

Amend the proposed floor substitute to CSHB 1890 as follows:

(1) Insert the following new SECTIONS, appropriately numbered:

SECTION \_\_\_\_ . Section 19, Article 21.49, Insurance Code, is amended to read as follows:

Sec. 19. PAYMENT OF LOSSES; PREMIUM TAX CREDIT. (a) If, in any calendar year, an occurrence or series of occurrences within the defined catastrophe area results in insured losses and operating expenses of the association in excess of premium and other revenue of the association, any excess losses shall be paid as provided by this section.

(b) After application of available revenue to losses,  
~~[follows:~~

~~[(1)]~~ \$100 million, per catastrophic event, shall be assessed to the members of the association with the proportion of the loss allocable to each insurer determined in the same manner as its participation in the association has been determined for the year under Section 5(b) ~~[5(c)]~~ of this Act. A member of the association may not directly or indirectly recover the amount of any assessment made under this subsection from additional premium charges on any insurance policy written on property that is not located within the first tier coastal counties. ~~[+]~~

(c) Any losses that exceed the amounts available under Subsection (b) of this section, but not to exceed an additional \$300 million, per catastrophic event, shall be funded through public securities issued, without regard to whether an occurrence or series of occurrences within a defined catastrophe area has occurred, under the revenue bond program established under Section 20 of this Act.

(d) Any ~~[(2) any]~~ losses in excess of the amounts authorized under Subsections (b) and (c) of this section ~~[\$100 million]~~ shall be paid from the catastrophe reserve trust fund established under Section 8(h) ~~[8(i)]~~ of this Act, not to exceed an amount equal to 50 percent of the balance of that fund.

(e) If the amount available under Subsection (d) of this section is insufficient to pay the excess losses, an additional amount not to exceed \$500 million shall be funded through the

issuance of additional public securities under the revenue bond program established under Section 20 of this Act.

(f) If the amount available under Subsection (e) of this section is insufficient to pay the excess losses, reinsurance proceeds recoverable by the association and available under ~~and~~ any reinsurance program established by the association shall be used to pay the losses.

(g) Any ~~+~~

~~[(3) for losses in excess of those paid under Subdivisions (1) and (2) of this subsection, an additional \$200 million shall be assessed to the members of the association with the proportion of the loss allocable to each insurer determined in the same manner as its participation in the association has been determined for the year under Section 5(c) of this Act,~~

~~[(4) any]~~ losses in excess of those paid under Subsections (b)-(f) ~~[Subdivisions (1), (2), and (3)]~~ of this section ~~[subsection]~~ shall be assessed against members of the association, with the proportion of the total loss allocable to each insurer determined in the same manner as its participation in the association has been determined for the year under Section 5(b) ~~[5(c)]~~ of this Act.

(h) ~~(b)~~ An insurer may credit any amount paid in accordance with Subsection (g) ~~[(a)(4)]~~ of this section in a calendar year against its premium tax under Section 221.002 ~~[Article 4.10]~~ of this code. The tax credit herein authorized shall be allowed at a rate not to exceed 20 percent per year for five or more successive years following the year of payment of the claims. The balance of payments paid by the insurer and not claimed as such tax credit may be reflected in the books and records of the insurer as an admitted asset of the insurer for all purposes, including exhibition in annual statements pursuant to Section 862.001 ~~[Article 6.12]~~ of this code.

(i) The commissioner may adopt rules as necessary to implement this section.

SECTION \_\_\_\_ . Article 21.49, Insurance Code, is amended by adding Section 20 to read as follows:

Sec. 20. REVENUE BOND PROGRAM FOR OPERATIONS AND PAYMENT OF

CLAIMS. (a) In this section:

(1) "Board" means the board of directors of the Texas Public Finance Authority.

(2) "Bond" means any debt instrument or public security issued by the Texas Public Finance Authority.

(3) "Public security resolution" means the resolution or order authorizing public securities to be issued under this section.

(b) The legislature finds that the issuance of public securities to provide a method to raise funds to provide windstorm, hail, and fire insurance through the Texas Windstorm Insurance Association in certain designated portions of the state is for the benefit of the public and in furtherance of a public purpose.

(c) At the request of the association and with the approval of the commissioner, the Texas Public Finance Authority shall issue, on behalf of the association, public securities in a total amount not to exceed \$800 million in accordance with Subsection (d) and (e) of this Act.

(d) Without regard to whether an occurrence or series of occurrences within the defined catastrophe area has occurred, the board shall issue public securities equal to the amount specified under Section 19(c) of this Act.

(e) After an occurrence or series of occurrences within the defined catastrophe area has occurred, the board shall issue public securities in an amount not to exceed the amount specified under Section 19(e) of this Act as necessary to fund the payment of excess losses under that subsection.

(f) Public securities issued under this section shall be used to:

(1) fund the association, including funding necessary to:

(A) establish and maintain reserves to pay claims;

(B) pay incurred and future claims; and

(C) pay operating expenses;

(2) pay costs related to the issuance of the public securities; and

(3) pay other costs related to the public securities as may be determined by the board.

(g) To the extent consistent with this section, Chapter 1232, Government Code, applies to public securities issued under this section. In the event of a conflict, this section controls. The following laws also apply to public securities issued under this section to the extent consistent with this section:

(1) Chapters 1201, 1202, 1204, 1205, 1231, and 1371, Government Code; and

(2) Subchapter A, Chapter 1206, Government Code.

(h) Public securities issued under this section:

(1) may be issued at public or private sale; and

(2) must:

(A) be issued in the name of the association; and

(B) mature not more than 10 years after the date issued.

(i) In a public security resolution, the board may:

(1) make additional covenants with respect to the public securities and the designated income and receipts of the association pledged to the payment of the public securities; and

(2) provide for the flow of funds and the establishment, maintenance, and investment of funds and accounts with respect to the public securities.

(j) Funds generated through the issuance of public securities shall be held outside the state treasury in the custody of the comptroller. The association may request disbursement of the funds for the purposes set forth in Subsection (f) of this section.

(k) A public security resolution may establish special accounts, including an interest and sinking fund account, reserve account, and other accounts. The association shall administer the accounts in accordance with this section.

(l) Public securities are payable only from the premium surcharges established under Subsection (m) or (n) of this section, as applicable, or from other amounts that the association is authorized to levy, charge, and collect. Public securities are obligations solely of the association, and do not create a

pledging, giving, or lending of the faith, credit, or taxing authority of this state. Each public security must include a statement that this state is not obligated to pay any amount on the public security and that the faith, credit, and taxing authority of this state are not pledged, given, or lent to those payments. Each public security issued under this section must state on its face that the public security is payable solely from the revenues pledged for that purpose and that the public security does not and may not constitute a legal or moral obligation of the state.

(m) The public securities and all debt service on the public securities issued in accordance with Subsection (d) shall be paid by premium surcharges in an amount approved by the commissioner and applied to insurance policies written through the association in the first tier coastal counties.

(n) The public securities and all debt service on the public securities issued in accordance with Subsection (e) shall be paid by premium surcharges in amounts approved by the commissioner and applied to each property and casualty insurance policy written by an insurer in this state or by the FAIR Plan Association. The premium surcharges applicable under this subsection to insurance policies written on property located in first tier coastal counties, including policies issued through the association must be equal to two times the premium surcharges applicable to insurance policies written on property located in counties that are not first tier coastal counties. A premium surcharge under this subsection may not be applied to a workers' compensation insurance policy, an accident and health insurance policy, or a medical malpractice insurance policy.

(o) As a condition of engaging in the business of insurance in this state, an insurer that engages in the business of property insurance in this state agrees that if the insurer leaves the insurance market in this state the insurer remains obligated to pay, until the public securities are retired, the insurer's share of the premium surcharges assessed under Subsection (m) or (n) of this section, as applicable, in an amount proportionate to that insurer's share of the insurance market in this state, as of the last complete reporting period before the date on which the insurer

ceases to engage in that insurance business in this state. The proportion assessed against the insurer shall be based on the insurer's gross written premiums for insurance for the insurer's last reporting period.

(p) The association shall deposit all premium surcharges collected under Subsection (m) or (n) of this section, as applicable, in a fund to be held outside the state treasury in the custody of the comptroller. Money deposited in the fund may be invested as permitted by general law. Money in the fund required to be used to pay bond obligations and bond administrative expenses shall be transferred to the Texas Public Finance Authority or used by the comptroller in the manner and at the time specified in the resolution adopted in connection with the bond issue to ensure timely payment of obligations and expenses, or as otherwise provided by the bond documents. For bonds issued by the Texas Public Finance Authority for the association, the association shall provide for the payment of the bond obligations and the bond administrative expenses by irrevocably pledging revenues received from the premium surcharges and amounts on deposit in the fund, together with any bond reserve fund, as provided in the proceedings authorizing the bonds and related credit agreements.

(q) Revenue collected from the premium surcharges assessed under Subsection (m) or (n) of this section, as applicable, in any year that exceeds the amount of the bond obligations and bond administrative expenses payable in that year and interest earned on the premium surcharges may, in the discretion of the association and with the approval of the commissioner, be used to:

(1) pay bond obligations payable in the subsequent year, offsetting the amount that would otherwise have to be levied for the year under this section; or

(2) redeem or purchase outstanding bonds.

(r) The public securities issued under this section, any interest from those public securities, and all assets pledged to secure the payment of the public securities are free from taxation by this state or a political subdivision of this state.

(s) The public securities issued under this section constitute authorized investments under Articles 2.10 and 3.33 and

Subpart A, Part I, Article 3.39 of this code.

(t) The state pledges to and agrees with the owners of any public securities issued in accordance with this section that the state will not limit or alter the rights vested in the association to fulfill the terms of any agreements made with the owners of the public securities or in any way impair the rights and remedies of those owners until the public securities, bond premium, if any, or interest, and all costs and expenses in connection with any action or proceeding by or on behalf of those owners, are fully met and discharged. The association may include this pledge and agreement of the state in any agreement with the owners of the public securities.

(u) A party at interest may use mandamus and all other legal and equitable remedies to require the association and any other party to carry out agreements and to perform functions and duties established under this section, the Texas Constitution, or a public security resolution.

(v) This section expires September 1, 2011.

(2) Renumber the SECTIONS of the bill appropriately.