

By: Smithee

H.B. No. 2960

Substitute the following for H.B. No. 2960:

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C.S.H.B. No. 2960

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the operation and funding of the Texas Windstorm  
3 Insurance Association.

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

5 SECTION 1. Section 2210.001, Insurance Code, is amended to  
6 read as follows:

7 Sec. 2210.001. PURPOSE. (a) An adequate market for  
8 windstorm and~~[,] hail[,—and—fire]~~ insurance in the seacoast  
9 territory is necessary to the economic welfare of this state, and  
10 without that insurance, the orderly growth and development of this  
11 state would be severely impeded. This chapter provides a method by  
12 which adequate windstorm and~~[,] hail[,—and—fire]~~ insurance may be  
13 obtained in certain designated portions of the seacoast territory  
14 of this state.

15 (b) The purpose of the Texas Windstorm Insurance  
16 Association is to serve as a residual insurer of last resort for  
17 windstorm and hail insurance in the seacoast territory. The  
18 association shall function in such a manner as to not be a direct  
19 competitor in the private market and shall provide insurance  
20 coverage to persons who are unable to obtain insurance coverage in  
21 the private market.

22 SECTION 2. Section 2210.003(6), Insurance Code, is amended  
23 to read as follows:

24 (6) "Insurance" means Texas [~~fire and explosion~~

1 ~~insurance and Texas]~~ windstorm and hail insurance.

2 SECTION 3. Section 2210.004(a), Insurance Code, is amended  
3 to read as follows:

4 (a) For purposes of this chapter and subject to this  
5 section, "insurable property" means immovable property at a fixed  
6 location in a catastrophe area or corporeal movable property  
7 located in that immovable property, as designated in the plan of  
8 operation, that is determined by the association according to the  
9 criteria specified in the plan of operation to be in an insurable  
10 condition against windstorm and hail ~~[or fire and explosion, as  
11 appropriate]~~, as determined by normal underwriting standards.

12 SECTION 4. Section 2210.005, Insurance Code, is amended to  
13 read as follows:

14 Sec. 2210.005. DESIGNATION AS CATASTROPHE AREA ~~[OR  
15 INADEQUATE FIRE INSURANCE AREA]~~; REVOCATION OF DESIGNATION. (a)  
16 After at least 10 days' notice and a hearing, the commissioner may  
17 designate an area of the seacoast area of this state as a  
18 catastrophe area if the commissioner determines that windstorm and  
19 hail insurance is not reasonably available to a substantial number  
20 of the owners of insurable property located in that territory  
21 because the territory is subject to unusually frequent and severe  
22 damage resulting from windstorms or hailstorms.

23 (b) ~~[After at least 10 days' notice and a hearing, the  
24 commissioner may designate an area of this state as an inadequate  
25 fire insurance area if the commissioner determines that fire and  
26 explosion insurance is not reasonably available to a substantial  
27 number of owners of insurable property located in that area.]~~

1           ~~[(c)]~~ The commissioner shall revoke a designation made under  
2 Subsection (a) ~~[or (b)]~~ if the commissioner determines, after at  
3 least 10 days' notice and a hearing, that the applicable insurance  
4 coverage is no longer reasonably unavailable to a substantial  
5 number of owners of insurable property within the designated  
6 territory.

7           (c) ~~[(d)]~~ If the association determines that windstorm and  
8 hail insurance ~~[or fire and explosion insurance]~~ is no longer  
9 reasonably unavailable to a substantial number of owners of  
10 insurable property in a territory designated as a catastrophe area  
11 ~~[or inadequate fire insurance area, as applicable]~~, the association  
12 may request in writing that the commissioner revoke the  
13 designation. After at least 10 days' notice and a hearing, but not  
14 later than the 30th day after the date of the hearing, the  
15 commissioner shall:

- 16                   (1) approve the request and revoke the designation; or  
17                   (2) reject the request.

18           SECTION 5. Subchapter A, Chapter 2210, Insurance Code, is  
19 amended by adding Section 2210.009 to read as follows:

20           Sec. 2210.009. LIST OF PRIVATE INSURERS; INCENTIVE PLAN.

21           (a) The department shall maintain a list of all insurers that  
22 engage in the business of property and casualty insurance in the  
23 voluntary market in the seacoast territory.

24           (b) The department shall develop incentive programs in the  
25 manner described by Section 2210.053(b) to encourage authorized  
26 insurers to write insurance on a voluntary basis and to minimize the  
27 use of the association as a means to obtain insurance. The

1 incentives may include rules or policy form amendments allowing an  
2 insurer to use, in adjusting windstorm claims, the method of  
3 allocation of wind and water damage provided by Section  
4 2210.203(a-1).

5 SECTION 6. Sections 2210.052(a) and (d), Insurance Code,  
6 are amended to read as follows:

7 (a) Each member of the association shall participate in  
8 insured losses and operating expenses of the association, in excess  
9 of premium and other revenue [~~the writings, expenses, profits, and~~  
10 ~~losses~~] of the association, in the proportion that the net direct  
11 premiums of that member during the preceding calendar year bears to  
12 the aggregate net direct premiums by all members of the  
13 association, as determined using the information provided under  
14 Subsection (b).

15 (d) Notwithstanding Subsection (a), a member, in accordance  
16 with the plan of operation, is entitled to receive credit for  
17 similar insurance voluntarily written in an area designated by the  
18 commissioner. The member's participation in the insured losses and  
19 operating expenses of the association in excess of premium and  
20 other revenue [~~writings~~] of the association shall be reduced in  
21 accordance with the plan of operation. Incentives adopted under  
22 the plan of operation must include a minimum level of participation  
23 for an insurer voluntarily writing coverage in a catastrophe area,  
24 and may not include a maximum level to cap a member's actual  
25 statewide writings compared with other members.

26 SECTION 7. Section 2210.058, Insurance Code, is amended to  
27 read as follows:

1           Sec. 2210.058. PAYMENT OF EXCESS LOSSES [~~;~~ ~~PREMIUM TAX~~  
2 ~~CREDIT~~]. (a) If, in any calendar year, an occurrence or series of  
3 occurrences in a catastrophe area results in insured losses and  
4 operating expenses of the association in excess of premium and  
5 other revenue of the association, the excess losses shall be paid as  
6 provided by this section.

7           (b) The association shall pay excess losses from available  
8 reserves of the association and available amounts in [follows:

9                   ~~[(1) \$100 million shall be assessed against the~~  
10 ~~members of the association as provided by Subsection (b);~~

11                   ~~[(2) losses in excess of \$100 million shall be paid~~  
12 ~~from] the catastrophe reserve trust fund established under~~  
13 ~~Subchapter J. [and any reinsurance program established by the~~  
14 ~~association;]~~

15           (c) For [(3) for] losses in excess of those paid under  
16 Subsection (b), the association may issue catastrophe area public  
17 securities in the manner prescribed by Subchapter M. Catastrophe  
18 area public securities issued under this subsection may be issued  
19 before or on or after the occurrence of a catastrophic event in  
20 amounts necessary to fund not more than 45 percent of the required  
21 solvency level determined under Subchapter N. All catastrophe area  
22 public securities obligations shall be paid in the manner  
23 prescribed by Section 2210.609, if applicable, and Section  
24 2210.611.

25           (d) For [Subdivisions (1) and (2), an additional \$200  
26 million shall be assessed against the members of the association,  
27 as provided by Subsection (b); and

1           ~~[(4)]~~ losses in excess of those paid under Subsections  
2 (b) and (c), the association may issue Class 1 public securities  
3 before or on or after the occurrence of a catastrophic event in the  
4 manner prescribed by Subchapter M. Class 1 post-event public  
5 securities may be issued only on or after a named storm has caused  
6 damage in the seacoast territory and the board of directors has  
7 determined that the combination of association reserves, amounts  
8 available in the catastrophe reserve trust fund, catastrophe area  
9 public securities, and Class 1 pre-event public securities, if any,  
10 are insufficient to pay the losses. The board of directors may  
11 request the commissioner to authorize Class 1 public securities in  
12 an amount sufficient to pay projected losses up to an amount not to  
13 exceed 50 percent of the required solvency level determined under  
14 Subchapter N. All Class 1 public securities obligations shall be  
15 paid in the manner prescribed by Section 2210.609, if applicable,  
16 and Section 2210.612.

17           (e) For losses in excess of those paid under Subsections  
18 (b)-(d), the board of directors of the association may request the  
19 commissioner to authorize member company public securities, in an  
20 amount not to exceed \$500 million, to be issued after a catastrophic  
21 event in the manner prescribed by Subchapter M. Member company  
22 public securities obligations shall be paid in the manner  
23 prescribed by Section 2210.613.

24           (f) For losses in excess of those paid under Subsections  
25 (b)-(e), the board of directors may request the commissioner to  
26 authorize Class 2 post-event public securities to be issued under  
27 this subsection on or after a catastrophic event in the manner

1 prescribed by Subchapter M. The commissioner may authorize Class 2  
2 post-event public securities under this subsection to pay losses  
3 above the required solvency level determined under Subchapter N, in  
4 an amount sufficient to pay losses but not to exceed \$3 billion.  
5 All Class 2 post-event public securities obligations shall be paid  
6 in the manner prescribed by Section 2210.614.

7 (g) The association may pay losses in excess of premium and  
8 other revenue of the association with reinsurance proceeds from  
9 reinsurance purchased by the association to fund losses and may pay  
10 expenses of the association with other funding available as  
11 provided in any subsection of this section [~~Subdivisions (1), (2),~~  
12 and ~~(3) shall be assessed against members of the association, as~~  
13 provided by Subsection (b)].

14 [~~(b) The proportion of the losses allocable to each insurer~~  
15 under Subsections (a)(1), (3), and (4) shall be determined in the  
16 manner used to determine each insurer's participation in the  
17 association for the year under Section 2210.052.

18 [~~(c) An insurer may credit an amount paid in accordance with~~  
19 Subsection (a)(4) in a calendar year against the insurer's premium  
20 tax under Chapter 221. The tax credit authorized under this  
21 subsection shall be allowed at a rate not to exceed 20 percent per  
22 year for five or more successive years following the year of payment  
23 of the claims. The balance of payments made by the insurer and not  
24 claimed as a premium tax credit may be reflected in the books and  
25 records of the insurer as an admitted asset of the insurer for all  
26 purposes, including exhibition in an annual statement under Section  
27 862.001.]

1 SECTION 8. Section 2210.060(c), Insurance Code, is amended  
2 to read as follows:

3 (c) Subsection (a) does not authorize the association to  
4 indemnify a member of the association for participating in the  
5 assessments made by [writings, expenses, profits, and losses of]  
6 the association in the manner provided by this chapter.

7 SECTION 9. Subchapter B, Chapter 2210, Insurance Code, is  
8 amended by adding Section 2210.061 to read as follows:

9 Sec. 2210.061. SURPLUS LINES INSURERS. (a) A surplus lines  
10 insurer may not be a member of the association and is not subject to  
11 assessment as a member of the association.

12 (b) Each agent placing property insurance through a surplus  
13 lines insurer shall collect from the policyholder and shall remit  
14 to the association a surplus lines policy fee on all premiums  
15 collected after January 1, 2008, for all insurance written by the  
16 agent for a policy from a surplus lines insurer for all risks on  
17 real property and contents in first tier coastal counties. By  
18 procuring or selling insurance on property in this state through a  
19 surplus lines insurer, each agent described by this subsection  
20 agrees to be subject to the provisions of this chapter, and to  
21 collect and remit the surplus lines policy fee described by this  
22 section.

23 (c) The surplus lines policy fee shall be five percent of  
24 the total policy premium, but the fee may not be considered premium  
25 and is not subject to premium taxes or commissions. Failure to pay  
26 the surplus lines policy fee shall be treated as a failure to pay  
27 premium. For purposes of this subsection, "total policy premium"



1 includes taxes and commissions.

2 (d) Not later than the 20th day after the last day of each  
3 calendar quarter, each agent placing insurance through a surplus  
4 lines insurer shall remit directly to the association all surplus  
5 lines policy fees collected in the preceding quarter.

6 SECTION 10. The heading to Subchapter C, Chapter 2210,  
7 Insurance Code, is amended to read as follows:

8 SUBCHAPTER C. ASSOCIATION BOARD OF DIRECTORS; GENERAL POWERS AND  
9 DUTIES OF BOARD OF DIRECTORS

10 SECTION 11. Section 2210.101, Insurance Code, is amended to  
11 read as follows:

12 Sec. 2210.101. ACCOUNTABLE TO GOVERNOR AND COMMISSIONER.  
13 The board of directors is responsible and accountable to the  
14 governor and the commissioner.

15 SECTION 12. Section 2210.102, Insurance Code, is amended to  
16 read as follows:

17 Sec. 2210.102. COMPOSITION. (a) The board of directors is  
18 composed of seven [~~the following nine~~] members appointed by the  
19 governor in accordance with this section.

20 (b) At least three members must, but not more than three  
21 members may, be employed by or affiliated with other than as  
22 agents[+]

23 [~~(1) five representatives of different~~] insurers who  
24 are members of the association.

25 (c) At least two members must, but not more than two members  
26 may, be [~~elected by the members as provided by the plan of~~  
27 ~~operation,~~

1           ~~[(2) two]~~ public representatives, one of whom ~~[who are~~  
2 ~~nominated by the office of public insurance counsel and who]~~, as of  
3 the date of the appointment, resides~~[+~~

4                   ~~[(A) reside]~~ in or owns property in the seacoast  
5 territory, and one of whom, as of the date of the appointment, does  
6 not reside in or own property in the seacoast territory.

7           (d) At least two members must, but not more than two members  
8 may, be ~~[a catastrophe area; and~~

9                   ~~[(B) are policyholders of the association; and~~

10                   ~~[(3) two]~~ general property and casualty agents  
11 licensed under this code, one of whom, as of the date of the  
12 appointment, maintains the agent's principal office in the seacoast  
13 territory, and one of whom, as of the date of the appointment, does  
14 not maintain the agent's principal office in the seacoast  
15 territory.

16           (e) All members must have ~~[+~~

17                   ~~[(A) who have]~~ demonstrated experience in  
18 insurance, general business, or actuarial principles sufficient to  
19 make the success of the association probable~~[, and~~

20                   ~~[(B) whose principal offices, as of the date of~~  
21 ~~the appointment, are located in a catastrophe area].~~

22           ~~[(b) The persons appointed under Subsections (a)(2) and (3)~~  
23 ~~must be from different counties.]~~

24           SECTION 13. Section 2210.103, Insurance Code, is amended to  
25 read as follows:

26           Sec. 2210.103. TERMS. (a) Members of the board of  
27 directors serve two-year ~~[three-year staggered]~~ terms~~[, with the~~

1 ~~terms of three members expiring on the third Tuesday of March of~~  
2 ~~each year].~~

3 (b) A person may serve on the board of directors for not more  
4 than three consecutive full terms [~~, not to exceed nine years].~~

5 (c) The governor shall appoint a replacement in the manner  
6 provided by Section 2210.102 for a member who leaves or is removed  
7 from the board of directors.

8 SECTION 14. Section 2210.104, Insurance Code, is amended to  
9 read as follows:

10 Sec. 2210.104. OFFICERS. The board of directors shall  
11 elect from the board's membership an executive committee consisting  
12 of a presiding officer, assistant presiding officer, and  
13 secretary-treasurer. [~~At least one of the officers must be a member~~  
14 ~~appointed under Section 2210.102(a)(2) or (3).]~~

15 SECTION 15. Subchapter C, Chapter 2210, Insurance Code, is  
16 amended by adding Section 2210.1051 to read as follows:

17 Sec. 2210.1051. MEETINGS OF BOARD OF DIRECTORS. (a)  
18 Notwithstanding Chapter 551, Government Code, or any other law,  
19 members of the board of directors may meet by telephone conference  
20 call, video conference, or other similar telecommunication method.  
21 The board may use telephone conference call, video conference, or  
22 other similar telecommunication method for purposes of  
23 establishing a quorum or voting or for any other meeting purpose in  
24 accordance with this subsection and Subsection (b). This  
25 subsection applies without regard to the subject matter discussed  
26 or considered by the members of the board at the meeting.

27 (b) A meeting held by telephone conference call, video

1 conference, or other similar telecommunication method:

2 (1) is subject to the notice requirements applicable  
3 to other meetings of the board of directors;

4 (2) may not be held unless notice of the meeting  
5 specifies the location of the meeting;

6 (3) must be audible to the public at the location  
7 specified in the notice under Subdivision (2); and

8 (4) must provide two-way audio communication between  
9 all members of the board attending the meeting during the entire  
10 meeting, and if the two-way audio communication link with members  
11 attending the meeting is disrupted so that a quorum of the board is  
12 no longer participating in the meeting, the meeting may not  
13 continue until the two-way audio communication link is  
14 reestablished.

15 SECTION 16. Subchapter C, Chapter 2210, Insurance Code, is  
16 amended by adding Section 2210.107 to read as follows:

17 Sec. 2210.107. PRIMARY BOARD OBJECTIVES. The primary  
18 objectives of the board of directors are to ensure that the  
19 association:

20 (1) operates in accordance with this chapter and  
21 commissioner rules;

22 (2) complies with sound insurance principles; and

23 (3) meets the solvency standards imposed under this  
24 chapter.

25 SECTION 17. Section 2210.151, Insurance Code, is amended to  
26 read as follows:

27 Sec. 2210.151. ADOPTION OF PLAN OF OPERATION. With the

1 advice of the board of directors, the commissioner by rule shall  
2 adopt the plan of operation to provide[+]

3 [~~(1)~~] Texas windstorm and hail insurance in a  
4 catastrophe area[~~, and~~

5 [~~(2)~~ Texas fire and explosion insurance in an  
6 ~~inadequate fire insurance area~~].

7 SECTION 18. Section 2210.202(a), Insurance Code, is amended  
8 to read as follows:

9 (a) A person who has an insurable interest in insurable  
10 property may apply to the association for insurance coverage  
11 provided under the plan of operation and an inspection of the  
12 property, subject to any rules[~~, including any inspection fee,~~]  
13 established by the board of directors and approved by the  
14 commissioner. In order to be eligible for insurance through the  
15 association, an applicant must demonstrate, in the manner  
16 established in the plan of operation, inability to obtain  
17 insurance coverage from insurers authorized to engage in the  
18 business of property and casualty insurance in this state.

19 SECTION 19. Section 2210.203, Insurance Code, is amended by  
20 adding Subsection (a-1) to read as follows:

21 (a-1) Notwithstanding Subsection (a), if all or any part of  
22 the property for which an application for new or renewal insurance  
23 coverage is made is located in Zone V or another similar zone with  
24 an additional hazard associated with storm waves, as defined by the  
25 National Flood Insurance Program, and if flood insurance under that  
26 federal program is available, the association may not issue a new or  
27 renewal insurance policy unless evidence that the property is

1 covered by a flood insurance policy is submitted to the  
 2 association. If that flood insurance is unavailable in any portion  
 3 of the seacoast territory, the association may issue coverage only  
 4 if an actuarially sound surcharge, as determined by the board, is  
 5 imposed on the premium. The commissioner shall adopt rules under  
 6 which the loss resulting from wind damage, as opposed to water  
 7 damage, when otherwise undeterminable, shall be apportioned in  
 8 those cases in which flood insurance was unavailable at the  
 9 inception of the policy or the insured had no flood insurance or had  
 10 flood insurance on the inception of the policy, but the coverage  
 11 lapsed or expired before the loss. The association shall pay claims  
 12 only in accordance with the allocation rule adopted by the  
 13 commissioner.

14 SECTION 20. Sections 2210.251(a) through (f), Insurance  
 15 Code, are amended to read as follows:

16 (a) Except as provided by this section, to be considered  
 17 insurable property eligible for windstorm and hail insurance  
 18 coverage from the association, a structure that is constructed or  
 19 repaired or to which additions are made on or after January 1, 1988,  
 20 must be inspected [~~or approved~~] by the association [~~department~~] for  
 21 compliance with the plan of operation.

22 (b) After January 1, 2004, for geographic areas specified by  
 23 the commissioner, the board of directors [~~commissioner by rule~~]  
 24 shall recognize for the purposes of this chapter [~~adopt~~] the 2003  
 25 International Residential Code for one- and two-family dwellings  
 26 published by the International Code Council. For those geographic  
 27 areas, the board of directors [~~commissioner by rule~~] may recognize

1 ~~[adopt]~~ a subsequent edition of that code and ~~[may adopt]~~ any  
2 supplements published by the International Code Council and  
3 amendments to that code.

4 (c) After January 1, 2004, a person must submit a notice of a  
5 windstorm inspection to the association ~~[unit responsible for~~  
6 ~~certification of windstorm inspections at the department]~~ before  
7 beginning to construct, alter, remodel, enlarge, or repair a  
8 structure.

9 (d) A structure constructed or repaired or to which  
10 additions were made before January 1, 1988, that is located in an  
11 area that was governed at the time of the construction, repair, or  
12 addition by a building code recognized by the association is  
13 insurable property eligible for windstorm and hail insurance  
14 coverage from the association without compliance with the  
15 inspection ~~[or approval]~~ requirements of this section or the plan  
16 of operation.

17 (e) A structure constructed or repaired or to which  
18 additions were made before January 1, 1988, that is located in an  
19 area not governed by a building code recognized by the association  
20 is insurable property eligible for windstorm and hail insurance  
21 coverage from the association without compliance with the  
22 inspection ~~[or approval]~~ requirements of this section or the plan  
23 of operation if the structure was previously insured by an insurer  
24 authorized to engage in the business of insurance in this state and  
25 the structure is in essentially the same condition as when  
26 previously insured, except for normal wear and tear, and is without  
27 any structural change other than a change made according to code.

1 For purposes of this subsection, evidence of previous insurance  
2 coverage includes:

- 3 (1) a copy of a previous insurance policy;  
4 (2) copies of canceled checks or agent's records that  
5 show payments for previous policies; and  
6 (3) a copy of the title to the structure or mortgage  
7 company records that show previous policies.

8 (f) The association [~~department~~] shall issue a certificate  
9 of compliance for each structure that qualifies for coverage. The  
10 certificate is evidence of insurability of the structure by the  
11 association.

12 SECTION 21. Section 2210.252, Insurance Code, is amended to  
13 read as follows:

14 Sec. 2210.252. INTERNATIONAL RESIDENTIAL CODE BUILDING  
15 SPECIFICATIONS. (a) After January 1, 2004, for geographic areas  
16 specified by the commissioner, the association [~~commissioner by~~  
17 ~~rule~~] may supplement the plan of operation building specifications  
18 with the structural provisions of the International Residential  
19 Code for one- and two-family dwellings, as published by the  
20 International Code Council or an analogous entity recognized by the  
21 board of directors [~~department~~].

22 (b) For a geographic area specified under Subsection (a),  
23 the board of directors [~~commissioner by rule~~] may recognize [~~adopt~~]  
24 a subsequent edition of the International Residential Code for  
25 one- and two-family dwellings and [~~may adopt~~] a supplement  
26 published by the International Code Council or an amendment to that  
27 code.



1 SECTION 22. Sections 2210.254(a) and (b), Insurance Code,  
2 are amended to read as follows:

3 (a) For purposes of this chapter, a "qualified inspector"  
4 includes:

5 (1) a person determined by the board of directors  
6 [~~department~~] to be qualified because of training or experience to  
7 perform building inspections;

8 (2) a licensed professional engineer who meets the  
9 requirements specified by the board of directors [~~commissioner~~  
10 ~~rule~~] for appointment to conduct windstorm inspections; and

11 (3) an inspector who:

12 (A) is certified by the International Code  
13 Council, the Building Officials and Code Administrators  
14 International, Inc., the International Conference of Building  
15 Officials, or the Southern Building Code Congress International,  
16 Inc.;

17 (B) has certifications as a buildings inspector  
18 and coastal construction inspector; and

19 (C) complies with other requirements specified  
20 by the board of directors [~~commissioner rule~~].

21 (b) A windstorm inspection may be performed only by a  
22 qualified inspector who is employed by or under contract with the  
23 association.

24 SECTION 23. Section 2210.255, Insurance Code, is amended to  
25 read as follows:

26 Sec. 2210.255. APPOINTMENT OF LICENSED ENGINEER AS  
27 INSPECTOR. (a) On request of an engineer licensed by the Texas

1 Board of Professional Engineers, the association may [~~commissioner~~  
2 ~~shall~~] appoint the engineer as an inspector under this subchapter  
3 on receipt of information satisfactory to the board of directors  
4 [~~not later than the 10th day after the date the engineer delivers to~~  
5 ~~the commissioner information demonstrating~~] that the engineer is  
6 qualified to perform windstorm inspections under this subchapter.

7 (b) The board of directors shall consult with the  
8 commissioner regarding [~~shall adopt rules establishing~~] the  
9 information to be considered in appointing engineers under this  
10 section.

11 SECTION 24. Subchapter F, Chapter 2210, Insurance Code, is  
12 amended by adding Section 2210.258 to read as follows:

13 Sec. 2210.258. SURCHARGE FOR CERTAIN NONCOMPLIANT  
14 CONSTRUCTION. (a) For purposes of this section, property is not in  
15 compliance with mandatory building codes if:

16 (1) the property has not been inspected for compliance  
17 with the plan of operation in accordance with Section 2210.251(a);  
18 or

19 (2) a certificate of compliance has not been issued in  
20 accordance with Section 2210.251(f).

21 (b) An applicant for coverage from the association or a  
22 policyholder of the association whose property is determined to not  
23 be in compliance as provided by Subsection (a) is subject to a  
24 premium surcharge for insurance coverage obtained through the  
25 association. The surcharge shall be an amount not less than an  
26 amount equal to 10 percent of the premium, as determined by the  
27 commissioner after notice and a hearing.

1 SECTION 25. Sections 2210.351(a), (c), and (d), Insurance  
2 Code, are amended to read as follows:

3 (a) The association shall [~~must~~] file with the department in  
4 the manner prescribed by Section 2251.101 each manual of  
5 classifications, rules, rates, including condition charges, and  
6 each rating plan, and each modification of those items that the  
7 association proposes to use.

8 (c) After the filing has been made, the association may use  
9 a filed rate, and a filed rate is subject to disapproval by the  
10 commissioner in the manner prescribed by Subchapter C, Chapter  
11 2251. [~~As soon as reasonably possible after the filing has been~~  
12 ~~made, the commissioner in writing shall approve, modify, or~~  
13 ~~disapprove the filing. A filing is considered approved unless~~  
14 ~~modified or disapproved on or before the 30th day after the date of~~  
15 ~~the filing.]~~

16 (d) If at any time the commissioner determines that a filing  
17 in effect [~~approved~~] under Subsection (c) no longer meets the  
18 requirements of this chapter, the commissioner may disapprove [~~7~~  
19 ~~after a hearing held on at least 20 days' notice to the association~~  
20 ~~that specifies the matters to be considered at the hearing, issue an~~  
21 ~~order withdrawing approval of]~~ the filing in the manner prescribed  
22 by Section 2251.104 for disapproval of a rate. [~~The order must~~  
23 ~~specify in what respects the commissioner determines that the~~  
24 ~~filing no longer meets the requirements of this chapter. An order~~  
25 ~~issued under this subsection may not take effect before the 30th day~~  
26 ~~after the date of issuance of the order.]~~

27 SECTION 26. Section 2210.355(b), Insurance Code, is amended

1 to read as follows:

2 (b) In adopting rates under this chapter, the association  
3 shall:

4 (1) comply with the rate standards adopted under  
5 Section 2251.052, to the extent that those standards are determined  
6 by the commissioner to be applicable to the purposes of the  
7 association;

8 (2) ensure that the rates are actuarially sound; and

9 (3) include rating factors as necessary to:

10 (A) fund the catastrophe reserve trust fund;

11 (B) pay any public securities obligations in  
12 accordance with Subchapter M; and

13 (C) pay all losses and expenses of the  
14 association, regardless of the ultimate source of funding for those  
15 losses and expenses [~~following must be considered:~~

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

19 ~~(2) expenses of operation, including acquisition~~  
20 ~~costs;~~

21 ~~(3) a reasonable margin for profit and contingencies;~~  
22 ~~and~~

23 ~~(4) all other relevant factors, within and outside~~  
24 ~~this state].~~

25 SECTION 27. Section 2210.356, Insurance Code, is amended by  
26 amending Subsection (b) and adding Subsection (b-1) to read as  
27 follows:

1 (b) The catastrophe element used to develop rates under this  
2 subchapter [~~applicable to risks written by the association must be~~  
3 ~~uniform throughout the seacoast territory. The catastrophe element~~  
4 ~~of the rates]~~ must be developed using industry data, association  
5 data, and catastrophe models approved by the department for use in  
6 association filings[+]

7 [~~(1) 90 percent of both the monoline extended coverage~~  
8 ~~loss experience and related premium income for all insurers, other~~  
9 ~~than the association, for covered property located in the seacoast~~  
10 ~~territory, using not less than the most recent 30 years of~~  
11 ~~experience available; and~~

12 [~~(2) 100 percent of both the loss experience and~~  
13 ~~related premium income for the association for covered property,~~  
14 ~~using not less than the most recent 30 years of experience~~  
15 ~~available].~~

16 (b-1) The commissioner shall adopt rules establishing:

17 (1) the procedure for approval by the department of  
18 catastrophe models used by the association in the development of  
19 its rates; and

20 (2) the methodology of use for those models.

21 SECTION 28. Subchapter H, Chapter 2210, Insurance Code, is  
22 amended by adding Section 2210.364 to read as follows:

23 Sec. 2210.364. REVIEW OF RATES. A person who is aggrieved  
24 by a rate under this subchapter may proceed as provided by Chapter  
25 2251.

26 SECTION 29. Sections 2210.452(a), (c), and (d), Insurance  
27 Code, are amended to read as follows:

1 (a) The commissioner shall adopt rules under which the  
2 association makes [~~members relinquish their net equity on an annual~~  
3 ~~basis as provided by those rules by making~~] payments to the  
4 catastrophe reserve trust fund. The trust fund may be used only to  
5 fund[+]

6 [(1)] the obligations of the trust fund under Section  
7 2210.058 [~~2210.058(a)~~], and

8 [(2)] ~~the mitigation and preparedness plan established~~  
9 ~~under Section 2210.454 to reduce the potential for payments by~~  
10 ~~association members that give rise to tax credits in the event of~~  
11 ~~loss~~].

12 (c) At the end of each calendar year or policy year, the  
13 association shall pay the net gain from operations [~~equity~~] of the  
14 association [~~a member~~], including all premium and other revenue of  
15 the association in excess of incurred losses and operating  
16 expenses, to the trust fund or a reinsurance program approved by the  
17 commissioner.

18 (d) The commissioner by rule shall establish the procedure  
19 relating to the disbursement of money from the trust fund to  
20 policyholders in the event of an occurrence or series of  
21 occurrences within a catastrophe area that results in a  
22 disbursement under Section 2210.058 [~~2210.058(a)~~].

23 SECTION 30. Section 2210.453, Insurance Code, is amended to  
24 read as follows:

25 Sec. 2210.453. REINSURANCE PROGRAM. (a) The association may  
26 [~~shall~~]:

27 (1) make payments into the trust fund; and [~~or~~]

1           (2) purchase [~~establish a~~] reinsurance as part of the  
2 association's annual operating expenses to the extent [~~program~~]  
3 approved by the commissioner [~~department~~].

4           (b) With the approval of the commissioner [~~department~~], the  
5 association may purchase [~~establish a~~] reinsurance [~~program~~] that  
6 operates in addition to or in concert with the trust fund and with  
7 public securities and assessments authorized by this chapter.

8           SECTION 31. Section 2210.454(b), Insurance Code, is amended  
9 to read as follows:

10           (b) Each state fiscal year, the department may fund the  
11 mitigation and preparedness plan using available funds [~~the~~  
12 ~~investment income of the trust fund in an amount not less than \$1~~  
13 ~~million and not more than 10 percent of the investment income of the~~  
14 ~~prior fiscal year. From that amount and as part of that plan, the~~  
15 ~~department may use in each fiscal year \$1 million for the windstorm~~  
16 ~~inspection program established under Section 2210.251]~~.

17           SECTION 32. Section 2210.551, Insurance Code, is amended by  
18 adding Subsection (a-1) and amending Subsections (c) and (d) to  
19 read as follows:

20           (a-1) This section does not apply to a matter subject to  
21 Section 2210.364.

22           (c) If the association or any interested party is aggrieved  
23 by the action of the commissioner with respect to a ruling, order,  
24 or determination of the commissioner, the association or interested  
25 party may, not later than the 30th day after the date of the action,  
26 make a written request to the commissioner for a hearing on the  
27 action.

1 (d) On 10 days' written notice of the time and place of the  
2 hearing, the commissioner shall conduct a hearing on the  
3 ~~[association's]~~ request of the association or interested party or  
4 the appeal from an act, ruling, or decision of the association, not  
5 later than the 30th day after the date of receipt of the request or  
6 appeal.

7 SECTION 33. Chapter 2210, Insurance Code, is amended by  
8 adding Subchapters M and N to read as follows:

9 SUBCHAPTER M. PUBLIC SECURITIES PROGRAM

10 Sec. 2210.601. PURPOSE. The legislature finds that issuing  
11 public securities to provide a method to raise funds to provide  
12 windstorm and hail insurance through the association in certain  
13 designated areas of the state is to benefit the public and to  
14 further a public purpose.

15 Sec. 2210.602. DEFINITIONS. In this subchapter:

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

18 (2) "Catastrophe area public security" means public  
19 securities authorized to be issued before or on or after the  
20 occurrence of a catastrophic event by Section 2210.058(c).

21 (3) "Class 1 public securities" means public  
22 securities authorized to be issued before or on or after the  
23 occurrence of a catastrophic event by Section 2210.058(d).

24 (4) "Class 2 public securities" means public  
25 securities authorized to be issued on or after the occurrence of a  
26 catastrophic event by Section 2210.058(f).

27 (5) "Credit agreement" has the meaning assigned by



1 Chapter 1371, Government Code.

2 (6) "Credit agreement obligation" means any premium,  
3 periodic payment, termination payment, or similar obligation under  
4 a credit agreement.

5 (7) "Insurer" means each property and casualty insurer  
6 authorized to engage in the business of property and casualty  
7 insurance in this state. The term specifically includes a county  
8 mutual insurance company, a Lloyd's plan, and a reciprocal or  
9 interinsurance exchange.

10 (8) "Member company public security" means public  
11 securities authorized to be issued after the occurrence of a  
12 catastrophic event by Section 2210.058(e).

13 (9) "Public security" means a debt instrument or other  
14 public security obligation issued by the Texas Public Finance  
15 Authority for the purposes described by this subchapter and any  
16 credit agreement.

17 (10) "Public security administrative expenses" means  
18 expenses incurred in issuing and administering public securities  
19 issued under this subchapter, including insurance costs and fees  
20 for paying agents, trustees, and attorneys, and for other  
21 professional services necessary to ensure compliance with  
22 applicable state or federal law.

23 (11) "Public security obligations" means the  
24 principal, any premium, and interest on a public security, periodic  
25 payments or termination payments, or similar obligations with  
26 respect to a public security.

27 (12) "Public security obligation revenue fund" means

1 the dedicated trust fund established by the association outside the  
2 state treasury under this subchapter.

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

6 Sec. 2210.603. APPLICABILITY OF OTHER LAWS. The board  
7 shall issue public securities under this subchapter in accordance  
8 with and subject to the requirements of Chapter 1232, Government  
9 Code, and other provisions of Title 9, Government Code, that apply  
10 to issuance of a public security by a state agency. In the event of  
11 a conflict, this subchapter controls.

12 Sec. 2210.604. ISSUANCE OF PUBLIC SECURITIES AUTHORIZED.

13 (a) At the request of the board of directors of the association and  
14 with the approval of the commissioner, the board shall issue public  
15 securities to:

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

18 (A) establish and maintain reserves to pay  
19 claims;

20 (B) pay incurred claims;

21 (C) pay operating expenses; and

22 (D) purchase reinsurance;

23 (2) provide a reserve fund for the public securities;

24 (3) capitalize interest for the period determined by  
25 the association, not to exceed two years;

26 (4) pay public security administrative expenses; and

27 (5) pay other costs related to the public securities

1 as may be determined by the board.

2 (b) The board may issue, on behalf of the association,  
3 public securities in an amount sufficient to fund the insured  
4 losses and operating expenses of the association as determined by  
5 the association and approved by the commissioner after at least 10  
6 days' notice and a hearing if a hearing is requested by any person  
7 within the 10-day notice period.

8 Sec. 2210.605. TERMS OF ISSUANCE. (a) The board shall  
9 determine the method of sale, type and form of public security,  
10 maximum interest rates, and other terms of the public securities  
11 that, in the board's judgment, best achieve the goals of the  
12 association and effect the borrowing at the lowest practicable  
13 cost. The board may enter into a credit agreement in connection  
14 with the public securities.

15 (b) Public securities must be issued in the name of the  
16 association.

17 Sec. 2210.606. CONTENTS OF PUBLIC SECURITY RESOLUTION;  
18 ADMINISTRATION OF ACCOUNTS. (a) In a public security resolution,  
19 the board may:

20 (1) provide for the flow of funds and the  
21 establishment, maintenance, and investment of funds and special  
22 accounts with regard to the public securities; and

23 (2) make additional covenants with respect to the  
24 public securities and the designated income and receipts of the  
25 association pledged to the payment of the public securities.

26 (b) The association shall administer the accounts in  
27 accordance with this subchapter.

1       Sec. 2210.607. PUBLIC SECURITY PROCEEDS. (a) The proceeds  
2 of public securities may be deposited with a trustee selected by the  
3 association in consultation with the commissioner or if no trustee  
4 is selected, held by the comptroller in a dedicated trust fund  
5 outside the state treasury in the custody of the comptroller.

6       (b) Any excess public security proceeds remaining after the  
7 purposes for which the public securities were issued are satisfied  
8 may be used to pay public security obligations or administrative  
9 expenses or pay, purchase, defease, or redeem outstanding public  
10 securities. If there are no outstanding public security obligations  
11 or public security administrative expenses, the excess proceeds  
12 shall be transferred to the catastrophe reserve trust fund.

13       Sec. 2210.608. SOURCE OF PAYMENT; REVENUE FUND. (a) Public  
14 security obligations are payable only from the public security  
15 obligation revenue fund, into which the following are deposited:

16               (1) the service fees on assessments established under  
17 Section 2210.611, 2210.612, 2210.613, or 2210.614, as applicable;  
18 or

19               (2) other amounts that the association is authorized  
20 to levy, charge, and collect.

21       (b) The board shall notify the association of the estimated  
22 amount of public security administrative expenses and the amount of  
23 the public security obligations each year in a period sufficient,  
24 as determined by the association, to permit the association to  
25 determine the availability of funds and assess a premium surcharge  
26 or other assessment if necessary.

27       (c) The association shall deposit all revenue collected

1 under Sections 2210.611 through 2210.614 in the public security  
2 obligation revenue fund. Money deposited in the fund may be  
3 invested as permitted by general law. Money in the fund required to  
4 be used to pay public security administrative expenses and public  
5 security obligations shall be transferred to the appropriate funds  
6 in the manner and at the time specified in the public security  
7 resolution to ensure timely payment of obligations and expenses.

8 (d) The association shall provide for the payment of the  
9 public security administrative expenses and the public security  
10 obligations by irrevocably pledging revenues received from  
11 assessments, premiums, premium surcharges, and amounts on deposit  
12 in the public security obligation revenue fund, together with any  
13 reserve fund, as provided in the public security resolution and  
14 amounts realized under related credit agreements.

15 (e) Revenue deposited into the public security obligation  
16 revenue fund that exceeds the amount of the public security  
17 obligations payable in that year and interest earned on the public  
18 security obligation fund may, in the discretion of the association,  
19 be:

20 (1) used to pay public security obligations payable in  
21 the subsequent year, offsetting the amount of the premium surcharge  
22 or assessment that would otherwise be required to be levied for the  
23 year under this subchapter;

24 (2) used to redeem, purchase, or defease outstanding  
25 public securities; or

26 (3) deposited in the catastrophe reserve trust fund.

27 (f) The public securities are obligations solely of the

1 association and do not create a pledge, gift, or loan of the faith,  
2 credit, or taxing authority of this state.

3 (g) Each public security must:

4 (1) include a statement that the state is not  
5 obligated to pay any amount on the security and that the faith,  
6 credit, and taxing authority of this state are not pledged, given,  
7 or lent to those payments; and

8 (2) state on the security's face that the security:

9 (A) is payable solely from the revenue pledged  
10 for that purpose; and

11 (B) is not and may not constitute a legal or moral  
12 obligation of the state.

13 Sec. 2210.609. PAYMENT OF INTEREST; PAYMENT OF PRE-EVENT  
14 PUBLIC SECURITY OBLIGATIONS. (a) Except as provided by  
15 Subsection (b), the association shall pay all interest, and may pay  
16 principal, on any pre-event public security issued as described by  
17 Section 2210.058(c) or (d) from the existing premiums of the  
18 association.

19 (b) If the association is unable to pay the public security  
20 obligations described by Subsection (a) with existing premiums,  
21 those public security obligations shall be paid from the service  
22 fees collected in accordance with Sections 2210.611 and 2210.612.

23 Sec. 2210.610. REFINANCING PUBLIC SECURITIES. The  
24 association may request the board to refinance any public  
25 securities issued in accordance with Section 2210.058, whether  
26 pre-event or post-event public securities, with the refinanced  
27 public securities payable from the same sources as the original

1 public securities.

2 Sec. 2210.611. CATASTROPHE AREA PUBLIC SECURITY SERVICE  
3 FEE; PREMIUM SURCHARGE AND ASSESSMENT. (a) The catastrophe area  
4 public security obligations and administrative expenses shall be  
5 serviced as provided by this section.

6 (b) For public securities, the proceeds of which are used to  
7 fund excess losses under Section 2210.058(c), the public security  
8 obligations and administrative expenses shall be collected from  
9 association policyholders each year until all outstanding public  
10 security obligations and administrative expenses have been  
11 satisfied and paid.

12 (c) The service fee imposed on association policyholders  
13 under this section shall be determined and collected as provided by  
14 this subsection. The association shall determine the amount of a  
15 service fee imposed under this section at least annually. On  
16 approval by the commissioner of the amount of a service fee after at  
17 least 10 days' notice and a hearing, if a hearing is requested by  
18 any person within the 10-day notice period, the association shall  
19 charge the service fee to its policyholders. The service fee must  
20 be set in an amount sufficient to pay all public security  
21 obligations and administrative expenses. The service fee shall be  
22 collected in the form of a premium surcharge and shall be remitted  
23 to the association as required by the commissioner by rule. The  
24 service fees collected under this subsection are separate charges  
25 in addition to premiums collected and are not subject to premium  
26 taxes or commissions. For purposes of policy cancellation, failure  
27 by a policyholder to pay a premium surcharge imposed under this

1 subsection is equivalent to failure to pay premium.

2 Sec. 2210.612. SERVICE FEE: CLASS 1 PUBLIC SECURITIES;  
3 PREMIUM SURCHARGE. (a) A fee to service Class 1 public securities  
4 issued by the association in accordance with Section 2210.058(d)  
5 shall be collected by each insurer, the association, and the FAIR  
6 Plan Association from policyholders who reside or have operations  
7 in, or whose insured property is located in, a catastrophe area.

8 (b) The association shall determine the amount of a service  
9 fee imposed under Subsection (a) at least annually.

10 (c) On approval by the commissioner after at least 10 days'  
11 notice and a hearing, if a hearing is requested by any person within  
12 the 10-day notice period, each insurer, the association, and the  
13 FAIR Plan Association shall charge the service fee to the  
14 policyholders described by Subsection (a). The service fee must be  
15 set in an amount sufficient to pay all public security obligations  
16 and administrative expenses. The service fee shall be collected in  
17 the form of a premium surcharge and shall be remitted to the  
18 association as required by the commissioner by rule.

19 (d) The premium surcharge shall apply to all insurance  
20 policies for all property and casualty lines other than workers'  
21 compensation, accident and health, and medical malpractice. The  
22 service fees collected in the form of a premium surcharge under this  
23 section are separate charges in addition to premiums collected and  
24 are not subject to premium taxes or commissions.

25 (e) For purposes of policy cancellation, failure by a  
26 policyholder to pay a premium surcharge imposed under this section  
27 is equivalent to failure to pay premium.



1       Sec. 2210.613. POST-EVENT ASSESSMENT: MEMBER COMPANY  
2 PUBLIC SECURITIES. (a) An assessment to service member company  
3 public security obligations and administrative expenses issued by  
4 the association after a catastrophic event shall be assessed to and  
5 collected from each member company.

6       (b) The association shall determine the amount of each  
7 member company assessment at least annually. The assessment must be  
8 set in an amount sufficient to pay all public security obligations  
9 and administrative expenses.

10       (c) Each member company shall be assessed with the  
11 proportion of the loss allocable to each member company determined  
12 in the same manner as its participation in the association has been  
13 determined for the year under Section 2210.052.

14       Sec. 2210.614. POST-EVENT SERVICE FEE: CLASS 2 PUBLIC  
15 SECURITIES; PREMIUM SURCHARGE. (a) A fee to service Class 2 public  
16 securities issued by the association after a catastrophic event  
17 shall be collected by each insurer, the association, and the FAIR  
18 Plan Association from policyholders who reside or have operations  
19 in, or whose insured property is located in, this state.

20       (b) The association shall determine the amount of a service  
21 fee imposed under Subsection (a) at least annually.

22       (c) On approval by the commissioner after at least 10 days'  
23 notice and a hearing, if a hearing is requested by any person within  
24 the 10-day notice period, each insurer, the association, and the  
25 FAIR Plan Association shall charge the service fee to the  
26 policyholders described by Subsection (a). The service fee must be  
27 set in an amount sufficient to pay all public security obligations

1 and administrative expenses. The service fee shall be collected in  
2 the form of a premium surcharge and shall be remitted to the  
3 association as required by the commissioner by rule.

4 (d) The service fees collected in the form of a premium  
5 surcharge under this section are separate charges in addition to  
6 premiums collected and are not subject to premium taxes or  
7 commissions.

8 (e) For purposes of policy cancellation, failure by a  
9 policyholder to pay a premium surcharge imposed under this section  
10 is equivalent to failure to pay premium.

11 Sec. 2210.615. EXEMPTION FROM TAXATION. Public securities  
12 issued under this subchapter, any interest from those public  
13 securities, and all assets pledged to secure the payment of the  
14 public securities are free from taxation by the state or a political  
15 subdivision of this state.

16 Sec. 2210.616. AUTHORIZED INVESTMENTS. Public securities  
17 issued under this subchapter are authorized investments under  
18 Subchapter B, Chapter 424, and Subchapters C and D, Chapter 425.

19 Sec. 2210.617. STATE PLEDGE REGARDING PUBLIC SECURITY OWNER  
20 RIGHTS AND REMEDIES. (a) The state pledges to and agrees with the  
21 owners of public securities issued in accordance with this  
22 subchapter that the state will not limit or alter the rights vested  
23 in the association to fulfill the terms of agreements made with the  
24 owners or in any way impair the rights and remedies of those owners  
25 until the public security obligations are fully discharged.

26 (b) The board may include the state's pledge and agreement  
27 under Subsection (a) in a public security resolution.

1       Sec. 2210.618. PAYMENT ENFORCEABLE BY MANDAMUS. A writ of  
2 mandamus from any Travis County district court and any other legal  
3 or equitable remedy are available to a party in interest to require  
4 the association or another party to fulfill an agreement or perform  
5 a function or duty under:

- 6           (1) this subchapter;  
7           (2) the Texas Constitution; or  
8           (3) a public security resolution.

9       Sec. 2210.619. NO PERSONAL LIABILITY. The members of the  
10 association, association employees, the board, the employees of the  
11 Texas Public Finance Authority, the commissioner, and department  
12 employees are not personally liable as a result of exercising the  
13 rights and responsibilities granted under this subchapter.

14       SUBCHAPTER N. ASSOCIATION SOLVENCY REQUIREMENTS

15       Sec. 2210.651. SOLVENCY DUTIES. The board of directors  
16 shall maintain the required solvency level of the association.

17       Sec. 2210.652. REQUIRED SOLVENCY LEVEL; FUNDING SOURCES.  
18 (a) For purposes of this chapter, the "required solvency level" is  
19 the level of available internal association funding necessary to  
20 pay 100 percent of losses for which the association is liable and  
21 that result from a probable maximum loss determined by the board of  
22 directors under Section 2210.654.

23       (b) The board of directors shall maintain the funding of the  
24 association at a level sufficient to achieve the required solvency  
25 level.

26       (c) The association shall derive the funding to maintain the  
27 required solvency level from a combination of:

- 1           (1) association reserves;  
2           (2) available funds in the catastrophe reserve trust  
3 fund;  
4           (3) reinsurance purchased at any level;  
5           (4) catastrophe area public securities; and  
6           (5) Class 1 pre-event and post-event public  
7 securities, to be issued only as required in accordance with  
8 Section 2210.058(d).

9           (d) As prescribed by Section 2210.058(d), Class 1 pre-event  
10 and post-event public securities may not be used to achieve more  
11 than 50 percent of the required solvency level.

12           Sec. 2210.653. CERTIFICATION; ANNUAL SOLVENCY REPORT. (a)  
13 The board of directors shall certify to the governor, the  
14 lieutenant governor, the speaker of the house of representatives,  
15 and the commissioner, not later than April 15 of each calendar year,  
16 that the required solvency level of the association is satisfied  
17 for that calendar year.

18           (b) The board of directors shall make the certification in  
19 the manner prescribed by commissioner rule.

20           (c) After calendar year 2008, in any calendar year, the  
21 association may not issue any new coverage after April 15 if the  
22 board of directors has not certified the required solvency level in  
23 the annual solvency report. This subsection does not apply to  
24 renewal of a policy issued through the association.

25           Sec. 2210.654. DETERMINATION OF PROBABLE MAXIMUM LOSS. (a)  
26 Not later than April 1 of each calendar year, to establish the  
27 required solvency level under Section 2210.652, the board of

1 directors shall determine the association's current probable  
2 maximum loss, based on an average of at least two recognized  
3 catastrophe models, as follows:

4 (1) for calendar year 2008, at not less than a one in  
5 50 year occurrence;

6 (2) for calendar year 2009, at not less than a one in  
7 75 year occurrence; and

8 (3) for each calendar year after calendar year 2009,  
9 at not less than a one in 100 year occurrence.

10 (b) The board of directors must ensure the ability of the  
11 association to generate funding sufficient to cover the probable  
12 maximum loss without reliance on any member company public  
13 securities or Class 2 post-event public securities.

14 SECTION 34. Section 2251.003, Insurance Code, is amended by  
15 adding Subsection (a-1) to read as follows:

16 (a-1) Except as otherwise provided by Chapter 2210,  
17 Subchapters B and C apply to the Texas Windstorm Insurance  
18 Association.

19 SECTION 35. The following laws are repealed:

20 (1) Sections 2210.003(5) and (12), Insurance Code;

21 (2) Section 2210.059, Insurance Code;

22 (3) Section 2210.351(b), Insurance Code;

23 (4) Sections 2210.352, 2210.353, and 2210.354,  
24 Insurance Code;

25 (5) Sections 2210.355(c), (d), and (e), Insurance  
26 Code;

27 (6) Sections 2210.356(a), (c), and (d), Insurance

1 Code;

2 (7) Section 2210.359, Insurance Code;

3 (8) Section 2210.360, Insurance Code;

4 (9) Section 2210.502(c), Insurance Code; and

5 (10) Subchapter I, Chapter 2210, Insurance Code.

6 SECTION 36. (a) The board of directors of the Texas  
7 Windstorm Insurance Association established under Section  
8 2210.102, Insurance Code, as that section existed before amendment  
9 by this Act, is abolished effective December 31, 2007.

10 (b) The governor shall appoint the members of the board of  
11 directors of the Texas Windstorm Insurance Association under  
12 Section 2210.102, Insurance Code, as amended by this Act, for terms  
13 beginning on January 1, 2008.

14 (c) The term of a person who is serving as a member of the  
15 board of directors of the Texas Windstorm Insurance Association  
16 immediately before the abolition of that board under Subsection (a)  
17 of this section expires on December 31, 2007. Such a person is  
18 eligible for appointment by the governor to the new board of  
19 directors of the Texas Windstorm Insurance Association under  
20 Section 2210.102, Insurance Code, as amended by this Act.

21 SECTION 37. The commissioner of insurance shall adopt rules  
22 as required by Section 2210.356(b-1), Insurance Code, as added by  
23 this Act, not later than the 180th day after the effective date of  
24 this Act.

25 SECTION 38. This Act takes effect immediately if it  
26 receives a vote of two-thirds of all the members elected to each  
27 house, as provided by Section 39, Article III, Texas Constitution.

C.S.H.B. No. 2960

1 If this Act does not receive the vote necessary for immediate  
2 effect, this Act takes effect September 1, 2007.