

By the Committee on Banking and Insurance; and Senator Posey

311-2184-03

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:
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7 Section 1. Paragraphs (c) and (k) of subsection (2) of
8 section 215.555, Florida Statutes, are amended, paragraphs (n)
9 and (o) are added to that subsection, subsection (3),
10 paragraphs (c) and (d) of subsection (4), subsection (6), and
11 paragraphs (a) and (c) of subsection (7) of that section are
12 amended, to 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 (k) "Pledged revenues" means all or any portion of
24 revenues to be derived from reimbursement premiums under
25 subsection (5) or from assessments under paragraph (6)(b)
26 ~~subparagraph (6)(a)3.~~, as determined by the board.

27 (n) "Citizens Property Insurance Corporation" means
28 the entity created pursuant to s. 627.351(6) and includes both
29 the high-risk account, formerly the Florida Windstorm
30 Underwriting Association, and the personal lines and
31

1 commercial lines account, formerly the Residential Property
2 and Casualty Joint Underwriting Association.

3 (o) "Corporation" means the Florida Hurricane
4 Catastrophe Fund Finance Corporation created in paragraph
5 (6)(d).

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

1 sound insurance practices. The board may, by rule, provide for
2 the exemption from subsections (4) and (5) of insurers writing
3 covered policies with less than \$3 million~~\$500,000~~ in
4 aggregate exposure for covered policies, which exposure
5 results in a de minimis reimbursement premium, if the
6 exemption does not affect the actuarial soundness of the fund.

7 (4) REIMBURSEMENT CONTRACTS.--

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

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

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

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

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

24 a. First reimburse insurers writing covered policies,
25 which insurers are in full compliance with this section and
26 have petitioned the Office of Insurance Regulation ~~Department~~
27 ~~of Insurance~~ and qualified as limited apportionment companies
28 under s. 627.351(2)(b)3. The amount of such reimbursement
29 shall be the lesser of \$10 million or an amount equal to 10
30 times the insurer's reimbursement premium for the current
31 year. The amount of reimbursement paid under this

1 sub-subparagraph may not exceed the full amount of
2 reimbursement promised in the reimbursement contract. This
3 sub-subparagraph does not apply with respect to any contract
4 year in which the year-end projected cash balance of the fund,
5 exclusive of any bonding capacity of the fund, exceeds \$2
6 billion. Only one member of any insurer group may receive
7 reimbursement under this sub-subparagraph.

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

15 c. Thereafter, establish, based on reimbursable
16 losses, the prorated reimbursement level at the highest level
17 for which any remaining fund balance or bond proceeds are
18 sufficient to reimburse entities created pursuant to s.
19 627.351 for losses exceeding the amounts payable pursuant to
20 sub-subparagraph b. for the current contract year.

21 (6) REVENUE BONDS.--

22 (a) General provisions.--

23 1. Upon the occurrence of a hurricane and a
24 determination that the moneys in the fund are or will be
25 insufficient to pay reimbursement at the levels promised in
26 the reimbursement contracts, the board may take the necessary
27 steps under ~~paragraph (b) or~~ paragraph (c) or paragraph (d)
28 for the issuance of revenue bonds for the benefit of the fund.
29 The proceeds of such revenue bonds may be used to make
30 reimbursement payments under reimbursement contracts; to
31 refinance or replace previously existing borrowings or

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

29 2. The Legislature finds and declares that the
30 issuance of bonds under this subsection is for the public
31 purpose of paying the proceeds of the bonds to insurers,

1 thereby enabling insurers to pay the claims of policyholders
2 to assure that policyholders are able to pay the cost of
3 construction, reconstruction, repair, restoration, and other
4 costs associated with damage to property of policyholders of
5 covered policies after the occurrence of a hurricane. Revenue
6 bonds may not be issued under this subsection until validated
7 under chapter 75. The validation of at least the first
8 obligations incurred pursuant to this subsection shall be
9 appealed to the Supreme Court, to be handled on an expedited
10 basis.

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

23 1. Pursuant to the emergency assessment, each such
24 assessable insurer shall pay to the corporation by July 1 of
25 each year an amount set by the board not exceeding 3 ~~2~~ percent
26 of its gross direct written premium for the prior year from
27 all property and casualty business in this state except for
28 workers' compensation, except that, if the Governor has
29 declared a state of emergency under s. 252.36 due to the
30 occurrence of a covered event, the amount of the assessment
31

1 for the contract year may be increased to an amount not
2 exceeding 5 ~~4~~ percent of such premium.

3 2.a. Pursuant to the emergency assessment, each
4 assessable insured shall pay an amount set by the board not
5 exceeding 3 percent of the gross written premium each year for
6 all property and casualty business procured in this state,
7 except for workers' compensation. However, if the Governor has
8 declared a state of emergency under s. 252.36 due to the
9 occurrence of a covered event, the amount of the assessment
10 for the contract year may be increased to an amount not
11 exceeding 5 percent of such premium.

12 b. The emergency assessment on each assessable insured
13 shall be collected by the surplus lines agent at the time the
14 agent collects the surplus lines tax required by s. 626.932
15 and shall be remitted to the Florida Surplus Lines Service
16 Office, created pursuant to s. 626.921, at the time the
17 surplus lines agent pays the surplus lines tax to the Florida
18 Surplus Lines Service Office. The emergency assessment on each
19 assessable insured procuring coverage and filing under s.
20 626.938 shall be remitted to the Florida Surplus Lines Service
21 Office, at the time the insured pays the surplus lines tax to
22 the Florida Surplus Lines Service Office. The emergency
23 assessments shall be transferred to the corporation or to the
24 fund pursuant to subparagraph 5. on a periodic basis as
25 determined by the board. The Florida Surplus Lines Service
26 Office shall verify the proper application by surplus lines
27 agents of the emergency assessments and shall assist the board
28 in ensuring the accurate, timely collection and payment of
29 assessments by surplus lines agents as required by the board.
30 The Florida Surplus Lines Service Office shall determine
31 annually the aggregate written premium on property and

1 casualty business, except workers compensation, procured by
2 assessable insureds and shall report that information to the
3 board in a form and at a time specified by it to ensure that
4 the fund and the corporation can meet their financing
5 obligations.

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

1 assessments under this subparagraph of more than 3 ~~2~~ percent
2 of premium, except that in the case of a declared emergency,
3 an assessable insurer or assessable insured shall not at any
4 time be subject to aggregate annual assessments under this
5 subparagraph of more than 8 ~~6~~ percent of premium; provided, no
6 more than 5 ~~4~~ percent may be assessed for obligations arising
7 due to losses in any one contract year.

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

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

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1 6. Emergency assessments are not premium and are not
2 subject to premium tax or surplus lines tax, fees, or
3 commissions; however, the failure by an assessable insured to
4 pay an emergency assessment shall be treated as a failure to
5 pay premium.

6 ~~(c)(b)~~ Revenue bond issuance through counties or
7 municipalities.--

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

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

31

1 3. The state hereby covenants with holders of bonds
2 issued under this paragraph that the state will not repeal or
3 abrogate the power of the board to direct the Office of
4 Insurance Regulation ~~Department of Insurance~~ to levy the
5 assessments and to collect the proceeds of the revenues
6 pledged to the payment of such bonds as long as any such bonds
7 remain outstanding unless adequate provision has been made for
8 the payment of such bonds pursuant to the documents
9 authorizing the issuance of such bonds.

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

15 (d)~~(c)~~ Florida Hurricane Catastrophe Fund Finance
16 Corporation.--

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

19 a. The public benefits corporation created under this
20 paragraph will provide a mechanism necessary for the
21 cost-effective and efficient issuance of bonds. This mechanism
22 will eliminate unnecessary costs in the bond issuance process,
23 thereby increasing the amounts available to pay reimbursement
24 for losses to property sustained as a result of hurricane
25 damage.

26 b. The purpose of such bonds is to fund reimbursements
27 through the Florida Hurricane Catastrophe Fund to pay for the
28 costs of construction, reconstruction, repair, restoration,
29 and other costs associated with damage to properties of
30 policyholders of covered policies due to the occurrence of a
31 hurricane.

1 c. The efficacy of the financing mechanism will be
2 enhanced by the corporation's ownership of the assessments, by
3 the insulation of the assessments from possible bankruptcy
4 proceedings, and by covenants of the state with the
5 corporation's bondholders.

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

9 b. The corporation shall operate under a five-member
10 board of directors consisting of the Governor or a designee,
11 the Comptroller or a designee, the Treasurer or a designee,
12 the director of the Division of Bond Finance of the State
13 Board of Administration, and the chief operating officer of
14 the Florida Hurricane Catastrophe Fund.

15 c. The corporation has all of the powers of
16 corporations under chapter 607 and under chapter 617, subject
17 only to the provisions of this subsection.

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

21 e. The corporation may invest in any of the
22 investments authorized under s. 215.47.

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

27 3.a. In actions under chapter 75 to validate any bonds
28 issued by the corporation, the notice required by s. 75.06
29 shall be published only in Leon County and in two newspapers
30 of general circulation in the state, and the complaint and
31

1 order of the court shall be served only on the State Attorney
2 of the Second Judicial Circuit.

3 b. The state hereby covenants with holders of bonds of
4 the corporation that the state will not repeal or abrogate the
5 power of the board to direct the Office of Insurance
6 Regulation ~~Department of Insurance~~ to levy the assessments and
7 to collect the proceeds of the revenues pledged to the payment
8 of such bonds as long as any such bonds remain outstanding
9 unless adequate provision has been made for the payment of
10 such bonds pursuant to the documents authorizing the issuance
11 of such bonds.

12 4. The bonds of the corporation are not a debt of the
13 state or of any political subdivision, and neither the state
14 nor any political subdivision is liable on such bonds. The
15 corporation does not have the power to pledge the credit, the
16 revenues, or the taxing power of the state or of any political
17 subdivision. The credit, revenues, or taxing power of the
18 state or of any political subdivision shall not be deemed to
19 be pledged to the payment of any bonds of the corporation.

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

31

1 b. All bonds of the corporation shall be and
2 constitute legal investments without limitation for all public
3 bodies of this state; for all banks, trust companies, savings
4 banks, savings associations, savings and loan associations,
5 and investment companies; for all administrators, executors,
6 trustees, and other fiduciaries; for all insurance companies
7 and associations and other persons carrying on an insurance
8 business; and for all other persons who are now or may
9 hereafter be authorized to invest in bonds or other
10 obligations of the state and shall be and constitute eligible
11 securities to be deposited as collateral for the security of
12 any state, county, municipal, or other public funds. This
13 sub-subparagraph shall be considered as additional and
14 supplemental authority and shall not be limited without
15 specific reference to this sub-subparagraph.

16 6. The corporation and its corporate existence shall
17 continue until terminated by law; however, no such law shall
18 take effect as long as the corporation has bonds outstanding
19 unless adequate provision has been made for the payment of
20 such bonds pursuant to the documents authorizing the issuance
21 of such bonds. Upon termination of the existence of the
22 corporation, all of its rights and properties in excess of its
23 obligations shall pass to and be vested in the state.

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

25 1. As long as the corporation has any bonds
26 outstanding, neither the fund nor the corporation shall have
27 the authority to file a voluntary petition under chapter 9 of
28 the federal Bankruptcy Code or such corresponding chapter or
29 sections as may be in effect, from time to time, and neither
30 any public officer nor any organization, entity, or other
31 person shall authorize the fund or the corporation to be or

1 become a debtor under chapter 9 of the federal Bankruptcy Code
2 or such corresponding chapter or sections as may be in effect,
3 from time to time, during any such period.

4 2. The state hereby covenants with holders of bonds of
5 the corporation that the state will not limit or alter the
6 denial of authority under this paragraph or the rights under
7 this section vested in the fund or the corporation to fulfill
8 the terms of any agreements made with such bondholders or in
9 any way impair the rights and remedies of such bondholders as
10 long as any such bonds remain outstanding unless adequate
11 provision has been made for the payment of such bonds pursuant
12 to the documents authorizing the issuance of such bonds.

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

27 (7) ADDITIONAL POWERS AND DUTIES.--

28 (a) The board may procure reinsurance from reinsurers
29 acceptable to the Office of Insurance Regulation approved
30 ~~under s. 624.610~~ for the purpose of maximizing the capacity of
31 the fund.

1 (c) Each fiscal year, the Legislature shall
2 appropriate from the investment income of the Florida
3 Hurricane Catastrophe Fund an amount no less than \$10 million
4 and no more than 35 percent of the investment income, based on
5 the most recent fiscal year-end audited financial statements,
6 ~~from the prior fiscal year~~ for the purpose of providing
7 funding for local governments, state agencies, public and
8 private educational institutions, and nonprofit organizations
9 to support programs intended to improve hurricane
10 preparedness, reduce potential losses in the event of a
11 hurricane, provide research into means to reduce such losses,
12 educate or inform the public as to means to reduce hurricane
13 losses, assist the public in determining the appropriateness
14 of particular upgrades to structures or in the financing of
15 such upgrades, or protect local infrastructure from potential
16 damage from a hurricane. Moneys shall first be available for
17 appropriation under this paragraph in fiscal year 1997-1998.
18 Moneys in excess of the \$10 million specified in this
19 paragraph shall not be available for appropriation under this
20 paragraph if the State Board of Administration finds that an
21 appropriation of investment income from the fund would
22 jeopardize the actuarial soundness of the fund.

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

25
26 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
27 COMMITTEE SUBSTITUTE FOR
28 Senate Bill 2556

29 The committee substitute corrects technical errors and
30 statutory cross-references.

31