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H.B. No. 3689

A BILL TO BE ENTITLED

AN ACT

relating to funding of excess losses and operating expenses of the
Texas Windstorm Insurance Association; authorizing an assessment;
authorizing a surcharge.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. FUNDING OF INSURED LOSSES AND OPERATING EXPENSES OF
TEXAS WINDSTORM INSURANCE ASSOCIATION

SECTION 1.01. (a) In this section, "association" means the
Texas Windstorm Insurance Association.

(b) The legislature finds that the use of public securities
would not be an efficient or viable long-term method to fund losses
of the association in order for the association to continue to
provide windstorm and hail insurance after a catastrophic event.
Subchapter B-2, Chapter 2210, Insurance Code, as added by this Act,
is intended to replace Subchapter B-1, Chapter 2210, Insurance
Code, to provide for funding of excess losses and operating
expenses of the association incurred after December 31, 2025.

(c) The legislature finds that:

(1) previous experience has shown that the expense to
the association of issuing public securities, and the interest
rates for those securities, would be significant and can impose
significant long-term expense obligations on coastal property and
casualty risks that may be avoided if the legislature provides for
financing or investment from available state money to the

1 association before or after a catastrophic event;

2 (2) the financing or investment described by
3 Subdivision (1) of this subsection would be a more efficient way to
4 provide funding necessary for the association to pay losses after a
5 catastrophic event; and

6 (3) a loan or other investment from available state
7 money to the association of not more than \$500 million before a
8 catastrophic event and not more than \$1 billion after a
9 catastrophic event would:

10 (A) replace the funding levels currently
11 provided by issuing public securities;

12 (B) be consistent with sound insurance solvency
13 standards;

14 (C) provide a more viable method for the
15 association to have money for losses after a catastrophic event
16 than the issuance of public securities; and

17 (D) provide a secured investment for the state
18 that would:

19 (i) yield interest income for the state on
20 state money; and

21 (ii) be adequately secured for repayment
22 through statewide catastrophe surcharges on certain insurance
23 policies in this state.

24 (d) The legislature finds that authorizing catastrophe
25 surcharges is a viable method to assure repayment of loans or
26 investments of state money after a hurricane and to ensure that the
27 association can continue to provide windstorm and hail insurance in

the coastal areas of this state after a catastrophic event to maintain the association's viability for the benefit of the public and in furtherance of a public purpose.

SECTION 1.02. The heading to Subchapter B-1, Chapter 2210, Insurance Code, is amended to read as follows:

SUBCHAPTER B-1. PAYMENT OF LOSSES INCURRED BEFORE JANUARY 1, 2026

SECTION 1.03. Subchapter B-1, Chapter 2210, Insurance Code, is amended by adding Section 2210.070 to read as follows:

Sec. 2210.070. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies only to the payment of losses and operating expenses of the association for a catastrophe year that occurs before January 1, 2026, and results in excess losses and operating expenses incurred by the association before January 1, 2026.

(b) Payment of excess losses and operating expenses of the association incurred after December 31, 2025, shall be paid as provided by Subchapter B-2.

SECTION 1.04. Section 2210.071, Insurance Code, is amended to read as follows:

Sec. 2210.071. PAYMENT OF EXCESS LOSSES. (a) If, in a catastrophe year before January 1, 2026, an occurrence or series of occurrences in a catastrophe area results in insured losses and operating expenses of the association in excess of premium and other revenue of the association, the excess losses and operating expenses shall be paid as provided by this subchapter.

(b) The association may not pay insured losses and operating expenses resulting from an occurrence or series of occurrences in a catastrophe year in excess of premium and other revenue of the

1 association for that catastrophe year with premium and other
2 revenue earned in a subsequent year.

3 SECTION 1.05. Section 2210.0715(b), Insurance Code, is
4 amended to read as follows:

5 (b) Proceeds of public securities issued, a financing
6 arrangement entered into, or assessments made before January 1,
7 2026, or as a result of any occurrence or series of occurrences in a
8 catastrophe year that occurs before January 1, 2026, and results in
9 insured losses before that date may not be included in reserves
10 available for a subsequent catastrophe year for purposes of this
11 section or Section 2210.082 unless approved by the commissioner.

12 SECTION 1.06. The heading to Section 2210.075, Insurance
13 Code, is amended to read as follows:

14 Sec. 2210.075. REINSURANCE BY MEMBERS.

15 SECTION 1.07. Subchapter B-1, Chapter 2210, Insurance Code,
16 is amended by adding Section 2210.076 to read as follows:

17 Sec. 2210.076. PAYMENT FROM STATE-FUNDED FINANCING
18 ARRANGEMENTS. (a) Notwithstanding the provisions of this
19 subchapter to the contrary, the association may pay losses the
20 association would otherwise pay as provided by Section 2210.072,
21 2210.073, or 2210.0741 by borrowing from, or entering into other
22 financing arrangements with, this state as provided by Subchapter
23 M-1 and Section 404.0242, Government Code.

24 (b) Subchapter M-2 applies to the financing of losses under
25 this section to the extent necessary to secure and repay a debt
26 obligation to the state under a financing arrangement entered into
27 with this state under this section.

1 (c) A financing arrangement described by Subsection (a) may
2 also be used for a purpose described by Section 2210.072(d) in the
3 same manner as a financing arrangement with a market source.

4 SECTION 1.08. Chapter 2210, Insurance Code, is amended by
5 adding Subchapter B-2 to read as follows:

6 SUBCHAPTER B-2. PAYMENT OF EXCESS LOSSES AND OPERATING EXPENSES

7 Sec. 2210.080. APPLICABILITY OF SUBCHAPTER. (a) This
8 subchapter applies only to the payment of losses and operating
9 expenses of the association for a catastrophe year that occurs
10 after December 31, 2025, and results in excess losses and operating
11 expenses incurred by the association after December 31, 2025.

12 (b) This section expires September 1, 2027.

13 Sec. 2210.081. PAYMENT OF EXCESS LOSSES. (a) If, in a
14 catastrophe year, an occurrence or series of occurrences in a
15 catastrophe area results in insured losses and operating expenses
16 of the association in excess of premium and other revenue of the
17 association, the excess losses and operating expenses shall be paid
18 as provided by this subchapter.

19 (b) The association may not pay insured losses and operating
20 expenses resulting from an occurrence or series of occurrences in a
21 catastrophe year in excess of premium and other revenue of the
22 association for that catastrophe year with premium and other
23 revenue earned in a subsequent year.

24 Sec. 2210.082. PAYMENT FROM RESERVES AND TRUST FUND;
25 STATE-FUNDED FINANCING ARRANGEMENTS. (a) The association shall
26 pay insured losses and operating expenses resulting from an
27 occurrence or series of occurrences in a catastrophe year in excess

of premium and other revenue of the association for that catastrophe year from reserves of the association available before or accrued during that catastrophe year and amounts in the catastrophe reserve trust fund available before or accrued during that catastrophe year.

(b) For insured losses and operating expenses for a catastrophe year not paid under Subsection (a), the association shall arrange for financing of not more than \$1 billion through one or more financing arrangements entered into with the state as provided by Subchapter M-1 and Section 404.0242, Government Code.

Sec. 2210.083. PAYMENT FROM MEMBER ASSESSMENTS. (a) Insured losses and operating expenses for a catastrophe year not paid under Section 2210.082 shall be paid as provided by this section from member assessments not to exceed \$1 billion for that catastrophe year.

(b) The board of directors shall notify each association member of the amount of the member's assessment under this section. The proportion of the insured losses and operating expenses allocable to each insurer under this section shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052.

(c) An association member may not recoup an assessment paid under this section through a premium surcharge or tax credit.

Sec. 2210.084. REINSURANCE BY MEMBERS FOR MEMBER ASSESSMENTS. (a) Before any occurrence or series of occurrences, an association member may purchase reinsurance to cover an assessment for which the member would otherwise be liable under

1 this subchapter.

2 (b) An association member must notify the board of
3 directors, in the manner prescribed by the association, whether the
4 member will be purchasing reinsurance. If the member does not
5 purchase reinsurance under this section, the member remains liable
6 for any assessment imposed under this subchapter.

7 SECTION 1.09. Section 2210.452(b), Insurance Code, is
8 amended to read as follows:

9 (b) All money, including investment income, deposited in
10 the trust fund constitutes state funds until disbursed as provided
11 by this chapter and commissioner rules. The comptroller shall hold
12 the money outside the state treasury on behalf of, and with legal
13 title in, the department on behalf of the association. The
14 department shall keep and maintain the trust fund in accordance
15 with this chapter and commissioner rules. The comptroller, as
16 custodian of the trust fund, shall administer the trust fund
17 strictly and solely as provided by this chapter and commissioner
18 rules. The association may include the amounts held in the
19 catastrophe reserve trust fund as an admitted asset in the
20 financial statements of the association.

21 SECTION 1.10. Section 2210.4521, Insurance Code, is amended
22 by amending Subsection (a) and adding Subsection (a-1) to read as
23 follows:

24 (a) The comptroller shall invest in accordance with the
25 investment standard described by Section 404.024(j), Government
26 Code, the portion of the trust fund balance that exceeds the amount
27 of the sufficient balance determined under Subsection (b).

1 (a-1) The comptroller's investment of that portion of the
2 balance is not subject to any other limitation or other requirement
3 provided by Section 404.024, Government Code. The comptroller and
4 board of directors may recommend investments to protect the trust
5 fund and create investment income.

6 SECTION 1.11. Sections 2210.453(d) and (e), Insurance Code,
7 are amended to read as follows:

8 (d) The association may obtain reinsurance at any level
9 including excess of loss, quota share, and other forms of
10 reinsurance to protect the solvency and viability of the
11 association. The commissioner may consult with the board of
12 directors regarding methods to protect the solvency and continued
13 viability of the association, including by protecting the minimum
14 balance, acquiring reinsurance, or by other means ~~[The cost of the~~
15 ~~reinsurance purchased or alternative financing mechanisms used~~
16 ~~under this section in excess of the minimum funding level required~~
17 ~~by Subsection (b) shall be paid by assessments as provided by this~~
18 ~~subsection. The association, with the approval of the~~
19 ~~commissioner, shall notify each member of the association of the~~
20 ~~amount of the member's assessment under this subsection. The~~
21 ~~proportion of the cost to each insurer under this subsection shall~~
22 ~~be determined in the manner used to determine each insurer's~~
23 ~~participation in the association for the year under Section~~
24 2210.052].

25 (e) The commissioner may adopt a method or approve the
26 association's method of determining the probability of one in 100
27 for association risks. The commissioner shall provide any adopted

1 or approved method to the association on or before February 1 of
2 each year [~~A member of the association may not recoup an assessment~~
3 ~~paid under Subsection (d) through a premium surcharge or tax~~
4 ~~credit~~].

5 SECTION 1.12. Section 2210.601, Insurance Code, is amended
6 to read as follows:

7 Sec. 2210.601. FINDINGS [~~PURPOSE~~]. The legislature finds
8 that for losses incurred before January 1, 2026, authorizing the
9 association to enter into financing arrangements with this state as
10 provided by Section 2210.076 [~~issuance of public securities~~] to
11 provide a method to raise funds to provide windstorm and hail
12 insurance through the association in certain designated portions of
13 the state is for the benefit of the public and in furtherance of a
14 public purpose.

15 SECTION 1.13. Subchapter M, Chapter 2210, Insurance Code,
16 is amended by adding Section 2210.6015 to read as follows:

17 Sec. 2210.6015. APPLICABILITY OF SUBCHAPTER. To provide
18 for a reasonable transition, the association may issue public
19 securities under this subchapter or enter into financing
20 arrangements with this state as provided by Section 2210.076 if the
21 association needs to provide funds for excess losses and operating
22 expenses incurred by the association before January 1, 2026, for a
23 catastrophe year occurring before January 1, 2026. After December
24 31, 2025, the association may not issue public securities under
25 this subchapter except to fund excess losses and operating expenses
26 incurred before January 1, 2026.

27 SECTION 1.14. Chapter 2210, Insurance Code, is amended by

adding Subchapters M-1 and M-2 to read as follows:

SUBCHAPTER M-1. STATE-FUNDED CATASTROPHE FINANCING ARRANGEMENTS

Sec. 2210.631. STATE-FUNDED CATASTROPHE FINANCING ARRANGEMENTS. The legislature has determined that providing catastrophe funding to the association by permitting the association to enter into a financing arrangement with this state is an acceptable use of state money and provides an efficient method for the association to pay losses following a catastrophic event.

Sec. 2210.632. PROCEEDS OF CATASTROPHE FINANCING ARRANGEMENT. The proceeds of a catastrophe financing arrangement with this state entered into under this subchapter before a catastrophic event shall be deposited in the catastrophe reserve trust fund.

Sec. 2210.633. CATASTROPHE FINANCING ARRANGEMENT AUTHORIZED; LIMITS. (a) The association may enter into a financing arrangement with this state as provided by Section 404.0242, Government Code:

(1) before a catastrophic event, for not more than \$500 million; and

(2) after a catastrophic event that depletes the catastrophe reserve fund, for not more than \$1 billion.

(b) The amount available under Subsection (a)(2) is reduced by the amount of any outstanding pre-event or post-event financing obtained by the association under this section.

SUBCHAPTER M-2. CATASTROPHE SURCHARGE

Sec. 2210.641. DEFINITION. In this subchapter, "catastrophic event" means an occurrence or a series of occurrences

1 that:

2 (1) occurs in a catastrophe area during a calendar
3 year; and

4 (2) results in insured losses and operating expenses
5 of the association in excess of premium and other revenue of the
6 association.

7 Sec. 2210.642. APPLICABILITY OF SUBCHAPTER. (a)
8 Notwithstanding Section 2210.006, this subchapter applies to an
9 insurer that is:

10 (1) an insurer authorized to engage in the business of
11 insurance in this state that is required to be a member of the
12 association, including a farm mutual insurance company that is a
13 fronting insurer as defined by Section 221.001(c);

14 (2) a farm mutual insurance company that is not a
15 fronting insurer as defined by Section 221.001(c) only for purposes
16 of the collection of surcharges authorized by this subchapter;

17 (3) an unaffiliated eligible surplus lines insurer
18 writing the lines of business subject to a premium surcharge under
19 this subchapter;

20 (4) the association; and

21 (5) the FAIR Plan Association.

22 (b) A premium surcharge under this subchapter applies to:

23 (1) a policy written under the following lines of
24 insurance:

25 (A) fire and allied lines;

26 (B) farm and ranch owners; and

27 (C) residential property insurance; and

1 (2) the property insurance portion of a commercial
2 multiple peril insurance policy.

3 Sec. 2210.6425. CONSTRUCTION OF SUBCHAPTER. (a) This
4 subchapter may not be construed to require an insurer to be an
5 association member if the insurer is not otherwise required to be a
6 member under Section 2210.052.

7 (b) A farm mutual insurance company that is not a fronting
8 insurer as defined by Section 221.001(c) is not a member of the
9 association as a result of the company's collection of surcharges
10 authorized by this subchapter or for any other reason.

11 Sec. 2210.643. ANNUAL FINANCIAL REPORT BY COMMISSIONER.
12 The commissioner shall determine the amount available in the
13 catastrophe reserve trust fund as of December 31 of each year and
14 provide a written report to the governor, lieutenant governor, and
15 speaker of the house of representatives that includes:

16 (1) the amount available in the catastrophe reserve
17 trust fund; and

18 (2) information regarding the current financial
19 condition of the association.

20 Sec. 2210.6435. CATASTROPHE SURCHARGES. (a) The
21 commissioner, in consultation with the board of directors and the
22 comptroller, may order a catastrophe surcharge as provided by this
23 subchapter only if:

24 (1) before a catastrophic event, the association
25 enters into a financing arrangement with this state that is the
26 basis for the surcharge under Subchapter M-1; or

27 (2) after a catastrophic event:

1 (A) the commissioner determines that the
2 association has depleted its reserves, other money, and the
3 catastrophe reserve trust fund; and

4 (B) the association enters into a financing
5 arrangement with this state that is the basis for the surcharge
6 under Subchapter M-1.

7 (b) The commissioner, in consultation with the board of
8 directors and the comptroller, shall set the catastrophe surcharge
9 as a percentage of premium to be collected by each insurer to which
10 this subchapter applies.

11 (c) The total amount authorized to be collected under this
12 section for any catastrophe surcharge may not exceed the amount
13 needed to repay the debt obligation to the state under the financing
14 arrangement entered into with this state under Subchapter M-1 that
15 is the basis for the surcharge.

16 (d) The catastrophe surcharge percentage must be set in an
17 amount sufficient to repay the debt obligation to the state under
18 the financing arrangement entered into with this state under
19 Subchapter M-1 that is the basis for the surcharge. The
20 commissioner may set the surcharge as a percentage of premium to
21 collect the needed aggregate amount over a period of time not to
22 exceed three years.

23 (e) A catastrophe surcharge authorized under this section
24 shall be assessed by insurers on all policyholders of policies that
25 are subject to this subchapter.

26 (f) A catastrophe surcharge under this subchapter is a
27 separate charge in addition to the premiums collected and is not

1 subject to premium tax or commissions.

2 (g) Failure by a policyholder to pay a catastrophe surcharge
3 constitutes failure to pay premium for purposes of policy
4 cancellation.

5 (h) A catastrophe surcharge is not refundable if the policy
6 is canceled or terminated.

7 Sec. 2210.644. CATASTROPHE SURCHARGE PROCEEDS. The
8 proceeds of a catastrophe surcharge authorized under this
9 subchapter shall be deposited into the catastrophe reserve trust
10 fund or an account designated by the comptroller for purposes of
11 repayment of the association's debt obligation to the state under
12 the financing arrangement that is the basis for the surcharge.

13 Sec. 2210.6445. DISCLOSURE OF SURCHARGE. Each policy that
14 is assessed a surcharge under this subchapter shall contain the
15 following prominent disclosure in the documents attached to the
16 policy:

17 "A CATASTROPHE SURCHARGE HAS BEEN INCLUDED ON YOUR POLICY.
18 THIS SURCHARGE WILL BE USED TO REPAY STATE MONEY USED BY THE TEXAS
19 WINDSTORM INSURANCE ASSOCIATION TO PAY FOR LOSSES AFTER A
20 CATASTROPHIC EVENT, INCLUDING A HURRICANE. THE SURCHARGE IS NOT
21 REFUNDABLE IF YOU CANCEL OR TERMINATE THIS POLICY."

22 Sec. 2210.645. EXEMPTION FROM TAXATION. A surcharge
23 collected under this subchapter is exempt from taxation by this
24 state or a municipality or other political subdivision of this
25 state.

26 Sec. 2210.6455. LIMITATION OF PERSONAL LIABILITY. The
27 association members, the insurers required to collect a surcharge

1 under this subchapter, members of the board of directors,
2 association employees, the commissioner, and department employees
3 are not personally liable as a result of exercising the rights and
4 responsibilities granted under this subchapter.

5 Sec. 2210.646. EXEMPTION FROM SURCHARGE. An insurer may
6 not collect a surcharge authorized under this subchapter on any
7 policy issued to this state, an agency of this state, or a political
8 subdivision of this state.

9 SECTION 1.15. Subchapter C, Chapter 404, Government Code,
10 is amended by adding Section 404.0242 to read as follows:

11 Sec. 404.0242. INVESTMENT IN WINDSTORM CATASTROPHE
12 FINANCING ARRANGEMENTS. (a) The comptroller shall invest certain
13 economic stabilization fund balances to provide a financing
14 arrangement for losses of the Texas Windstorm Insurance Association
15 in accordance with this section and Chapter 2210, Insurance Code.
16 For the purpose of investing the assets of the economic
17 stabilization fund under this section, the comptroller may acquire,
18 exchange, sell, supervise, manage, or retain any kind of investment
19 that a prudent investor exercising reasonable care, skill, and
20 caution would acquire, exchange, sell, supervise, manage, or retain
21 in light of the purposes, terms, distribution requirements, and
22 other circumstances then prevailing for the economic stabilization
23 fund, taking into consideration the investment of all the assets of
24 the fund rather than a single investment.

25 (b) For purposes of this section, the comptroller may enter
26 into an appropriate financing arrangement or debt obligation with
27 the Texas Windstorm Insurance Association to provide the

association up to \$500 million in funding before a catastrophic event and up to \$1 billion in funding after a catastrophic event to fund the losses of the association arising from the catastrophic event. Financing provided under this section must be secured and repaid by catastrophe surcharges under Subchapter M-2, Chapter 2210, Insurance Code. For purposes of this chapter and subchapter, the terms "debt obligation" and "financing arrangement" include all outstanding principal, interest, and related financing and administrative expenses in issuing a debt obligation or financing arrangement.

(c) The interest rate charged in connection with a financing arrangement or debt obligation entered into under this section shall be calculated as the sum of:

(1) the current market rate of a United States Treasury Security of comparable maturity, as determined by the comptroller; and

(2) 2 percent.

(d) A debt obligation or financing arrangement entered into under this section may not exceed 36 months to maturity and may include a contractual coverage amount of at least 1.10 but not greater than 1.25.

(e) Notwithstanding any other law, directly or indirectly through a separately managed account or other investment vehicle, the comptroller may invest up to \$1 billion of the economic stabilization fund balance per catastrophe year to provide financing under this section.

(f) The aggregate amount of outstanding pre-event and

post-event financing provided under this section may not exceed \$2 billion.

(g) A person may not bring a civil action against this state, the Texas Treasury Safekeeping Trust Company, or an employee, independent contractor, or official of this state, including the comptroller, for any claim, including breach of fiduciary duty or violation of any constitutional, statutory, or regulatory requirement, in connection with any action, inaction, decision, divestment, investment, report, or other determination made or taken in connection with this section. A person who brings an action described by this subsection is liable to the defendant for the defendant's costs and attorney's fees resulting from the action.

(h) The comptroller shall manage the investments required by this section as a separate investment portfolio. The comptroller shall provide separate accounting and reporting for the investments in that portfolio. The comptroller shall credit to that portfolio all payments, distributions, interest, and other earnings on the investments in that portfolio. The comptroller has any power necessary to accomplish the purposes of managing and investing the assets of this separate investment portfolio. In managing the assets of that portfolio, through procedures and subject to restrictions the comptroller considers appropriate, the comptroller may acquire, sell, transfer, or otherwise assign the investments as appropriate, taking into consideration the purposes, terms, distribution requirements, and other circumstances of that portfolio then prevailing.

SECTION 1.16. Effective September 1, 2027, the following provisions of the Insurance Code are repealed:

(1) Subchapter B-1, Chapter 2210; and

(2) Subchapter M, Chapter 2210.

SECTION 1.17. As soon as practicable after the effective date of this Act and not later than December 1, 2025, the commissioner of insurance shall adopt rules necessary to implement Subchapters B-2 and M-2, Insurance Code, as added by this Act.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Effective September 1, 2027, Section 2210.0081, Insurance Code, is amended to read as follows:

Sec. 2210.0081. CERTAIN ACTIONS BROUGHT AGAINST ASSOCIATION BY COMMISSIONER. In an action brought by the commissioner against the association under Chapter 441, [÷

~~[(1) the association's inability to satisfy obligations under Subchapter M related to the issuance of public securities under this chapter constitutes a condition that makes the association's continuation in business hazardous to the public or to the association's policyholders for the purposes of Section 441.052,~~

~~[(2)] the time for the association to comply with the requirements of supervision or for the conservator to complete the conservator's duties, as applicable, is limited to three years from the date the commissioner commences the action against the association[, and~~

~~[(3) unless the commissioner takes further action against the association under Chapter 441, as a condition of~~

1 ~~release from supervision, the association must demonstrate to the~~
2 ~~satisfaction of the commissioner that the association is able to~~
3 ~~satisfy obligations under Subchapter M related to the issuance of~~
4 ~~public securities under this chapter].~~

5 SECTION 2.02. (a) Section 2210.056(b), Insurance Code, is
6 amended to read as follows:

7 (b) The association's assets may not be used for or diverted
8 to any purpose other than to:

9 (1) satisfy, in whole or in part, the liability of the
10 association on claims made on policies written by the association;

11 (2) make investments authorized under applicable law;

12 (3) pay reasonable and necessary administrative
13 expenses incurred in connection with the operation of the
14 association and the processing of claims against the association;

15 (4) satisfy, in whole or in part, the obligations of
16 the association incurred in connection with Subchapters B-1, B-2,
17 J, [and] M, and M-2, including reinsurance, public securities, and
18 financial instruments; or

19 (5) make remittance under the laws of this state to be
20 used by this state to:

21 (A) pay claims made on policies written by the
22 association;

23 (B) purchase reinsurance covering losses under
24 those policies; or

25 (C) prepare for or mitigate the effects of
26 catastrophic natural events.

27 (b) Effective September 1, 2027, Sections 2210.056(b) and

(c), Insurance Code, are amended to read as follows:

(b) The association's assets may not be used for or diverted to any purpose other than to:

(1) satisfy, in whole or in part, the liability of the association on claims made on policies written by the association;

(2) make investments authorized under applicable law;

(3) pay reasonable and necessary administrative expenses incurred in connection with the operation of the association and the processing of claims against the association;

(4) satisfy, in whole or in part, the obligations of the association incurred in connection with Subchapters B-2 [~~B-1~~], J, and M-2 [~~M~~], including reinsurance[~~, public securities,~~] and financial instruments; or

(5) make remittance under the laws of this state to be used by this state to:

(A) pay claims made on policies written by the association;

(B) purchase reinsurance covering losses under those policies; or

(C) prepare for or mitigate the effects of catastrophic natural events.

(c) On dissolution of the association, all assets of the association[~~, other than assets pledged for the repayment of public securities issued under this chapter,~~] revert to this state.

SECTION 2.03. (a) Section [2210.1052](#), Insurance Code, is amended to read as follows:

Sec. 2210.1052. EMERGENCY MEETING. If the ultimate loss

1 estimate for an occurrence or series of occurrences made by the
2 chief financial officer or chief actuary of the association
3 indicates member insurers may be subject to an assessment under
4 Subchapter B-1 or B-2, the board of directors shall call an
5 emergency meeting to notify the member insurers about the
6 assessment.

7 (b) Effective September 1, 2027, Section [2210.1052](#),
8 Insurance Code, is amended to read as follows:

9 Sec. 2210.1052. EMERGENCY MEETING. If the ultimate loss
10 estimate for an occurrence or series of occurrences made by the
11 chief financial officer or chief actuary of the association
12 indicates member insurers may be subject to an assessment under
13 Subchapter B-2 [~~B-1~~], the board of directors shall call an
14 emergency meeting to notify the member insurers about the
15 assessment.

16 SECTION 2.04. Effective September 1, 2027, Section
17 [2210.355](#)(b), Insurance Code, is amended to read as follows:

18 (b) In adopting rates under this chapter, the following must
19 be considered:

20 (1) the past and prospective loss experience within
21 and outside this state of hazards for which insurance is made
22 available through the plan of operation, if any;

23 (2) expenses of operation, including acquisition
24 costs;

25 (3) a reasonable margin for profit and contingencies;
26 and

27 (4) ~~[payment of public security obligations issued~~

~~under this chapter, including the additional amount of any debt service coverage determined by the association to be required for the issuance of marketable public securities, and~~

~~(5)]~~ all other relevant factors, within and outside this state.

SECTION 2.05. (a) Section 2210.363(a), Insurance Code, is amended to read as follows:

(a) The association may offer a person insured under this chapter an actuarially justified premium discount on a policy issued by the association, or an actuarially justified credit against a surcharge assessed against the person, other than a surcharge assessed under Subchapter M or M-2, if:

(1) the construction, alteration, remodeling, enlargement, or repair of, or an addition to, insurable property exceeds applicable building code standards set forth in the plan of operation; or

(2) the person elects to purchase a binding arbitration endorsement under Section 2210.554.

(b) Effective September 1, 2027, Section 2210.363(a), Insurance Code, is amended to read as follows:

(a) The association may offer a person insured under this chapter an actuarially justified premium discount on a policy issued by the association, or an actuarially justified credit against a surcharge assessed against the person, other than a surcharge assessed under Subchapter M-2 [~~M~~], if:

(1) the construction, alteration, remodeling, enlargement, or repair of, or an addition to, insurable property

1 exceeds applicable building code standards set forth in the plan of
2 operation; or

3 (2) the person elects to purchase a binding
4 arbitration endorsement under Section 2210.554.

5 SECTION 2.06. (a) Sections 2210.452(a) and (d), Insurance
6 Code, are amended to read as follows:

7 (a) The commissioner shall adopt rules under which the
8 association makes payments to the catastrophe reserve trust fund.
9 Except as otherwise specifically provided by this section, the
10 trust fund may be used only for purposes directly related to funding
11 the payment of insured losses, including:

12 (1) funding the obligations of the trust fund under
13 Subchapters [Subchapter] B-1 and B-2; and

14 (2) purchasing reinsurance or using alternative risk
15 financing mechanisms under Section 2210.453.

16 (d) The commissioner by rule shall establish the procedure
17 relating to the disbursement of money from the trust fund to
18 policyholders and for association administrative expenses directly
19 related to funding the payment of insured losses in the event of an
20 occurrence or series of occurrences within a catastrophe area that
21 results in a disbursement under Subchapter B-1 or B-2.

22 (b) Effective September 1, 2027, Sections 2210.452(a), (c),
23 and (d), Insurance Code, are amended to read as follows:

24 (a) The commissioner shall adopt rules under which the
25 association makes payments to the catastrophe reserve trust fund.
26 Except as otherwise specifically provided by this section, the
27 trust fund may be used only for purposes directly related to funding

1 the payment of insured losses, including:

2 (1) funding the obligations of the trust fund under
3 Subchapter B-2 [~~B-1~~]; and

4 (2) purchasing reinsurance or using alternative risk
5 financing mechanisms under Section [2210.453](#).

6 (c) At the end of each calendar year or policy year, the
7 association shall use the net gain from operations of the
8 association, including all premium and other revenue of the
9 association in excess of incurred losses and [~~7~~] operating expenses,
10 [~~public security obligations, and public security administrative~~
11 ~~expenses,~~] to make payments to the trust fund, procure reinsurance,
12 or use alternative risk financing mechanisms, or to make payments
13 to the trust fund and procure reinsurance or use alternative risk
14 financing mechanisms.

15 (d) The commissioner by rule shall establish the procedure
16 relating to the disbursement of money from the trust fund to
17 policyholders and for association administrative expenses directly
18 related to funding the payment of insured losses in the event of an
19 occurrence or series of occurrences within a catastrophe area that
20 results in a disbursement under Subchapter B-2 [~~B-1~~].

21 SECTION 2.07. (a) Sections [2210.453](#)(b) and (c), Insurance
22 Code, are amended to read as follows:

23 (b) The association shall maintain total available loss
24 funding in an amount not less than the probable maximum loss for the
25 association for a catastrophe year with a probability of one in 100.
26 If necessary, the required funding level shall be achieved through
27 the purchase of reinsurance or the use of alternative financing

1 mechanisms, or both, to operate in addition to or in concert with
2 the trust fund, public securities, financial instruments,
3 financing arrangements, and assessments authorized by this
4 chapter.

5 (c) The attachment point for reinsurance purchased under
6 this section may not be less than the aggregate amount of all
7 funding available to the association under Subchapters
8 ~~[Subchapter]~~ B-1 and B-2.

9 (b) Effective September 1, 2027, Sections [2210.453](#)(b) and
10 (c), Insurance Code, are amended to read as follows:

11 (b) The association shall maintain total available loss
12 funding in an amount not less than the probable maximum loss for the
13 association for a catastrophe year with a probability of one in 100.
14 If necessary, the required funding level shall be achieved through
15 the purchase of reinsurance or the use of alternative financing
16 mechanisms, or both, to operate in addition to or in concert with
17 the trust fund, ~~[public securities]~~ financial instruments,
18 financing arrangements, and assessments authorized by this
19 chapter.

20 (c) The attachment point for reinsurance purchased under
21 this section may not be less than the aggregate amount of all
22 funding available to the association under Subchapter B-2 ~~[B-1]~~.

23 ARTICLE 3. TRANSITION AND SAVINGS PROVISIONS

24 SECTION 3.01. Notwithstanding the repeal by this Act of
25 Subchapters [B-1](#) and M, Chapter [2210](#), Insurance Code, and other
26 changes in law made by this Act effective September 1, 2027:

27 (1) the payment of excess losses and operating

1 expenses of the Texas Windstorm Insurance Association incurred
2 before January 1, 2026, is governed by the law as it existed on the
3 effective date of this Act, and that law is continued in effect for
4 that purpose;

5 (2) the issuance of public securities to pay excess
6 losses and operating expenses of the Texas Windstorm Insurance
7 Association incurred before January 1, 2026, the use of the
8 proceeds of those securities, the repayment or refinancing of those
9 securities, and any other rights, obligations, or limitations with
10 respect to those securities and proceeds of those securities are
11 governed by the law as it existed on the effective date of this Act,
12 and that law is continued in effect for that purpose; and

13 (3) proceeds of any assessments made under Subchapter
14 B-1, Chapter 2210, Insurance Code, may not be included in reserves
15 available for a catastrophe year for purposes of Section 2210.082,
16 Insurance Code, as added by this Act, unless approved by the
17 commissioner of insurance.

18 ARTICLE 4. EFFECTIVE DATE

19 SECTION 4.01. Except as otherwise provided by this Act,
20 this Act takes effect September 1, 2025.