CHAPTER 99-217

Committee Substitute for Committee Substitute for Senate Bill No. 1790

An act relating to the Florida Hurricane Catastrophe Fund; amending s. 215.555, F.S.; clarifying legislative findings; revising definitions; revising reimbursement contract provisions relating to equalization charges, reimbursable loss reporting, auditing of insurers, and confidentiality of certain audit information; revising reimbursement premium provisions relating to collection of interest; revising revenue bond provisions relating to emergency assessments against insurers, legislative findings as to the Florida Hurricane Catastrophe Fund Finance Corporation, and protections for bondholders; authorizing the State Board of Administration to enforce reimbursement contracts; providing severability; providing an effective date.

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

Section 1. Paragraph (e) of subsection (1), paragraphs (c) and (e) of subsection (2), subsection (4), paragraph (c) of subsection (5), and subsection (6) of section 215.555, Florida Statutes, 1998 Supplement, are amended, paragraphs (l) and (m) are added to subsection (2), present subsections (11) and (12) of that section are renumbered as subsections (12) and (13), respectively, and new subsections (11) and (14) are added to that section, to read:

215.555 Florida Hurricane Catastrophe Fund.—

(1) FINDINGS AND PURPOSE.—The Legislature finds and declares as follows:

(e) A state program to provide <u>a stable and ongoing source of</u> reimbursement to insurers for a portion of their catastrophic hurricane losses will create additional insurance capacity sufficient to ameliorate the current dangers to the state's economy and to the public health, safety, and welfare.

(2) DEFINITIONS.—As used in this section:

(c) "Covered policy" means any insurance policy covering residential property in this state, including, but not limited to, any homeowner's, mobile home owner's, farm owner's, condominium association, condominium unit owner's, tenant's, or apartment building policy, or any other policy covering a residential structure or its contents issued by any authorized insurer, including any joint underwriting association or similar entity created pursuant to law. "Covered policy" does not include any policy that excludes wind coverage or hurricane coverage or any reinsurance agreement <u>and does not include any policy otherwise meeting this definition which is issued by a surplus lines insurer or a reinsurer</u>.

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

1. The board shall calculate and report to each insurer the retention multiples for that year. For the contract year beginning June 1, 1995, the retention multiple shall be equal to $3 billion divided by the total estimated reimbursement premium for the contract year; for subsequent years, the retention multiple shall be equal to $3 billion, adjusted to reflect the percentage growth in exposure to the fund ~~premium~~ for covered policies since 1998 ~~1995~~, divided by the total estimated reimbursement premium for the contract year. Total reimbursement premium for purposes of the calculation under this subparagraph shall be estimated using the assumption that all insurers have selected the 90-percent coverage level.

2. The retention multiple as determined under subparagraph 1. shall be adjusted to reflect the coverage level elected by the insurer. For insurers electing the 90-percent coverage level, the adjusted retention multiple is 100 percent of the amount determined under subparagraph 1. For insurers electing the 75-percent coverage level, the retention multiple is 120 percent of the amount determined under subparagraph 1. For insurers electing the 45-percent coverage level, the adjusted retention multiple is 200 percent of the amount determined under subparagraph 1.

3. An insurer shall determine its provisional retention by multiplying its provisional reimbursement premium by the applicable adjusted retention multiple and shall determine its actual retention by multiplying its actual reimbursement premium by the applicable adjusted retention multiple.

(l) "Estimated claims-paying capacity" means the sum of the projected year-end balance of the fund as of December 31 of a contract year, plus any reinsurance purchased by the fund, plus the board's estimate of the board's borrowing capacity.

(m) "Actual claims-paying capacity" means the sum of the balance of the fund as of December 31 of a contract year, plus any reinsurance purchased by the fund, plus the amount the board is able to raise through the issuance of revenue bonds under subsection (6).

(4) REIMBURSEMENT CONTRACTS.—

(a) The board shall enter into a contract with each insurer writing covered policies in this state to provide to the insurer the reimbursement described in paragraph (b), in exchange for the reimbursement premium paid into the fund under subsection (5). As a condition of doing business in this state, each such insurer shall enter into such a contract.

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

2. The insurer must elect one of the percentage coverage levels specified in this paragraph and may, upon renewal of a reimbursement contract, elect a lower percentage coverage level if no revenue bonds issued under subsection (6) after a covered event are outstanding, or elect a higher percentage coverage level, regardless of whether or not revenue bonds are outstanding,

~~if it pays to the fund an actuarially appropriate equalization charge as determined by the board~~. All members of an insurer group must elect the same percentage coverage level. Any joint underwriting association, risk apportionment plan, or other entity created under s. 627.351 must elect the 90-percent coverage level.

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

(c)1. The contract shall also provide that the obligation of the board with respect to all contracts covering a particular contract year shall not exceed the actual claims-paying capacity of the fund up to a limit of $11 billion for that contract year, unless the board determines that there is sufficient estimated claims-paying capacity to provide $11 billion of capacity for the current contract year and an additional $11 billion of capacity for subsequent contract years. Upon such determination being made, the estimated claims-paying capacity for the current contract year shall be determined by adding to the $11 billion limit one half of the fund's estimated claims-paying capacity in excess of $22 billion ~~balance of the fund as of December 31 of that year, together with the maximum amount that the board is able to raise through the issuance of revenue bonds under subsection (6)~~.

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

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

2. If the board determines that the projected year-end balance of the fund, together with the amount that the board determines that it is possible to raise through revenue bonds issued under subsection (6) and through other borrowing and financing arrangements under paragraph (7)(b), are insufficient to pay reimbursement to all insurers at the level promised in the contract, the board shall:

a. First reimburse insurers writing covered policies, which insurers are in full compliance with this section and have petitioned the Department of Insurance and qualified as limited apportionment companies under s. 627.351(2)(b)3. The amount of such reimbursement shall be the lesser of $10 million or an amount equal to 10 times the insurer's reimbursement premium for the current year. The amount of reimbursement paid under this sub-subparagraph may not exceed the full amount of reimbursement promised in the reimbursement contract. This sub-subparagraph does not apply with respect to any contract year in which the year-end projected cash balance of the fund, exclusive of any bonding capacity of the fund, exceeds $2 billion. Only one member of any insurer group may receive reimbursement under this sub-subparagraph.

b. Next pay to each insurer such insurer's projected payout, which is the amount of reimbursement it is owed, up to an amount equal to the insurer's share of the actual premium paid for that contract year, multiplied by the actual claims-paying capacity available for that contract year, provided, entities created pursuant to s. 627.351 shall be further reimbursed in accordance with sub-subparagraph c. ~~This determination shall be adjusted to reflect payments made under sub-subparagraph a.~~

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

(e)1. Except as provided in subparagraphs 2. and 3., the contract shall provide that if an insurer demonstrates to the board that it is likely to qualify for reimbursement under the contract, and demonstrates to the board that the immediate receipt of moneys from the board is likely to prevent the insurer from becoming insolvent, the board shall advance the insurer, at market interest rates, the amounts necessary to maintain the solvency of the insurer, up to 50 percent of the board's estimate of the reimbursement due the insurer. The insurer's reimbursement shall be reduced by an amount equal to the amount of the advance ~~loan~~ and interest thereon.

2. With respect only to an entity created under s. 627.351, the contract shall also provide that the board may, upon application by such entity, advance to such entity, at market interest rates, up to 90 percent of the lesser of:

a. The board's estimate of the amount of reimbursement due to such entity; or

b. The entity's share of the actual reimbursement premium paid for that contract year, multiplied by the currently available liquid assets of the fund. In order for the entity to qualify for an advance under this subparagraph, the entity must demonstrate to the board that the advance is essential to allow the entity to pay claims for a covered event and the board must determine that the fund's assets are sufficient and are sufficiently liquid to allow the board to make an advance to the entity and still fulfill the board's reimbursement obligations to other insurers. The entity's final reimbursement for any contract year in which an advance has been made under this subparagraph must be reduced by an amount equal to the amount of the advance and any interest on such advance. In order to determine what amounts, if any, are due the entity, the board may require the entity to report its exposure and its losses at any time to determine retention levels and reimbursements payable.

3. The contract shall also provide specifically and solely with respect to any limited apportionment company under s. 627.351(2)(b)3. that the board may, upon application by such company, advance to such company the amount of the estimated reimbursement payable to such company as calculated pursuant to paragraph (d), at market interest rates, if the board determines that the fund's assets are sufficient and are sufficiently liquid to permit the board to make an advance to such company and at the same time fulfill its reimbursement obligations to the insurers that are participants in the fund. Such company's final reimbursement for any contract year in which an advance pursuant to this subparagraph has been made shall be reduced by an amount equal to the amount of the advance and interest thereon. In order to determine what amounts, if any, are due to such company, the board may require such company to report its exposure and its losses at such times as may be required to determine retention levels and loss reimbursements payable.

(f) In order to ensure that insurers have properly reported the insured values on which the reimbursement premium is based and to ensure that insurers have properly reported the losses for which reimbursements have been made, the board shall inspect, examine, and audit the records of each insurer's covered policies at such times as the board deems appropriate and in such manner as is consistent with generally accepted auditing standards. The costs of the audits shall be borne by the board. However, in order to remove any incentive for an insurer to delay preparations for an audit, the board shall be reimbursed by the insurer for any audit expenses incurred in addition to the usual and customary costs of the audit, which additional expenses were incurred as a result of an insurer's failure, despite proper notice, to be prepared for the audit or as a result of an insurer's failure to provide requested information while the audit is in progress. If the board finds any insurer's records or other necessary information to be inadequate or inadequately posted, recorded, or maintained, the board may employ experts to reconstruct, rewrite, record, post, or maintain such records or information, at the expense of the insurer being audited, if such insurer has failed to maintain, complete, or correct such records or deficiencies after the board has given the insurer notice and a reasonable opportunity to do so. Any information contained in an audit report, which information is described in s. 215.557, is confidential and exempt from the provisions of s.

119.07(1) and s. 24(a), Art. I of the State Constitution, as provided in s. 215.557. Nothing in this paragraph expands the exemption in s. 215.557.

(g)~~(f)~~ The contract shall provide that in the event of the insolvency of an insurer, the fund shall pay directly to the Florida Insurance Guaranty Association for the benefit of Florida policyholders of the insurer the net amount of all reimbursement moneys owed to the insurer. As used in this paragraph, the term "net amount of all reimbursement moneys" means that amount which remains after reimbursement for:

1. Preliminary or duplicate payments owed to private reinsurers or other inuring reinsurance payments to private reinsurers that satisfy statutory or contractual obligations of the insolvent insurer attributable to covered events to such reinsurers; or

2. Funds owed to a bank or other financial institution to cover obligations of the insolvent insurer under a credit agreement that assists the insolvent insurer in paying claims attributable to covered events.

Such private reinsurers, banks, or other financial institutions shall be reimbursed or otherwise paid prior to payment to the Florida Insurance Guaranty Association, notwithstanding any law to the contrary. The guaranty association shall pay all claims up to the maximum amount permitted by chapter 631; thereafter, any remaining moneys shall be paid pro rata to claims not fully satisfied. This paragraph does not apply to a joint underwriting association, risk apportionment plan, or other entity created under s. 627.351.

(5) REIMBURSEMENT PREMIUMS.—

(c) No later than September 1 of each year, each insurer shall notify the board of its insured values under covered policies by zip code, as of June 30 of that year. On the basis of these reports, the board shall calculate the premium due from the insurer, based on the formula adopted under paragraph (b). The insurer shall pay the required annual premium pursuant to a periodic payment plan specified in the contract. The board shall provide for payment of reimbursement premium in periodic installments and for the adjustment of provisional premium installments collected prior to submission of the exposure report to reflect data in the exposure report. The board shall collect interest on late reimbursement premium payments consistent with the assumptions made in developing the premium formula in accordance with paragraph (b).

(6) REVENUE BONDS.—

(a) General provisions.—

1. Upon the occurrence of a hurricane and a determination that the moneys in the fund are or will be insufficient to pay reimbursement at the levels promised in the reimbursement contracts, the board may take the necessary steps under paragraph (b) or paragraph (c) for the issuance of revenue bonds for the benefit of the fund. The proceeds of such revenue bonds may be used to make reimbursement payments under reimbursement

contracts; to refinance or replace previously existing borrowings or financial arrangements; to pay interest on bonds; to fund reserves for the bonds; to pay expenses incident to the issuance or sale of any bond issued under this section, including costs of validating, printing, and delivering the bonds, costs of printing the official statement, costs of publishing notices of sale of the bonds, and related administrative expenses; or for such other purposes related to the financial obligations of the fund as the board may determine. The term of the bonds may not exceed 30 years. The board may pledge or authorize the corporation to pledge all or a portion of all revenues under subsection (5) and under subparagraph 3. to secure such revenue bonds and the board may execute such agreements between the board and the issuer of any revenue bonds and providers of other financing arrangements under paragraph (7)(b) as the board deems necessary to evidence, secure, preserve, and protect such pledge. If reimbursement premiums received under subsection (5) or earnings on such premiums are used to pay debt service on revenue bonds, such premiums and earnings shall be used only after the use of the moneys derived from assessments under subparagraph 3. The funds, credit, property, or taxing power of the state or political subdivisions of the state shall not be pledged for the payment of such bonds. The board may also enter into agreements under paragraph (b) or paragraph (c) for the purpose of issuing revenue bonds in the absence of a hurricane upon a determination that such action would maximize the ability of the fund to meet future obligations.

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

3. If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds, the board shall direct the Department of Insurance to levy an emergency assessment on each insurer writing property and casualty business in this state. Pursuant to the emergency assessment, each such insurer shall pay to the corporation ~~fund~~ by July 1 of each year an amount set by the board not exceeding 2 percent of its gross direct written premium for the prior year from all property and casualty business in this state except for workers' compensation, except that, if the Governor has declared a state of emergency under s. 252.36 due to the occurrence of a covered event, the amount of the assessment for the contract year may be increased to an amount not exceeding 4 percent of such premium. Any assessment authority not used for the contract year may be used for a subsequent contract year. If, for a subsequent contract year, the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue

bonds for that contract year, the board shall direct the Department of Insurance to levy an emergency assessment up to an amount not exceeding the amount of unused assessment authority from a previous contract year or years, plus an additional 2 percent if the Governor has declared a state of emergency under s. 252.36 due to the occurrence of a covered event. Any assessment authority not used for the contract year may be used for a subsequent contract year. As used in this subsection, the term "property and casualty business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required by s. 624.424 and any rules adopted under such section, except for those lines identified as accident and health insurance. The annual assessments under this subparagraph shall continue as long as the revenue bonds issued with respect to which the assessment was imposed are outstanding, unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing issuance of the bonds. An insurer shall not at any time be subject to aggregate annual assessments under this subparagraph of more than 2 percent of premium, except that in the case of a declared emergency, an insurer shall not at any time be subject to aggregate annual assessments under this subparagraph of more than 6 4 percent of premium, provided, no more than 4 percent may be assessed for any one contract year. Any rate filing or portion of a rate filing reflecting a rate change attributable entirely to the assessment levied under this subparagraph shall be deemed approved when made, subject to the authority of the Department of Insurance to require actuarial justification as to the adequacy of any rate at any time. If the rate filing reflects only a rate change attributable to the assessment under this paragraph, the filing may consist of a certification so stating. The assessments otherwise payable to the corporation pursuant to this subparagraph shall be paid instead to the fund unless and until the Department of Insurance has received from the corporation and the fund a notice, which shall be conclusive and upon which the Department of Insurance may rely without further inquiry, that the corporation has issued bonds and the fund has no agreements in effect with local governments pursuant to paragraph (b). On or after the date of such notice and until such date as the corporation has no bonds outstanding, the fund shall have no right, title, or interest in or to the assessments, except as provided in the fund's agreements with the corporation.

(b) Revenue bond issuance through counties or municipalities.—

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

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

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

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

(c) Florida Hurricane Catastrophe Fund Finance Corporation.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. All bonds of the corporation shall be and constitute legal investments without limitation for all public bodies of this state; for all banks, trust companies, savings banks, savings associations, savings and loan associations, and investment companies; for all administrators, executors, trustees, and other fiduciaries; for all insurance companies and associations and other persons carrying on an insurance business; and for all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state and shall be and constitute eligible securities to be deposited as collateral for the security of any state, county, municipal, or other public

funds. This sub-subparagraph shall be considered as additional and supplemental authority and shall not be limited without specific reference to this sub-subparagraph.

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

(d) Protection of bondholders.—

1. As long as the corporation has any bonds outstanding, neither the fund nor the corporation shall have the authority to file a voluntary petition under chapter 9 of the federal bankruptcy code or such corresponding chapter or sections as may be in effect, from time to time, and neither any public officer nor any organization, entity, or other person shall authorize the fund or the corporation to be or become a debtor under chapter 9 of the federal bankruptcy code or such corresponding chapter or sections as may be in effect, from time to time, during any such period.

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

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

(11) LEGAL PROCEEDINGS.—The board is authorized to take any action necessary to enforce the rules, and the provisions and requirements of the reimbursement contract, required by and adopted pursuant to this section.

(14) SEVERABILITY.—If any provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the section which can be given effect

without the invalid provision or application, and to this end the provisions of this section are declared severable.

Section 2. This act shall take effect June 1, 1999.

Approved by the Governor May 26, 1999.

Filed in Office Secretary of State May 26, 1999.