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1                                   A bill to be entitled  
 2           An act relating to the Florida Hurricane Catastrophe Fund;  
 3           amending s. 215.555, F.S.; redefining and defining terms;  
 4           providing for the State Board of Administration to specify  
 5           interest due on delinquent remittances; revising  
 6           conditions of, amounts of, and procedures relating to  
 7           reimbursement contracts; revising maximum rates of, and  
 8           procedures relating to, emergency assessments; revising  
 9           provisions relating to reinsurance; deleting expired  
 10          provisions; providing effective dates.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14           Section 1. Paragraphs (c) and (d) of subsection (2),  
 15           subsection (3), paragraphs (b), (c), (d), and (f) of subsection  
 16           (4), paragraphs (a) and (c) of subsection (7), and subsection  
 17           (16) of section 215.555, Florida Statutes, are amended, and  
 18           paragraph (n) is added to subsection (2) of said section, to  
 19           read:

20           215.555 Florida Hurricane Catastrophe Fund.--  
 21           (2) DEFINITIONS.--As used in this section:  
 22           (c) "Covered policy" means any insurance policy covering  
 23           residential property in this state, including, but not limited  
 24           to, any homeowner's, mobile home owner's, farm owner's,  
 25           condominium association, condominium unit owner's, tenant's, or  
 26           apartment building policy, or any other policy covering a  
 27           residential structure or its contents issued by any authorized  
 28           insurer, including the Citizens Property Insurance Corporation  
 29           and any joint underwriting association or similar entity created

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 pursuant to law. The term "covered policy" includes any  
 31 collateral protection insurance policy covering personal  
 32 residences which protects both the borrower's and the lender's  
 33 financial interests, in an amount at least equal to the coverage  
 34 for the dwelling in place under the lapsed homeowner's policy,  
 35 if such policy can be accurately reported as required in  
 36 subsection (5). Additionally, covered policies include policies  
 37 covering the peril of wind removed from the Florida Residential  
 38 Property and Casualty Joint Underwriting Association or from the  
 39 Citizens Property Insurance Corporation, created pursuant to s.  
 40 627.351(6), or from the Florida Windstorm Underwriting  
 41 Association, created pursuant to s. 627.351(2), by an authorized  
 42 insurer under the terms and conditions of an executed assumption  
 43 agreement between the authorized insurer and such association or  
 44 Citizens Property Insurance Corporation. Each assumption  
 45 agreement between the association and such authorized insurer or  
 46 Citizens Property Insurance Corporation must be approved by the  
 47 ~~Florida Department of Insurance or the~~ Office of Insurance  
 48 Regulation prior to the effective date of the assumption, and  
 49 the ~~Department of Insurance or the~~ Office of Insurance  
 50 Regulation must provide written notification to the board within  
 51 15 working days after such approval. "Covered policy" does not  
 52 include any policy that excludes wind coverage or hurricane  
 53 coverage or any reinsurance agreement and does not include any  
 54 policy otherwise meeting this definition which is issued by a  
 55 surplus lines insurer or a reinsurer. All commercial residential  
 56 excess policies and all deductible buy-back policies that, based  
 57 on sound actuarial principles, require individual ratemaking  
 58 shall be excluded by rule if the actuarial soundness of the fund

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59 is not jeopardized. For this purpose, the term "excess policy"  
 60 means a policy that provides insurance protection for large  
 61 commercial property risks and that provides a layer of coverage  
 62 above a primary layer insured by another insurer.

63 (d) "Losses" means direct incurred losses under covered  
 64 policies, which shall include losses for additional living  
 65 expenses not to exceed 40 ~~20~~ percent of the insured value of a  
 66 ~~mobile homes or personal residential structure or its structures~~  
 67 ~~and 40 percent of the insured value of contents covered under a~~  
 68 ~~tenant's policy or a condominium unit owner's policy~~ and shall  
 69 exclude loss adjustment expenses. "Losses" does not include  
 70 losses for fair rental value, loss of use, ~~associated with~~  
 71 ~~personal and commercial residential exposures~~ or business  
 72 interruption losses ~~associated with commercial residential~~  
 73 ~~exposures.~~

74 (n) "Corporation" means the Florida Hurricane Catastrophe  
 75 Fund Finance Corporation.

76 (3) FLORIDA HURRICANE CATASTROPHE FUND CREATED.--There is  
 77 created the Florida Hurricane Catastrophe Fund to be  
 78 administered by the State Board of Administration. Moneys in the  
 79 fund may not be expended, loaned, or appropriated except to pay  
 80 obligations of the fund arising out of reimbursement contracts  
 81 entered into under subsection (4), payment of debt service on  
 82 revenue bonds issued under subsection (6), costs of the  
 83 mitigation program under subsection (7), costs of procuring  
 84 reinsurance, and costs of administration of the fund. The board  
 85 shall invest the moneys in the fund pursuant to ss. 215.44-  
 86 215.52. Except as otherwise provided in this section, earnings  
 87 from all investments shall be retained in the fund. The board

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88 may employ or contract with such staff and professionals as the  
 89 board deems necessary for the administration of the fund. The  
 90 board may adopt such rules as are reasonable and necessary to  
 91 implement this section and shall specify interest due on any  
 92 delinquent remittances, which interest may not exceed the fund's  
 93 rate of return plus 5 percent. Such rules must conform to the  
 94 Legislature's specific intent in establishing the fund as  
 95 expressed in subsection (1), must enhance the fund's potential  
 96 ability to respond to claims for covered events, must contain  
 97 general provisions so that the rules can be applied with  
 98 reasonable flexibility so as to accommodate insurers in  
 99 situations of an unusual nature or where undue hardship may  
 100 result, except that such flexibility may not in any way impair,  
 101 override, supersede, or constrain the public purpose of the  
 102 fund, and must be consistent with sound insurance practices. The  
 103 board may, by rule, provide for the exemption from subsections  
 104 (4) and (5) of insurers writing covered policies with less than  
 105 \$10 million ~~\$500,000~~ in aggregate exposure for covered policies,  
 106 ~~which exposure results in a de minimis reimbursement premium,~~ if  
 107 the exemption does not affect the actuarial soundness of the  
 108 fund.

109 (4) REIMBURSEMENT CONTRACTS.--

110 (b)1. The contract shall contain a promise by the board to  
 111 reimburse the insurer for 45 percent, 75 percent, or 90 percent  
 112 of its losses from each covered event in excess of the insurer's  
 113 retention, plus 5 percent of the reimbursed losses to cover loss  
 114 adjustment expenses.

115 2. The insurer must elect one of the percentage coverage  
 116 levels specified in this paragraph and may, upon renewal of a

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117 reimbursement contract, elect a lower percentage coverage level  
 118 if no revenue bonds issued under subsection (6) after a covered  
 119 event are outstanding, or elect a higher percentage coverage  
 120 level, regardless of whether or not revenue bonds are  
 121 outstanding. All members of an insurer group must elect the same  
 122 percentage coverage level. Any joint underwriting association,  
 123 risk apportionment plan, or other entity created under s.  
 124 627.351 must elect the 90-percent coverage level.

125 3. The contract shall provide that reimbursement amounts  
 126 shall not be reduced by reinsurance paid or payable to the  
 127 insurer from other sources; ~~however, recoveries from such other~~  
 128 ~~sources, taken together with reimbursements under the contract,~~  
 129 ~~may not exceed 100 percent of the insurer's losses from covered~~  
 130 ~~events. If such recoveries and reimbursements exceed 100 percent~~  
 131 ~~of the insurer's losses from covered events, and if there is no~~  
 132 ~~agreement between the insurer and the reinsurer to the contrary,~~  
 133 ~~any amount in excess of 100 percent of the insurer's losses~~  
 134 ~~shall be returned to the fund.~~

135 (c)1. The contract shall also provide that the obligation  
 136 of the board with respect to all contracts covering a particular  
 137 contract year shall not exceed the actual claims-paying capacity  
 138 of the fund up to a limit of \$11 billion for that contract year,  
 139 unless the board determines that there is sufficient estimated  
 140 claims-paying capacity to provide \$11 billion of capacity for  
 141 the current contract year and an additional \$11 billion of  
 142 capacity for subsequent contract years. Upon such determination  
 143 being made, the estimated claims-paying capacity for the current  
 144 contract year shall be determined by adding to the \$11 billion

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145 limit one-half of the fund's estimated claims-paying capacity in  
146 excess of \$22 billion.

147       2. In May before the start of the upcoming contract year  
148 and in October during the contract year, the board shall publish  
149 in the Florida Administrative Weekly a statement of the fund's  
150 estimated borrowing capacity and the projected balance of the  
151 fund as of December 31. After the end of each calendar year, the  
152 board shall notify insurers of the estimated borrowing capacity  
153 and the balance of the fund as of December 31 to provide  
154 insurers with data necessary to assist them in determining their  
155 retention and projected payout from the fund for loss  
156 reimbursement purposes. In conjunction with the development of  
157 the premium formula, as provided for in subsection (5), the  
158 board shall publish factors or multiples that assist insurers in  
159 determining their retention and projected payout for the next  
160 contract year. For all regulatory and reinsurance purposes, an  
161 insurer may calculate its projected payout from the fund as its  
162 share of the total fund premium for the current contract year  
163 multiplied by the sum of the projected balance of the fund as of  
164 December 31 and the estimated borrowing capacity for that  
165 contract year as reported under this subparagraph. ~~The contract~~  
166 ~~shall require the board to annually notify insurers of the~~  
167 ~~fund's estimated borrowing capacity for the next contract year,~~  
168 ~~the projected year-end balance of the fund, and the insurer's~~  
169 ~~estimated share of total reimbursement premium to be paid to the~~  
170 ~~fund. For all regulatory and reinsurance purposes, an insurer~~  
171 ~~may calculate its projected payout from the fund as its share of~~  
172 ~~the total fund premium for the current contract year multiplied~~  
173 ~~by the sum of the projected year-end fund balance and the~~

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174 ~~estimated borrowing capacity for that contract year as reported~~  
 175 ~~under this paragraph. In May and October of each year, the board~~  
 176 ~~shall publish in the Florida Administrative Weekly a statement~~  
 177 ~~of the fund's estimated borrowing capacity and the projected~~  
 178 ~~year-end balance of the fund for the current contract year.~~

179 (d)1. For purposes of determining potential liability and  
 180 to aid in the sound administration of the fund, the contract  
 181 shall require each insurer to report such insurer's losses from  
 182 each covered event on an interim basis, as directed by the  
 183 board. The contract shall require the insurer to report to the  
 184 board no later than December 31 of each year, and quarterly  
 185 thereafter, its reimbursable losses from covered events for the  
 186 year. The contract shall require the board to determine and pay,  
 187 as soon as practicable after receiving these reports of  
 188 reimbursable losses, the initial amount of reimbursement due and  
 189 adjustments to this amount based on later loss information. The  
 190 adjustments to reimbursement amounts shall require the board to  
 191 pay, or the insurer to return, amounts reflecting the most  
 192 recent calculation of losses.

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

195 a. First reimburse insurers writing covered policies,  
 196 which insurers are in full compliance with this section and have  
 197 petitioned the Office of Insurance Regulation and qualified as  
 198 limited apportionment companies under s. 627.351(2)(b)3. The  
 199 amount of such reimbursement shall be the lesser of \$10 million  
 200 or an amount equal to 10 times the insurer's reimbursement  
 201 premium for the current year. The amount of reimbursement paid  
 202 under this sub-subparagraph may not exceed the full amount of

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203 reimbursement promised in the reimbursement contract. This sub-  
 204 subparagraph does not apply with respect to any contract year in  
 205 which the year-end projected cash balance of the fund, exclusive  
 206 of any bonding capacity of the fund, exceeds \$2 billion. Only  
 207 one member of any insurer group may receive reimbursement under  
 208 this sub-subparagraph.

209       b. Next pay to each insurer such insurer's projected  
 210 payout, which is the amount of reimbursement it is owed, up to  
 211 an amount equal to the insurer's share of the actual premium  
 212 paid for that contract year, multiplied by the actual claims-  
 213 paying capacity available for that contract year; provided,  
 214 entities created pursuant to s. 627.351 shall be further  
 215 reimbursed in accordance with sub-subparagraph c.

216       c. Thereafter, establish, ~~based on reimbursable losses,~~  
 217 the prorated reimbursement level at the highest level for which  
 218 any remaining fund balance or bond proceeds are sufficient to  
 219 reimburse entities created pursuant to s. 627.351 based on  
 220 reimbursable ~~for~~ losses exceeding the amounts payable pursuant  
 221 to sub-subparagraph b. for the current contract year.

222       (f) In order to ensure that insurers have properly  
 223 reported the insured values on which the reimbursement premium  
 224 is based and to ensure that insurers have properly reported the  
 225 losses for which reimbursements have been made, the board shall  
 226 inspect, examine, and verify ~~audit~~ the records of each insurer's  
 227 covered policies at such times as the board deems appropriate  
 228 and according to standards established by rule for the specific  
 229 purpose of validating the accuracy of exposures and losses  
 230 required to be reported under the terms and conditions of the  
 231 reimbursement contract ~~in such manner as is consistent with~~



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232 ~~generally accepted auditing standards~~. The costs of the  
 233 examinations ~~audits~~ shall be borne by the board. However, in  
 234 order to remove any incentive for an insurer to delay  
 235 preparations for an examination ~~audit~~, the board shall be  
 236 reimbursed by the insurer for any examination ~~audit~~ expenses  
 237 incurred in addition to the usual and customary costs of the  
 238 examination ~~audit~~, which additional expenses were incurred as a  
 239 result of an insurer's failure, despite proper notice, to be  
 240 prepared for the examination ~~audit~~ or as a result of an  
 241 insurer's failure to provide requested information while the  
 242 examination ~~audit~~ is in progress. If the board finds any  
 243 insurer's records or other necessary information to be  
 244 inadequate or inadequately posted, recorded, or maintained, the  
 245 board may employ experts to reconstruct, rewrite, record, post,  
 246 or maintain such records or information, at the expense of the  
 247 insurer being examined ~~audited~~, if such insurer has failed to  
 248 maintain, complete, or correct such records or deficiencies  
 249 after the board has given the insurer notice and a reasonable  
 250 opportunity to do so. Any information contained in an  
 251 examination ~~audit~~ report, which information is described in s.  
 252 215.557, is confidential and exempt from the provisions of s.  
 253 119.07(1) and s. 24(a), Art. I of the State Constitution, as  
 254 provided in s. 215.557. Nothing in this paragraph expands the  
 255 exemption in s. 215.557.

256 (7) ADDITIONAL POWERS AND DUTIES.--

257 (a) The board may procure reinsurance from reinsurers  
 258 acceptable to the Office of Insurance Regulation ~~approved under~~  
 259 ~~s. 624.610~~ for the purpose of maximizing the capacity of the  
 260 fund.

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261 (c) Each fiscal year, the Legislature shall appropriate  
 262 from the investment income of the Florida Hurricane Catastrophe  
 263 Fund an amount no less than \$10 million and no more than 35  
 264 percent of the investment income based upon the most recent  
 265 fiscal year-end audited financial statements ~~from the prior~~  
 266 ~~fiscal year~~ for the purpose of providing funding for local  
 267 governments, state agencies, public and private educational  
 268 institutions, and nonprofit organizations to support programs  
 269 intended to improve hurricane preparedness, reduce potential  
 270 losses in the event of a hurricane, provide research into means  
 271 to reduce such losses, educate or inform the public as to means  
 272 to reduce hurricane losses, assist the public in determining the  
 273 appropriateness of particular upgrades to structures or in the  
 274 financing of such upgrades, or protect local infrastructure from  
 275 potential damage from a hurricane. Moneys shall first be  
 276 available for appropriation under this paragraph in fiscal year  
 277 1997-1998. Moneys in excess of the \$10 million specified in this  
 278 paragraph shall not be available for appropriation under this  
 279 paragraph if the State Board of Administration finds that an  
 280 appropriation of investment income from the fund would  
 281 jeopardize the actuarial soundness of the fund.

282 ~~(16) For the 2002-2003 fiscal year only, the State Board~~  
 283 ~~of Administration shall disburse funds, by nonoperating~~  
 284 ~~transfer, from the Florida Hurricane Catastrophe Fund to the~~  
 285 ~~Ecosystem Management and Restoration Trust Fund of the~~  
 286 ~~Department of Environmental Protection in an amount equal to~~  
 287 ~~8.47 percent of the appropriation made from the Ecosystem~~  
 288 ~~Management and Restoration Trust Fund for "Grants and Aids to~~  
 289 ~~Local Governments and Non-State Entities - Fixed Capital Outlay,~~

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290 ~~Statewide Restoration Projects" in the 2002-2003 General~~  
 291 ~~Appropriations Act. This subsection expires July 1, 2003.~~

292 Section 2. Effective June 1, 2005, paragraphs (e) and (k)  
 293 of subsection (2), paragraph (c) of subsection (4) as amended by  
 294 this act, and subsection (6) of section 215.555, Florida  
 295 Statutes, are amended to read:

296 215.555 Florida Hurricane Catastrophe Fund.--

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

298 (e) "Retention" means the amount of losses below which an  
 299 insurer is not entitled to reimbursement from the fund. An  
 300 insurer's retention shall be calculated as follows:

301 1. The board shall calculate and report to each insurer  
 302 the retention multiples for that year. For the contract year  
 303 beginning June 1, 2005 ~~1995~~, the retention multiple shall be  
 304 equal to \$4 ~~\$3~~ billion divided by the total estimated  
 305 reimbursement premium for the contract year; for subsequent  
 306 years, the retention multiple shall be equal to \$4 ~~\$3~~ billion,  
 307 adjusted based upon the reported exposure from the prior  
 308 contract year to reflect the percentage growth in exposure to  
 309 the fund for covered policies since 2004 ~~1998~~, divided by the  
 310 total estimated reimbursement premium for the contract year,  
 311 provided the percentage increase in the retention may not exceed  
 312 the percentage increase in the capacity growth as determined  
 313 under subparagraph (4)(c)1. Total reimbursement premium for  
 314 purposes of the calculation under this subparagraph shall be  
 315 estimated using the assumption that all insurers have selected  
 316 the 90-percent coverage level.

317 2. The retention multiple as determined under subparagraph  
 318 1. shall be adjusted to reflect the coverage level elected by

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319 the insurer. For insurers electing the 90-percent coverage  
 320 level, the adjusted retention multiple is 100 percent of the  
 321 amount determined under subparagraph 1. For insurers electing  
 322 the 75-percent coverage level, the retention multiple is 120  
 323 percent of the amount determined under subparagraph 1. For  
 324 insurers electing the 45-percent coverage level, the adjusted  
 325 retention multiple is 200 percent of the amount determined under  
 326 subparagraph 1.

327 3. An insurer shall determine its provisional retention by  
 328 multiplying its provisional reimbursement premium by the  
 329 applicable adjusted retention multiple and shall determine its  
 330 actual retention by multiplying its actual reimbursement premium  
 331 by the applicable adjusted retention multiple.

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

336 (4) REIMBURSEMENT CONTRACTS.--

337 (c)1. The contract shall also provide that the obligation  
 338 of the board with respect to all contracts covering a particular  
 339 contract year shall not exceed the actual claims-paying capacity  
 340 of the fund up to a limit of \$15 ~~\$11~~ billion for that contract  
 341 year adjusted based upon the reported exposure from the prior  
 342 contract year to reflect the percentage growth in exposure to  
 343 the fund for covered policies since 2004, provided the dollar  
 344 growth in the limit may not increase in any year by an amount  
 345 greater than the dollar growth of the cash balance which  
 346 occurred over the prior calendar year, ~~unless the board~~  
 347 ~~determines that there is sufficient estimated claims-paying~~

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348 ~~capacity to provide \$11 billion of capacity for the current~~  
 349 ~~contract year and an additional \$11 billion of capacity for~~  
 350 ~~subsequent contract years. Upon such determination being made,~~  
 351 ~~the estimated claims paying capacity for the current contract~~  
 352 ~~year shall be determined by adding to the \$11 billion limit one-~~  
 353 ~~half of the fund's estimated claims paying capacity in excess of~~  
 354 ~~\$22 billion.~~

355         2. In May before the start of the upcoming contract year  
 356 and in October during the contract year, the board shall publish  
 357 in the Florida Administrative Weekly a statement of the fund's  
 358 estimated borrowing capacity and the projected balance of the  
 359 fund as of December 31. After the end of each calendar year, the  
 360 board shall notify insurers of the estimated borrowing capacity  
 361 and the balance of the fund as of December 31 to provide  
 362 insurers with data necessary to assist them in determining their  
 363 retention and projected payout from the fund for loss  
 364 reimbursement purposes. In conjunction with the development of  
 365 the premium formula, as provided for in subsection (5), the  
 366 board shall publish factors or multiples that assist insurers in  
 367 determining their retention and projected payout for the next  
 368 contract year. For all regulatory and reinsurance purposes, an  
 369 insurer may calculate its projected payout from the fund as its  
 370 share of the total fund premium for the current contract year  
 371 multiplied by the sum of the projected balance of the fund as of  
 372 December 31 and the estimated borrowing capacity for that  
 373 contract year as reported under this subparagraph.

- 374         (6) REVENUE BONDS.--
- 375         (a) General provisions.--

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376 1. Upon the occurrence of a hurricane and a determination  
 377 that the moneys in the fund are or will be insufficient to pay  
 378 reimbursement at the levels promised in the reimbursement  
 379 contracts, the board may take the necessary steps under  
 380 paragraph (c) ~~(b)~~ or paragraph (d) ~~(e)~~ for the issuance of  
 381 revenue bonds for the benefit of the fund. The proceeds of such  
 382 revenue bonds may be used to make reimbursement payments under  
 383 reimbursement contracts; to refinance or replace previously  
 384 existing borrowings or financial arrangements; to pay interest  
 385 on bonds; to fund reserves for the bonds; to pay expenses  
 386 incident to the issuance or sale of any bond issued under this  
 387 section, including costs of validating, printing, and delivering  
 388 the bonds, costs of printing the official statement, costs of  
 389 publishing notices of sale of the bonds, and related  
 390 administrative expenses; or for such other purposes related to  
 391 the financial obligations of the fund as the board may  
 392 determine. The term of the bonds may not exceed 30 years. The  
 393 board may pledge or authorize the corporation to pledge all or a  
 394 portion of all revenues under subsection (5) and under paragraph  
 395 (b) ~~subparagraph 3.~~ to secure such revenue bonds and the board  
 396 may execute such agreements between the board and the issuer of  
 397 any revenue bonds and providers of other financing arrangements  
 398 under paragraph (7)(b) as the board deems necessary to evidence,  
 399 secure, preserve, and protect such pledge. If reimbursement  
 400 premiums received under subsection (5) or earnings on such  
 401 premiums are used to pay debt service on revenue bonds, such  
 402 premiums and earnings shall be used only after the use of the  
 403 moneys derived from assessments under paragraph (b) ~~subparagraph~~  
 404 ~~3.~~ The funds, credit, property, or taxing power of the state or

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405 political subdivisions of the state shall not be pledged for the  
 406 payment of such bonds. The board may also enter into agreements  
 407 under paragraph (c) ~~(b)~~ or paragraph (d) ~~(e)~~ for the purpose of  
 408 issuing revenue bonds in the absence of a hurricane upon a  
 409 determination that such action would maximize the ability of the  
 410 fund to meet future obligations.

411 2. The Legislature finds and declares that the issuance of  
 412 bonds under this subsection is for the public purpose of paying  
 413 the proceeds of the bonds to insurers, thereby enabling insurers  
 414 to pay the claims of policyholders to assure that policyholders  
 415 are able to pay the cost of construction, reconstruction,  
 416 repair, restoration, and other costs associated with damage to  
 417 property of policyholders of covered policies after the  
 418 occurrence of a hurricane. Revenue bonds may not be issued under  
 419 this subsection until validated under chapter 75. The validation  
 420 of at least the first obligations incurred pursuant to this  
 421 subsection shall be appealed to the Supreme Court, to be handled  
 422 on an expedited basis.

423 (b) Emergency assessments.--

424 ~~1.3-~~ If the board determines that the amount of revenue  
 425 produced under subsection (5) is insufficient to fund the  
 426 obligations, costs, and expenses of the fund and the  
 427 corporation, including repayment of revenue bonds and that  
 428 portion of the debt service coverage not met by the  
 429 reimbursement premiums, the board shall direct the Office of  
 430 Insurance Regulation to levy, by order, an emergency assessment  
 431 on direct premiums for all property and casualty lines of  
 432 business in this state, including property and casualty business  
 433 of surplus lines insurers regulated under part VIII of chapter

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434 626, but not including any workers' compensation premiums each  
 435 ~~insurer writing property and casualty business in this state.~~  
 436 ~~Pursuant to the emergency assessment, each such insurer shall~~  
 437 ~~pay to the corporation by July 1 of each year an amount set by~~  
 438 ~~the board not exceeding 2 percent of its gross direct written~~  
 439 ~~premium for the prior year from all property and casualty~~  
 440 ~~business in this state except for workers' compensation, except~~  
 441 ~~that, if the Governor has declared a state of emergency under s.~~  
 442 ~~252.36 due to the occurrence of a covered event, the amount of~~  
 443 ~~the assessment for the contract year may be increased to an~~  
 444 ~~amount not exceeding 4 percent of such premium. Any assessment~~  
 445 ~~authority not used for the contract year may be used for a~~  
 446 ~~subsequent contract year. If, for a subsequent contract year,~~  
 447 ~~the board determines that the amount of revenue produced under~~  
 448 ~~subsection (5) is insufficient to fund the obligations, costs,~~  
 449 ~~and expenses of the fund and the corporation, including~~  
 450 ~~repayment of revenue bonds for that contract year, the board~~  
 451 ~~shall direct the Office of Insurance Regulation to levy an~~  
 452 ~~emergency assessment up to an amount not exceeding the amount of~~  
 453 ~~unused assessment authority from a previous contract year or~~  
 454 ~~years, plus an additional 2 percent if the Governor has declared~~  
 455 ~~a state of emergency under s. 252.36 due to the occurrence of a~~  
 456 ~~covered event. Any assessment authority not used for the~~  
 457 ~~contract year may be used for a subsequent contract year. As~~  
 458 ~~used in this subsection, the term "property and casualty~~  
 459 ~~business" includes all lines of business identified on Form 2,~~  
 460 ~~Exhibit of Premiums and Losses, in the annual statement required~~  
 461 ~~by s. 624.424 and any rules adopted under such section, except~~  
 462 ~~for those lines identified as accident and health insurance and~~



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463 except for policies written under the National Flood Insurance  
464 Program. The assessment shall be specified as a percentage of  
465 future premium collections and is subject to annual adjustments  
466 by the board to reflect changes in premiums subject to  
467 assessments collected pursuant to this subparagraph in order to  
468 meet debt obligations. The same percentage shall apply to all  
469 policies in lines of business subject to the assessment issued  
470 or renewed during the 12-month period beginning on the effective  
471 date of the assessment.

472 2. At no time shall any premium be subject to annual  
473 assessments under this paragraph in excess of 6 percent of  
474 premium with respect to obligations arising out of losses  
475 attributable to any one contract year and at no time shall any  
476 premium be subject to aggregate annual assessments under this  
477 paragraph in excess of 10 percent of premium. The annual  
478 assessments under this subparagraph shall continue as long as  
479 the revenue bonds issued with respect to which the assessment  
480 was imposed are outstanding, including any bonds the proceeds of  
481 which were used to refund the revenue bonds, unless adequate  
482 provision has been made for the payment of such bonds pursuant  
483 to the documents authorizing issuance of the bonds.

484 3. With respect to each insurer collecting premiums that  
485 are subject to the assessment, the insurer shall collect the  
486 assessment at the same time as the insurer collects the premium  
487 payment for each policy and shall remit the assessments  
488 collected to the fund or corporation as provided in the order  
489 issued by the Office of Insurance Regulation. The office shall  
490 verify the accurate and timely collection and remittance of  
491 emergency assessments and shall report such information to the

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492 board in a form and at a time specified by the board. Each  
 493 insurer collecting assessments shall provide such information  
 494 with respect to premiums and collections as may be required by  
 495 the office to enable the office to monitor and verify compliance  
 496 with this paragraph.

497 4. With respect to assessments of surplus lines premiums,  
 498 each surplus lines agent shall collect the assessment at the  
 499 same time as the agent collects the surplus lines tax required  
 500 by s. 626.932, and the surplus lines agent shall remit the  
 501 assessment to the Florida Surplus Lines Service Office created  
 502 by s. 626.921 at the same time as the agent remits the surplus  
 503 lines tax to the Florida Surplus Lines Service Office. The  
 504 emergency assessment on each insured procuring coverage and  
 505 filing under s. 626.938 shall be remitted by the insured to the  
 506 Florida Surplus Lines Service Office at the time the insured  
 507 pays the surplus lines tax to the Florida Surplus Lines Service  
 508 Office. The Florida Surplus Lines Office shall remit the  
 509 collected assessments to the fund or corporation as provided in  
 510 the order issued by the Office of Insurance Regulation. The  
 511 Florida Surplus Lines Service Office shall verify the proper  
 512 application of such emergency assessments and shall assist the  
 513 board in ensuring the accurate and timely collection and  
 514 remittance of assessments as required by the board. The Florida  
 515 Surplus Lines Service Office shall annually calculate the  
 516 aggregate written premium on property and casualty business  
 517 other than workers' compensation procured through surplus lines  
 518 agents and insureds procuring coverage and filing under s.  
 519 626.938 and shall report such information to the board in a form  
 520 and at a time specified by the board.

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521 5. Any assessment authority not used for a particular  
522 contract year may be used for a subsequent contract year. If,  
523 for a subsequent contract year, the board determines that the  
524 amount of revenue produced under subsection (5) is insufficient  
525 to fund the obligations, costs, and expenses of the fund and the  
526 corporation, including repayment of revenue bonds and that  
527 portion of the debt service coverage not met by reimbursement  
528 premiums, the board shall request the Office of Insurance  
529 Regulation to levy an emergency assessment up to an amount not  
530 exceeding the amount of unused assessment authority from a  
531 previous contract year or years, plus an additional 4 percent  
532 provided the assessments in the aggregate do not exceed the  
533 limits specified in subparagraph 2.

534 6. The assessments otherwise payable to the corporation  
535 pursuant to this paragraph shall be paid to the fund unless and  
536 until the Office of Insurance Regulation and the Florida Surplus  
537 Lines Service Office have received from the corporation and the  
538 fund a notice, which shall be conclusive and upon which the  
539 corporation and fund may rely without further inquiry, that the  
540 corporation has issued bonds and the fund has no agreements in  
541 effect with local governments pursuant to paragraph (c). On or  
542 after the date of such notice and until such date as the  
543 corporation has no bonds outstanding, the fund shall have no  
544 right, title, or interest in or to the assessments, except as  
545 provided in the fund's agreements with the corporation.

546 7. Emergency assessments are not premium and are not  
547 subject to the premium tax, the surplus lines tax, any fees, or  
548 any commissions. An insurer is liable for all assessments that  
549 the insurer collects and must treat the failure of an insured to

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550 pay an assessment as a failure to pay premium. An insurer is not  
 551 liable for uncollectable assessments.

552 8. When an insurer is required to return unearned premium,  
 553 the insurer shall also return any collected assessments  
 554 attributable to the unearned premium. A credit adjustment to the  
 555 collected assessments may be made by the insurer with regard to  
 556 future remittances that are payable to the fund or corporation,  
 557 but the insurer shall not be entitled to a refund.

558 9. When a surplus lines insured or an insured who has  
 559 procured coverage and filed under s. 626.938 is entitled to the  
 560 return of unearned premium, the Florida Surplus Lines Service  
 561 Office shall provide a credit or refund to the agent or such  
 562 insured for the collected assessments attributable to the  
 563 unearned premium prior to remitting the emergency assessments  
 564 collected to the fund or corporation ~~The annual assessments~~  
 565 ~~under this subparagraph shall continue as long as the revenue~~  
 566 ~~bonds issued with respect to which the assessment was imposed~~  
 567 ~~are outstanding, unless adequate provision has been made for the~~  
 568 ~~payment of such bonds pursuant to the documents authorizing~~  
 569 ~~issuance of the bonds. An insurer shall not at any time be~~  
 570 ~~subject to aggregate annual assessments under this subparagraph~~  
 571 ~~of more than 2 percent of premium, except that in the case of a~~  
 572 ~~declared emergency, an insurer shall not at any time be subject~~  
 573 ~~to aggregate annual assessments under this subparagraph of more~~  
 574 ~~than 6 percent of premium; provided, no more than 4 percent may~~  
 575 ~~be assessed for any one contract year. Any rate filing or~~  
 576 ~~portion of a rate filing reflecting a rate change attributable~~  
 577 ~~entirely to the assessment levied under this subparagraph shall~~  
 578 ~~be deemed approved when made, subject to the authority of the~~

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579 ~~Office of Insurance Regulation to require actuarial~~  
 580 ~~justification as to the adequacy of any rate at any time. If the~~  
 581 ~~rate filing reflects only a rate change attributable to the~~  
 582 ~~assessment under this paragraph, the filing may consist of a~~  
 583 ~~certification so stating. The assessments otherwise payable to~~  
 584 ~~the corporation pursuant to this subparagraph shall be paid~~  
 585 ~~instead to the fund unless and until the Office of Insurance~~  
 586 ~~Regulation has received from the corporation and the fund a~~  
 587 ~~notice, which shall be conclusive and upon which the Office of~~  
 588 ~~Insurance Regulation may rely without further inquiry, that the~~  
 589 ~~corporation has issued bonds and the fund has no agreements in~~  
 590 ~~effect with local governments pursuant to paragraph (b). On or~~  
 591 ~~after the date of such notice and until such date as the~~  
 592 ~~corporation has no bonds outstanding, the fund shall have no~~  
 593 ~~right, title, or interest in or to the assessments, except as~~  
 594 ~~provided in the fund's agreements with the corporation.~~

595 (c)~~(b)~~ Revenue bond issuance through counties or  
 596 municipalities.--

597 1. If the board elects to enter into agreements with local  
 598 governments for the issuance of revenue bonds for the benefit of  
 599 the fund, the board shall enter into such contracts with one or  
 600 more local governments, including agreements providing for the  
 601 pledge of revenues, as are necessary to effect such issuance.  
 602 The governing body of a county or municipality is authorized to  
 603 issue bonds as defined in s. 125.013 or s. 166.101 from time to  
 604 time to fund an assistance program, in conjunction with the  
 605 Florida Hurricane Catastrophe Fund, for the purposes set forth  
 606 in this section or for the purpose of paying the costs of  
 607 construction, reconstruction, repair, restoration, and other

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608 costs associated with damage to properties of policyholders of  
 609 covered policies due to the occurrence of a hurricane by  
 610 assuring that policyholders located in this state are able to  
 611 recover claims under property insurance policies after a covered  
 612 event.

613 2. In order to avoid needless and indiscriminate  
 614 proliferation, duplication, and fragmentation of such assistance  
 615 programs, any local government may provide for the payment of  
 616 fund reimbursements, regardless of whether or not the losses for  
 617 which reimbursement is made occurred within or outside of the  
 618 territorial jurisdiction of the local government.

619 3. The state hereby covenants with holders of bonds issued  
 620 under this paragraph that the state will not repeal or abrogate  
 621 the power of the board to direct the Office of Insurance  
 622 Regulation to levy the assessments and to collect the proceeds  
 623 of the revenues pledged to the payment of such bonds as long as  
 624 any such bonds remain outstanding unless adequate provision has  
 625 been made for the payment of such bonds pursuant to the  
 626 documents authorizing the issuance of such bonds.

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

631 (d)~~(e)~~ Florida Hurricane Catastrophe Fund Finance  
 632 Corporation.--

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

635 a. The public benefits corporation created under this  
 636 paragraph will provide a mechanism necessary for the cost-

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637 effective and efficient issuance of bonds. This mechanism will  
 638 eliminate unnecessary costs in the bond issuance process,  
 639 thereby increasing the amounts available to pay reimbursement  
 640 for losses to property sustained as a result of hurricane  
 641 damage.

642 b. The purpose of such bonds is to fund reimbursements  
 643 through the Florida Hurricane Catastrophe Fund to pay for the  
 644 costs of construction, reconstruction, repair, restoration, and  
 645 other costs associated with damage to properties of  
 646 policyholders of covered policies due to the occurrence of a  
 647 hurricane.

648 c. The efficacy of the financing mechanism will be  
 649 enhanced by the corporation's ownership of the assessments, by  
 650 the insulation of the assessments from possible bankruptcy  
 651 proceedings, and by covenants of the state with the  
 652 corporation's bondholders.

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

656 b. The corporation shall operate under a five-member board  
 657 of directors consisting of the Governor or a designee, the Chief  
 658 Financial Officer or a designee, the Attorney General or a  
 659 designee, the director of the Division of Bond Finance of the  
 660 State Board of Administration, and the senior employee of the  
 661 State Board of Administration responsible for operations of the  
 662 Florida Hurricane Catastrophe Fund.

663 c. The corporation has all of the powers of corporations  
 664 under chapter 607 and under chapter 617, subject only to the  
 665 provisions of this subsection.

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

669 e. The corporation may invest in any of the investments  
 670 authorized under s. 215.47.

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

675 3.a. In actions under chapter 75 to validate any bonds  
 676 issued by the corporation, the notice required by s. 75.06 shall  
 677 be published only in Leon County and in two newspapers of  
 678 general circulation in the state, and the complaint and order of  
 679 the court shall be served only on the State Attorney of the  
 680 Second Judicial Circuit.

681 b. The state hereby covenants with holders of bonds of the  
 682 corporation that the state will not repeal or abrogate the power  
 683 of the board to direct the Office of Insurance Regulation to  
 684 levy the assessments and to collect the proceeds of the revenues  
 685 pledged to the payment of such bonds as long as any such bonds  
 686 remain outstanding unless adequate provision has been made for  
 687 the payment of such bonds pursuant to the documents authorizing  
 688 the issuance of such bonds.

689 4. The bonds of the corporation are not a debt of the  
 690 state or of any political subdivision, and neither the state nor  
 691 any political subdivision is liable on such bonds. The  
 692 corporation does not have the power to pledge the credit, the  
 693 revenues, or the taxing power of the state or of any political  
 694 subdivision. The credit, revenues, or taxing power of the state



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

697 5.a. The property, revenues, and other assets of the  
 698 corporation; the transactions and operations of the corporation  
 699 and the income from such transactions and operations; and all  
 700 bonds issued under this paragraph and interest on such bonds are  
 701 exempt from taxation by the state and any political subdivision,  
 702 including the intangibles tax under chapter 199 and the income  
 703 tax under chapter 220. This exemption does not apply to any tax  
 704 imposed by chapter 220 on interest, income, or profits on debt  
 705 obligations owned by corporations other than the Florida  
 706 Hurricane Catastrophe Fund Finance Corporation.

707 b. All bonds of the corporation shall be and constitute  
 708 legal investments without limitation for all public bodies of  
 709 this state; for all banks, trust companies, savings banks,  
 710 savings associations, savings and loan associations, and  
 711 investment companies; for all administrators, executors,  
 712 trustees, and other fiduciaries; for all insurance companies and  
 713 associations and other persons carrying on an insurance  
 714 business; and for all other persons who are now or may hereafter  
 715 be authorized to invest in bonds or other obligations of the  
 716 state and shall be and constitute eligible securities to be  
 717 deposited as collateral for the security of any state, county,  
 718 municipal, or other public funds. This sub-subparagraph shall be  
 719 considered as additional and supplemental authority and shall  
 720 not be limited without specific reference to this sub-  
 721 subparagraph.

722 6. The corporation and its corporate existence shall  
 723 continue until terminated by law; however, no such law shall

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724 take effect as long as the corporation has bonds outstanding  
 725 unless adequate provision has been made for the payment of such  
 726 bonds pursuant to the documents authorizing the issuance of such  
 727 bonds. Upon termination of the existence of the corporation, all  
 728 of its rights and properties in excess of its obligations shall  
 729 pass to and be vested in the state.

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

731 1. As long as the corporation has any bonds outstanding,  
 732 neither the fund nor the corporation shall have the authority to  
 733 file a voluntary petition under chapter 9 of the federal  
 734 Bankruptcy Code or such corresponding chapter or sections as may  
 735 be in effect, from time to time, and neither any public officer  
 736 nor any organization, entity, or other person shall authorize  
 737 the fund or the corporation to be or become a debtor under  
 738 chapter 9 of the federal Bankruptcy Code or such corresponding  
 739 chapter or sections as may be in effect, from time to time,  
 740 during any such period.

741 2. The state hereby covenants with holders of bonds of the  
 742 corporation that the state will not limit or alter the denial of  
 743 authority under this paragraph or the rights under this section  
 744 vested in the fund or the corporation to fulfill the terms of  
 745 any agreements made with such bondholders or in any way impair  
 746 the rights and remedies of such bondholders as long as any such  
 747 bonds remain outstanding unless adequate provision has been made  
 748 for the payment of such bonds pursuant to the documents  
 749 authorizing the issuance of such bonds.

750 3. Notwithstanding any other provision of law, any pledge  
 751 of or other security interest in revenue, money, accounts,  
 752 contract rights, general intangibles, or other personal property

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753 made or created by the fund or the corporation shall be valid,  
754 binding, and perfected from the time such pledge is made or  
755 other security interest attaches without any physical delivery  
756 of the collateral or further act and the lien of any such pledge  
757 or other security interest shall be valid, binding, and  
758 perfected against all parties having claims of any kind in tort,  
759 contract, or otherwise against the fund or the corporation  
760 irrespective of whether or not such parties have notice of such  
761 claims. No instrument by which such a pledge or security  
762 interest is created nor any financing statement need be recorded  
763 or filed.

764       Section 3. Except as otherwise provided herein, this act  
765 shall take effect upon becoming a law.