrence of a covered event, the amount of the assessment  
5 for the contract year may be increased to an amount not  
6 exceeding 5 percent of such premium.

7 b. The emergency assessment on each assessable insured  
8 shall be collected by the surplus lines agent at the time the  
9 agent collects the surplus lines tax required by s. 626.932  
10 and shall be remitted to the Florida Surplus Lines Service  
11 Office, created pursuant to s. 626.921, at the time the  
12 surplus lines agent pays the surplus lines tax to the Florida  
13 Surplus Lines Service Office. The emergency assessment on each  
14 assessable insured procuring coverage and filing under s.  
15 626.938 shall be remitted to the Florida Surplus Lines Service  
16 Office, at the time the insured pays the surplus lines tax to  
17 the Florida Surplus Lines Service Office. The emergency  
18 assessments shall be transferred to the corporation or to the  
19 fund pursuant to subparagraph 5. on a periodic basis as  
20 determined by the board. The Florida Surplus Lines Service  
21 Office shall verify the proper application by surplus lines  
22 agents of the emergency assessments and shall assist the board  
23 in ensuring the accurate, timely collection and payment of  
24 assessments by surplus lines agents as required by the board.  
25 The Florida Surplus Lines Service Office shall determine  
26 annually the aggregate written premium on property and  
27 casualty business, except workers compensation, procured by  
28 assessable insureds and shall report that information to the  
29 board in a form and at a time specified by it to ensure that  
30 the fund and the corporation can meet their financing  
31 obligations.

1           3. Any assessment authority not used for the contract  
2 year may be used for a subsequent contract year. If, for a  
3 subsequent contract year, the board determines that the amount  
4 of revenue produced under subsection (5) is insufficient to  
5 fund the obligations, costs, and expenses of the fund and the  
6 corporation, including repayment of revenue bonds for that  
7 contract year, the board shall direct the Office of Insurance  
8 Regulation ~~Department of Insurance~~ to levy an emergency  
9 assessment up to an amount not exceeding the amount of unused  
10 assessment authority from a previous contract year or years,  
11 plus an additional 3 ~~2~~ percent if the Governor has declared a  
12 state of emergency under s. 252.36 due to the occurrence of a  
13 covered event. Any assessment authority not used for the  
14 contract year may be used for a subsequent contract year. As  
15 used in this subsection, the term "property and casualty  
16 business" includes all lines of business identified on Form 2,  
17 Exhibit of Premiums and Losses, in the annual statement  
18 required of authorized insurers by s. 624.424 and any rules  
19 adopted under such section, except for those lines identified  
20 as accident and health insurance. The annual assessments under  
21 this subparagraph shall continue as long as the revenue bonds  
22 issued with respect to which the assessment was imposed are  
23 outstanding, unless adequate provision has been made for the  
24 payment of such bonds pursuant to the documents authorizing  
25 issuance of the bonds. An assessable insurer or assessable  
26 insured shall not at any time be subject to aggregate annual  
27 assessments under this subparagraph of more than 3 ~~2~~ percent  
28 of premium, except that in the case of a declared emergency,  
29 an assessable insurer or assessable insured shall not at any  
30 time be subject to aggregate annual assessments under this  
31 subparagraph of more than 8 ~~6~~ percent of premium; provided, no

1 more than 5 ~~4~~ percent may be assessed for obligations arising  
2 due to losses in any one contract year.

3 4. Any rate filing or portion of a rate filing  
4 reflecting a rate change attributable entirely to the  
5 assessment levied under this subparagraph shall be deemed  
6 approved when made, subject to the authority of the Office of  
7 Insurance Regulation ~~Department of Insurance~~ to require  
8 actuarial justification as to the adequacy of any rate at any  
9 time. If the rate filing reflects only a rate change  
10 attributable to the assessment under this paragraph, the  
11 filing may consist of a certification so stating.

12 5. The assessments otherwise payable to the  
13 corporation pursuant to this paragraph ~~subparagraph~~ shall be  
14 paid instead to the fund unless and until the Office of  
15 Insurance Regulation and the Florida Surplus Lines Service  
16 Office have ~~Department of Insurance has~~ received from the  
17 corporation and the fund a notice, which shall be conclusive  
18 and upon which they ~~the Department of Insurance~~ may rely  
19 without further inquiry, that the corporation has issued bonds  
20 and the fund has no agreements in effect with local  
21 governments pursuant to paragraph (c)~~paragraph (b)~~. On or  
22 after the date of such notice and until such date as the  
23 corporation has no bonds outstanding, the fund shall have no  
24 right, title, or interest in or to the assessments, except as  
25 provided in the fund's agreements with the corporation.

26 6. Emergency assessments are not premium and are not  
27 subject to premium tax or surplus lines tax, fees, or  
28 commissions; however, the failure by an assessable insured to  
29 pay an emergency assessment shall be treated as a failure to  
30 pay premium.

31

1            (c)~~(b)~~ Revenue bond issuance through counties or  
2 municipalities.--

3            1. If the board elects to enter into agreements with  
4 local governments for the issuance of revenue bonds for the  
5 benefit of the fund, the board shall enter into such contracts  
6 with one or more local governments, including agreements  
7 providing for the pledge of revenues, as are necessary to  
8 effect such issuance. The governing body of a county or  
9 municipality is authorized to issue bonds as defined in s.  
10 125.013 or s. 166.101 from time to time to fund an assistance  
11 program, in conjunction with the Florida Hurricane Catastrophe  
12 Fund, for the purposes set forth in this section or for the  
13 purpose of paying the costs of construction, reconstruction,  
14 repair, restoration, and other costs associated with damage to  
15 properties of policyholders of covered policies due to the  
16 occurrence of a hurricane by assuring that policyholders  
17 located in this state are able to recover claims under  
18 property insurance policies after a covered event.

19            2. In order to avoid needless and indiscriminate  
20 proliferation, duplication, and fragmentation of such  
21 assistance programs, any local government may provide for the  
22 payment of fund reimbursements, regardless of whether or not  
23 the losses for which reimbursement is made occurred within or  
24 outside of the territorial jurisdiction of the local  
25 government.

26            3. The state hereby covenants with holders of bonds  
27 issued under this paragraph that the state will not repeal or  
28 abrogate the power of the board to direct the Office of  
29 Insurance Regulation ~~Department of Insurance~~ to levy the  
30 assessments and to collect the proceeds of the revenues  
31 pledged to the payment of such bonds as long as any such bonds

1 remain outstanding unless adequate provision has been made for  
2 the payment of such bonds pursuant to the documents  
3 authorizing the issuance of such bonds.

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

9           (d)~~(c)~~ Florida Hurricane Catastrophe Fund Finance  
10 Corporation.--

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

13           a. The public benefits corporation created under this  
14 paragraph will provide a mechanism necessary for the  
15 cost-effective and efficient issuance of bonds. This mechanism  
16 will eliminate unnecessary costs in the bond issuance process,  
17 thereby increasing the amounts available to pay reimbursement  
18 for losses to property sustained as a result of hurricane  
19 damage.

20           b. The purpose of such bonds is to fund reimbursements  
21 through the Florida Hurricane Catastrophe Fund to pay for the  
22 costs of construction, reconstruction, repair, restoration,  
23 and other costs associated with damage to properties of  
24 policyholders of covered policies due to the occurrence of a  
25 hurricane.

26           c. The efficacy of the financing mechanism will be  
27 enhanced by the corporation's ownership of the assessments, by  
28 the insulation of the assessments from possible bankruptcy  
29 proceedings, and by covenants of the state with the  
30 corporation's bondholders.

31

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

4           b. The corporation shall operate under a five-member  
5 board of directors consisting of the Governor or a designee,  
6 the Comptroller or a designee, the Treasurer or a designee,  
7 the director of the Division of Bond Finance of the State  
8 Board of Administration, and the chief operating officer of  
9 the Florida Hurricane Catastrophe Fund.

10          c. The corporation has all of the powers of  
11 corporations under chapter 607 and under chapter 617, subject  
12 only to the provisions of this subsection.

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

16          e. The corporation may invest in any of the  
17 investments authorized under s. 215.47.

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

22          3.a. In actions under chapter 75 to validate any bonds  
23 issued by the corporation, the notice required by s. 75.06  
24 shall be published only in Leon County and in two newspapers  
25 of general circulation in the state, and the complaint and  
26 order of the court shall be served only on the State Attorney  
27 of the Second Judicial Circuit.

28          b. The state hereby covenants with holders of bonds of  
29 the corporation that the state will not repeal or abrogate the  
30 power of the board to direct the Office of Insurance  
31 Regulation ~~Department of Insurance~~ to levy the assessments and

1 to collect the proceeds of the revenues pledged to the payment  
2 of such bonds as long as any such bonds remain outstanding  
3 unless adequate provision has been made for the payment of  
4 such bonds pursuant to the documents authorizing the issuance  
5 of such bonds.

6 4. The bonds of the corporation are not a debt of the  
7 state or of any political subdivision, and neither the state  
8 nor any political subdivision is liable on such bonds. The  
9 corporation does not have the power to pledge the credit, the  
10 revenues, or the taxing power of the state or of any political  
11 subdivision. The credit, revenues, or taxing power of the  
12 state or of any political subdivision shall not be deemed to  
13 be pledged to the payment of any bonds of the corporation.

14 5.a. The property, revenues, and other assets of the  
15 corporation; the transactions and operations of the  
16 corporation and the income from such transactions and  
17 operations; and all bonds issued under this paragraph and  
18 interest on such bonds are exempt from taxation by the state  
19 and any political subdivision, including the intangibles tax  
20 under chapter 199 and the income tax under chapter 220. This  
21 exemption does not apply to any tax imposed by chapter 220 on  
22 interest, income, or profits on debt obligations owned by  
23 corporations other than the Florida Hurricane Catastrophe Fund  
24 Finance Corporation.

25 b. All bonds of the corporation shall be and  
26 constitute legal investments without limitation for all public  
27 bodies of this state; for all banks, trust companies, savings  
28 banks, savings associations, savings and loan associations,  
29 and investment companies; for all administrators, executors,  
30 trustees, and other fiduciaries; for all insurance companies  
31 and associations and other persons carrying on an insurance



1 business; and for all other persons who are now or may  
2 hereafter be authorized to invest in bonds or other  
3 obligations of the state and shall be and constitute eligible  
4 securities to be deposited as collateral for the security of  
5 any state, county, municipal, or other public funds. This  
6 sub-subparagraph shall be considered as additional and  
7 supplemental authority and shall not be limited without  
8 specific reference to this sub-subparagraph.

9           6. The corporation and its corporate existence shall  
10 continue until terminated by law; however, no such law shall  
11 take effect as long as the corporation has bonds outstanding  
12 unless adequate provision has been made for the payment of  
13 such bonds pursuant to the documents authorizing the issuance  
14 of such bonds. Upon termination of the existence of the  
15 corporation, all of its rights and properties in excess of its  
16 obligations shall pass to and be vested in the state.

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

18           1. As long as the corporation has any bonds  
19 outstanding, neither the fund nor the corporation shall have  
20 the authority to file a voluntary petition under chapter 9 of  
21 the federal Bankruptcy Code or such corresponding chapter or  
22 sections as may be in effect, from time to time, and neither  
23 any public officer nor any organization, entity, or other  
24 person shall authorize the fund or the corporation to be or  
25 become a debtor under chapter 9 of the federal Bankruptcy Code  
26 or such corresponding chapter or sections as may be in effect,  
27 from time to time, during any such period.

28           2. The state hereby covenants with holders of bonds of  
29 the corporation that the state will not limit or alter the  
30 denial of authority under this paragraph or the rights under  
31 this section vested in the fund or the corporation to fulfill

1 the terms of any agreements made with such bondholders or in  
2 any way impair the rights and remedies of such bondholders as  
3 long as any such bonds remain outstanding unless adequate  
4 provision has been made for the payment of such bonds pursuant  
5 to the documents authorizing the issuance of such bonds.

6 3. Notwithstanding any other provision of law, any  
7 pledge of or other security interest in revenue, money,  
8 accounts, contract rights, general intangibles, or other  
9 personal property made or created by the fund or the  
10 corporation shall be valid, binding, and perfected from the  
11 time such pledge is made or other security interest attaches  
12 without any physical delivery of the collateral or further act  
13 and the lien of any such pledge or other security interest  
14 shall be valid, binding, and perfected against all parties  
15 having claims of any kind in tort, contract, or otherwise  
16 against the fund or the corporation irrespective of whether or  
17 not such parties have notice of such claims. No instrument by  
18 which such a pledge or security interest is created nor any  
19 financing statement need be recorded or filed.

20 (7) ADDITIONAL POWERS AND DUTIES.--

21 (a) The board may procure reinsurance from reinsurers  
22 acceptable to the Office of Insurance Regulation approved  
23 ~~under s. 624.610~~ for the purpose of maximizing the capacity of  
24 the fund.

25 (c) Each fiscal year, the Legislature shall  
26 appropriate from the investment income of the Florida  
27 Hurricane Catastrophe Fund an amount no less than \$10 million  
28 and no more than 35 percent of the investment income, based on  
29 the most recent fiscal year-end audited financial statements,  
30 ~~from the prior fiscal year~~ for the purpose of providing  
31 funding for local governments, state agencies, public and

1 private educational institutions, and nonprofit organizations  
2 to support programs intended to improve hurricane  
3 preparedness, reduce potential losses in the event of a  
4 hurricane, provide research into means to reduce such losses,  
5 educate or inform the public as to means to reduce hurricane  
6 losses, assist the public in determining the appropriateness  
7 of particular upgrades to structures or in the financing of  
8 such upgrades, or protect local infrastructure from potential  
9 damage from a hurricane. Moneys shall first be available for  
10 appropriation under this paragraph in fiscal year 1997-1998.  
11 Moneys in excess of the \$10 million specified in this  
12 paragraph shall not be available for appropriation under this  
13 paragraph if the State Board of Administration finds that an  
14 appropriation of investment income from the fund would  
15 jeopardize the actuarial soundness of the fund.

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

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20 SENATE SUMMARY

21 Revises provisions relating to the Florida Hurricane  
22 Catastrophe Fund. Revises definitions to conform.  
23 Provides for emergency assessments to be levied against  
insureds procuring certain types of insurance. (See bills  
for details.)

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