

By: Eiland

H.B. No. 3969

A BILL TO BE ENTITLED

AN ACT

relating to establishing a reinsurance program for residential property insurance in the first and second tier coastal counties.

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

SECTION 1. Subtitle G, Title 10, Insurance Code, is amended by adding Chapter 2214 to read as follows:

CHAPTER 2214 TEXAS WINDSTORM REINSURANCE FACILITY

SUBCHAPTER A. GENERAL PROVISIONS.

Sec. 2214.001 PURPOSE AND STRUCTURE. (a) The windstorm reinsurance facility is established to provide a stable and ongoing source of reinsurance to insurers, the association, and the FAIR Plan Association for a portion of the losses incurred by those entities as provided in this chapter. The goal of the reinsurance facility is to create additional insurance capacity sufficient to protect the state's economy, public health, safety, and welfare.

(b) The reinsurance facility shall be structured to operate:

(1) exclusively to protect and advance the state's interest in maintaining insurance capacity in this state; and

(2) in a manner that makes the reinsurance facility's revenues exempt from federal taxation.

Sec. 2214.002 DEFINITIONS. When used in this chapter:

(1) "Association" means the Texas Windstorm Insurance Association established under Chapter 2210.

1 (2) "Board" of directors" means the board of directors
2 of the facility.

3 (3) "Catastrophe area" means a municipality, a part of
4 a municipality, a county, or a part of a county designated by the
5 commissioner under Section 2210.005.

6 (4) "Commercial property insurance" means coverage
7 provided in a commercial fire and allied lines insurance policy
8 against loss incurred to real or tangible business personal
9 property, including loss of business income due to direct physical
10 loss of or damage to property at the covered premises and a
11 commercial policy written by the association. The term includes
12 farm and ranch insurance and farm and ranch owners insurance.

13 (5) "Facility" mean the Texas Windstorm Reinsurance
14 Facility.

15 (6) "Fair Plan" means the Texas Fair Access to
16 Insurance Plan established under Chapter 2211.

17 (7) "First tier coastal county" means those counties
18 identified as first tier coastal counties in Section 2210.003.

19 (8) "Net direct premium" means gross direct written
20 premium less return premium on each canceled contract, regardless
21 of assumed or ceded reinsurance, that is written on property in this
22 state, as defined by the board of directors.

23 (9) "Plan of operation" means the plan adopted under
24 this chapter for the operation of the facility.

25 (10) "Residential property insurance" means insurance
26 coverage against loss to residential real property at a fixed
27 location, or tangible, personal property, that is provided in a

1 homeowners policy, including a tenants policy, a condominium owners
2 policy, a residential policy written by the association, or a
3 residential fire and allied lines policy.

4 (11) "Reinsurance trust fund" means the Windstorm
5 Reinsurance Trust Fund established under this subchapter.

6 (12) "Retention" means the amount of losses below
7 which an insurer is not entitled to reimbursement from the
8 reinsurance facility.

9 (13) "Seacoast territory" means the territory of this
10 state composed of the first tier coastal counties and the second
11 tier coastal counties.

12 (14) "Second tier coastal county" means those counties
13 identified as second tier coastal counties in Section 2210.003.

14 Sec. 2214.003. APPLICABILITY OF CHAPTER TO CERTAIN
15 INSURERS. (a) This chapter applies to:

16 (1) each insurer authorized to engage in the business
17 of property or casualty insurance in this state, including a county
18 mutual insurance company, a farm mutual insurance company, a
19 Lloyd's plan, and a reciprocal or interinsurance exchange;

20 (2) the association; and

21 (3) the FAIR Plan.

22 (b) This chapter does not apply to:

23 (1) a county mutual fire insurance company described
24 by Section 912.310; or

25 (2) a mutual insurance company or a statewide mutual
26 assessment company engaged in business under Chapter 12 or 13,
27 Title 78, Revised Statutes, respectively, before those chapters'

1 repeal by Section 18, Chapter 40, Acts of the 41st Legislature, 1st
2 Called Session, 1929, as amended by Section 1, Chapter 60, General
3 Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, that
4 retains the rights and privileges under the repealed law to the
5 extent provided by those sections.

6 Sec. 2214.004. IMMUNITY FROM LIABILITY IN GENERAL. (a)

7 This section applies to:

8 (1) the facility and a director, agent, or facility
9 staff; and

10 (2) the commissioner, the department, and department
11 staff.

12 (b) A person described by Subsection (a) is not liable, and
13 a cause of action does not arise against the person, for:

14 (1) an action taken under the plan of operation; or

15 (2) any statement made in good faith by the person:

16 (A) in a report or communication concerning risks
17 submitted to the facility; or

18 (B) at any administrative hearing conducted
19 under this chapter in connection with the action or statement.

20 Sec. 2214.005. DEPARTMENT ORDERS. (a) The commissioner
21 may issue any orders that the commissioner considers necessary to
22 implement this chapter.

23 (b) The commissioner may adopt reasonable and necessary
24 rules to carry out the provisions of this chapter.

25 (c) Except as specifically provided in this chapter,
26 Chapter 40 does not apply to an action taken under this chapter, and
27 a hearing under this chapter shall be held before the commissioner

1 or the commissioner's designee.

2 SUBCHAPTER B. FACILITY ADMINISTRATION

3 Sec. 2214.051. PURCHASE OF REINSURANCE REQUIRED. (a) The
4 facility shall provide reinsurance under this chapter for policies
5 of:

6 (1) residential property insurance covering property
7 located in the seacoast territory written by an insurer authorized
8 to engage in the business of property insurance in this state, the
9 association or the FAIR Plan, and, those areas within this state
10 that the commissioner designates by rule, effective on or after
11 January 1, 2010, as being in need of additional insurance capacity
12 sufficient to protect the state's economy, public health, safety,
13 and welfare; and

14 (2) as authorized in Subsection (h), commercial
15 property insurance covering property written by an insurer
16 authorized to engage in the business of property insurance in this
17 state, the association or the FAIR Plan, located in those areas
18 within this state that the commissioner designates by rule,
19 effective on or after January 1, 2010, as being in need of
20 additional insurance capacity sufficient to protect the state's
21 economy, public health, safety, and welfare.

22 (b) Prior to January 1, 2010, as a condition of engaging in
23 the business of insurance in this state, each insurer authorized to
24 engage in the business of property insurance in this state,
25 including a county mutual insurance company, a Lloyd's plan, and a
26 reciprocal or interinsurance exchange shall purchase a reinsurance
27 contract from the facility in the manner established by the

1 facility in the plan of operation.

2 (c) On or after January 1, 2010, each insurer authorized to
3 engage in the business of property insurance in this state may
4 purchase a reinsurance contract from the facility in the manner
5 established by the facility in the plan of operation.

6 (d) Purchase of a reinsurance contract under Subsection (b)
7 is required without respect to whether the insurer:

8 (1) has written, or anticipates writing, any
9 residential property insurance; or

10 (2) has written, or anticipates writing, any
11 residential property insurance in the seacoast territory.

12 (e) The facility shall establish a minimum reinsurance
13 contract premium, not to exceed \$500, for insurers that:

14 (1) have not written, or anticipate writing, any
15 residential property insurance; or

16 (2) have not written, or anticipate writing, any
17 residential property insurance in the seacoast territory or area
18 established by the commissioner in Subsection (a).

19 (f) The reinsurance facility shall also enter into
20 reinsurance contracts with the association and the FAIR Plan in
21 exchange for the payment of a reinsurance contract premium, if the
22 commissioner determines, after 10 days' notice and opportunity for
23 hearing, that inclusion of either or both the association and the
24 FAIR Plan is appropriate. The commissioner may consider whether
25 inclusion:

26 (1) creates a significant adverse impact to the
27 facility's exposure; and

1 (2) disproportionately limits insurer's ability to
2 obtain reinsurance for property insurance located in the seacoast
3 area and the areas designated by the commissioner in Subsection
4 (a); and

5 (3) any other factors the commissioner considers
6 relevant.

7 (g) The aggregate maximum limit of reimbursable amounts for
8 facility reinsurance contracts may not exceed the estimated claims
9 paying capacity of the facility as determined annually by the
10 facility. The facility may limit the amount of its estimated claims
11 paying capacity to an amount that the facility determines is
12 reasonable and prudent. The facility's determination of its
13 estimated claims paying capacity is subject to review and approval
14 by the commissioner.

15 (h) The commissioner may, after 10 days' notice and
16 opportunity for hearing, authorize the facility to provide
17 reinsurance under this chapter, commencing on or after January 1,
18 2010, for policies of commercial property insurance within the area
19 designated by the commissioner under Subsection (a)(2).

20 (i) Farm mutual insurance companies may request reinsurance
21 from the facility.

22 Sec. 2214.052. OPERATION OF FACILITY. (a) The board of
23 directors shall administer the facility in accordance with this
24 chapter and the plan of operation.

25 (b) The department and the facility may develop programs to
26 improve the efficient operation of the facility, including a
27 program designed to create incentives for insurers to voluntarily

1 write insurance for residential property in the seacoast territory
2 and those areas designated by the commissioner under Section
3 2214(a).

4 Sec. 2214.053. ANNUAL STATEMENT. (a) The facility shall
5 file annually with the department a statement covering periods
6 designated by the department that summarizes the transactions,
7 conditions, operations, and affairs of the facility during the
8 preceding year.

9 (b) The statement must:

10 (1) be filed at times designated by the department;

11 (2) contain the information prescribed by the
12 department; and

13 (3) be in the form prescribed by the department.

14 Sec. 2214.054. USE OF FACILITY ASSETS. (a) The reinsurance
15 facility shall relinquish its net equity on an annual basis as
16 provided by rules adopted by the commissioner by making payments to
17 the windstorm reinsurance trust fund to fund the obligations of
18 that fund under Subchapter F.

19 (b) Except as provided in Subsection (a), facility assets
20 may not be spent, loaned, pledged, or appropriated except to pay

21 (1) obligations of the facility arising out of
22 reinsurance contracts entered into under this chapter;

23 (2) debt service on revenue bonds issued under
24 Subchapter G;

25 (3) costs of procuring reinsurance for the facility;

26 (4) costs of procuring alternative means of providing
27 for financial stability of the facility and the payment of its

1 obligations through capital market transactions as the facility
2 determines are prudent, including industry loss warrantees,
3 catastrophe bonds, side-car arrangements, or financial contracts;
4 or

5 (5) administrative expenses of the facility.

6 (c) On dissolution of the facility, all assets of the
7 facility revert to this state.

8 Sec. 2214.055. EXAMINATION OF FACILITY. (a) The facility
9 is subject to Sections 401.051, 401.052, 401.054-401.062, 401.151,
10 401.152, 401.155, and 401.156 and Subchapter A, Chapter 86.

11 (b) A final examination report of the facility resulting
12 from an examination as provided by this section is a public record
13 and is available to the public at the offices of the department in
14 accordance with Chapter 552, Government Code.

15 Sec. 2214.056. INDEMNIFICATION BY FACILITY. (a) Except as
16 provided by Subsection (b), the facility shall indemnify each
17 director, officer, and employee of the facility against all costs
18 and expenses actually and necessarily incurred by the person in
19 connection with the defense of an action or proceeding in which the
20 person or entity is made a party because of the person's status as a
21 director, officer, or employee of the facility.

22 (b) Subsection (a) does not apply to a matter in which the
23 person or entity is determined in the action or proceeding to be
24 liable because of misconduct in the performance of duties as a
25 director, officer, or employee of the facility.

26 (c) Subsection (a) does not authorize the facility to
27 indemnify an insurer for bond services fees required under this

1 chapter.

2 (d) Indemnification under this section is not exclusive of
3 other rights to which the person may be entitled as a matter of law.

4 SUBCHAPTER C. FACILITY BOARD OF DIRECTORS.

5 Sec. 2214.101. ACCOUNTABLE TO THE COMMISSIONER. The board
6 of directors of the facility is responsible and accountable to the
7 commissioner.

8 Sec. 2214.102. COMPOSITION. (a) The board of directors is
9 composed nine members appointed by the commissioner, including:

10 (1) at least four members who reside in the seacoast
11 territory; and

12 (2) not more than four members may be representatives
13 of property or casualty insurers authorized to do business in this
14 state.

15 (b) Each director serves at the pleasure of the commissioner
16 and may be removed by the commissioner at any time and without
17 cause. Members of the board of directors of the facility serve
18 six-year staggered terms, with the terms of three members expiring
19 on the third Tuesday of March of each even numbered year, beginning
20 in 2010. The board shall establish these three director classes at
21 its first meeting.

22 (c) The commissioner shall designate one member of the board
23 of directors to serve as presiding officer of the board of
24 directors. The presiding officer serves at the pleasure of the
25 commissioner. The commissioner may change the designated presiding
26 officer at any time and without cause. The presiding officer is
27 entitled to vote on all matters before the board of directors.

1 (d) The board of directors may elect other officers of the
2 board of directors from its membership.

3 Sec. 2214.103. MEETINGS. (a) Except for an emergency
4 meeting, the facility shall notify the department not later than
5 the 11th day before the date of a meeting of the board of directors.

6 (b) Except for a closed meeting authorized by Subchapter D,
7 Chapter 551, Government Code, a meeting of the board of directors or
8 of the members of the facility is open to:

9 (1) the commissioner or the commissioner's designated
10 representative; and

11 (2) the public.

12 (c) Notice of a meeting of the board of directors or the
13 facility must be given as provided by Chapter 551, Government Code.

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

23 (e) A meeting held by telephone conference call, video
24 conference, or other similar telecommunication method:

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

27 (2) may not be held unless notice of the meeting

1 specifies the location of the meeting;

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

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

11 Sec. 2214.104. IMMUNITY OF DIRECTOR OR OFFICER FROM
12 LIABILITY. (a) A director or officer of the facility is not
13 individually liable for an act or failure to act in the performance
14 of official duties in connection with the facility.

15 (b) Subsection (a) does not apply to:

16 (1) an act or failure to act of the facility or an
17 employee of the facility;

18 (2) an act or omission involving a motor vehicle; or

19 (3) an act or failure to act that constitutes bad
20 faith, intentional misconduct, or gross negligence.

21 Sec. 2214.105 FACILITY SOURCE OF FUNDS. The reinsurance
22 facility may rely on the following sources of funds for calculating
23 its estimated and actual claims paying capacity:

24 (1) premiums;

25 (2) reinsurance acquired by the facility;

26 (3) capital market transactions entered into by the
27 facility;

1 (4) investment income;

2 (5) amounts available from the Windstorm Reinsurance
3 Trust as specified in Subchapter F; and

4 (6) amount of bond proceeds held in trust and the
5 balance of bonds authorized to be issued, but not yet issued, as
6 specified in Subchapter G.

7 Sec. 2214.106. BORROWING. As deemed necessary by the
8 facility and approved by the commissioner, the facility may borrow
9 sums at available market rates to fund its operations and duties
10 under this chapter.

11 Sec. 2214.107 FACILITY PLAN OF OPERATION (a) With the
12 advice of the board of directors, the commissioner by rule shall
13 adopt the plan of operation to:

14 (1) provide for the efficient, economical, fair, and
15 nondiscriminatory administration of the reinsurance facility;

16 (2) contain general provisions to provide reasonable
17 flexibility to accommodate insurers in situations of an unusual
18 nature or in which undue hardship may result, including provisions
19 for the exemption of certain insurers;

20 (3) provide that contracting insurers, the
21 association, and the FAIR Plan must timely report to the facility
22 such experience and information that the facility determines is
23 necessary to operate the facility, including the calculation of
24 rates, retentions, and maximum limits;

25 (4) establish the method by which the facility shall
26 annually calculate the amount of retention, the facility's
27 estimated and actual claims paying capacity, and the maximum limits

1 of facility contractual liability;

2 (5) provide for the determination of premium rates,
3 procedures for determining anticipated and minimum premiums, and
4 procedures for auditing; contracts after the contract period to
5 determine a final premium;

6 (6) provide procedures for insurers, the association,
7 and the Fair Plan to pay reinsurance premiums;

8 (7) provide for the annual determination of a strategy
9 for the purchase of reinsurance, other capital market transactions,
10 or borrowing that will allow the facility to meet its obligations;

11 (8) provide for the form of reinsurance coverage, or
12 coverages, to be offered, the types and amounts of property
13 insurance subject to reimbursement under the contract, and whether
14 such coverage shall provide coverage for all storms during the term
15 of the policy with no additional limits available, or whether the
16 coverage shall allow for reinstatement of the contract with an
17 additional premium;

18 (9) provide for the amounts of coverage that the
19 facility will offer, except that the facility shall only offer
20 contracts that offer no less than 45 percent and no greater than 90
21 percent reimbursement of insured losses and the procedure for
22 selection of a coverage amount by the insurer, association, or FAIR
23 Plan;

24 (10) provide the types and amounts of property
25 insurance subject to reimbursement under the contract that the
26 facility may also cover in addition to property damage, including
27 additional living expenses, loss adjustment expenses, and

1 association assessment expenses, and the procedure for selection of
2 such coverage by the insurer, association or FAIR Plan;

3 (11) establish a contract year and the date upon which
4 all new and renewal contracts will be issued, and provide for
5 procedures for short term contracts that may result from new
6 entrants to and departures from the market during the contract
7 year; and

8 (12) provide any other matters required for the
9 administration and operation of the facility.

10 (c) The plan of operation may contain provisions allowing
11 the facility to change its methods and procedures for doing
12 business in ways that allow the facility to implement new
13 technologies designed to make the facility up to date and efficient
14 in its operations.

15 Sec. 2214.108. AMENDMENTS TO PLAN OF OPERATION. (a) The
16 facility may present a recommendation for a change in the plan of
17 operation to the department at:

18 (1) hearings conducted by the department for that
19 purpose; or

20 (2) hearings relating to property and casualty
21 insurance rates.

22 (b) The facility must present a proposed change to the
23 department in writing in the manner prescribed by the commissioner.
24 A proposed change does not take effect unless adopted by the
25 commissioner by rule.

26 (c) An interested person may, in accordance with Chapter
27 2001, Government Code, petition the commissioner to modify the plan

1 of operation.

2 SUBCHAPTER D. CONTRACTS.

3 Sec. 2214.151. REINSURANCE CONTRACTS. (a) The facility
4 shall establish retention and maximum contract limits that do not
5 exceed the facility's claims paying ability.

6 (b) Each reinsurance contract must contain:

7 (1) a promise to pay reimbursable amounts to the
8 contract holder in excess of the insurer's retention, but not to
9 exceed the maximum limits of such contract;

10 (2) a provision that amounts due may not be reduced by
11 reinsurance paid or payable to the contract holder from other
12 sources;

13 (3) a provision that all contracts covering a
14 particular contract year may not exceed the actual claims paying
15 capacity of the reinsurance facility, up to a limit as determined by
16 the facility;

17 (4) a requirement of interim quarterly reporting from
18 each contract holder of losses for each covered event;

19 (5) a provision requiring each member insurer, the
20 association, and the FAIR Plan to timely report all such
21 information as the facility determines is necessary;

22 (6) a provision that the facility may audit the books
23 and records of a contracting insurer, the association, or the FAIR
24 Plan to determine compliance with the terms of the contract,
25 including reporting requirements and premiums owed.

26 (7) a provision that, in the event of the insolvency of
27 the insurer, the reinsurance facility shall pay the net amount owed

1 to the insurer directly to the conservator, receiver, or other
2 statutory successor for the benefit of the insurer's policyholders
3 in this state.

4 (8) a provision that a premium paid to the reinsurance
5 facility under a reinsurance contract shall be treated as a premium
6 for approved reinsurance for all accounting and regulatory
7 purposes; and

8 (9) a provision that an insurer, including the
9 association, or Fair Plan, that ceases to be authorized to engage in
10 the business of property insurance remains liable for any unpaid
11 premiums or other contractual obligations on reinsurance contracts
12 entered into by the insurer.

13 Sec. 2214.152. APPLICATION FOR COVERAGE. (a) Chapter 4152
14 concerning reinsurance intermediaries shall not apply to a
15 reinsurance transaction under this Chapter. Each insurer, the
16 association, and Fair Plan shall apply for coverage in a manner
17 acceptable to the facility, including providing the facility with
18 all requested information the facility determines is necessary to
19 perform its duties under this chapter.

20 Sec. 2214.153. ISSUANCE OF COVERAGE; TERM; RENEWAL. (a)
21 Except as provided in Subsection (b), a contract issued under this
22 chapter section is for a one-year term and shall commence on the
23 date specified in the plan of operation.

24 (b) The facility shall issue a shorter term contract to an
25 insurer that obtains its authorization to engage in the business of
26 property insurance after the date specified in the plan of
27 operation for that contract year. The facility shall develop a

1 premium schedule that reflects the relative risk and coverage
2 period for short-term policies and shall not be bound to a pro-rata
3 calculation.

4 (c) The facility may terminate a contract only after the
5 date the insurer ceases to be authorized to engage in the business
6 of property insurance in this state. The facility shall develop a
7 premium schedule that reflects the relative risk and coverage
8 period for short-term policy terminations and shall not be bound to
9 a pro-rata calculation.

10 (d) A contract may be renewed annually on the date specified
11 in the plan of operation, following an application for renewal.
12 Each insurer continuing to be authorized to engage in the business
13 of property insurance in this state, the association, and the FAIR
14 Plan shall file a renewal application with the facility that:

15 (1) is on a form acceptable to the facility;

16 (2) includes all requested information that the
17 facility determines is necessary to perform its duties under this
18 chapter; and

19 (3) is filed on or before the date required by the
20 facility in the plan of operation.

21 Sec. 2214.154. DISCLOSURE OF INFORMATION. (a) Any
22 information or data received by the facility from an insurer, the
23 association, or the FAIR Plan is for the sole use of the facility
24 may not be disclosed except:

25 (1) as provided in this chapter;

26 (2) to the department; or

27 (3) pursuant to the order of a court of competent

1 jurisdiction.

2 (b) Any information or data the facility provides to the
3 department is confidential as a matter of law, is not subject to
4 Government Code Chapter 552, and may not be disclosed except:

5 (1) as provided in this chapter or other law; or

6 (3) pursuant to the order of a court of competent
7 jurisdiction.

8 SUBCHAPTER E. RATES AND FORMS.

9 Sec. 2214.201. FACILITY FILINGS. (a) The facility must
10 file with the department each manual of classifications, rules, and
11 rates, including retention and maximum liability amounts that the
12 facility proposes to use.

13 (b) A filing under this section must indicate the character
14 and the extent of the coverage contemplated and must be accompanied
15 by the policy and endorsement forms proposed to be used. The forms
16 may be designed specifically for use by the facility without regard
17 to other forms filed with, approved by, or prescribed by the
18 department for use in this state.

19 (c) As soon as reasonably possible after the filing has been
20 made, the commissioner in writing shall approve, modify, or
21 disapprove the filing. A filing is considered approved unless
22 modified or disapproved on or before the 30th day after the date of
23 the filing.

24 (d) If at any time the commissioner determines that a filing
25 approved under Subsection (c) no longer meets the requirements of
26 this chapter, the commissioner may, after a notice and an
27 opportunity for hearing held on at least 10 days' notice to the

1 facility that specifies the matters to be considered at the
2 hearing, issue an order withdrawing approval of the filing. The
3 order must specify in what respects the commissioner determines
4 that the filing no longer meets the requirements of this chapter.
5 An order issued under this subsection may not take effect before the
6 30th day after the date of issuance of the order.

7 (e) The department shall value the loss and loss adjustment
8 expense data to be used for a filing not earlier than March 31 of the
9 year before the year in which the filing is to be made.

10 Sec. 2214.202. RATE FILINGS: ANNUAL FILING. (a) Not later
11 than January 15, of each year, the facility shall file with the
12 department for approval by the commissioner a proposed manual rate,
13 for all types and classes of risks written by the facility. Chapter
14 40 does not apply to:

15 (1) a filing made under this subsection; or

16 (2) a department action with respect to the filing.

17 (b) Before approving, disapproving, or modifying a filing,
18 the commissioner shall provide all interested persons a reasonable
19 opportunity to:

20 (1) review the filing;

21 (2) obtain copies of the filing on payment of any
22 legally required copying cost; and

23 (3) submit to the commissioner written comments or
24 information related to the filing.

25 (c) The commissioner shall, post notice of the filing in the
26 Texas Register and in that notice provide that any person may
27 request a hearing on the filing by filing a request for hearing with

1 the commissioner not later than 30 days following the date the
2 notice is published.

3 (d) A hearing under Subsection (c) will be before the
4 commissioner, or the commissioner's designee.

5 (e) The department shall file with the secretary of state
6 for publication in the Texas Register notice that a filing has been
7 made under Subsection (a) not later than the seventh day after the
8 date the department receives the filing. The notice must include
9 information relating to:

10 (1) the availability of the filing for public
11 inspection at the department during regular business hours and the
12 procedures for obtaining copies of the filing;

13 (2) procedures for requesting a hearing and making
14 written comments related to the filing; and

15 (3) procedures for making written comments related to
16 the filing.

17 (f) If requested, the commissioner shall publish notice of a
18 public hearing in the Texas Register. The hearing must not occur
19 within 10 days after the date notice is published.

20 (g) After the conclusion of the notice period and following
21 a public hearing, if requested, the commissioner shall approve,
22 disapprove, or modify the filing in writing not later than April 15
23 of the year in which the filing was made. If the filing is not
24 approved, disapproved, or modified on or before that date, the
25 filing is considered approved.

26 (h) If the commissioner disapproves a filing, the
27 commissioner shall state in writing the reasons for the disapproval

1 and the criteria the facility is required to meet to obtain
2 approval.

3 Sec. 2214.203. MANUAL RATE FILINGS: AMENDED FILING. (a)
4 Not later than the 30th day after the date the facility receives the
5 commissioner's written disapproval under Section 2214.202(h), the
6 facility may file with the commissioner an amended filing that
7 conforms to all criteria stated in the written disapproval.

8 (b) Not later than the 30th day after the date an amended
9 filing made under Subsection (a) is received, the commissioner
10 shall approve the amended filing with or without modifications or
11 disapprove the amended filing. If the filing is not modified or
12 disapproved on or before the 30th day after the date of receipt, the
13 filing is considered approved without modification.

14 (c) Before approving or disapproving an amended filing, the
15 commissioner shall, in the manner provided by Section 2214.202(b),
16 provide all interested persons a reasonable opportunity to:

- 17 (1) review the amended filing;
18 (2) obtain copies of the amended filing on payment of
19 any legally required copying cost; and
20 (3) submit to the commissioner written comments or
21 information related to the amended filing.

22 (d) The commissioner may, in the manner provided by Sections
23 2214.202(c) and (d), hold a hearing regarding an amended filing not
24 later than the 20th day after the date the department receives the
25 amended filing.

26 (e) Not later than the 10th day after the date the hearing is
27 concluded, the commissioner shall approve or disapprove the amended

1 filing.

2 (f) The requirements imposed under Subsection (a) and under
3 Section 2214.202(e), (f), and (g) apply to a hearing conducted
4 under this section and the commissioner's decision resulting from
5 that hearing.

6 Sec. 2214.204. MANUAL RATE FILINGS: ADDITIONAL SUPPORTING
7 INFORMATION. (a) In conjunction with the review of a filing under
8 Section 2214.202 or 2214.203:

9 (1) the commissioner may request the facility to
10 provide additional supporting information relating to the filing;
11 and

12 (2) any interested person may file a written request
13 with the commissioner for additional supporting information
14 relating to the filing.

15 (b) A request under this section must be reasonable and must
16 be directly related to the filing.

17 (c) The commissioner shall submit to the facility all
18 requests for additional supporting information made under this
19 section for the commissioner's use and the use of any interested
20 person.

21 (d) Unless a different period is requested by the facility
22 and approved by the commissioner, the facility shall provide the
23 information to the commissioner not later than the fifth day after
24 the date the written request for additional supporting information
25 is delivered to the facility. The department shall notify an
26 interested person who has requested additional information of the
27 availability of the information not later than one business day

1 after the date the commissioner receives the information from the
2 facility.

3 Sec. 2214.205. GENERAL RATE REQUIREMENTS; RATE STANDARDS.

4 (a) Rates for coverage under this chapter must be made in
5 accordance with this section.

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

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

11 (2) expenses of operation, including acquisition
12 costs;

13 (3) a reasonable margin for contingencies; and

14 (4) all other relevant factors, within and outside
15 this state.

16 (c) Rates must be reasonable, adequate, not unfairly
17 discriminatory, and nonconfiscatory as to any class of insurer.

18 (d) For the establishment of rates and minimum premiums, the
19 risks may be grouped by classification.

20 (e) Classification rates may be modified to produce rates
21 for individual risks in accordance with rating plans that establish
22 standards for measuring variations in those risks on the basis of
23 any or all of the factors described by Subsection (b). The
24 classification rates may include rules for classification of risks
25 insured under this chapter and rate modifications to those
26 classifications.

27 SUBCHAPTER F. WINDSTORM REINSURANCE TRUST FUND

1 Sec. 2214.251 PURPOSE. (a) The windstorm reinsurance
2 trust fund is established to increase insurance capacity for
3 catastrophic losses, and protect the state's economy, public
4 health, safety, and welfare.

5 (b) It is the intent of the legislature that the reinsurance
6 trust fund be operated:

7 (1) exclusively to protect and advance the state's
8 interest in maintaining insurance capacity in this state; and

9 (2) in a manner that makes the reinsurance trust fund
10 exempt from federal taxation.

11 Sec. 2214.252 USE OF THE REINSURANCE TRUST FUND. (a) Until
12 disbursements are made as provided by this subchapter and rules
13 adopted by the commissioner, all money, including investment
14 income, deposited in the reinsurance trust fund are state funds, to
15 be held by the comptroller outside the state treasury on behalf of,
16 and with legal title in, the department.

17 (b) The reinsurance trust fund shall be kept and maintained
18 by the department under this subchapter and rules adopted by the
19 commissioner. The comptroller, as custodian, shall administer the
20 reinsurance trust fund strictly and solely as provided by this
21 subchapter the commissioner's rules.

22 (c) Reinsurance trust fund assets may be used to pay
23 reimbursable amounts under facility contracts.

24 (d) The commissioner by rule shall establish the procedures
25 relating to the disbursement of funds from the reinsurance trust
26 fund to the facility to pay reimbursable amounts under facility
27 contracts.

1 Sec. 2214.253 TERMINATION OF THE TRUST FUND. The
2 reinsurance trust fund may be terminated only by law. On
3 termination of the reinsurance trust fund, the net assets of the
4 reinsurance trust fund shall become assets of the state.

5 SUBCHAPTER G. WINDSTORM REINSURANCE REVENUE BOND PROGRAM

6 Sec. 2214.301 FINDINGS AND PURPOSE. The legislature finds
7 that the issuance of bonds to provide a method to raise funds to
8 provide payment for reimbursable losses to the extent that funds
9 collected as reinsurance premiums and investment income on those
10 funds are insufficient to meet the windstorm reinsurance facility's
11 obligations for reinsurance for losses reinsured through the
12 windstorm reinsurance facility in certain designated portions of
13 the state is for the benefit of the public and in furtherance of a
14 public purpose.

15 Sec. 2214.302 DEFINITIONS. When used in this subchapter:

16 (1) "Authority" means the Texas Public Finance
17 Authority.

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

20 (3) "Bond administrative expenses" means expenses
21 incurred to administer bonds issued under this section, including
22 fees for paying agents, trustees, and attorneys, and for other
23 professional services necessary to ensure compliance with
24 applicable state or federal law.

25 (4) "Bond Obligations" means the principal of a bond
26 and any premium and interest on a bond issued under this section,
27 together with any amount owed under a related credit agreement.

1 (5) "Bond resolution" means the resolution or order
2 authorizing bonds to be issued under this subchapter.

3 (6) "Credit agreement" means a loan agreement, a
4 revolving credit agreement, an agreement establishing a line of
5 credit, a letter of credit, an interest rate swap agreement, an
6 interest rate lock agreement, a currency swap agreement, a forward
7 payment conversion agreement, an agreement to provide payments
8 based on levels of or changes in interest rates or currency exchange
9 rates, an agreement to exchange cash flows or a series of payments,
10 an option, put, or call to hedge payments, currency, interest rate,
11 or other exposure, or another agreement that enhances the
12 marketability, security, or creditworthiness of a bond issued under
13 this subchapter.

14 (7) "Insurer" means each property or casualty insurer
15 authorized to engage in the business of property or casualty
16 insurance in this state. The term includes a county mutual
17 insurance company, a Lloyd's plan, and a reciprocal or
18 interinsurance exchange. For the purposes of this definition,
19 "Insurer" shall include any affiliate insurance company that is
20 under common management or control including affiliated insurance
21 companies that are not authorized to transact property insurance in
22 this state.

23 Sec. 2214.303. REQUEST FOR BOND ISSUANCE. (a) The board of
24 directors may request the authority to issue bonds on behalf of the
25 facility, if the facility determines the issuance of bonds is
26 necessary and the request is approved by the commissioner.

27 (1) The facility shall specify in the facility's

1 request to the authority the maximum principal amount of the bonds,
2 not to exceed \$5 billion annually, and the maximum term of the bonds
3 not to exceed 10 years.

4 (2) The principal amount determined by the facility
5 under Subdivision (1) may be increased to include an amount
6 sufficient to:

- 7 (A) pay the costs of issuance of the authority;
8 (B) provide for a bond reserve fund; and
9 (C) capitalize interest for the period
10 determined necessary by the facility, not to exceed two years.

11 (c) Prior to September 1, 2012, the facility shall not
12 authorize or issue bonds that would require, without including any
13 other source of funding, a service fee assessment under Section
14 2214.311 in excess of three percent of premium with respect to bond
15 obligations authorized during any one calendar year, and in excess
16 of five percent of premium for all authorized and outstanding
17 bonds. On and after September 1, 2012, the facility shall not
18 authorize or issue bonds that would require, without including any
19 other source of funding, a service fee assessment under Section
20 2214.311 in excess of six percent of premium with respect to bond
21 obligations authorized during any one calendar year, and in excess
22 of 10 percent of premium for all authorized and outstanding bonds.
23 The requirements in this subsection relate to the facility's
24 authority to issue additional bonds and do not impose an assessment
25 limit on the facility with respect to collecting sufficient service
26 fees to provide for outstanding bonds.

27 Sec. 2214.304 ISSUANCE OF BONDS BY AUTHORITY. (a) The

1 authority shall issue the bonds requested by the facility and
2 approved by the commissioner's order in accordance with and subject
3 to the requirements of Chapter 1232, Government Code, and other
4 provisions of Title 9, Government Code, that apply to bond issuance
5 by a state authority. In the event of a conflict, this section
6 controls.

7 (b) The authority shall determine the method of sale, type
8 of bond, bond form, maximum interest rates, and other terms of the
9 bonds that, in the authority's judgment, best achieve the goals of
10 the reinsurance facility and effect the borrowing at the lowest
11 practicable cost. The authority may enter into a credit agreement
12 in connection with the bonds.

13 (c) The bonds must be issued in the name of the facility.

14 Sec. 2214.305 ADDITIONAL COVENANTS. The authority may make
15 additional covenants with respect to the bonds and the designated
16 income and receipts of the facility pledged to their payment,
17 provide for the flow of funds and the establishment, maintenance,
18 and investment of funds and accounts with respect to the bonds, and
19 the administration of such funds and accounts, as shall be provided
20 in the proceedings authorizing the bonds.

21 Sec. 2214.306 BOND PROCEEDS. The proceeds of bonds issued
22 by the authority under this subchapter may be deposited, in the
23 discretion of the facility in consultation with the commissioner,
24 with a trustee selected by the facility or with the Texas Treasury
25 Safekeeping Trust Company, or held by the comptroller in a
26 dedicated trust fund in the state treasury, as shall be set out in
27 the proceedings authorizing the bonds.

1 Sec. 2214.307 USE OF BOND PROCEEDS. (a) Bond proceeds,
2 including investment income, shall be held in trust for the
3 exclusive use and benefit of the facility. The facility may use the
4 proceeds to:

5 (1) fund the reinsurance facility, including funding
6 necessary to:

7 (A) pay incurred reimbursable expenses under
8 reinsurance contracts and operating expenses of the facility;

9 (B) pay operating expenses; and

10 (C) purchase reinsurance for the facility;

11 (2) pay the costs of issuing the bonds, and bond
12 administrative expenses, if any;

13 (3) provide a bond reserve; and

14 (4) pay capitalized interest and principal on the
15 bonds for the period determined necessary by the facility, not to
16 exceed two years.

17 (b) Any excess bond proceeds remaining after the purposes
18 for which the bonds were issued are satisfied may be used to
19 purchase or redeem outstanding bonds.

20 (c) If there are no outstanding bond obligations or bond
21 administrative expenses to be paid, the remaining proceeds shall be
22 transferred to the Windstorm Reinsurance Trust Fund established
23 under Subchapter F.

24 Sec. 2214.308 REPAYMENT OF BOND OBLIGATIONS. (a) Bonds are
25 payable only from the service fee established under section
26 2214.311 or from other amounts the facility is authorized levy,
27 charge, and collect, including the windstorm reinsurance trust

1 fund.

2 (b) The authority shall notify the facility of the amount of
3 the bond obligations and the estimated amount of bond
4 administrative expenses, if any, each year in sufficient time, as
5 determined by the facility, to permit the facility to determine the
6 availability funds and provide for any necessary service fee.

7 (c) The facility shall deposit all revenue collected
8 pursuant to Section 2214.311 in the bond obligation revenue fund.
9 Money deposited in the fund may be invested as permitted by general
10 law. Money in the fund required to be used to pay bond obligations
11 and bond administrative expenses, if any, shall be transferred to
12 the appropriate funds in the manner and at the time specified in the
13 proceedings authorizing the bonds to ensure timely payment of
14 obligations and expenses.

15 (d) The facility shall provide for the payment of the bond
16 obligations and the bond administrative expenses by irrevocably
17 pledging revenues received from reinsurance premiums, service
18 fees, and bond proceeds on deposit, together with any bond reserve
19 fund, as provided in the proceedings authorizing the bonds and
20 related credit agreements.

21 (e) An amount owed by the authority under a credit agreement
22 shall be payable from and secured by a pledge of revenues received
23 by the facility or amounts from the bond proceeds to the extent
24 provided in the proceedings authorizing the credit agreement.

25 Sec. 2214.309 BOND PAYMENTS. (a) Revenues received from
26 the service fees pursuant to Section 2214.311 may be applied only as
27 provided in the this section.

1 (b) The facility may pay bond obligations with other legally
2 available funds.

3 (c) Bond obligations are payable only from sources provided
4 for payment in this subchapter.

5 Sec. 2214.310 EXCESS REVENUE COLLECTIONS AND INVESTMENT
6 EARNINGS. Revenue collected in any year from the service fee
7 collected pursuant to Section 2214.311 that exceeds the amount of
8 the bond obligations and bond administrative expenses payable in
9 that year and interest earned on the bond proceeds, in the
10 discretion of the facility, may be:

11 (1) used to pay bond obligations payable in the
12 subsequent year, offsetting the amount of the service fee that
13 would otherwise have to be levied for the year under this
14 subchapter;

15 (2) used to redeem or purchase outstanding bonds; or

16 (3) deposited in the Windstorm Reinsurance Trust Fund.

17 Sec. 2214.311 BOND SERVICE. (a) A service fee to pay bond
18 obligations and bond administrative expenses, if any, on bonds may
19 be collected in addition to any premiums from insurers, the
20 association, and the FAIR Plan. The service fee shall be filed with
21 the commissioner annually by the facility in an amount sufficient
22 to pay all debt service not already covered by available funds and
23 all related expenses on the bonds. The commissioner shall review
24 the filing to ensure that the service fee, together with any other
25 revenues of the facility, are sufficient to pay all bond
26 obligations and bond administrative expenses for the coming year.

27 (b) Each insurer, the association, and the FAIR Plan

1 Association shall pay the service fee to the facility as determined
2 by the facility's plan of operation. The amount of the service fee
3 shall be based on the amount of the insurer's net direct premiums
4 written for all property and casualty lines, not including workers'
5 compensation insurance, accident and health insurance, or medical
6 malpractice insurance, as reported in each insurer's annual
7 statement filed with the department for the calendar year
8 preceding the year in which the service fee is made.

9 (c) The facility shall collect the service fee and report
10 collection of the service fee to the department. The department may
11 audit payment and collection of the service fee.

12 (d) Insurers in this state, including the association and
13 the FAIR Plan, that have paid a service fee under this section may
14 charge a premium surcharge on each property and casualty insurance
15 policy, not including workers' compensation insurance, accident
16 and health insurance, or medical malpractice insurance, issued by
17 that insurer, the association of the FAIR Plan, the effective date
18 of which is within the one-year period beginning on the 90th day
19 after the date the service fee is paid. Except as provided in
20 Subsection (e) of this section, the amount of the premium surcharge
21 shall be computed on the basis of a uniform percentage of the
22 premium on those policies.

23 (e) For policies written on residential property in the
24 seacoast territory or that area determined by the commissioner to
25 be eligible for reinsurance under Section 2214.051(a)(1),
26 insurers, the association and the Fair Plan, shall charge an
27 additional premium surcharge equal to the uniform percentage

1 determined by Subsection (d). Beginning January 1, 2010, insurers,
2 the association, and the Fair Plan, shall charge an additional
3 premium surcharge equal to the uniform percentage determined by
4 Subsection (d) for commercial insurance that is eligible for
5 reinsurance and located in the area determined by the commissioner
6 to be eligible for reinsurance under Section 2214.051(a)(2). The
7 amount of the additional surcharge under this subsection shall be
8 paid to the facility and deposited into the Texas Windstorm
9 Reinsurance Trust Fund.

10 (f) The aggregate of the premium surcharge collected by each
11 insurer, the association, and the Fair Plan under Subsection (d),
12 may equal, but shall not exceed the amount of the service fee paid
13 by the insurer.

14 (g) The premium surcharge collected under Subsections (d)
15 and (e) shall be a separate charge in addition to the premiums
16 collected, is not subject to premium tax or commissions, and
17 failure to pay such surcharge by a policyholder is equivalent to
18 failure to pay premium for purposes of policy cancellation.

19 (h) All insurers, the FAIR Plan Association, and the
20 association shall notify the commissioner on or before March 31 of
21 each year if the premiums surcharges they have collected in prior
22 calendar years exceed the amount of service fees paid in prior
23 calendar years.

24 Sec. 2214.312. STATE DEBT NOT CREATED. (a) A bond issued
25 under this subchapter, and any related credit agreement, is not a
26 debt of the state or any state agency or political subdivision of
27 the state and is not a pledge of the faith and credit of any of them.

1 A bond or credit agreement is payable solely from revenue as
2 provided in this subchapter.

3 (b) A bond, and any related credit agreement, issued under
4 this subchapter must contain on its face a statement to the effect
5 that:

6 (1) neither the state nor a state agency, political
7 corporation, or political subdivision of the state is obligated to
8 pay the principal of or interest on the bond except as provided by
9 this subchapter; and

10 (2) neither the faith and credit nor the taxing power
11 of the state or any state agency, political corporation, or
12 political subdivision of the state is pledged to the payment of the
13 principal of or interest on the bond.

14 Sec. 2214.313. STATE NOT TO IMPAIR BOND OBLIGATIONS. If
15 bonds under this subchapter are outstanding, the state may not:

16 (1) take action to limit or restrict the rights of the
17 facility to fulfill its responsibility to pay bond obligations; or

18 (2) in any way impair the rights and remedies of the
19 bond owners until the bonds are fully discharged.

20 Sec. 2214.314. ENFORCEMENT BY MANDAMUS. A writ of mandamus
21 and all other legal and equitable remedies are available to any
22 party at interest to require the reinsurance facility and any other
23 party to carry out agreements and to perform functions and duties
24 under this chapter, the Texas Constitution, and the relevant bond
25 resolution.

26 Sec. 2214.315. EXEMPTION FROM TAXATION. A bond issued under
27 this subchapter, any transaction relating to the bond, and profits

1 made from the sale of the bond are exempt from taxation by this
2 state or by a municipality or other political subdivision of this
3 state.

4 Sec. 2214.316 NO PERSONAL LIABILITY. The members of the
5 facility, facility employees, the board of directors of the
6 authority, the employees of the authority, the commissioner, and
7 the employees of the Texas Department of Insurance are not
8 personally liable as a result of exercising the rights and
9 responsibilities granted under this subchapter.

10 Sec. 2214.317 AUTHORIZED INVESTMENT. The bonds issued under
11 this section constitute authorized investments under:

- 12 (1) Subchapter B, Chapter 424 of this code;
13 (2) Subchapter C, Chapter 425 of this code; and
14 (3) Sections 425.203 - 425.213 of this code.

15 SUBCHAPTER H. APPEALS AND OTHER ACTIONS

16 Sec. 2214.351. APPEALS. (a) This section applies to an
17 affected insurer, the association, or the FAIR Plan.

18 (b) An entity described by Subsection (a) who is aggrieved
19 by an act, ruling, or decision of the facility may appeal to the
20 commissioner not later than the 30th day after the date of that act,
21 ruling, or decision.

22 (c) Except as otherwise provided in this chapter, if the
23 facility is aggrieved by the action of the commissioner with
24 respect to a ruling, order, or determination of the commissioner,
25 the facility may, not later than the 30th day after the date of the
26 action, make a written request to the commissioner for a hearing on
27 the action.

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

6 (e) A hearing on an act, ruling, or decision of the facility
7 relating to the payment of, the amount of, or the denial of a
8 particular claim shall be held in a place determined by the
9 commissioner in Travis County.

10 (f) Not later than the 30th day after the date of the
11 hearing, the commissioner shall affirm, reverse, or modify the
12 commissioner's previous action or the act, ruling, or decision
13 appealed to the commissioner. Pending the hearing and decision,
14 the commissioner may suspend or postpone the effective date of the
15 previous action or of the act, ruling, or decision appealed to the
16 commissioner.

17 (g) The facility, or the entity aggrieved by the order or
18 decision of the commissioner, may appeal to a district court in
19 Travis County.

20 (h) An action brought under this section is subject to the
21 procedures established under Subchapter D, Chapter 36.

22 Sec. 2214.352. CLAIM DISPUTES; VENUE. (a) Except as
23 provided in this chapter, an insurer, the association, or the FAIR
24 Plan who is aggrieved by an act, ruling, or decision of the facility
25 relating to the payment of, the amount of, or the denial of a claim
26 may:

27 (1) bring an action against the facility, including an

1 action under Chapter 541; or

2 (2) appeal the act, ruling, or decision under Section
3 2214.351.

4 (b) An insurer, the association, or the FAIR Plan may not
5 proceed under both Section 2214.351 and this section for the same
6 act, ruling, or decision.

7 (c) Venue in an action brought under this section, including
8 an action under Chapter 541, against the facility is only in a
9 district court in Travis County.

10 (d) Venue in an action, including an action under Chapter
11 541, brought under this section in which the claimant joins the
12 department as a party to the action is only in a district court in
13 Travis County.

14 SUBCHAPTER I. INITIAL FUNDING.

15 Sec. 2214.401. INITIAL FUNDING OF THE REINSURANCE FACILITY.

16 (a) This subchapter applies to all insurers that are authorized to
17 write property insurance in the state as of January 1, 2008, and
18 that delivered, issued for delivery, or renewed homeowners
19 insurance in this state during the 2008 calendar year.

20 (b) As a condition of being authorized to engage in the
21 business of property insurance in this state, each insurer
22 described in Subsection a shall pay a one-time fee to the facility
23 that is equal to the amount determined by multiplying the insurer's
24 net direct premiums for the line of homeowners insurance for the
25 year 2008 by the difference of 90 percent less the insurer's 2008
26 combined ratio for homeowners.

27 (c) The insurer may not implement a policyholder surcharge

1 to recover this fee.

2 (d) The commissioner, by rule, shall adopt a method for
3 determining each insurer's 2008 combined ratio for homeowners,
4 including:

5 (1) a minimum fee amount; and

6 (2) the date and method of payment by which the fee
7 shall be paid to the facility.

8 (e) The commissioner by rule may provide for exemptions for
9 insurers if such a fee would result in an undue financial hardship
10 on the insurer.

11 SECTION 2. Section 2210.453, Insurance Code is amended to
12 add Subsection (c) to read as follows:

13 (c) In addition to purchasing reinsurance from the
14 commercial insurance market, the association may cede or transfer
15 risk to the reinsurance facility in exchange for payment of a
16 reinsurance premium, as required under Chapter 2214 and approved by
17 the commissioner under that chapter.

18 SECTION 3. Section 2251.052(a), Insurance Code, is amended
19 by adding Subdivision (5-1) to read as follows:

20 (5-1) if eligible, the availability of savings in the
21 cost of reinsurance that can be purchased from the Texas
22 Reinsurance Facility under Chapter 2214.

23 SECTION 4. Section 911.001(c)(7), Insurance Code, is
24 amended to read as follows:

25 (7) Chapter 824 and Chapter 2214; and

26 SECTION 5. Section 941.003, Insurance Code, is amended by
27 adding Subsection (e) to read as follows:

1 (e) A Lloyd's plan is subject to Chapter 2214 as provided by
2 that chapter.

3 SECTION 6. Section 942.003, Insurance Code, is amended by
4 adding Subsection (f) to read as follows:

5 (f) An exchange is subject to Chapter 2214, as provided by
6 that chapter.

7 SECTION 7. The facility may enter into reinsurance
8 contracts after its plan of operation is adopted by the
9 commissioner and the facility's rates, forms, and estimated paying
10 capacity are approved by the commissioner.

11 SECTION 8. This Act takes September 1, 2007.