



HB 0017D

2003

1 A bill to be entitled

2 An act relating to the Florida Hurricane Catastrophe  
3 Fund; amending s. 215.555, F.S.; revising definitions;  
4 including certain accounts, formerly certain  
5 associations, within the Citizens Property Insurance  
6 Corporation; including the Citizens Property Insurance  
7 Corporation within the operation of certain definitions;  
8 authorizing the State Board of Administration to charge  
9 interest on delinquent remittances to the Florida  
10 Hurricane Catastrophe Fund; expanding the insurers  
11 eligible for exemptions from certain reimbursement  
12 contract and premium provisions authorized by the board  
13 under certain circumstances; revising a reimbursement  
14 contract requirement; revising emergency assessment  
15 authority of the board relating to service of certain  
16 debt obligations; revising requirements, procedures, and  
17 limitations; revising powers and duties of the board;  
18 providing for construction of the act in pari materia  
19 with laws enacted during the 2003 Regular Session or any  
20 2003 Special Session of the Legislature; providing an  
21 effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Paragraphs (c) and (k) of subsection (2),  
26 subsection (3), paragraphs (c) and (d) of subsection (4),  
27 subsection (6), and paragraphs (a) and (c) of subsection (7) of  
28 section 215.555, Florida Statutes, are amended, and paragraphs  
29 (n) and (o) are added to subsection (2) of said section, to  
30 read:



HB 0017D

2003

31 215.555 Florida Hurricane Catastrophe Fund.--  
 32 (2) DEFINITIONS.--As used in this section:  
 33 (c) "Covered policy" means any insurance policy covering  
 34 residential property in this state, including, but not limited  
 35 to, any homeowner's, mobile home owner's, farm owner's,  
 36 condominium association, condominium unit owner's, tenant's, or  
 37 apartment building policy, or any other policy covering a  
 38 residential structure or its contents issued by any authorized  
 39 insurer, including the Citizen's Property Insurance Corporation  
 40 and any joint underwriting association or similar entity created  
 41 pursuant to law. The term "covered policy" includes any  
 42 collateral protection insurance policy covering personal  
 43 residences which protects both the borrower's and the lender's  
 44 financial interests, in an amount at least equal to the coverage  
 45 for the dwelling in place under the lapsed homeowner's policy,  
 46 if such policy can be accurately reported as required in  
 47 subsection (5). Additionally, covered policies include policies  
 48 covering the peril of wind removed from the Citizen's Property  
 49 Insurance Corporation ~~the Florida Residential Property and~~  
 50 ~~Casualty Joint Underwriting Association, created pursuant to s.~~  
 51 ~~627.351(6), or from the Florida Windstorm Underwriting~~  
 52 ~~Association, created pursuant to s. 627.351(2),~~ by an authorized  
 53 insurer under the terms and conditions of an executed assumption  
 54 agreement between the authorized insurer and the Citizen's  
 55 Property Insurance Corporation ~~either such association~~. Each  
 56 assumption agreement between the Citizen's Property Insurance  
 57 Corporation ~~either association~~ and such authorized insurer must  
 58 be approved by the Office of Insurance Regulation within the  
 59 Florida Department of Financial Services ~~Insurance~~ prior to the  
 60 effective date of the assumption, and the Office ~~Department~~ of



HB 0017D

2003

61 Insurance Regulation must provide written notification to the  
 62 board within 15 working days after such approval. "Covered  
 63 policy" does not include any policy that excludes wind coverage  
 64 or hurricane coverage or any reinsurance agreement and does not  
 65 include any policy otherwise meeting this definition which is  
 66 issued by a surplus lines insurer or a reinsurer. All commercial  
 67 residential excess policies and all deductible buy-back policies  
 68 that, based on sound actuarial principles, require individual  
 69 ratemaking shall be excluded by rule if the actuarial soundness  
 70 of the fund is not jeopardized. For this purpose, the term  
 71 "excess policy" means a policy that provides insurance  
 72 protection for large commercial property risks and that provides  
 73 a layer of coverage above a primary layer insured by another  
 74 insurer.

75 (k) "Pledged revenues" means all or any portion of  
 76 revenues to be derived from reimbursement premiums under  
 77 subsection (5) or from emergency assessments under paragraph  
 78 ~~subparagraph~~ (6)(b)(a)3-, as determined by the board.

79 (n) "Citizens Property Insurance Corporation" or  
 80 "Citizens" means the entity created pursuant to s. 627.351(6),  
 81 and includes both the High Risk Account, formerly the Florida  
 82 Windstorm Underwriting Association, and the Personal Lines and  
 83 Commercial Lines Accounts, formerly the Florida Residential  
 84 Property and Casualty Joint Underwriting Association.

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

87 (3) FLORIDA HURRICANE CATASTROPHE FUND CREATED.--There is  
 88 created the Florida Hurricane Catastrophe Fund to be  
 89 administered by the State Board of Administration. Moneys in the  
 90 fund may not be expended, loaned, or appropriated except to pay



HB 0017D

2003

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

120 (4) REIMBURSEMENT CONTRACTS.--



HB 0017D

2003

121 (c)1. The contract shall also provide that the obligation  
122 of the board with respect to all contracts covering a particular  
123 contract year shall not exceed the actual claims-paying capacity  
124 of the fund up to a limit of \$11 billion for that contract year  
125 adjusted based upon the reported exposure from the prior  
126 contract year to reflect the percentage growth in exposure to  
127 the fund for covered policies since 2002, ~~unless the board~~  
128 ~~determines that there is sufficient estimated claims-paying~~  
129 ~~capacity to provide \$11 billion of capacity for the current~~  
130 ~~contract year and an additional \$11 billion of capacity for~~  
131 ~~subsequent contract years. Upon such determination being made,~~  
132 ~~the estimated claims-paying capacity for the current contract~~  
133 ~~year shall be determined by adding to the \$11 billion limit one-~~  
134 ~~half of the fund's estimated claims-paying capacity in excess of~~  
135 ~~\$22 billion.~~

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

150 (d)1. For purposes of determining potential liability and



HB 0017D

2003

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

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

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

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

180 b. Next pay to each insurer such insurer's projected



HB 0017D

2003

181 payout, which is the amount of reimbursement it is owed, up to  
 182 an amount equal to the insurer's share of the actual premium  
 183 paid for that contract year, multiplied by the actual claims-  
 184 paying capacity available for that contract year; provided,  
 185 entities created pursuant to s. 627.351 shall be further  
 186 reimbursed in accordance with sub-subparagraph c.

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

193 (6) REVENUE BONDS.--

194 (a) General provisions.--

195 1. Upon the occurrence of a hurricane and a determination  
 196 that the moneys in the fund are or will be insufficient to pay  
 197 reimbursement at the levels promised in the reimbursement  
 198 contracts, the board may take the necessary steps under  
 199 paragraph (c) ~~(b)~~ or paragraph (d) ~~(e)~~ for the issuance of  
 200 revenue bonds for the benefit of the fund. The proceeds of such  
 201 revenue bonds may be used to make reimbursement payments under  
 202 reimbursement contracts; to refinance or replace previously  
 203 existing borrowings or financial arrangements; to pay interest  
 204 on bonds; to fund reserves for the bonds; to pay expenses  
 205 incident to the issuance or sale of any bond issued under this  
 206 section, including costs of validating, printing, and delivering  
 207 the bonds, costs of printing the official statement, costs of  
 208 publishing notices of sale of the bonds, and related  
 209 administrative expenses; or for such other purposes related to  
 210 the financial obligations of the fund as the board may



HB 0017D

2003

211 determine. The term of the bonds may not exceed 30 years. The  
 212 board may pledge or authorize the corporation to pledge all or a  
 213 portion of all revenues under subsection (5) and under paragraph  
 214 (b) ~~subparagraph 3~~. to secure such revenue bonds and the board  
 215 may execute such agreements between the board and the issuer of  
 216 any revenue bonds and providers of other financing arrangements  
 217 under paragraph (7)(b) as the board deems necessary to evidence,  
 218 secure, preserve, and protect such pledge. If reimbursement  
 219 premiums received under subsection (5) or earnings on such  
 220 premiums are used to pay debt service on revenue bonds, such  
 221 premiums and earnings shall be used only after the use of the  
 222 moneys derived from assessments under paragraph (b) ~~subparagraph~~  
 223 ~~3~~. The funds, credit, property, or taxing power of the state or  
 224 political subdivisions of the state shall not be pledged for the  
 225 payment of such bonds. The board may also enter into agreements  
 226 under paragraph (c) ~~(b)~~ or paragraph (d) ~~(e)~~ for the purpose of  
 227 issuing revenue bonds in the absence of a hurricane upon a  
 228 determination that such action would maximize the ability of the  
 229 fund to meet future obligations.

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





HB 0017D

2003

241 on an expedited basis.

242 (b)3. Emergency assessments.--If the board determines that  
243 the amount of revenue produced under subsection (5) is  
244 insufficient to fund the obligations, costs, and expenses of the  
245 fund and the corporation, including repayment of revenue bonds,  
246 the board shall direct the Office ~~Department~~ of Insurance  
247 Regulation to levy an emergency assessment on each insurer  
248 writing property and casualty business in this state.

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

259 2. Any assessment authority not used for the contract year  
260 may be used for a subsequent contract year. If, for a subsequent  
261 contract year, the board determines that the amount of revenue  
262 produced under subsection (5) is insufficient to fund the  
263 obligations, costs, and expenses of the fund and the  
264 corporation, including repayment of revenue bonds for that  
265 contract year, the board shall direct the Office ~~Department~~ of  
266 Insurance Regulation to levy an emergency assessment up to an  
267 amount not exceeding the amount of unused assessment authority  
268 from a previous contract year or years, plus an additional 3 ~~2~~  
269 percent if the Governor has declared a state of emergency under  
270 s. 252.36 due to the occurrence of a covered event. Any



HB 0017D

2003

271 assessment authority not used for the contract year may be used  
 272 for a subsequent contract year. As used in this subsection, the  
 273 term "property and casualty business" includes all lines of  
 274 business identified on Form 2, Exhibit of Premiums and Losses,  
 275 in the annual statement required of authorized insurers by s.  
 276 624.424 and any rules adopted under such section, except for  
 277 those lines identified as accident and health insurance. The  
 278 annual assessments under this subparagraph shall continue as  
 279 long as the revenue bonds issued with respect to which the  
 280 assessment was imposed are outstanding, unless adequate  
 281 provision has been made for the payment of such bonds pursuant  
 282 to the documents authorizing issuance of the bonds. An  
 283 assessable insurer shall not at any time be subject to aggregate  
 284 annual assessments under this subparagraph of more than 3 2  
 285 percent of premium, except that in the case of a declared  
 286 emergency, an assessable insurer shall not at any time be  
 287 subject to aggregate annual assessments under this subparagraph  
 288 of more than 8 6 percent of premium; provided, no more than 5 4  
 289 percent may be assessed for obligations arising due to losses in  
 290 any one contract year.

291 3. Any rate filing or portion of a rate filing reflecting  
 292 a rate change attributable entirely to the assessment levied  
 293 under this paragraph ~~subparagraph~~ shall be deemed approved when  
 294 made, subject to the authority of the Office ~~Department~~ of  
 295 Insurance Regulation to require actuarial justification as to  
 296 the adequacy of any rate at any time. If the rate filing  
 297 reflects only a rate change attributable to the assessment under  
 298 this paragraph, the filing may consist of a certification so  
 299 stating.

300 4. The assessments otherwise payable to the corporation



HB 0017D

2003

301 pursuant to this paragraph ~~subparagraph~~ shall be paid instead to  
 302 the fund unless and until the Office ~~Department~~ of Insurance  
 303 Regulation has received from the corporation and the fund a  
 304 notice, which shall be conclusive and upon which they ~~the~~  
 305 ~~Department of Insurance~~ may rely without further inquiry, that  
 306 the corporation has issued bonds and the fund has no agreements  
 307 in effect with local governments pursuant to paragraph (c) ~~(b)~~.  
 308 On or after the date of such notice and until such date as the  
 309 corporation has no bonds outstanding, the fund shall have no  
 310 right, title, or interest in or to the assessments, except as  
 311 provided in the fund's agreements with the corporation.

312 5. Emergency assessments are not premium and are not  
 313 subject to premium or surplus lines tax, fees, or commissions,  
 314 however, the failure by an assessable insured to pay an  
 315 emergency assessment shall be treated as a failure to pay  
 316 premium.

317 (c)~~(b)~~ Revenue bond issuance through counties or  
 318 municipalities.--

319 1. If the board elects to enter into agreements with local  
 320 governments for the issuance of revenue bonds for the benefit of  
 321 the fund, the board shall enter into such contracts with one or  
 322 more local governments, including agreements providing for the  
 323 pledge of revenues, as are necessary to effect such issuance.  
 324 The governing body of a county or municipality is authorized to  
 325 issue bonds as defined in s. 125.013 or s. 166.101 from time to  
 326 time to fund an assistance program, in conjunction with the  
 327 Florida Hurricane Catastrophe Fund, for the purposes set forth  
 328 in this section or for the purpose of paying the costs of  
 329 construction, reconstruction, repair, restoration, and other  
 330 costs associated with damage to properties of policyholders of



HB 0017D

2003

331 covered policies due to the occurrence of a hurricane by  
 332 assuring that policyholders located in this state are able to  
 333 recover claims under property insurance policies after a covered  
 334 event.

335 2. In order to avoid needless and indiscriminate  
 336 proliferation, duplication, and fragmentation of such assistance  
 337 programs, any local government may provide for the payment of  
 338 fund reimbursements, regardless of whether or not the losses for  
 339 which reimbursement is made occurred within or outside of the  
 340 territorial jurisdiction of the local government.

341 3. The state hereby covenants with holders of bonds issued  
 342 under this paragraph that the state will not repeal or abrogate  
 343 the power of the board to direct the Office ~~Department~~ of  
 344 Insurance Regulation to levy the assessments and to collect the  
 345 proceeds of the revenues pledged to the payment of such bonds as  
 346 long as any such bonds remain outstanding unless adequate  
 347 provision has been made for the payment of such bonds pursuant  
 348 to the documents authorizing the issuance of such bonds.

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

353 (d)~~(e)~~ Florida Hurricane Catastrophe Fund Finance  
 354 Corporation.--

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

357 a. The public benefits corporation created under this  
 358 paragraph will provide a mechanism necessary for the cost-  
 359 effective and efficient issuance of bonds. This mechanism will  
 360 eliminate unnecessary costs in the bond issuance process,



HB 0017D

2003

361 thereby increasing the amounts available to pay reimbursement  
362 for losses to property sustained as a result of hurricane  
363 damage.

364 b. The purpose of such bonds is to fund reimbursements  
365 through the Florida Hurricane Catastrophe Fund to pay for the  
366 costs of construction, reconstruction, repair, restoration, and  
367 other costs associated with damage to properties of  
368 policyholders of covered policies due to the occurrence of a  
369 hurricane.

370 c. The efficacy of the financing mechanism will be  
371 enhanced by the corporation's ownership of the assessments, by  
372 the insulation of the assessments from possible bankruptcy  
373 proceedings, and by covenants of the state with the  
374 corporation's bondholders.

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

378 b. The corporation shall operate under a five-member board  
379 of directors consisting of the Governor or a designee, the  
380 Comptroller or a designee, the Treasurer or a designee, the  
381 director of the Division of Bond Finance of the State Board of  
382 Administration, and the chief operating officer of the Florida  
383 Hurricane Catastrophe Fund.

384 c. The corporation has all of the powers of corporations  
385 under chapter 607 and under chapter 617, subject only to the  
386 provisions of this subsection.

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

390 e. The corporation may invest in any of the investments



HB 0017D

2003

391 authorized under s. 215.47.

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

396 3.a. In actions under chapter 75 to validate any bonds  
397 issued by the corporation, the notice required by s. 75.06 shall  
398 be published only in Leon County and in two newspapers of  
399 general circulation in the state, and the complaint and order of  
400 the court shall be served only on the State Attorney of the  
401 Second Judicial Circuit.

402 b. The state hereby covenants with holders of bonds of the  
403 corporation that the state will not repeal or abrogate the power  
404 of the board to direct the Office ~~Department~~ of Insurance  
405 Regulation to levy the assessments and to collect the proceeds  
406 of the revenues pledged to the payment of such bonds as long as  
407 any such bonds remain outstanding unless adequate provision has  
408 been made for the payment of such bonds pursuant to the  
409 documents authorizing the issuance of such bonds.

410 4. The bonds of the corporation are not a debt of the  
411 state or of any political subdivision, and neither the state nor  
412 any political subdivision is liable on such bonds. The  
413 corporation does not have the power to pledge the credit, the  
414 revenues, or the taxing power of the state or of any political  
415 subdivision. The credit, revenues, or taxing power of the state  
416 or of any political subdivision shall not be deemed to be  
417 pledged to the payment of any bonds of the corporation.

418 5.a. The property, revenues, and other assets of the  
419 corporation; the transactions and operations of the corporation  
420 and the income from such transactions and operations; and all



HB 0017D

2003

421 bonds issued under this paragraph and interest on such bonds are  
422 exempt from taxation by the state and any political subdivision,  
423 including the intangibles tax under chapter 199 and the income  
424 tax under chapter 220. This exemption does not apply to any tax  
425 imposed by chapter 220 on interest, income, or profits on debt  
426 obligations owned by corporations other than the Florida  
427 Hurricane Catastrophe Fund Finance Corporation.

428       b. All bonds of the corporation shall be and constitute  
429 legal investments without limitation for all public bodies of  
430 this state; for all banks, trust companies, savings banks,  
431 savings associations, savings and loan associations, and  
432 investment companies; for all administrators, executors,  
433 trustees, and other fiduciaries; for all insurance companies and  
434 associations and other persons carrying on an insurance  
435 business; and for all other persons who are now or may hereafter  
436 be authorized to invest in bonds or other obligations of the  
437 state and shall be and constitute eligible securities to be  
438 deposited as collateral for the security of any state, county,  
439 municipal, or other public funds. This sub-subparagraph shall be  
440 considered as additional and supplemental authority and shall  
441 not be limited without specific reference to this sub-  
442 subparagraph.

443       6. The corporation and its corporate existence shall  
444 continue until terminated by law; however, no such law shall  
445 take effect as long as the corporation has bonds outstanding  
446 unless adequate provision has been made for the payment of such  
447 bonds pursuant to the documents authorizing the issuance of such  
448 bonds. Upon termination of the existence of the corporation, all  
449 of its rights and properties in excess of its obligations shall  
450 pass to and be vested in the state.



HB 0017D

2003

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

452            1. As long as the corporation has any bonds outstanding,  
453 neither the fund nor the corporation shall have the authority to  
454 file a voluntary petition under chapter 9 of the federal  
455 Bankruptcy Code or such corresponding chapter or sections as may  
456 be in effect, from time to time, and neither any public officer  
457 nor any organization, entity, or other person shall authorize  
458 the fund or the corporation to be or become a debtor under  
459 chapter 9 of the federal Bankruptcy Code or such corresponding  
460 chapter or sections as may be in effect, from time to time,  
461 during any such period.

462            2. The state hereby covenants with holders of bonds of the  
463 corporation that the state will not limit or alter the denial of  
464 authority under this paragraph or the rights under this section  
465 vested in the fund or the corporation to fulfill the terms of  
466 any agreements made with such bondholders or in any way impair  
467 the rights and remedies of such bondholders as long as any such  
468 bonds remain outstanding unless adequate provision has been made  
469 for the payment of such bonds pursuant to the documents  
470 authorizing the issuance of such bonds.

471            3. Notwithstanding any other provision of law, any pledge  
472 of or other security interest in revenue, money, accounts,  
473 contract rights, general intangibles, or other personal property  
474 made or created by the fund or the corporation shall be valid,  
475 binding, and perfected from the time such pledge is made or  
476 other security interest attaches without any physical delivery  
477 of the collateral or further act and the lien of any such pledge  
478 or other security interest shall be valid, binding, and  
479 perfected against all parties having claims of any kind in tort,  
480 contract, or otherwise against the fund or the corporation





HB 0017D

2003

481 irrespective of whether or not such parties have notice of such  
 482 claims. No instrument by which such a pledge or security  
 483 interest is created nor any financing statement need be recorded  
 484 or filed.

485 (7) ADDITIONAL POWERS AND DUTIES.--

486 (a) The board may procure reinsurance from reinsurers  
 487 acceptable to the Office of Insurance Regulation ~~approved under~~  
 488 ~~s. 624.610~~ for the purpose of maximizing the capacity of the  
 489 fund.

490 (c) Each fiscal year, the Legislature shall appropriate  
 491 from the investment income of the Florida Hurricane Catastrophe  
 492 Fund an amount no less than \$10 million and no more than 35  
 493 percent of the investment income based upon the most recent  
 494 fiscal year-end audited financial statements ~~from the prior~~  
 495 ~~fiscal year~~ for the purpose of providing funding for local  
 496 governments, state agencies, public and private educational  
 497 institutions, and nonprofit organizations to support programs  
 498 intended to improve hurricane preparedness, reduce potential  
 499 losses in the event of a hurricane, provide research into means  
 500 to reduce such losses, educate or inform the public as to means  
 501 to reduce hurricane losses, assist the public in determining the  
 502 appropriateness of particular upgrades to structures or in the  
 503 financing of such upgrades, or protect local infrastructure from  
 504 potential damage from a hurricane. Moneys shall first be  
 505 available for appropriation under this paragraph in fiscal year  
 506 1997-1998. Moneys in excess of the \$10 million specified in this  
 507 paragraph shall not be available for appropriation under this  
 508 paragraph if the State Board of Administration finds that an  
 509 appropriation of investment income from the fund would  
 510 jeopardize the actuarial soundness of the fund.



HB 0017D

2003

511           Section 2. If any law amended by this act was also amended  
512 by a law enacted at the 2003 Regular Session or any 2003 Special  
513 Session of the Legislature, such laws shall be construed as if  
514 they had been enacted at the same session of the Legislature,  
515 and full effect shall be given to each if possible.

516           Section 3. This act shall take effect upon becoming a law.