

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 financing arrangement or other investment from  
7 available state money to the association of not more than \$500  
8 million before a catastrophic event and not more than \$1 billion  
9 after a 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 financing  
26 arrangements or investments of state money after a hurricane and to  
27 ensure that the association can continue to provide windstorm and

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

4 SECTION 1.02. Section 2210.003, Insurance Code, is amended  
5 by adding Subdivisions (3-c), (3-d), and (3-e) to read as follows:

6 (3-c) "Financing arrangement" means an arrangement  
7 entered into by the association for the financing of payments for  
8 the uses authorized by Section 2210.634. The term includes an  
9 arrangement between the association and this state under Section  
10 404.0242, Government Code.

11 (3-d) "Financing arrangement administrative expense"  
12 means an expense incurred to administer a financing arrangement  
13 issued under this chapter, including:

14 (A) a fee for credit enhancement;  
15 (B) a payment to a paying agent, trustee, or  
16 attorney; or

17 (C) an expense relating to another professional  
18 service necessary to carry out a financing arrangement.

19 (3-e) "Financing arrangement obligation" means the  
20 principal of and any premium and interest on a financing  
21 arrangement issued under this chapter.

22 SECTION 1.03. The heading to Subchapter B-1, Chapter 2210,  
23 Insurance Code, is amended to read as follows:

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

25 SECTION 1.04. Subchapter B-1, Chapter 2210, Insurance Code,  
26 is amended by adding Section 2210.070 to read as follows:

27 Sec. 2210.070. APPLICABILITY OF SUBCHAPTER. (a) This

1 subchapter applies only to the payment of losses and operating  
2 expenses of the association for a catastrophe year that occurs  
3 before January 1, 2026, and results in excess losses and operating  
4 expenses incurred by the association before January 1, 2026.

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

8 SECTION 1.05. Section 2210.071, Insurance Code, is amended  
9 to read as follows:

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

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

21 SECTION 1.06. Section 2210.0715(b), Insurance Code, is  
22 amended to read as follows:

23 (b) Proceeds of public securities issued, a financing  
24 arrangement entered into, or assessments made before January 1,  
25 2026, or as a result of any occurrence or series of occurrences in a  
26 catastrophe year that occurs before January 1, 2026, and results in  
27 insured losses before that date may not be included in reserves

1 available for a subsequent catastrophe year for purposes of this  
2 section or Section 2210.082 unless approved by the commissioner.

3 SECTION 1.07. The heading to Section 2210.075, Insurance  
4 Code, is amended to read as follows:

5 Sec. 2210.075. REINSURANCE BY MEMBERS.

6 SECTION 1.08. Subchapter B-1, Chapter 2210, Insurance Code,  
7 is amended by adding Section 2210.076 to read as follows:

8 Sec. 2210.076. PAYMENT FROM STATE-FUNDED FINANCING  
9 ARRANGEMENTS. (a) Notwithstanding the provisions of this  
10 subchapter to the contrary, the association may pay losses the  
11 association would otherwise pay as provided by Section 2210.072,  
12 2210.073, or 2210.0741 by entering into financing arrangements with  
13 this state as provided by Subchapter M-1 of this code and Section  
14 404.0242, Government Code.

15 (b) Subchapter M-2 applies to the financing of losses under  
16 this section to the extent necessary to secure and repay a financing  
17 arrangement to the state that is entered into under Subchapter M-1.

18 (c) The association may enter into a financing arrangement  
19 that includes interest-bearing loans or other financial  
20 instruments with any market source to enable the association to pay  
21 losses secured by a financing arrangement with this state under  
22 Subchapter M-1.

23 SECTION 1.09. Chapter 2210, Insurance Code, is amended by  
24 adding Subchapter B-2 to read as follows:

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

26 Sec. 2210.080. APPLICABILITY OF SUBCHAPTER. This  
27 subchapter applies only to the payment of losses and operating

1 expenses of the association for a catastrophe year that occurs  
2 after December 31, 2025, and results in excess losses and operating  
3 expenses incurred by the association after December 31, 2025.

4 Sec. 2210.081. PAYMENT OF EXCESS LOSSES. (a) If, in a  
5 catastrophe year, an occurrence or series of occurrences in a  
6 catastrophe area results in insured losses and operating expenses  
7 of the association in excess of premium and other revenue of the  
8 association, the excess losses and operating expenses shall be paid  
9 as provided by this subchapter.

10 (b) The association may not pay insured losses and operating  
11 expenses resulting from an occurrence or series of occurrences in a  
12 catastrophe year in excess of premium and other revenue of the  
13 association for that catastrophe year with premium and other  
14 revenue earned in a subsequent year.

15 Sec. 2210.082. PAYMENT FROM RESERVES AND TRUST FUND;  
16 STATE-FUNDED FINANCING ARRANGEMENTS. (a) The association shall  
17 pay insured losses and operating expenses resulting from an  
18 occurrence or series of occurrences in a catastrophe year in excess  
19 of premium and other revenue of the association for that  
20 catastrophe year from reserves of the association available before  
21 or accrued during that catastrophe year and amounts in the  
22 catastrophe reserve trust fund available before or accrued during  
23 that catastrophe year.

24 (b) For insured losses and operating expenses for a  
25 catastrophe year not paid under Subsection (a), the association  
26 shall arrange for financing of not more than \$1 billion through one  
27 or more financing arrangements entered into with the state as

provided by Subchapter M-1 of this code 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  
this subchapter.

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

SECTION 1.10. Section 2210.452(b), Insurance Code, is  
amended to read as follows:

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

13 SECTION 1.11. Section 2210.4521, Insurance Code, is amended  
 14 by amending Subsection (a) and adding Subsection (a-1) to read as  
 15 follows:

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

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

25 SECTION 1.12. Section 2210.453, Insurance Code, is amended  
 26 by amending Subsection (b) and adding Subsection (d-1) to read as  
 27 follows:



1 (b) The association shall maintain total available loss  
2 funding in an amount not less than the probable maximum loss for the  
3 association for a catastrophe year with a probability of one in 50  
4 ~~[100]~~. If necessary, the required funding level shall be achieved  
5 through the purchase of reinsurance or the use of alternative  
6 financing mechanisms, or both, to operate in addition to or in  
7 concert with the trust fund, public securities, financial  
8 instruments, and assessments authorized by this chapter.

9 (d-1) The commissioner may adopt a method or approve the  
10 association's method of determining the probability of one in 50  
11 for association risks. The commissioner shall provide any adopted  
12 or approved method to the association on or before February 1 of  
13 each year.

14 SECTION 1.13. Section [2210.601](#), Insurance Code, is amended  
15 to read as follows:

16 Sec. 2210.601. FINDINGS ~~[PURPOSE]~~. The legislature finds  
17 that for losses incurred before January 1, 2026, authorizing the  
18 association to enter into financing arrangements with this state as  
19 provided by Section 2210.076 ~~[issuance of public securities]~~ to  
20 provide a method to raise funds to provide windstorm and hail  
21 insurance through the association in certain designated portions of  
22 the state is for the benefit of the public and in furtherance of a  
23 public purpose.

24 SECTION 1.14. Subchapter [M](#), Chapter [2210](#), Insurance Code,  
25 is amended by adding Section 2210.6015 to read as follows:

26 Sec. 2210.6015. APPLICABILITY OF SUBCHAPTER. To provide  
27 for a reasonable transition, the association may issue public

securities under this subchapter or enter into financing arrangements with this state as provided by Section 2210.076 if the association needs to provide funds for excess losses and operating expenses incurred by the association before January 1, 2026, for a catastrophe year occurring before January 1, 2026. After December 31, 2025, the association may not issue public securities under this subchapter except to fund excess losses and operating expenses incurred before January 1, 2026.

SECTION 1.15. Chapter [2210](#), Insurance Code, is amended by adding Subchapters M-1 and M-2 to read as follows:

SUBCHAPTER M-1. STATE-FUNDED FINANCING ARRANGEMENTS

Sec. 2210.631. DEFINITION. In this subchapter, "catastrophic event" has the meaning assigned by Section [2210.602](#).

Sec. 2210.6315. STATE-FUNDED 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. FINANCING ARRANGEMENT AUTHORIZED; LIMITS.

(a) The association may enter into a financing arrangement with this state as provided by Section 404.0242, Government Code, and in accordance with this subchapter:

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

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

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

4        Sec. 2210.6325. REQUEST TO ENTER INTO FINANCING  
5 ARRANGEMENT. (a) The association may submit a request to the  
6 comptroller to enter into a financing arrangement as authorized by  
7 Section 404.0242, Government Code. The request must include the  
8 association's requested maximum principal amount and maximum term  
9 of the arrangement.

10       (b) The association and the comptroller may agree to  
11 increase the maximum principal amount stated in a request submitted  
12 under Subsection (a) on a showing that a greater principal amount is  
13 needed to:

14               (1) pay the costs related to the issuance of the  
15 financing arrangement;

16               (2) provide for a debt service reserve fund; or

17               (3) capitalize interest for a period equal to the  
18 lesser of:

19                       (A) a period determined necessary by the  
20 association; or

21                       (B) six months.

22        Sec. 2210.633. ADDITIONAL COVENANTS. With respect to a  
23 financing arrangement entered into under Section 2210.632, the  
24 association may:

25               (1) make additional covenants with respect to the  
26 financing arrangement and the designated income and receipts of the  
27 association pledged to the payment of the financing arrangement;

1 and

2 (2) provide for the flow of money and the  
3 establishment, maintenance, investment, and administration of  
4 funds and accounts with respect to the financing arrangement.

5 Sec. 2210.6335. DEPOSIT OF PROCEEDS. The proceeds of a  
6 financing arrangement with this state entered into under Section  
7 2210.632 before a catastrophic event shall be deposited into a  
8 separate account located in the catastrophe reserve trust fund.

9 Sec. 2210.634. USE OF PROCEEDS. (a) The proceeds of a  
10 financing arrangement, including investment income, shall be held  
11 in trust for the exclusive use and benefit of the association. The  
12 association may use the proceeds to:

13 (1) pay incurred claims and operating expenses of the  
14 association;

15 (2) pay the costs of issuing a financing arrangement  
16 and any financing arrangement administrative expenses;

17 (3) provide for debt service reserve funds;

18 (4) pay capitalized interest and principal on a  
19 financing arrangement for a period determined necessary by the  
20 association;

21 (5) pay private financial arrangements entered into by  
22 the association as temporary sources of payment of losses and  
23 operating expenses of the association; and

24 (6) reimburse the association for any cost described  
25 by this subsection paid to the association before issuance of the  
26 financing arrangement.

27 (b) The association may use excess proceeds of a financing

arrangement entered into under Section 2210.632 remaining after the purposes for which the financing arrangement was entered into are satisfied to repay any financing arrangement obligations or financing arrangement administrative expenses. If all outstanding financing arrangement obligations or financing arrangement administrative expenses are satisfied, the excess proceeds shall be transferred to the catastrophe reserve trust fund.

Sec. 2210.6345. REPAYMENT OF FINANCING ARRANGEMENT OBLIGATION. (a) With respect to a financing arrangement entered into under Section 2210.632, the comptroller and the association shall enter into a separate agreement under which the association shall provide for the payment of all financing arrangement obligations and financing arrangement administrative expenses from money collected by the association and deposited in the manner provided by this subchapter.

(b) If a financing arrangement entered into under Section 2210.632 is outstanding, the comptroller shall notify the association of the amount of outstanding financing arrangement obligations and estimated financing arrangement administrative expenses each calendar year in a period sufficient, as determined by the association, to permit the association to assess a premium surcharge as necessary to meet the obligations and expenses.

Sec. 2210.635. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. With respect to a financing arrangement entered into under Section 2210.632, the association may use revenue collected in a calendar year from a premium surcharge, including earned interest, that exceeds the amount of the financing arrangement

obligations and financing arrangement administrative expenses payable during that calendar year to:

(1) pay financing arrangement obligations payable in the subsequent calendar year, offsetting the amount of a premium surcharge that would otherwise be required to be levied for the year under this chapter;

(2) pay outstanding financing arrangement obligations; or

(3) deposit additional money into the catastrophe reserve trust fund.

Sec. 2210.6355. SOURCE OF PAYMENT; STATE DEBT NOT CREATED.

(a) A financing arrangement entered into under Section 2210.632 is payable solely from revenue as provided by this subchapter.

(b) A financing arrangement entered into under Section 2210.632 is not a debt of this state or any state agency or political subdivision of this state and does not constitute a pledge of the faith and credit of this state or any state agency or political subdivision of this state.

(c) Each financing arrangement entered into under Section 2210.632 must state that:

(1) except as otherwise provided by this subchapter, neither this state nor a state agency, political corporation, or political subdivision of this state is obligated to pay the principal of or interest on the financing arrangement; and

(2) neither the faith and credit nor the taxing power of this state or a state agency, political corporation, or political subdivision of this state is pledged to the payment of the

principal of or interest on the financing arrangement.

Sec. 2210.636. STATE NOT TO IMPAIR FINANCING ARRANGEMENT OBLIGATION. The state pledges for the benefit and protection of financing parties that the state will not take or permit any action that would:

(1) impair the collection of premium surcharges or the deposit of that money into the applicable fund;

(2) reduce, alter, or impair the premium surcharges to be imposed, collected, and remitted to financing parties until the principal, interest, and premium and any other charges incurred and contracts to be performed in connection with the related financing arrangement obligations have been paid and performed in full; or

(3) in any way impair the rights and remedies of the parties to a financing arrangement entered into under Section 2210.632 before the financing arrangement is fully discharged.

Sec. 2210.6365. RIGHTS WITH RESPECT TO FINANCING ARRANGEMENT. If amounts due under a financing arrangement entered into under Section 2210.632 are outstanding, the rights and interests of the association, a successor to the association, any member of the association, or any member of the Texas FAIR Plan Association, including the right to impose, collect, and receive a premium surcharge authorized under this subchapter, are only contract rights until those revenues are first pledged for the repayment of the association's financing arrangement obligations as provided by this subchapter and Subchapter M-2.

Sec. 2210.637. ENFORCEMENT. A writ of mandamus and any other legal and equitable remedies are available to a party at

interest to require the association or another party to fulfill an agreement and to perform functions and duties under:

- (1) this subchapter;
- (2) the Texas Constitution; or
- (3) a relevant financing arrangement.

Sec. 2210.6375. NO PERSONAL LIABILITY. Notwithstanding any other provision of this subchapter, the members of the association, the members of the association board of directors, association employees, the comptroller and comptroller employees, the commissioner, and department employees are not liable as a result of exercising the rights and responsibilities granted under this subchapter, including by entering into a financing arrangement under Section 2210.632.

#### SUBCHAPTER M-2. CATASTROPHE SURCHARGE

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

- (1) occurs in a catastrophe area during a calendar year; and
- (2) results in insured losses and operating expenses of the association in excess of premium and other revenue of the association.

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

- (1) an insurer authorized to engage in the business of insurance in this state that is required to be a member of the



association, including a farm mutual insurance company that is a fronting insurer as defined by Section 221.001(c);

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

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

(4) the association; and

(5) the FAIR Plan Association.

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

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

(A) fire and allied lines;

(B) farm and ranch owners; and

(C) residential property insurance; and

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

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

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

Sec. 2210.643. ANNUAL FINANCIAL REPORT BY COMMISSIONER.

1 The commissioner shall determine the amount available in the  
2 catastrophe reserve trust fund as of December 31 of each year and  
3 provide a written report to the governor, lieutenant governor, and  
4 speaker of the house of representatives that includes:

5           (1) the amount available in the catastrophe reserve  
6 trust fund; and

7           (2) information regarding the current financial  
8 condition of the association.

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

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

16           (2) after a catastrophic event:

17                   (A) the commissioner determines that the  
18 association has depleted its reserves, other money, and the  
19 catastrophe reserve trust fund; and

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

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

27       (c) The total amount authorized to be collected under this

1 section for any catastrophe surcharge may not exceed the amount  
2 needed to repay the financing arrangement obligation and  
3 administrative expenses to the state under the financing  
4 arrangement entered into with this state under Subchapter M-1 that  
5 is the basis for the surcharge.

6 (d) The catastrophe surcharge percentage must be set in an  
7 amount sufficient to repay the financing arrangement obligation and  
8 administrative expenses to the state under the financing  
9 arrangement entered into with this state under Subchapter M-1 that  
10 is the basis for the surcharge. The commissioner may set the  
11 surcharge as a percentage of premium to collect the needed  
12 aggregate amount over a period of time not to exceed three years.

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

16 (f) A catastrophe surcharge under this subchapter is a  
17 separate charge in addition to the premiums collected and is not  
18 subject to premium tax or commissions.

19 (g) Failure by a policyholder to pay a catastrophe surcharge  
20 constitutes failure to pay premium for purposes of policy  
21 cancellation.

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

24 Sec. 2210.644. CATASTROPHE SURCHARGE PROCEEDS. The  
25 proceeds of a catastrophe surcharge authorized under this  
26 subchapter shall be deposited into an account designated by the  
27 comptroller for purposes of repayment of the association's

1 financing arrangement obligation and administrative expenses to  
2 the state under the financing arrangement entered into with this  
3 state under Subchapter M-1 that is the basis for the surcharge.

4 Sec. 2210.6445. DISCLOSURE OF SURCHARGE. Each policy that  
5 is assessed a surcharge under this subchapter shall contain the  
6 following prominent disclosure in the documents attached to the  
7 policy:

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

13 Sec. 2210.645. EXEMPTION FROM TAXATION. A surcharge  
14 collected under this subchapter is exempt from taxation by this  
15 state or a municipality or other political subdivision of this  
16 state.

17 Sec. 2210.6455. LIMITATION OF PERSONAL LIABILITY. The  
18 association members, the insurers required to collect a surcharge  
19 under this subchapter, members of the board of directors,  
20 association employees, the commissioner, and department employees  
21 are not personally liable as a result of exercising the rights and  
22 responsibilities granted under this subchapter.

23 Sec. 2210.646. EXEMPTION FROM SURCHARGE. An insurer may  
24 not collect a surcharge authorized under this subchapter on any  
25 policy issued to this state, an agency of this state, or a political  
26 subdivision of this state.

27 SECTION 1.16. Subchapter C, Chapter 404, Government Code,

is amended by adding Section 404.0242 to read as follows:

Sec. 404.0242. INVESTMENT IN WINDSTORM CATASTROPHE FINANCING ARRANGEMENTS. (a) The comptroller shall invest certain economic stabilization fund balances to provide a financing arrangement for losses of the Texas Windstorm Insurance Association in accordance with this section and Chapter 2210, Insurance Code, provided that, at the time of investment, the economic stabilization fund balances are above the sufficient balance determined under Section 316.092 of this code. For the purpose of investing the assets of the economic stabilization fund under this section, the comptroller may acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor exercising reasonable care, skill, and caution would acquire, exchange, sell, supervise, manage, or retain in light of the purposes, terms, distribution requirements, and other circumstances then prevailing for the economic stabilization fund, taking into consideration the investment of all the assets of the fund rather than a single investment.

(b) For purposes of this section, the comptroller may enter into an appropriate financing arrangement with 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

1 term "financing arrangement" includes all outstanding principal,  
2 interest, and related financing and administrative expenses in  
3 issuing a financing arrangement.

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

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

10 (2) two percent.

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

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

19 (f) The aggregate amount of outstanding pre-event and  
20 post-event financing provided under this section may not exceed \$2  
21 billion.

22 (g) A person may not bring a civil action against this  
23 state, the Texas Treasury Safekeeping Trust Company, or an  
24 employee, independent contractor, or official of this state,  
25 including the comptroller, for any claim, including breach of  
26 fiduciary duty or violation of any constitutional, statutory, or  
27 regulatory requirement, in connection with any action, inaction,

1 decision, divestment, investment, report, or other determination  
2 made or taken in connection with this section. A person who brings  
3 an action described by this subsection is liable to the defendant  
4 for the defendant's costs and attorney's fees resulting from the  
5 action.

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

20       SECTION 1.17. Effective September 1, 2027, the following  
21 provisions of the Insurance Code are repealed:

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

23               (2) Subchapter M, Chapter 2210.

24       SECTION 1.18. As soon as practicable after the effective  
25 date of this Act and not later than December 1, 2025, the  
26 commissioner of insurance shall adopt rules necessary to implement  
27 Subchapters B-2, M-1, and M-2, Chapter 2210, Insurance Code, as

added by this Act.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. (a) 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, M-1, or M-2 related to a financing arrangement entered into or 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 release from supervision, the association must demonstrate to the satisfaction of the commissioner that the association is able to satisfy obligations under Subchapter M, M-1, or M-2 related to a financing arrangement entered into or the issuance of public securities under this chapter.

(b) Effective September 1, 2027, Section 2210.0081, Insurance Code, is amended to read as follows:



1           Sec. 2210.0081. CERTAIN ACTIONS BROUGHT AGAINST  
2 ASSOCIATION BY COMMISSIONER. In an action brought by the  
3 commissioner against the association under Chapter 441:

4           (1) the association's inability to satisfy obligations  
5 under Subchapter M-1 or M-2 [M] related to a financing arrangement  
6 entered into [~~the issuance of public securities~~] under this chapter  
7 constitutes a condition that makes the association's continuation  
8 in business hazardous to the public or to the association's  
9 policyholders for the purposes of Section 441.052;

10           (2) the time for the association to comply with the  
11 requirements of supervision or for the conservator to complete the  
12 conservator's duties, as applicable, is limited to three years from  
13 the date the commissioner commences the action against the  
14 association; and

15           (3) unless the commissioner takes further action  
16 against the association under Chapter 441, as a condition of  
17 release from supervision, the association must demonstrate to the  
18 satisfaction of the commissioner that the association is able to  
19 satisfy obligations under Subchapter M-1 or M-2 [M] related to a  
20 financing arrangement entered into [~~the issuance of public~~  
21 ~~securities~~] under this chapter.

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

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

26           (1) satisfy, in whole or in part, the liability of the  
27 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-1, B-2, J, ~~[and]~~ M, M-1, and M-2, including reinsurance, financing arrangements, 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.

(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, M-1, and M-2 [~~M~~], including reinsurance, financing arrangements,  
[~~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  
financial arrangements entered into [~~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  
estimate for an occurrence or series of occurrences made by the  
chief financial officer or chief actuary of the association  
indicates member insurers may be subject to an assessment under  
Subchapter B-1 or B-2, the board of directors shall call an  
emergency meeting to notify the member insurers about the  
assessment.

(b) Effective September 1, 2027, 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-2 [~~B-1~~], the board of directors shall call an  
5 emergency meeting to notify the member insurers about the  
6 assessment.

7 SECTION 2.04. (a) Section 2210.355(b), Insurance Code, is  
8 amended to read as follows:

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

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

14 (2) expenses of operation, including acquisition  
15 costs;

16 (3) a reasonable margin for profit and contingencies;

17 (4) payment of financing arrangement obligations or  
18 public security obligations issued under this chapter, including  
19 the additional amount of any debt service coverage included in a  
20 financing arrangement or determined by the association to be  
21 required for the issuance of marketable public securities; and

22 (5) all other relevant factors, within and outside  
23 this state.

24 (b) Effective September 1, 2027, Section 2210.355(b),  
25 Insurance Code, is amended to read as follows:

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

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

4           (2) expenses of operation, including acquisition  
5 costs;

6           (3) a reasonable margin for profit and contingencies;

7           (4) payment of financing arrangement [~~public~~  
8 ~~security~~] obligations issued under this chapter, including the  
9 additional amount of any debt service included in a financing  
10 arrangement [~~coverage determined by the association to be required~~  
11 ~~for the issuance of marketable public securities~~]; and

12           (5) all other relevant factors, within and outside  
13 this state.

14       SECTION 2.05. (a) Section [2210.363](#)(a), Insurance Code, is  
15 amended to read as follows:

16       (a) The association may offer a person insured under this  
17 chapter an actuarially justified premium discount on a policy  
18 issued by the association, or an actuarially justified credit  
19 against a surcharge assessed against the person, other than a  
20 surcharge assessed under Subchapter M, M-1, or M-2, if:

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

25           (2) the person elects to purchase a binding  
26 arbitration endorsement under Section [2210.554](#).

27       (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-1 or M-2 [~~M~~], 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](#).

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

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

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

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

(d) The commissioner by rule shall establish the procedure relating to the disbursement of money from the trust fund to policyholders and for association administrative expenses directly related to funding the payment of insured losses in the event of an

1 occurrence or series of occurrences within a catastrophe area that  
2 results in a disbursement under Subchapter B-1 or B-2.

3 (b) Effective September 1, 2027, Sections [2210.452](#)(a), (c),  
4 and (d), Insurance Code, are amended to read as follows:

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

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

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

14 (c) At the end of each calendar year or policy year, the  
15 association shall use the net gain from operations of the  
16 association, including all premium and other revenue of the  
17 association in excess of incurred losses, operating expenses,  
18 financing arrangement obligations, and financing arrangement  
19 administrative expenses [~~public security obligations, and public~~  
20 ~~security administrative expenses,~~] to make payments to the trust  
21 fund, procure reinsurance, or use alternative risk financing  
22 mechanisms[, ~~or to make payments to the trust fund and procure~~  
23 ~~reinsurance or use alternative risk financing mechanisms~~].

24 (d) The commissioner by rule shall establish the procedure  
25 relating to the disbursement of money from the trust fund to  
26 policyholders and for association administrative expenses directly  
27 related to funding the payment of insured losses in the event of an

1 occurrence or series of occurrences within a catastrophe area that  
2 results in a disbursement under Subchapter B-2 [~~B-1~~].

3 SECTION 2.07. (a) Sections 2210.453(b) and (c), Insurance  
4 Code, are amended to read as follows:

5 (b) The association shall maintain total available loss  
6 funding in an amount not less than the probable maximum loss for the  
7 association for a catastrophe year with a probability of one in 50  
8 [~~100~~]. If necessary, the required funding level shall be achieved  
9 through the purchase of reinsurance or the use of alternative  
10 financing mechanisms, or both, to operate in addition to or in  
11 concert with the trust fund, public securities, financial  
12 instruments, financing arrangements, and assessments authorized by  
13 this chapter.

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

18 (b) Effective September 1, 2027, Sections 2210.453(b) and  
19 (c), Insurance Code, are amended to read as follows:

20 (b) The association shall maintain total available loss  
21 funding in an amount not less than the probable maximum loss for the  
22 association for a catastrophe year with a probability of one in 50  
23 [~~100~~]. If necessary, the required funding level shall be achieved  
24 through the purchase of reinsurance or the use of alternative  
25 financing mechanisms, or both, to operate in addition to or in  
26 concert with the trust fund, [~~public securities~~] financial  
27 instruments, financing arrangements, and assessments authorized by



1 this chapter.

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

5 ARTICLE 3. TRANSITION AND SAVINGS PROVISIONS

6 SECTION 3.01. Notwithstanding the repeal by this Act of  
7 Subchapters ~~B-1~~ and M, Chapter 2210, Insurance Code, and other  
8 changes in law made by this Act effective September 1, 2027:

9 (1) the payment of excess losses and operating  
10 expenses of the Texas Windstorm Insurance Association incurred  
11 before January 1, 2026, is governed by the law as it existed on the  
12 effective date of this Act, and that law is continued in effect for  
13 that purpose;

14 (2) the issuance of public securities to pay excess  
15 losses and operating expenses of the Texas Windstorm Insurance  
16 Association incurred before January 1, 2026, the use of the  
17 proceeds of those securities, the repayment or refinancing of those  
18 securities, and any other rights, obligations, or limitations with  
19 respect to those securities and proceeds of those securities are  
20 governed by the law as it existed on the effective date of this Act,  
21 and that law is continued in effect for that purpose; and

22 (3) proceeds of any assessments made under Subchapter  
23 ~~B-1~~, Chapter 2210, Insurance Code, may not be included in reserves  
24 available for a catastrophe year for purposes of Section 2210.082,  
25 Insurance Code, as added by this Act, unless approved by the  
26 commissioner of insurance.

1                   ARTICLE 4. EFFECTIVE DATE

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

H.B. No. 3689

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President of the Senate

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Speaker of the House

I certify that H.B. No. 3689 was passed by the House on May 1, 2025, by the following vote: Yeas 131, Nays 12, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3689 on May 28, 2025, by the following vote: Yeas 114, Nays 20, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 3689 was passed by the Senate, with amendments, on May 26, 2025, by the following vote: Yeas 29, Nays 2.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor