

By: Janek

S.B. No. 1551

A BILL TO BE ENTITLED

AN ACT

relating to the establishment, funding, and operation of the natural disaster catastrophe fund.

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

SECTION 1. Subtitle A, Title 10, Insurance Code, is amended by adding Chapter 1809 to read as follows:

CHAPTER 1809. NATURAL DISASTER CATASTROPHE FUND

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1809.001. SHORT TITLE. This chapter may be cited as the Texas Natural Disaster Catastrophe Fund Act.

Sec. 1809.002. FINDINGS; PURPOSE. (a) The legislature finds that there is a compelling state interest in maintaining a viable and orderly private sector market for property insurance in this state. To the extent that the private sector is unable to maintain such a market in this state, state actions to maintain such a market are valid and necessary exercises of the police power.

(b) The legislature finds that, as a result of unprecedented levels of insured losses from natural disasters in recent years, and especially as a result of Hurricane Andrew and the Northridge earthquake, numerous insurers have determined that in order to protect their solvency, it is necessary for those insurers to reduce their exposure to losses from natural disasters. The instability of the world reinsurance market, also caused in part by these events, has also increased the pressure on insurers to reduce

1 their catastrophic exposures.

2 (c) The legislature finds that mortgages require reliable  
3 property insurance, and the unavailability of reliable property  
4 insurance would make most real estate transactions impossible. In  
5 addition, the public health, safety, and welfare demand that  
6 structures damaged or destroyed in a catastrophe be repaired or  
7 reconstructed as soon as possible. Therefore, the inability of the  
8 private sector insurance and reinsurance markets to maintain  
9 sufficient capacity to enable residents of this state to obtain  
10 property insurance coverage in the private sector endangers the  
11 economy of this state and endangers the public health, safety, and  
12 welfare. Accordingly, state action to correct for this inability of  
13 the private sector constitutes a valid and necessary public and  
14 governmental purpose.

15 (d) The legislature finds that the insolvencies and  
16 financial impairments resulting from Hurricane Andrew and the  
17 Northridge earthquake demonstrate that many property insurers are  
18 unable or unwilling to maintain reserves, surplus, and reinsurance  
19 sufficient to enable the insurers to pay all claims in full in the  
20 event of a major natural disaster. State action is therefore  
21 necessary to protect the public from an insurer's unwillingness or  
22 inability to maintain sufficient reserves, surplus, and  
23 reinsurance.

24 (e) The legislature finds that a state program to provide  
25 reimbursement to insurers for a portion of their catastrophic  
26 losses will create additional insurance capacity sufficient to  
27 ameliorate the current dangers to this state's economy and to the

1 public health, safety, and welfare.

2 (f) It is essential to the efficient functioning of a state  
3 program to increase insurance capacity that revenues received be  
4 exempt from federal taxation. It is therefore the intent of the  
5 legislature that the program under this chapter be structured as a  
6 state trust fund under the control of the department and operate  
7 exclusively for the purpose of protecting and advancing the state's  
8 interest in maintaining insurance capacity in this state.

9 Sec. 1809.003. DEFINITIONS. In this chapter:

10 (1) "Actuarially indicated" means, with respect to  
11 premiums paid by insurers for reimbursement provided by the fund,  
12 an amount determined according to principles of actuarial science  
13 to be adequate, but not excessive, in the aggregate, to pay current  
14 and future obligations and expenses of the fund, including  
15 additional amounts if needed to retire public securities issued  
16 under Subchapter H, and determined according to principles of  
17 actuarial science to reflect each insurer's relative exposure to  
18 losses from covered events.

19 (2) "Covered event" means a hurricane, tornado, or  
20 other type of natural disaster, as specified by rule by the  
21 commissioner, that results in insured losses in this state and is  
22 covered by the fund.

23 (3) "Covered policy" means a residential property  
24 insurance policy, or any other policy covering a residential  
25 structure or the contents of such a structure that is issued by an  
26 insurer authorized to engage in the business of residential  
27 property insurance in this state. The term does not include a

1 reinsurance agreement or any policy that excludes coverage for a  
2 peril described by Subsection (2).

3 (4) "Fund" means the natural disaster catastrophe  
4 fund.

5 (5) "Insurer" means an insurance company, reciprocal  
6 or interinsurance exchange, mutual insurance company, capital  
7 stock company, county mutual insurance company, farm mutual  
8 insurance company, Lloyd's plan, or other legal entity authorized  
9 to write residential property insurance in this state. The term  
10 includes an affiliate, as described by Section 823.003(a), if that  
11 affiliate is authorized to write and is writing residential  
12 property insurance in this state. The term also includes:

13 (A) an eligible surplus lines insurer regulated  
14 under Chapter 981;

15 (B) the Texas Windstorm Insurance Association  
16 under Chapter 2210; or

17 (C) the FAIR Plan Association under Chapter 2211.

18 (6) "Losses" means direct incurred losses under  
19 covered policies, other than losses attributable to additional  
20 living expenses coverages and loss adjustment expenses.

21 (7) "Retention" means the amount of losses below which  
22 an insurer is not entitled to reimbursement from the fund.

23 [Sections 1809.004-1809.050 reserved for expansion]

24 SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT  
25 AND COMMISSIONER

26 Sec. 1809.051. RULEMAKING. (a) The commissioner shall  
27 adopt rules in the manner prescribed by Subchapter A, Chapter 36,

1 as reasonable and necessary to implement this chapter.

2 (b) Rules adopted under Subsection (a) must:

3 (1) conform to the legislature's specific intent in  
4 establishing the fund, as provided by Section 1809.001; and

5 (2) enhance the fund's potential ability to respond to  
6 claims for covered events.

7 (c) Rules adopted under Subsection (a) must contain general  
8 provisions to allow the rules to be applied with enough reasonable  
9 flexibility to accommodate insurers in situations of an unusual  
10 nature or if undue hardship may result. The flexibility authorized  
11 under this subsection may not in any way impair, override,  
12 supersede, or constrain the public purpose of the fund, and must be  
13 consistent with sound insurance practices.

14 Sec. 1809.052. ALTERNATE REPORTING METHODS AUTHORIZED. The  
15 department may allow insurers to use alternative methods of  
16 reporting to comply with reporting requirements adopted under this  
17 chapter if the commissioner determines that:

18 (1) use of those alternate methods does not adversely  
19 affect proper administration of the fund; and

20 (2) the alternate methods produce data that is  
21 consistent for the purposes of this chapter.

22 Sec. 1809.053. REPROCESSING FEE. To ensure the equitable  
23 operation of the fund, the department may impose a reasonable fee on  
24 an insurer to recover any costs incurred by the department in  
25 reprocessing inaccurate, incomplete, or untimely exposure data  
26 submitted by the insurer.

27 Sec. 1809.054. ADVISORY COUNCIL. (a) To provide the

1 department with information and advice in connection with the  
2 department's duties under this chapter, the commissioner shall  
3 appoint a nine-member advisory council composed as follows:

4 (1) an actuary;

5 (2) a meteorologist;

6 (3) an engineer;

7 (4) a representative of insurers;

8 (5) a representative of insurance agents;

9 (6) a representative of reinsurers; and

10 (7) three consumers who also serve as representatives  
11 of other affected professions and industries.

12 (b) Members of the advisory council serve at the pleasure of  
13 the commissioner.

14 (c) A member of the advisory council is not entitled to  
15 compensation, but is entitled to reimbursement for traveling  
16 expenses incurred in performing duties as a member of the advisory  
17 council up to the limit provided by the General Appropriations Act.

18 Sec. 1809.055. EFFECT OF CREATION OF FEDERAL OR MULTISTATE  
19 PROGRAM. On the creation of a federal or multistate catastrophic  
20 insurance or reinsurance program intended to serve purposes similar  
21 to the purposes of the fund established under this chapter, the  
22 department shall promptly make recommendations to the legislature  
23 regarding:

24 (1) coordination with the federal or multistate  
25 program;

26 (2) termination of the fund; or

27 (3) other actions as the commissioner determines to be

1 appropriate.

2 [Sections 1809.056-1809.100 reserved for expansion]

3 SUBCHAPTER C. FUND

4 Sec. 1809.101. ESTABLISHMENT OF FUND. (a) The Texas  
5 natural disaster catastrophe fund is a trust fund outside the state  
6 treasury in the custody of the comptroller. The department shall  
7 administer the fund.

8 (b) Money in the fund may not be spent, loaned, or  
9 appropriated except to pay:

10 (1) obligations of the fund that arise out of  
11 reimbursement contracts entered into under Subchapter E;

12 (2) debts, including obligations arising out of public  
13 securities issued under Subchapter H;

14 (3) costs of the mitigation program under Section  
15 1809.103;

16 (4) costs of procuring reinsurance; and

17 (5) costs of administration of the fund.

18 (c) The comptroller shall invest the money in the fund in  
19 the manner provided by law for investment of state funds. Except as  
20 otherwise provided by this chapter, earnings from all investments  
21 shall be retained in the fund.

22 (d) The department may employ staff or contract with  
23 professionals as the commissioner considers necessary for the  
24 administration of the fund.

25 Sec. 1809.102. BORROWING AUTHORIZED. In addition to using  
26 public securities under Subchapter H, the department may also  
27 borrow from any market sources at prevailing interest rates.

1       Sec. 1809.103. MITIGATION PROGRAM; USE OF FUND INVESTMENT  
2 INCOME. (a) As directed by legislative appropriation, an amount  
3 not to exceed 35 percent of the investment income of the fund for  
4 the prior fiscal year may be used annually to provide funding for  
5 local governments, state agencies, public and private educational  
6 institutions, and nonprofit organizations to support programs  
7 intended to:

8               (1) improve natural disaster preparedness;

9               (2) reduce potential losses from covered events;

10              (3) provide research into means to reduce those  
11 losses;

12              (4) educate or inform the public as to means to reduce  
13 losses from covered events;

14              (5) assist the public in determining the  
15 appropriateness of particular upgrades to structures or in the  
16 financing of those upgrades; or

17              (6) protect local infrastructure from potential  
18 damage from a covered event.

19       (b) Notwithstanding Subsection (a), money is not available  
20 for appropriation under this section if the comptroller determines  
21 that an appropriation of investment income from the fund would  
22 jeopardize the actuarial soundness of the fund.

23       Sec. 1809.104. BIENNIAL STATEMENT. In May and October of  
24 each year, the comptroller shall publish in the Texas Register a  
25 statement of the fund's anticipated borrowing capacity and the  
26 balance of the fund as of the date of the statement.

27       Sec. 1809.105. REINSURANCE. The department may procure



1 reinsurance from reinsurers authorized under Subtitle F, Title 4  
2 for the purpose of maximizing the capacity of the fund.

3 Sec. 1809.106. REVERSION OF FUND ASSETS ON TERMINATION.  
4 The fund and the duties of the comptroller and the department under  
5 this chapter may be terminated only by law. On termination of the  
6 fund, all assets of the fund shall revert to the general revenue  
7 fund.

8 Sec. 1809.107. ADVANCE PREMIUM PAYMENT. (a) To provide  
9 startup money for the administration of the fund, each insurer  
10 shall pay to the fund an advance premium payment of \$1,000. The  
11 department shall collect the advance premium payments required by  
12 this section for deposit in the fund. The insurer shall receive a  
13 credit against future premiums for the advance payment.

14 (b) This section expires September 1, 2009.

15 [Sections 1809.108-1809.150 reserved for expansion]

16 SUBCHAPTER D. COMPUTATION OF INSURER'S RETENTION

17 Sec. 1809.151. COMPUTATION OF INSURER'S RETENTION. For  
18 purposes of this chapter, an insurer's retention shall be computed  
19 as provided by this subchapter.

20 Sec. 1809.152. RETENTION MULTIPLES. (a) The department  
21 shall compute and report to each insurer the retention multiples  
22 for each year.

23 (b) For the contract year beginning in 2007, the retention  
24 multiple is equal to \$2 billion, divided by the total estimated  
25 reimbursement premium for the contract year. For subsequent years,  
26 the retention multiple is equal to \$2 billion, adjusted to reflect  
27 the percentage growth in premium for covered policies since the

1 date of the initial contracts entered into under this chapter,  
2 divided by the total estimated reimbursement premium for the  
3 contract year.

4 Sec. 1809.153. INSURER ELECTION; PROVISIONAL AND ACTUAL  
5 RETENTION. (a) The retention multiple determined under Section  
6 1809.152(b) shall be adjusted to reflect the coverage level elected  
7 by the insurer under Section 1809.202. For insurers electing:

8 (1) the 90-percent coverage level, the adjusted  
9 retention multiple is 100 percent of the amount determined under  
10 Section 1809.152(b);

11 (2) the 75-percent coverage level, the retention  
12 multiple is 120 percent of the amount determined under Section  
13 1809.152(b); and

14 (3) the 45-percent coverage level, the adjusted  
15 retention multiple is 200 percent of the amount determined under  
16 Section 1809.152(b).

17 (b) An insurer shall determine the insurer's:

18 (1) provisional retention by multiplying the insurer's  
19 provisional reimbursement premium by the applicable adjusted  
20 retention multiple; and

21 (2) actual retention by multiplying the insurer's  
22 actual reimbursement premium by the applicable adjusted retention  
23 multiple.

24 [Sections 1809.154-1809.200 reserved for expansion]

25 SUBCHAPTER E. REIMBURSEMENT CONTRACTS

26 Sec. 1809.201. REIMBURSEMENT CONTRACT REQUIRED. As a  
27 condition of engaging in the business of insurance in this state,

1 each insurer that writes covered policies shall enter into a  
2 contract with the department under which the department shall  
3 provide to the insurer the reimbursement described by Section  
4 1809.202 in exchange for the reimbursement premium paid to the fund  
5 by the insurer under Subchapter G.

6 Sec. 1809.202. REIMBURSEMENT PERCENTAGES. (a) A  
7 reimbursement contract must contain a promise by the department to  
8 reimburse the insurer, as provided by Subsection (b), for a  
9 percentage equal to 45 percent, 75 percent, or 90 percent of the  
10 insurer's losses from each covered event in excess of the insurer's  
11 retention, plus five percent of the reimbursed losses to cover loss  
12 adjustment expenses.

13 (b) The insurer must elect one of the payment percentages  
14 specified under Subsection (a). On renewal of a reimbursement  
15 contract, the insurer may elect:

16 (1) a lower payment percentage, if no public  
17 securities under Subchapter H issued under after a covered event  
18 are outstanding; or

19 (2) a higher payment percentage, if the insurer pays  
20 to the fund an actuarially appropriate equalization charge as  
21 determined by the department.

22 (c) All members of an insurer group must elect the same  
23 payment percentage.

24 (d) A joint underwriting association or assigned risk plan  
25 established under this code must elect the 90 percent payment  
26 percentage.

27 Sec. 1809.203. EFFECT OF REINSURANCE; OTHER RECOVERIES.

1 (a) A reimbursement contract must provide that reimbursement  
2 amounts may not be reduced by reinsurance paid or payable to the  
3 insurer from other sources.

4 (b) Recoveries from another source, together with  
5 reimbursements under the contract, may not exceed 100 percent of  
6 the insurer's losses from covered events. If those recoveries and  
7 reimbursements exceed 100 percent of the insurer's losses from  
8 covered events, and if an agreement between the insurer and the  
9 reinsurer to the contrary does not exist, any amount in excess of  
10 100 percent of the insurer's losses must be deposited in the fund.

11 Sec. 1809.204. DEPARTMENT OBLIGATION. A reimbursement  
12 contract must provide that the obligation of the department with  
13 respect to all contracts covering a particular year may not exceed  
14 the current balance of the fund, together with the maximum amount  
15 that the department is able to raise through the issuance of public  
16 securities under Subchapter H.

17 Sec. 1809.205. ANNUAL NOTIFICATION TO INSURERS. (a) A  
18 reimbursement contract must require the department to notify each  
19 insurer annually of:

20 (1) the fund's anticipated borrowing capacity for the  
21 subsequent year;

22 (2) the balance of the fund as of the date of the  
23 notification; and

24 (3) the insurer's estimated share of total  
25 reimbursement to be paid to the fund.

26 (b) For all regulatory and reinsurance purposes, an insurer  
27 may compute the insurer's projected payout from the fund as the

1 insurer's share of the total fund premium multiplied by the sum of  
2 the fund balance and bonding capacity as reported under this  
3 section.

4 Sec. 1809.206. INSURER QUARTERLY REPORTS; PAYMENT OF  
5 REIMBURSEMENT BY DEPARTMENT. (a) The reimbursement contract shall  
6 require each insurer to report to the department on December 31 of  
7 each year and quarterly thereafter the insurer's losses from  
8 covered events for the year and the quarter.

9 (b) The department shall determine and pay, as soon as  
10 practicable after receiving a report under Subsection (a), the  
11 initial amount of reimbursement due and adjustments to that amount  
12 based on later loss information. Adjustments to reimbursement  
13 amounts shall require the department to pay, or the insurer to  
14 return, amounts reflecting the most recent computation of losses.

15 Sec. 1809.207. LOANS TO MAINTAIN INSURER SOLVENCY. (a)  
16 Each reimbursement contract must provide that the department shall  
17 loan to an insurer, at market interest rates, the amounts necessary  
18 to maintain the solvency of the insurer if the insurer demonstrates  
19 to the satisfaction of the department that:

20 (1) the insurer is likely to qualify for reimbursement  
21 under the contract; and

22 (2) the immediate receipt of money is likely to  
23 prevent the insurer from becoming insolvent.

24 (b) A loan under Subsection (a) may not exceed an amount  
25 equal to 50 percent of the department's estimate of the  
26 reimbursement due the insurer. The insurer's reimbursement shall  
27 be reduced by an amount equal to the amount of the loan and interest

1 on the loan.

2 Sec. 1809.208. EFFECT OF INSURER INSOLVENCY. (a) In this  
3 section, the "net amount of all reimbursement moneys" means the  
4 amount remaining after reimbursement for preliminary or duplicate  
5 payments owed to private reinsurers, or other inuring reinsurance  
6 payments to private reinsurers, that satisfy statutory or  
7 contractual obligations to those reinsurers of the insolvent  
8 insurer attributable to covered events. Notwithstanding any law to  
9 the contrary, a private reinsurer described by this subsection  
10 shall be reimbursed or otherwise paid before any payment to the  
11 Texas Property and Casualty Insurance Guaranty Association under  
12 Subsection (b).

13 (b) Each reimbursement contract must provide that in the  
14 event of the insolvency of an insurer, the fund shall pay the net  
15 amount of reimbursement all moneys owed to the insurer directly to  
16 the Texas Property and Casualty Insurance Guaranty Association for  
17 the benefit of the insurer's policyholders in this state. The  
18 guaranty association shall pay all claims up to the maximum amount  
19 permitted by Chapter 462. Any remaining moneys shall be paid pro  
20 rata to claims not fully satisfied.

21 [Sections 1809.209-1809.250 reserved for expansion]

22 SUBCHAPTER F. REIMBURSEMENT IF FUNDS INSUFFICIENT

23 Sec. 1809.251. REIMBURSEMENT IF FUNDS INSUFFICIENT. If the  
24 department determines that the current balance of the fund,  
25 together with the amount that the department determines possible to  
26 raise through public securities issued under Subchapter H, is  
27 insufficient to reimburse all insurers at the level promised under

1 the reimbursement contracts, the department shall reimburse  
2 insurers as provided by this subchapter.

3 Sec. 1809.252. FIRST REIMBURSEMENT. (a) The department  
4 shall first reimburse each insurer writing covered policies that is  
5 determined by the department to:

- 6 (1) be in full compliance with this chapter;  
7 (2) have surplus as to policyholders not exceeding \$20  
8 million; and  
9 (3) write at least 25 percent of the insurer's  
10 countrywide property insurance premium in this state.

11 (b) The amount of reimbursement made to an insurer under  
12 Subsection (a) must be the lesser of:

- 13 (1) \$10 million; or  
14 (2) an amount equal to 10 times the insurer's  
15 reimbursement premium for the current year.

16 (c) The amount of reimbursement paid under this section may  
17 not exceed the full amount of reimbursement promised by the  
18 reimbursement contract.

19 (d) This section does not apply to any contract year in  
20 which the year-end projected cash balance of the fund, exclusive of  
21 any bonding capacity of the fund, exceeds an amount set by the  
22 commissioner in consultation with the comptroller and the Texas  
23 Public Finance Authority.

24 Sec. 1809.253. SECOND REIMBURSEMENT. After reimbursements  
25 under Section 1809.252, the department shall pay to each insurer  
26 the amount of reimbursement owed to that insurer, up to an amount  
27 equal to the projected payout determined under Section 1809.254.

1           Sec. 1809.254. PRORATED REIMBURSEMENT. After  
2 reimbursements under Section 1809.252, the department shall  
3 establish the prorated reimbursement level at the highest level for  
4 which any remaining fund balance or public security proceeds are  
5 sufficient.

6           [Sections 1809.255-1809.300 reserved for expansion]

7                   SUBCHAPTER G. REIMBURSEMENT PREMIUMS

8           Sec. 1809.301. PREMIUM PAYMENT. Each reimbursement  
9 contract shall require the insurer to pay to the fund annually an  
10 actuarially indicated premium for the promised reimbursement. In  
11 establishing the premium, the department shall consider the  
12 coverage level elected by the insurer under Section 1809.202 and  
13 any factors that tend to enhance the actuarial sophistication of  
14 ratemaking for the fund, including deductibles, type of  
15 construction, type of coverage provided, relative concentration of  
16 risks, and other factors considered appropriate by the  
17 commissioner.

18           Sec. 1809.302. FORMULA FOR PAYMENT OF PREMIUM. (a) The  
19 department shall select an independent consultant to develop a  
20 formula for determining the actuarially indicated premium to be  
21 paid to the fund. The formula must specify, for each zip code or  
22 other limited geographical area, the amount to be paid by an insurer  
23 for each \$1,000 of insured value under covered policies in that zip  
24 code or other area.

25           (b) The department may, at any time, revise the formula in  
26 the manner provided by this section.

27           Sec. 1809.303. INSURER NOTICE; PAYMENT. (a) Not later than



1 September 1 of each year, each insurer shall notify the department  
2 of the insurer's insured values under covered policies by zip code,  
3 as of June 30 of that year.

4 (b) Based on the reports received under Subsection (a), the  
5 department shall compute the premium due from each insurer, based  
6 on the formula adopted under Section 1809.302. The insurer shall  
7 pay the required annual premium under a periodic payment plan as  
8 specified in the reimbursement contract. The department shall  
9 provide for:

10 (1) payment of reimbursement premium in periodic  
11 installments; and

12 (2) the adjustment of provisional premium  
13 installments collected before submission of the exposure report to  
14 reflect data in the exposure report.

15 (c) All premiums paid to the fund under reimbursement  
16 contracts shall be treated as premium for approved reinsurance for  
17 all accounting and regulatory purposes.

18 Sec. 1809.304. EMERGENCY ASSESSMENT. (a) If the Texas  
19 Public Finance Authority determines that the amount of revenue  
20 produced under this subchapter through reimbursement premiums is  
21 insufficient to fund any public securities issued under Subchapter  
22 H as necessary to pay reimbursement at the levels promised in the  
23 reimbursement contracts, the authority shall direct the department  
24 to levy an emergency assessment on each insurer writing property  
25 and casualty insurance in this state.

26 (b) Except as otherwise provided by this subsection, each  
27 affected insurer shall pay to the fund, by July 1 of each year, an

1 amount equal to two percent of the insurer's gross direct written  
2 premium for the prior year from all property and casualty insurance  
3 written in this state. If the governor has declared a state of  
4 emergency under Chapter 418, Government Code, because of the  
5 occurrence of a covered event, the amount of the emergency  
6 assessment under this subsection may be increased to an amount not  
7 exceeding four percent of that premium.

8 (c) The annual assessments under this section continue  
9 until the public securities issued with respect to which the  
10 assessment was imposed are retired.

11 (d) An insurer may not be subject to more than one  
12 assessment under this section.

13 (e) Any rate filing or portion of a rate filing reflecting a  
14 rate change attributable entirely to the assessment levied under  
15 this section shall be deemed approved when made, subject to the  
16 authority of the commissioner to require actuarial justification as  
17 to the adequacy of any rate at any time. If the rate filing reflects  
18 only a rate change attributable to the assessment under this  
19 section, the filing may consist of a certification so stating.

20 [Sections 1809.305-1809.350 reserved for expansion]

21 SUBCHAPTER H. PUBLIC SECURITIES PROGRAM

22 Sec. 1809.351. PURPOSE. The legislature finds that the  
23 issuance of public securities to fund a state program to provide  
24 reimbursement to insurers for a portion of their losses incurred as  
25 a result of certain natural disasters will create additional  
26 insurance capacity to benefit this state's economy and the public  
27 health, safety, and welfare.

1       Sec. 1809.352. DEFINITIONS. In this subchapter:

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

4               (2) "Public security" means a debt instrument or other  
5 public security issued by the Texas Public Finance Authority.

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

9       Sec. 1809.353. APPLICABILITY OF OTHER LAWS. (a) To the  
10 extent consistent with this subchapter, Chapter 1232, Government  
11 Code, applies to public securities issued under this subchapter.  
12 In the event of a conflict, this subchapter controls.

13               (b) The following laws also apply to public securities  
14 issued under this subchapter to the extent consistent with this  
15 section:

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

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

19       Sec. 1809.354. ISSUANCE OF PUBLIC SECURITIES AUTHORIZED.

20               (a) On the occurrence of a covered event and a determination by the  
21 comptroller that the amount in the fund will be insufficient to pay  
22 reimbursement at the levels promised under reimbursement contracts  
23 under this chapter, the commissioner shall request the Texas Public  
24 Finance Authority to issue public securities for the benefit of the  
25 fund.

26               (b) The Texas Public Finance Authority may issue, on behalf  
27 of the department, public securities in an amount sufficient to

1 fund the obligations of the department under reimbursement  
2 contracts entered into under this chapter as determined by the  
3 department and approved by the commissioner after at least 10 days'  
4 notice and a hearing if a hearing is requested by any person within  
5 the 10-day notice period.

6 Sec. 1809.355. TERMS OF ISSUANCE. (a) Public securities  
7 issued under this subchapter may be issued at a public or private  
8 sale.

9 (b) Public securities must:

10 (1) be issued in the name of the department; and

11 (2) mature not more than 15 years after the date  
12 issued.

13 Sec. 1809.356. CONTENTS OF PUBLIC SECURITY RESOLUTION;  
14 ADMINISTRATION OF ACCOUNTS. (a) In a public security resolution,  
15 the board may:

16 (1) provide for the flow of funds and the  
17 establishment, maintenance, and investment of funds and special  
18 accounts with regard to the public securities, including an  
19 interest and sinking fund account, a reserve account, and other  
20 accounts; and

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

24 (b) The association shall administer the accounts in  
25 accordance with this subchapter.

26 Sec. 1809.357. SOURCE OF PAYMENT. (a) Public securities  
27 issued under this subchapter are payable only from:

1           (1) the reimbursement premiums collected under  
2 Subchapter G; or

3           (2) any other amounts that the department is  
4 authorized to levy, charge, and collect on behalf of the fund.

5           (b) The public securities are obligations solely of the  
6 department and do not create a pledge, gift, or loan of the faith,  
7 credit, or taxing authority of this state.

8           (c) Each public security must:

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

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

14           (A) is payable solely from the revenue pledged  
15 for that purpose; and

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

18           Sec. 1809.358. PAYMENT OF INTEREST. Interest on the public  
19 securities issued under this subchapter shall be paid from the  
20 reimbursement premiums collected under Subchapter G.

21           Sec. 1809.359. EXEMPTION FROM TAXATION. Public securities  
22 issued under this subchapter, any interest from those public  
23 securities, and all assets pledged to secure the payment of the  
24 public securities are free from taxation by the state or a political  
25 subdivision of this state.

26           Sec. 1809.360. AUTHORIZED INVESTMENTS. Public securities  
27 issued under this subchapter are authorized investments under

1 Subchapter B, Chapter 424, and Subchapters C and D, Chapter 425.

2 Sec. 1809.361. STATE PLEDGE REGARDING PUBLIC SECURITY OWNER  
3 RIGHTS AND REMEDIES. (a) The state pledges to and agrees with the  
4 owners of public securities issued in accordance with this  
5 subchapter that the state will not limit or alter the rights vested  
6 in the department to fulfill the terms of agreements made with the  
7 owners or in any way impair the rights and remedies of those owners  
8 until the following obligations are fully discharged:

9 (1) the public securities;

10 (2) any bond premium;

11 (3) interest; and

12 (4) all costs and expenses related to an action or  
13 proceeding by or on behalf of the owners.

14 (b) The department may include the state's pledge and  
15 agreement under Subsection (a) in an agreement with the owners of  
16 the public securities.

17 Sec. 1809.362. PAYMENT ENFORCEABLE BY MANDAMUS. A writ of  
18 mandamus and any other legal or equitable remedy are available to a  
19 party in interest to require the department or another party to  
20 fulfill an agreement or perform a function or duty under:

21 (1) this subchapter;

22 (2) the Texas Constitution; or

23 (3) a public security resolution.

24 [Sections 1809.363-1809.400 reserved for expansion]

25 SUBCHAPTER I. ENFORCEMENT

26 Sec. 1809.401. SANCTIONS. An insurer that violates this  
27 chapter or a rule adopted under this chapter is subject to sanctions

1 under Chapter 82.

2 SECTION 2. The commissioner of insurance shall appoint the  
3 advisory council established under Section 1809.054, Insurance  
4 Code, as added by this Act, not later than the 30th day after the  
5 effective date of this Act.

6 SECTION 3. The commissioner of insurance shall adopt the  
7 initial contract forms required under Chapter 1809, Insurance Code,  
8 as added by this Act, not later than the 30th day after the  
9 effective date of this Act, and shall adopt the initial premium  
10 formula not later than the 60th day after the effective date of this  
11 Act.

12 SECTION 4. The Texas Department of Insurance shall enter  
13 into reimbursement contracts with insurers under Chapter 1809,  
14 Insurance Code, as added by this Act, not later than the 90th day  
15 after the effective date of this Act.

16 SECTION 5. (a) Except as provided by Subsection (b), an  
17 insurer is not required to comply with Chapter 1809, Insurance  
18 Code, until the 90th day after the effective date of this Act.

19 (b) An insurer shall pay the advance premium payment  
20 required under Section 1809.107, Insurance Code, as added by this  
21 Act, not later than the 60th day after the effective date of this  
22 Act.

23 SECTION 6. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2007.