

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Smithee

H.B. No. 2960

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

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

2 SECTION 3. Sections 2210.004(a) and (g), Insurance Code,  
3 are amended to read as follows:

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

12 (g) For purposes of this chapter, a residential structure is  
13 insurable property if:

14 (1) the residential structure is not:

15 (A) a condominium, apartment, duplex, or other  
16 multifamily residence; or

17 (B) a hotel or resort facility; and

18 (2) the residential structure is located within an  
19 area designated as a unit under the Coastal Barrier Resources Act  
20 (Pub. L. No. 97-348) ~~[, and~~

21 ~~[(3) a building permit or plat for the residential  
22 structure was filed with the municipality, the county, or the  
23 United States Army Corps of Engineers before January 1, 2004].~~

24 SECTION 4. Section 2210.005, Insurance Code, is amended to  
25 read as follows:

26 Sec. 2210.005. DESIGNATION AS CATASTROPHE AREA ~~[OR  
27 INADEQUATE FIRE INSURANCE AREA]~~; REVOCATION OF DESIGNATION. (a)

1 After at least 10 days' notice and a hearing, the commissioner may  
2 designate an area of the seacoast area of this state as a  
3 catastrophe area if the commissioner determines that windstorm and  
4 hail insurance is not reasonably available to a substantial number  
5 of the owners of insurable property located in that territory  
6 because the territory is subject to unusually frequent and severe  
7 damage resulting from windstorms or hailstorms.

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

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

19 (c) ~~[(d)]~~ If the association determines that windstorm and  
20 hail insurance ~~[or fire and explosion insurance]~~ is no longer  
21 reasonably unavailable to a substantial number of owners of  
22 insurable property in a territory designated as a catastrophe area  
23 ~~[or inadequate fire insurance area, as applicable]~~, the association  
24 may request in writing that the commissioner revoke the  
25 designation. After at least 10 days' notice and a hearing, but not  
26 later than the 30th day after the date of the hearing, the  
27 commissioner shall:

1 (1) approve the request and revoke the designation; or

2 (2) reject the request.

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

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

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

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

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

15 (a) Each member of the association shall participate in  
16 insured losses and operating expenses of the association, in excess  
17 of premium and other revenue [~~the writings, expenses, profits, and~~  
18 ~~losses~~] of the association, in the proportion that the net direct  
19 premiums of that member during the preceding calendar year bears to  
20 the aggregate net direct premiums by all members of the  
21 association, as determined using the information provided under  
22 Subsection (b).

23 (c) Each member's participation in the association shall be  
24 determined annually in the manner provided by the plan of  
25 operation. For purposes of determining participation in the  
26 association, two or more members that are subject to common  
27 ownership or that operate in this state under common management or

1 control shall be treated as a single member. [~~The determination~~  
2 ~~shall also include the net direct premiums of an affiliate that is~~  
3 ~~under that common management or control, including an affiliate~~  
4 ~~that is not authorized to engage in the business of property~~  
5 ~~insurance in this state.~~]

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

17 SECTION 7. Section 2210.058, Insurance Code, is amended to  
18 read as follows:

19 Sec. 2210.058. PAYMENT OF EXCESS LOSSES [~~, PREMIUM TAX~~  
20 ~~CREDIT~~]. (a) If, in any calendar year, an occurrence or series of  
21 occurrences in a catastrophe area results in insured losses and  
22 operating expenses of the association in excess of premium and  
23 other revenue of the association, the excess losses shall be paid as  
24 provided by this section.

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

27 [~~(1) \$100 million shall be assessed against the~~

1 ~~members of the association as provided by Subsection (b);~~

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

6 (c) For [(3) for] losses in excess of those paid under  
7 Subsection (b), catastrophe area public securities may be issued in  
8 the manner prescribed by Subchapter M. Catastrophe area public  
9 securities issued under this subsection may be issued before or on  
10 or after the occurrence of a catastrophic event in amounts  
11 necessary to fund not more than 45 percent of the required solvency  
12 level determined under Subchapter N. All catastrophe area public  
13 securities obligations shall be paid in the manner prescribed by  
14 Section 2210.609, if applicable, and Section 2210.611.

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

18  [(4)] losses in excess of those paid under Subsections  
19 (b) and (c), Class 1 public securities may be issued before or on or  
20 after the occurrence of a catastrophic event in the manner  
21 prescribed by Subchapter M. Class 1 post-event public securities  
22 may be issued only on or after a named storm has caused damage in the  
23 seacoast territory and the board of directors has determined that  
24 the combination of association reserves, amounts available in the  
25 catastrophe reserve trust fund, catastrophe area public  
26 securities, and Class 1 pre-event public securities, if any, are  
27 insufficient to pay the losses. The board of directors may request

1 the commissioner to authorize Class 1 public securities in an  
2 amount sufficient to pay projected losses up to an amount not to  
3 exceed 50 percent of the required solvency level determined under  
4 Subchapter N. All Class 1 public securities obligations shall be  
5 paid in the manner prescribed by Section 2210.609, if applicable,  
6 and Section 2210.612.

7 (e) For losses in excess of those paid under Subsections  
8 (b)-(d), the board of directors of the association may request the  
9 commissioner to authorize member company public securities, in an  
10 amount not to exceed \$500 million, to be issued after a catastrophic  
11 event in the manner prescribed by Subchapter M. Member company  
12 public securities obligations shall be paid in the manner  
13 prescribed by Section 2210.613.

14 (f) For losses in excess of those paid under Subsections  
15 (b)-(e), the board of directors may request the commissioner to  
16 authorize Class 2 post-event public securities to be issued under  
17 this subsection on or after a catastrophic event in the manner  
18 prescribed by Subchapter M. The commissioner may authorize Class 2  
19 post-event public securities under this subsection to pay losses  
20 above the required solvency level determined under Subchapter N, in  
21 an amount sufficient to pay losses but not to exceed \$3 billion.  
22 All Class 2 post-event public securities obligations shall be paid  
23 in the manner prescribed by Section 2210.614.

24 (g) Notwithstanding any other provision of this section,  
25 the association may pay losses in excess of premium and other  
26 revenue of the association with reinsurance proceeds from  
27 reinsurance purchased by the association [~~Subdivisions (1), (2),~~

1 and (3) shall be assessed against members of the association, as  
2 provided by Subsection (b)].

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

7 [~~(c) An insurer may credit an amount paid in accordance with~~  
8 ~~Subsection (a)(4) in a calendar year against the insurer's premium~~  
9 ~~tax under Chapter 221. The tax credit authorized under this~~  
10 ~~subsection shall be allowed at a rate not to exceed 20 percent per~~  
11 ~~year for five or more successive years following the year of payment~~  
12 ~~of the claims. The balance of payments made by the insurer and not~~  
13 ~~claimed as a premium tax credit may be reflected in the books and~~  
14 ~~records of the insurer as an admitted asset of the insurer for all~~  
15 ~~purposes, including exhibition in an annual statement under Section~~  
16 ~~862.001.]~~

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

19 (c) Subsection (a) does not authorize the association to  
20 indemnify a member of the association for participating in the  
21 assessments made by [~~writings, expenses, profits, and losses of~~]  
22 the association in the manner provided by this chapter.

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

25 Sec. 2210.061. ELIGIBLE SURPLUS LINES INSURERS. (a) An  
26 eligible surplus lines insurer may not be a member of the  
27 association and is not subject to assessment as a member of the

1 association.

2 (b) Each surplus lines agent placing property insurance  
3 through an eligible surplus lines insurer shall collect from the  
4 policyholder and shall remit to the association a surplus lines  
5 policy fee on all premiums collected after January 1, 2008, for all  
6 insurance written by the surplus lines agent for a policy from an  
7 eligible surplus lines insurer for all risks on real property and  
8 contents in first tier coastal counties. By procuring or selling  
9 insurance on property in this state through an eligible surplus  
10 lines insurer, each surplus lines agent described by this  
11 subsection agrees to be subject to the provisions of this chapter,  
12 and to collect and remit the surplus lines policy fee described by  
13 this section.

14 (c) The surplus lines policy fee shall be five percent of  
15 the total policy premium, but the fee may not be considered premium  
16 and is not subject to premium taxes or commissions. Failure to pay  
17 the surplus lines policy fee shall be treated as a failure to pay  
18 premium. For purposes of this subsection, "total policy premium"  
19 includes taxes and commissions.

20 (d) Not later than the 20th day after the last day of each  
21 calendar quarter, each surplus lines agent placing insurance  
22 through an eligible surplus lines insurer shall remit directly to  
23 the association all surplus lines policy fees collected in the  
24 preceding quarter.

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

1 SUBCHAPTER C. ASSOCIATION BOARD OF DIRECTORS; GENERAL POWERS AND  
2 DUTIES OF BOARD OF DIRECTORS

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

5 Sec. 2210.101. ACCOUNTABLE TO GOVERNOR AND COMMISSIONER.  
6 The board of directors is responsible and accountable to the  
7 governor and the commissioner.

8 SECTION 12. Section 2210.102, Insurance Code, is amended to  
9 read as follows:

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

13 (b) Three members must be employed by or affiliated with,  
14 other than as agents, [+

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

17 (c) Two members must be [~~, elected by the members as~~  
18 ~~provided by the plan of operation,~~

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

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

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

27 [~~(B) are policyholders of the association, and~~

1           ~~[(3) two]~~ general property and casualty agents  
2 licensed under this code, one of whom, as of the date of the  
3 appointment, maintains the agent's principal office in the seacoast  
4 territory, and one of whom, as of the date of the appointment, does  
5 not maintain the agent's principal office in the seacoast  
6 territory.

7           (e) All members must have [+

8                   ~~[(A) who have]~~ demonstrated experience in  
9 insurance, general business, or actuarial principles sufficient to  
10 make the success of the association probable [+ and

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

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

15           SECTION 13. Section 2210.103, Insurance Code, is amended to  
16 read as follows:

17           Sec. 2210.103. TERMS. (a) Members of the board of  
18 directors serve two-year [~~three-year staggered~~] terms[~~, with the~~  
19 ~~terms of three members expiring on the third Tuesday of March of~~  
20 ~~each year].~~

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

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

26           SECTION 14. Section 2210.104, Insurance Code, is amended to  
27 read as follows:

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

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

8           Sec. 2210.1051. MEETINGS OF BOARD OF DIRECTORS. (a)  
9 Notwithstanding Chapter 551, Government Code, or any other law,  
10 members of the board of directors may meet by telephone conference  
11 call, video conference, or other similar telecommunication method.  
12 The board may use telephone conference call, video conference, or  
13 other similar telecommunication method for purposes of  
14 establishing a quorum or voting or for any other meeting purpose in  
15 accordance with this subsection and Subsection (b). This  
16 subsection applies without regard to the subject matter discussed  
17 or considered by the members of the board at the meeting.

18           (b) A meeting held by telephone conference call, video  
19 conference, or other similar telecommunication method:

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

22           (2) may not be held unless notice of the meeting  
23 specifies the location of the meeting;

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

26           (4) must provide two-way audio communication between  
27 all members of the board attending the meeting during the entire

1 meeting, and if the two-way audio communication link with members  
2 attending the meeting is disrupted so that a quorum of the board is  
3 no longer participating in the meeting, the meeting may not  
4 continue until the two-way audio communication link is  
5 reestablished.

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

8 Sec. 2210.107. PRIMARY BOARD OBJECTIVES. The primary  
9 objectives of the board of directors are to ensure that the  
10 association:

11 (1) operates in accordance with this chapter and  
12 commissioner rules;

13 (2) complies with sound insurance principles; and

14 (3) meets the solvency standards imposed under this  
15 chapter.

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

18 Sec. 2210.151. ADOPTION OF PLAN OF OPERATION. With the  
19 advice of the board of directors, the commissioner by rule shall  
20 adopt the plan of operation to provide[+]

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

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

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

27 (a) A person who has an insurable interest in insurable

1 property may apply to the association for insurance coverage  
2 provided under the plan of operation and an inspection of the  
3 property, subject to any rules~~[, including any inspection fee,]~~  
4 established by the board of directors and approved by the  
5 commissioner. In order to be eligible for insurance through the  
6 association, an applicant must demonstrate, in the manner  
7 established in the plan of operation, inability to obtain  
8 insurance coverage from insurers authorized to engage in the  
9 business of property and casualty insurance in this state.

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

12 (a-1) Notwithstanding Subsection (a), if all or any part of  
13 the property for which an application for new or renewal insurance  
14 coverage is made is located in Zone V or another similar zone with  
15 an additional hazard associated with storm waves, as defined by the  
16 National Flood Insurance Program, and if flood insurance under that  
17 federal program is available, the association may not issue a new or  
18 renewal insurance policy unless evidence that the property is  
19 covered by a flood insurance policy is submitted to the  
20 association. If that flood insurance is unavailable in any portion  
21 of the seacoast territory, an association policy insuring a  
22 residential structure described by Section 2210.004(g) is subject  
23 to a premium surcharge for the insurance coverage obtained through  
24 the association in an amount equal to not less than 10 percent of  
25 the premium, as set by the commissioner after notice and a hearing.

26 SECTION 20. Subchapter E, Chapter 2210, Insurance Code, is  
27 amended by adding Section 2210.210 to read as follows:

1       Sec. 2210.210. NOTICE TO APPLICANTS FOR INSURANCE AND  
2 POLICYHOLDERS; CONSUMER INFORMATION. (a) Each application for  
3 insurance and each policy issued by the association must include a  
4 notice as provided by this section. The commissioner by rule may  
5 prescribe specific requirements for the notice. The notice must be  
6 substantially as follows:

7               IMPORTANT NOTICE TO TEXAS WINDSTORM INSURANCE

8                       ASSOCIATION POLICYHOLDERS

9       Insurance policies issued by the Texas Windstorm Insurance  
10 Association are not guaranteed by the state or federal government.  
11 In the event of a major catastrophe, the association may not have  
12 sufficient funding resources to pay all losses to all policyholders  
13 suffering damage. In such an event, you may be paid less than the  
14 full amount of damages that you suffer. You may obtain additional  
15 information as to the association's potential exposure and its  
16 available funding resources at [www.tdi.state.tx.us](http://www.tdi.state.tx.us).

17       (b) The department shall establish a link on the  
18 department's Internet website through which applicants for  
19 insurance coverage through the association and association  
20 policyholders may obtain information in a format easily understood  
21 about the association's exposure and available resources.

22       SECTION 21. Sections 2210.251(a) through (f), Insurance  
23 Code, are amended to read as follows:

24       (a) Except as provided by this section, to be considered  
25 insurable property eligible for windstorm and hail insurance  
26 coverage from the association, a structure that is constructed or  
27 repaired or to which additions are made on or after January 1, 1988,

1 must be inspected [~~or approved~~] by the association [~~department~~] for  
2 compliance with the plan of operation.

3 (b) After January 1, 2004, for geographic areas specified by  
4 the commissioner, the board of directors [~~commissioner by rule~~]  
5 shall recognize for the purposes of this chapter [~~adopt~~] the 2003  
6 International Residential Code for one- and two-family dwellings  
7 published by the International Code Council. For those geographic  
8 areas, the board of directors [~~commissioner by rule~~] may recognize  
9 [~~adopt~~] a subsequent edition of that code and [~~may adopt~~] any  
10 supplements published by the International Code Council and  
11 amendments to that code.

12 (c) After January 1, 2004, a person must submit a notice of a  
13 windstorm inspection to the association [~~unit responsible for~~  
14 ~~certification of windstorm inspections at the department~~] before  
15 beginning to construct, alter, remodel, enlarge, or repair a  
16 structure.

17 (d) A structure constructed or repaired or to which  
18 additions were made before January 1, 1988, that is located in an  
19 area that was governed at the time of the construction, repair, or  
20 addition by a building code recognized by the association is  
21 insurable property eligible for windstorm and hail insurance  
22 coverage from the association without compliance with the  
23 inspection [~~or approval~~] requirements of this section or the plan  
24 of operation.

25 (e) A structure constructed or repaired or to which  
26 additions were made before January 1, 1988, that is located in an  
27 area not governed by a building code recognized by the association

1 is insurable property eligible for windstorm and hail insurance  
2 coverage from the association without compliance with the  
3 inspection [~~or approval~~] requirements of this section or the plan  
4 of operation if the structure was previously insured by an insurer  
5 authorized to engage in the business of insurance in this state and  
6 the structure is in essentially the same condition as when  
7 previously insured, except for normal wear and tear, and is without  
8 any structural change other than a change made according to code.  
9 For purposes of this subsection, evidence of previous insurance  
10 coverage includes:

- 11 (1) a copy of a previous insurance policy;
- 12 (2) copies of canceled checks or agent's records that  
13 show payments for previous policies; and
- 14 (3) a copy of the title to the structure or mortgage  
15 company records that show previous policies.

16 (f) The association [~~department~~] shall issue a certificate  
17 of compliance for each structure that qualifies for coverage. The  
18 certificate is evidence of insurability of the structure by the  
19 association.

20 SECTION 22. Section 2210.252, Insurance Code, is amended to  
21 read as follows:

22 Sec. 2210.252. INTERNATIONAL RESIDENTIAL CODE BUILDING  
23 SPECIFICATIONS. (a) After January 1, 2004, for geographic areas  
24 specified by the commissioner, the association [~~commissioner by~~  
25 ~~rule~~] may supplement the plan of operation building specifications  
26 with the structural provisions of the International Residential  
27 Code for one- and two-family dwellings, as published by the

1 International Code Council or an analogous entity recognized by the  
2 board of directors [~~department~~].

3 (b) For a geographic area specified under Subsection (a),  
4 the board of directors [~~commissioner by rule~~] may recognize [~~adopt~~]  
5 a subsequent edition of the International Residential Code for  
6 one- and two-family dwellings and [~~may adopt~~] a supplement  
7 published by the International Code Council or an amendment to that  
8 code.

9 SECTION 23. Sections 2210.254(a) and (b), Insurance Code,  
10 are amended to read as follows:

11 (a) For purposes of this chapter, a "qualified inspector"  
12 includes:

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

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

19 (3) an inspector who:

20 (A) is certified by the International Code  
21 Council, the Building Officials and Code Administrators  
22 International, Inc., the International Conference of Building  
23 Officials, or the Southern Building Code Congress International,  
24 Inc.;

25 (B) has certifications as a buildings inspector  
26 and coastal construction inspector; and

27 (C) complies with other requirements specified

1 by the board of directors [~~commissioner rule~~].

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

5 SECTION 24. Section 2210.255, Insurance Code, is amended to  
6 read as follows:

7 Sec. 2210.255. APPOINTMENT OF LICENSED ENGINEER AS  
8 INSPECTOR. (a) On request of an engineer licensed by the Texas  
9 Board of Professional Engineers, the association may [~~commissioner~~  
10 ~~shall~~] appoint the engineer as an inspector under this subchapter  
11 on receipt of information satisfactory to the board of directors  
12 [~~not later than the 10th day after the date the engineer delivers to~~  
13 ~~the commissioner information demonstrating~~] that the engineer is  
14 qualified to perform windstorm inspections under this subchapter.

15 (b) The board of directors shall consult with the  
16 commissioner regarding [~~shall adopt rules establishing~~] the  
17 information to be considered in appointing engineers under this  
18 section.

19 SECTION 25. Subchapter F, Chapter 2210, Insurance Code, is  
20 amended by adding Section 2210.258 to read as follows:

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

24 (1) the property has not been inspected for compliance  
25 with the plan of operation in accordance with Section 2210.251(a);  
26 or

27 (2) a certificate of compliance has not been issued in

1 accordance with Section 2210.251(f).

2 (b) An applicant for coverage from the association or a  
3 policyholder of the association whose property is determined to not  
4 be in compliance as provided by Subsection (a) is subject to a  
5 premium surcharge for insurance coverage obtained through the  
6 association. The surcharge shall be an amount not less than an  
7 amount equal to 10 percent of the premium, as determined by the  
8 commissioner after notice and a hearing.

9 SECTION 26. Sections 2210.351(a), (c), and (d), Insurance  
10 Code, are amended to read as follows:

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

16 (c) After the filing has been made, the association may use  
17 a filed rate, and a filed rate is subject to disapproval by the  
18 commissioner in the manner prescribed by Subchapter C, Chapter  
19 2251. [~~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 in effect [~~approved~~] under Subsection (c) no longer meets the  
26 requirements of this chapter, the commissioner may disapprove [~~7~~  
27 ~~after a hearing held on at least 20 days' notice to the association~~

1 ~~that specifies the matters to be considered at the hearing, issue an~~  
2 ~~order withdrawing approval of] the filing in the manner prescribed~~  
3 ~~by Section 2251.104 for disapproval of a rate. [The order must~~  
4 ~~specify in what respects the commissioner determines that the~~  
5 ~~filing no longer meets the requirements of this chapter. An order~~  
6 ~~issued under this subsection may not take effect before the 30th day~~  
7 ~~after the date of issuance of the order.]~~

8 SECTION 27. Sections 2210.355(b) and (g), Insurance Code,  
9 are amended to read as follows:

10 (b) In adopting rates under this chapter, the association  
11 shall:

12 (1) comply with the rate standards adopted under  
13 Section 2251.052, to the extent that those standards are determined  
14 by the commissioner to be applicable to the purposes of the  
15 association;

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

17 (3) include rating factors as necessary to:

18 (A) fund the catastrophe reserve trust fund;

19 (B) pay any public securities obligations in  
20 accordance with Subchapter M; and

21 (C) pay all losses and expenses of the  
22 association, regardless of the ultimate source of funding for those  
23 losses and expenses [following must be considered:

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

27 ~~[(2) expenses of operation, including acquisition~~

1 costs,

2 ~~[(3) a reasonable margin for profit and contingencies,~~  
3 ~~and~~

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

6 (g) A commission paid to an agent for an association policy  
7 must be reasonable, adequate, not unfairly discriminatory, and  
8 nonconfiscatory and may not exceed 10 percent with refund for any  
9 unearned portion.

10 SECTION 28. Section 2210.356, Insurance Code, is amended by  
11 amending Subsection (b) and adding Subsection (b-1) to read as  
12 follows:

13 (b) The catastrophe element used to develop rates under this  
14 subchapter ~~[applicable to risks written by the association must be~~  
15 ~~uniform throughout the seacoast territory. The catastrophe element~~  
16 ~~of the rates]~~ must be developed using industry data, association  
17 data, and catastrophe models approved by the department for use in  
18 association filings [+

19 ~~[(1) 90 percent of both the monoline extended coverage~~  
20 ~~loss experience and related premium income for all insurers, other~~  
21 ~~than the association, for covered property located in the seacoast~~  
22 ~~territory, using not less than the most recent 30 years of~~  
23 ~~experience available, and~~

24 ~~[(2) 100 percent of both the loss experience and~~  
25 ~~related premium income for the association for covered property,~~  
26 ~~using not less than the most recent 30 years of experience~~  
27 ~~available].~~

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

2                (1) the procedure for approval by the department of  
3 catastrophe models used by the association in the development of  
4 its rates; and

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

6        SECTION 29. Subchapter H, Chapter 2210, Insurance Code, is  
7 amended by adding Section 2210.364 to read as follows:

8        Sec. 2210.364. REVIEW OF RATES. A person who is aggrieved  
9 by a rate under this subchapter may proceed as provided by Chapter  
10 2251.

11        SECTION 30. Sections 2210.452(a), (c), and (d), Insurance  
12 Code, are amended to read as follows:

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

18                [~~(1)~~] the obligations of the trust fund under Section  
19 2210.058 [~~2210.058(a)~~], and

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

24        (c) At the end of each calendar year or policy year, the  
25 association shall pay the net gain from operations [~~equity~~] of the  
26 association [~~a member~~], including all premium and other revenue of  
27 the association in excess of incurred losses and operating

1 expenses, to the trust fund or a reinsurance program approved by the  
2 commissioner.

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

8 SECTION 31. Section 2210.453, Insurance Code, is amended to  
9 read as follows:

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

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

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

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

20 SECTION 32. Section 2210.454(b), Insurance Code, is amended  
21 to read as follows:

22 (b) Each state fiscal year, the department may fund the  
23 mitigation and preparedness plan using available funds [~~the~~  
24 ~~investment income of the trust fund in an amount not less than \$1~~  
25 ~~million and not more than 10 percent of the investment income of the~~  
26 ~~prior fiscal year. From that amount and as part of that plan, the~~  
27 ~~department may use in each fiscal year \$1 million for the windstorm~~

1 ~~inspection program established under Section 2210.251]~~.

2 SECTION 33. Section 2210.551, Insurance Code, is amended by  
3 adding Subsection (a-1) and amending Subsections (c) and (d) to  
4 read as follows:

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

7 (c) If the association or any interested party is aggrieved  
8 by the action of the commissioner with respect to a ruling, order,  
9 or determination of the commissioner, the association or interested  
10 party may, not later than the 30th day after the date of the action,  
11 make a written request to the commissioner for a hearing on the  
12 action.

13 (d) On 10 days' written notice of the time and place of the  
14 hearing, the commissioner shall conduct a hearing on the  
15 ~~[association's]~~ request of the association or interested party or  
16 the appeal from an act, ruling, or decision of the association, not  
17 later than the 30th day after the date of receipt of the request or  
18 appeal.

19 SECTION 34. Chapter 2210, Insurance Code, is amended by  
20 adding Subchapters M and N to read as follows:

21 SUBCHAPTER M. PUBLIC SECURITIES PROGRAM

22 Sec. 2210.601. PURPOSE. The legislature finds that issuing  
23 public securities to provide a method to raise funds to provide  
24 windstorm and hail insurance through the association in certain  
25 designated areas of the state is to benefit the public and to  
26 further a public purpose.

27 Sec. 2210.602. DEFINITIONS. In this subchapter:

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

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

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

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

12           (5) "Credit agreement" has the meaning assigned by  
13 Chapter 1371, Government Code.

14           (6) "Credit agreement obligation" means any premium,  
15 periodic payment, termination payment, or similar obligation under  
16 a credit agreement.

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

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

25           (9) "Public security" means a debt instrument or other  
26 public security obligation issued by the Texas Public Finance  
27 Authority for the purposes described by this subchapter and any

1 credit agreement.

2 (10) "Public security administrative expenses" means  
3 expenses incurred in issuing and administering public securities  
4 issued under this subchapter, including insurance costs and fees  
5 for paying agents, trustees, and attorneys, and for other  
6 professional services necessary to ensure compliance with  
7 applicable state or federal law.

8 (11) "Public security obligations" means the  
9 principal, any premium, and interest on a public security, periodic  
10 payments or termination payments, or similar obligations with  
11 respect to a public security.

12 (12) "Public security obligation revenue fund" means  
13 the dedicated trust fund established by the association outside the  
14 state treasury under this subchapter.

15 (13) "Public security resolution" means the  
16 resolution or order authorizing public securities to be issued  
17 under this subchapter.

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

24 Sec. 2210.604. ISSUANCE OF PUBLIC SECURITIES AUTHORIZED.

25 (a) At the request of the board of directors of the association and  
26 with the approval of the commissioner, the board shall issue public  
27 securities to:

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

3                   (A) establish and maintain reserves to pay  
4 claims;

5                   (B) pay incurred claims;

6                   (C) pay operating expenses; and

7                   (D) purchase reinsurance;

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

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

11           (4) pay public security administrative expenses; and

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

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

20           Sec. 2210.605. TERMS OF ISSUANCE. (a) The board shall  
21 determine the method of sale, type and form of public security,  
22 maximum interest rates, and other terms of the public securities  
23 that, in the board's judgment, best achieve the goals of the  
24 association and effect the borrowing at the lowest practicable  
25 cost. The board may enter into a credit agreement in connection  
26 with the public securities.

27           (b) Public securities must include the name of the

1 association.

2 Sec. 2210.606. CONTENTS OF PUBLIC SECURITY RESOLUTION;  
3 ADMINISTRATION OF ACCOUNTS. (a) In a public security resolution,  
4 the board may:

5 (1) provide for the flow of funds and the  
6 establishment, maintenance, and investment of funds and special  
7 accounts with regard to the public securities; and

8 (2) make additional covenants with respect to the  
9 public securities and the designated income and receipts of the  
10 association pledged to the payment of the public securities.

11 (b) The association shall administer the accounts in  
12 accordance with this subchapter.

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

18 (b) Any excess public security proceeds remaining after the  
19 purposes for which the public securities were issued are satisfied  
20 may be used to pay public security obligations or administrative  
21 expenses or pay, purchase, defease, or redeem outstanding public  
22 securities. If there are no outstanding public security obligations  
23 or public security administrative expenses, the excess proceeds  
24 shall be transferred to the catastrophe reserve trust fund.

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

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

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

6           (b) The board shall notify the association of the estimated  
7 amount of public security administrative expenses and the amount of  
8 the public security obligations each year in a period sufficient,  
9 as determined by the association, to permit the association to  
10 determine the availability of funds and assess a premium surcharge  
11 or other assessment if necessary.

12           (c) The association shall deposit all revenue collected  
13 under Sections 2210.611 through 2210.614 in the public security  
14 obligation revenue fund. Money deposited in the fund may be  
15 invested as permitted by general law. Money in the fund required to  
16 be used to pay public security administrative expenses and public  
17 security obligations shall be transferred to the appropriate funds  
18 in the manner and at the time specified in the public security  
19 resolution to ensure timely payment of obligations and expenses.

20           (d) The association shall provide for the payment of the  
21 public security administrative expenses and the public security  
22 obligations by irrevocably pledging revenues received from  
23 assessments, premiums, premium surcharges, and amounts on deposit  
24 in the public security obligation revenue fund, together with any  
25 reserve fund, as provided in the public security resolution and  
26 amounts realized under related credit agreements.

27           (e) Revenue deposited into the public security obligation

1 revenue fund that exceeds the amount of the public security  
2 obligations payable in that year and interest earned on the public  
3 security obligation fund may, in the discretion of the association,  
4 be:

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

9 (2) used to redeem, purchase, or defease outstanding  
10 public securities; or

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

12 (f) The public securities are obligations solely of the  
13 association and do not create a pledge, gift, or loan of the faith,  
14 credit, or taxing authority of this state.

15 (g) Each public security must:

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

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

21 (A) is payable solely from the revenue pledged  
22 for that purpose; and

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

25 Sec. 2210.609. PAYMENT OF INTEREST; PAYMENT OF PRE-EVENT  
26 PUBLIC SECURITY OBLIGATIONS. (a) Except as provided by  
27 Subsection (b), the association shall pay all interest, and may pay

1 principal, on any pre-event public security issued as described by  
2 Section 2210.058(c) or (d) from the existing premiums of the  
3 association.

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

8 Sec. 2210.610. REFINANCING PUBLIC SECURITIES. The  
9 association may request the board to refinance any public  
10 securities issued in accordance with Section 2210.058, whether  
11 pre-event or post-event public securities, with the refinanced  
12 public securities payable from the same sources as the original  
13 public securities.

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

18 (b) For public securities, the proceeds of which are used to  
19 fund excess losses under Section 2210.058(c), the public security  
20 obligations and administrative expenses shall be collected from  
21 association policyholders each year until all outstanding public  
22 security obligations and administrative expenses have been  
23 satisfied and paid.

24 (c) The service fee imposed on association policyholders  
25 under this section shall be determined and collected as provided by  
26 this subsection. The association shall determine the amount of a  
27 service fee imposed under this section at least annually. On

1 approval by the commissioner of the amount of a service fee after at  
2 least 10 days' notice and a hearing, if a hearing is requested by  
3 any person within the 10-day notice period, the association shall  
4 charge the service fee to its policyholders. The service fee must  
5 be set in an amount sufficient to pay all public security  
6 obligations and administrative expenses. The service fee shall be  
7 collected in the form of a premium surcharge and shall be remitted  
8 to the association as required by the commissioner by rule. The  
9 service fees collected under this subsection are separate charges  
10 in addition to premiums collected and are not subject to premium  
11 taxes or commissions. For purposes of policy cancellation, failure  
12 by a policyholder to pay a premium surcharge imposed under this  
13 subsection is equivalent to failure to pay premium.

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

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

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

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

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

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

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

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

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

26 Sec. 2210.614. POST-EVENT SERVICE FEE: CLASS 2 PUBLIC  
27 SECURITIES; PREMIUM SURCHARGE. (a) A fee to service Class 2 public

1 securities issued by the association after a catastrophic event  
2 shall be collected by each insurer, the association, and the FAIR  
3 Plan Association from policyholders who reside or have operations  
4 in, or whose insured property is located in, this state.

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

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

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

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

25 Sec. 2210.615. EXEMPTION FROM TAXATION. Public securities  
26 issued under this subchapter, any interest from those public  
27 securities, and all assets pledged to secure the payment of the

1 public securities are free from taxation by the state or a political  
2 subdivision of this state.

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

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

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

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

- 20 (1) this subchapter;  
21 (2) the Texas Constitution; or  
22 (3) a public security resolution.

23 Sec. 2210.619. NO PERSONAL LIABILITY. The members of the  
24 association, association employees, the board, the employees of the  
25 Texas Public Finance Authority, the commissioner, and department  
26 employees are not personally liable as a result of exercising the  
27 rights and responsibilities granted under this subchapter.

1           SUBCHAPTER N. ASSOCIATION SOLVENCY REQUIREMENTS

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

4           Sec. 2210.652. REQUIRED SOLVENCY LEVEL; FUNDING SOURCES.

5           (a) For purposes of this chapter, the "required solvency level" is  
6 the level of available internal association funding necessary to  
7 pay 100 percent of losses for which the association is liable and  
8 that result from a probable maximum loss determined by the board of  
9 directors under Section 2210.654.

10           (b) The board of directors shall maintain the funding of the  
11 association at a level sufficient to achieve the required solvency  
12 level.

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

15                   (1) association reserves;

16                   (2) available funds in the catastrophe reserve trust  
17 fund;

18                   (3) reinsurance purchased at any level;

19                   (4) catastrophe area public securities; and

20                   (5) Class 1 pre-event and post-event public  
21 securities, to be issued only as required in accordance with  
22 Section 2210.058(d).

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

26           Sec. 2210.653. CERTIFICATION; ANNUAL SOLVENCY REPORT. (a)  
27 The board of directors shall certify to the governor, the

1 lieutenant governor, the speaker of the house of representatives,  
2 and the commissioner, not later than April 15 of each calendar year,  
3 that the required solvency level of the association is satisfied  
4 for that calendar year.

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

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

12 Sec. 2210.654. DETERMINATION OF PROBABLE MAXIMUM LOSS. (a)  
13 Not later than April 1 of each calendar year, to establish the  
14 required solvency level under Section 2210.652, the board of  
15 directors shall determine the association's current probable  
16 maximum loss, based on an average of at least two recognized  
17 catastrophe models, as follows:

18 (1) for calendar years 2007 and 2008, at not less than  
19 a one in 50 year occurrence;

20 (2) for calendar year 2009, at not less than a one in  
21 75 year occurrence; and

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

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

1 SECTION 35. Section 2251.003, Insurance Code, is amended by  
2 adding Subsection (a-1) to read as follows:

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

6 SECTION 36. The following laws are repealed:

- 7 (1) Sections 2210.003(5) and (12), Insurance Code;  
8 (2) Section 2210.059, Insurance Code;  
9 (3) Section 2210.351(b), Insurance Code;  
10 (4) Sections 2210.352, 2210.353, and 2210.354,  
11 Insurance Code;  
12 (5) Sections 2210.355(c), (d), and (e), Insurance  
13 Code;  
14 (6) Sections 2210.356(a), (c), and (d), Insurance  
15 Code;  
16 (7) Section 2210.359, Insurance Code;  
17 (8) Section 2210.360, Insurance Code;  
18 (9) Section 2210.502(c), Insurance Code; and  
19 (10) Subchapter I, Chapter 2210, Insurance Code.

20 SECTION 37. (a) The board of directors of the Texas  
21 Windstorm Insurance Association established under Section  
22 2210.102, Insurance Code, as that section existed before amendment  
23 by this Act, is abolished effective December 31, 2007.

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

1           (c) The term of a person who is serving as a member of the  
2 board of directors of the Texas Windstorm Insurance Association  
3 immediately before the abolition of that board under Subsection (a)  
4 of this section expires on December 31, 2007. Such a person is  
5 eligible for appointment by the governor to the new board of  
6 directors of the Texas Windstorm Insurance Association under  
7 Section 2210.102, Insurance Code, as amended by this Act.

8           SECTION 38. The commissioner of insurance shall adopt rules  
9 as required by Section 2210.356(b-1), Insurance Code, as added by  
10 this Act, not later than the 180th day after the effective date of  
11 this Act.

12           SECTION 39. An assessment may not be made before the end of  
13 the 2007-2008 state fiscal biennium under Chapter 2210, Insurance  
14 Code, as amended by this Act, against any member of the Texas  
15 Windstorm Insurance Association until the comptroller has  
16 certified that any tax credits allowable to that member under  
17 Chapter 2210, Insurance Code, as that chapter existed immediately  
18 before amendment by this Act, may be taken within available revenue  
19 that has been certified by the comptroller.

20           SECTION 40. (a) Except as provided by Subsection (b) of  
21 this section, this Act takes effect immediately if it receives a  
22 vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this  
25 Act takes effect September 1, 2007.

26           (b) The change in law made by this Act to Sections 2210.251,  
27 2210.252, 2210.254, and 2210.255, Insurance Code, takes effect

H.B. No. 2960

1 September 1, 2008.

ADOPTED

MAY 21 2007

*Atty. Gen.*  
Secretary of the Senate

By: Smithce/Fraser

H.B. No. 2960

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

By: From

C.S. H.B. No. 2960

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to operation of the Texas Windstorm Insurance Association  
3 and the Texas FAIR Plan Association, including funding of coverage  
4 for certain catastrophic events through the issuance of public  
5 securities.

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

7 SECTION 1. Section 2210.002, Insurance Code, is amended to  
8 read as follows:

9 Sec. 2210.002. SHORT TITLE; SUNSET PROVISION. (a) This  
10 chapter may be cited as the Texas Windstorm Insurance Association  
11 Act.

12 (b) The association is subject to review under Chapter 325,  
13 Government Code (Texas Sunset Act), but is not abolished under that  
14 chapter. The association shall be reviewed during the period in  
15 which state agencies abolished in 2013 are reviewed. This  
16 subsection expires September 1, 2013.

17 SECTION 1A. Section 2210.001, Insurance Code, is amended to  
18 read as follows:

19 Sec. 2210.001. PURPOSE. An adequate market for windstorm  
20 and[7] hail[7 and fire] insurance in the seacoast territory is  
21 necessary to the economic welfare of this state, and without that  
22 insurance, the orderly growth and development of this state would  
23 be severely impeded. This chapter provides a method by which  
24 adequate windstorm and[7] hail[7 and fire] insurance may be

1 obtained in certain designated portions of the seacoast territory  
2 of this state.

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

5 (6) "Insurance" means Texas [~~fire and explosion~~  
6 ~~insurance and Texas~~] windstorm and hail insurance.

7 SECTION 3. Sections 2210.004(a) and (g), Insurance Code,  
8 are amended to read as follows:

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

17 (g) For purposes of this chapter, a residential structure is  
18 insurable property if:

19 (1) the residential structure is not:

20 (A) a condominium, apartment, duplex, or other  
21 multifamily residence; or

22 (B) a hotel or resort facility; and

23 (2) the residential structure is located within an  
24 area designated as a unit under the Coastal Barrier Resources Act  
25 (Pub. L. No. 97-348) [~~and~~

26 [~~(3) a building permit or plat for the residential~~  
27 ~~structure was filed with the municipality, the county, or the~~

1 ~~United States Army Corps of Engineers before January 1, 2004].~~

2 SECTION 4. Section 2210.005, Insurance Code, is amended to  
3 read as follows:

4 Sec. 2210.005. DESIGNATION AS CATASTROPHE AREA [~~OR~~  
5 ~~INADEQUATE FIRE INSURANCE AREA~~]; REVOCATION OF DESIGNATION. (a)  
6 After at least 10 days' notice and a hearing, the commissioner may  
7 designate an area of this state as a catastrophe area if the  
8 commissioner determines that windstorm and hail insurance is not  
9 reasonably available to a substantial number of the owners of  
10 insurable property located in that territory because the territory  
11 is subject to unusually frequent and severe damage resulting from  
12 windstorms or hailstorms.

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

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

24 (c) [~~(d)~~] If the association determines that windstorm and  
25 hail insurance [~~or fire and explosion insurance~~] is no longer  
26 reasonably unavailable to a substantial number of owners of  
27 insurable property in a territory designated as a catastrophe area

1 ~~[or inadequate fire insurance area, as applicable]~~, the association  
2 may request in writing that the commissioner revoke the  
3 designation. After at least 10 days' notice and a hearing, but not  
4 later than the 30th day after the date of the hearing, the  
5 commissioner shall:

- 6 (1) approve the request and revoke the designation; or
- 7 (2) reject the request.

8 (d) After at least 10 days' notice and a hearing, the  
9 commissioner may determine, unless such a determination creates an  
10 adverse impact to the exposure of the association, that windstorm  
11 and hail insurance is not reasonably available to a group that is  
12 located in a specified area of the state and that has similar risk  
13 characteristics. On such a determination by the commissioner, that  
14 group of risks shall be considered the same as a risk that is  
15 located in a catastrophe area for all purposes under this chapter.

16 (e) The commissioner shall revoke a determination made  
17 under Subsection (d) if the commissioner determines, after at least  
18 10 days' notice and a hearing, that the applicable insurance  
19 coverage is no longer reasonably unavailable to a group determined  
20 to be eligible under Subsection (d).

21 (f) If the association determines that windstorm and hail  
22 insurance is no longer reasonably unavailable to a group determined  
23 to be eligible under Subsection (d), the association may request in  
24 writing that the commissioner revoke the determination. After at  
25 least 10 days' notice and a hearing, but not later than the 30th day  
26 after the date of the hearing, the commissioner shall:

- 27 (1) approve the request and revoke the determination;

1 or

2 (2) reject the request.

3 (g) The commissioner may adopt reasonable and necessary  
4 rules in the manner prescribed by Subchapter A, Chapter 36, to  
5 implement this section.

6 SECTION 5. Section 2210.008, Insurance Code, is amended to  
7 read as follows:

8 Sec. 2210.008. DEPARTMENT ORDERS; RULEMAKING AUTHORITY.

9 (a) The [~~After notice and hearing as provided by Subsection (b),~~  
10 ~~the~~] commissioner may issue any orders that the commissioner  
11 considers necessary to implement this chapter [~~, including orders~~  
12 ~~regarding maximum rates, competitive rates, and policy forms].~~

13 (b) The commissioner may adopt rules in the manner  
14 prescribed by Subchapter A, Chapter 36, as reasonable and necessary  
15 to implement this chapter. [~~Before the commissioner adopts an~~  
16 ~~order, the department shall post notice of the hearing on the order~~  
17 ~~at the secretary of state's office in Austin and shall hold a~~  
18 ~~hearing to consider the proposed order. Any person may appear at~~  
19 ~~the hearing and testify for or against the adoption of the order.]~~

20 SECTION 6. Subchapter A, Chapter 2210, Insurance Code, is  
21 amended by adding Section 2210.009 to read as follows:

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

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

26 (b) The department shall develop incentive programs in the  
manner described by Section 2210.053(b) to encourage authorized

1 insurers to write insurance on a voluntary basis and to minimize the  
2 use of the association as a means to obtain insurance.

3 SECTION 7. Section 2210.052, Insurance Code, is amended by  
4 amending Subsections (a) and (d) and adding Subsection (e) to read  
5 as follows:

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

14 (d) Notwithstanding Subsection (a), a member, in accordance  
15 with the plan of operation, is entitled to receive credit for  
16 similar insurance voluntarily written in areas [~~an area~~] designated  
17 by the commissioner. The member's participation in the insured  
18 losses and operating expenses of the association in excess of  
19 premium and other revenue [~~writings~~] of the association shall be  
20 reduced in accordance with the plan of operation.

21 (e) Notwithstanding Subsections (a)-(d), an insurer that  
22 becomes a member of the association and that has not previously been  
23 a member of the association is not subject to participation in any  
24 insured losses and operating expenses of the association in excess  
25 of premium and other revenue of the association until the second  
26 anniversary of the date on which the insurer first becomes a member  
27 of the association. The commissioner may adopt procedures in the

1 plan of operation for reduced assessments for such an insurer for an  
2 additional period, not to exceed three years, beyond the initial  
3 exemption under this subsection.

4 SECTION 8. Section 2210.053, Insurance Code, is amended by  
5 adding Subsection (c) to read as follows:

6 (c) As directed by the commissioner, after notice and  
7 hearing, the association shall assume reinsurance from a county  
8 mutual insurance company issuing industrial fire insurance  
9 policies as described by Section 912.310.

10 SECTION 9. Section 2210.058, Insurance Code, is amended to  
11 read as follows:

12 Sec. 2210.058. PAYMENT OF EXCESS LOSSES [~~, PREMIUM TAX~~  
13 ~~CREDIT~~]. (a) If [~~, in any calendar year,~~] an occurrence or series  
14 of occurrences in a catastrophe area results in insured losses and  
15 operating expenses of the association in excess of premium and  
16 other revenue of the association, the excess losses and operating  
17 expenses shall be paid as provided by this section.

18 (b) For each occurrence, [follows:

19 [~~(1) \$100 million shall be assessed against the~~  
20 ~~members of the association as provided by Subsection (b),~~

21 [~~(2)~~] losses [~~in excess of \$100 million~~] shall be paid  
22 as provided by this section from the catastrophe reserve trust fund  
23 established under Subchapter J. For each occurrence, not more than  
24 50 percent of the amount in the catastrophe reserve trust fund as of  
25 the date of the occurrence, reduced by anticipated payments from  
26 prior occurrences, may be used unless the commissioner determines  
27 that a greater percentage should be applied after at least 10 days'

1 notice and a hearing, if a hearing is requested by any person within  
2 the 10-day notice period. If the trust fund is reduced by more than  
3 50 percent in any calendar year, the association may, with the  
4 approval of the commissioner, require each member of the  
5 association and the Texas FAIR Plan Association to collect a  
6 premium surcharge for one year from their respective policyholders  
7 who reside or have operations in, or whose insured property is  
8 located in, the catastrophe area. The premium surcharge may not  
9 exceed two percent of premium and applies to all policies of  
10 insurance for all property and casualty lines, other than workers'  
11 compensation insurance, accident and health insurance, and medical  
12 malpractice insurance. The premium surcharge collected under this  
13 subsection shall be deposited in the catastrophe reserve trust  
14 fund.

15 (c) Losses [~~and any reinsurance program established by the~~  
16 ~~association,~~

17 [~~(3) for losses~~] in excess of those paid under  
18 Subsection (b) [~~Subdivisions (1) and (2), an additional \$200~~  
19 ~~million]~~ shall be paid as provided by this subsection. For each  
20 occurrence, an amount equal to a maximum of 2.5 percent of all the  
21 direct premiums written by all the members of the association and  
22 the Texas FAIR Plan Association, as reported in the annual  
23 statement filed with the department for the calendar year  
24 immediately preceding the year in which the assessment is made for  
25 fire insurance and allied lines insurance, homeowners insurance,  
26 farm and ranch insurance, and commercial multiperil insurance,  
27 shall be computed and assessed against the members of the

1 association and the Texas FAIR Plan Association, as provided by  
2 Subsection (h). The association may not assess members of the  
3 association and the Texas FAIR Plan Association under this  
4 subsection more than twice in any calendar year.

5 (d) Any ~~(b)~~, and

6 ~~[(4)]~~ losses in excess of those paid under  
7 Subsections (b) and (c) ~~[Subdivisions (1), (2), and (3)]~~ shall be  
8 paid with proceeds from Class 1 public securities issued by the  
9 association in accordance with Subchapter M before the date of any  
10 occurrence that results in insured losses under Subsection (a), as  
11 provided by Subsection (i).

12 (e) For losses in excess of those paid under Subsections  
13 (a), (b), and (c), an amount equal to a maximum of four percent of  
14 all the direct premiums written by all the members of the  
15 association and the Texas FAIR Plan Association, as reported in the  
16 annual statement filed with the department for the calendar year  
17 immediately preceding the year in which the assessment is made for  
18 fire insurance and allied lines insurance, homeowners insurance,  
19 farm and ranch insurance, and commercial multiperil insurance,  
20 shall be computed and assessed against the members of the  
21 association and the Texas FAIR Plan Association, as provided by  
22 Subsection (h). The association may not assess members of the  
23 association and the Texas FAIR Plan Association under this  
24 subsection more than twice in any calendar year ~~[assessed against~~  
25 ~~members of the association, as provided by Subsection (b)].~~

26 (f) Any losses in excess of those paid under Subsections  
27 (b)-(e) shall be paid from proceeds from Class 2 public securities

1 issued by the association in accordance with Subchapter M on or  
2 after the date of any occurrence that results in insured losses  
3 under Subsection (a).

4 (g) Any losses in excess of those paid under Subsections  
5 (b)-(f) shall be assessed against members of the association and  
6 the Texas FAIR Plan Association, as provided by Subsection (h).

7 (h) [~~(b)~~] The proportion of the losses allocable to each  
8 insurer and the Texas FAIR Plan Association under Subsections (c),  
9 (e), and (g) [~~(a)(1), (3), and (4)~~] shall be determined in the  
10 manner used to determine each insurer's participation in the  
11 association for the year under Section 2210.052, and as to the Texas  
12 FAIR Plan Association, as provided by the plan of operation.

13 (i) Public securities described by Subsection (d) may be  
14 issued in principal amounts not to exceed \$1.2 billion. Any public  
15 securities proceeds received under Subsection (d) must be used  
16 before the proceeds of any public securities that the association  
17 authorizes to be issued under Subsection (f) on or after any  
18 catastrophic event, and may not be used to fund losses of any  
19 catastrophic event occurring before the date on which public  
20 securities described by Subsection (d) are authorized to be issued.

21 (j) In addition to the funding described by Subsections  
22 (b)-(g), the association may also borrow from, or enter into other  
23 financing arrangements with, any market sources at prevailing  
24 interest rates.

25 (k) The commissioner may adopt rules in the manner provided  
26 by Subchapter A, Chapter 36, as necessary to implement this  
27 section.



1 are members of the association.

2 (c) Three members must be [ ~~elected by the members as~~  
3  ~~provided by the plan of operation,~~

4 [~~(2) two~~] public representatives:

5 (1) at least one of whom [ ~~who are nominated by the~~  
6  ~~office of public insurance counsel and who~~], as of the date of the  
7 appointment, resides [+

8 [~~(A) reside~~] in or owns property in a first tier  
9 coastal county and at least one of whom, as of the date of the  
10 appointment, does not reside in or own property in the seacoast  
11 territory [ ~~a catastrophe area~~]; and

12 (2) who [~~(B)~~] are policyholders of the association.

13 (d) Two members must be [ ~~and~~

14 [~~(3) two~~] general property and casualty agents who are  
15 licensed under this code and are not captive agents. One of the  
16 agents, as of the date of the appointment, must maintain the agent's  
17 principal office in a first tier coastal county. The second agent,  
18 as of the date of the appointment, may not maintain the agent's  
19 principal office in the seacoast territory.

20 (e) All members must have [+

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

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

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

1 SECTION 13. Section 2210.103, Insurance Code, is amended by  
2 adding Subsection (c) to read as follows:

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

6 SECTION 14. Section 2210.104, Insurance Code, is amended to  
7 read as follows:

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

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

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

25 (b) A meeting held by telephone conference call, video  
26 conference, or other similar telecommunication method:

(1) is subject to the notice requirements applicable

1 to other meetings of the board of directors;

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

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

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

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

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

18 (1) operates in accordance with this chapter and  
19 commissioner rules;

20 (2) complies with sound insurance principles; and

21 (3) meets all standards imposed under this chapter.

22 SECTION 17. Section 2210.151, Insurance Code, is amended to  
23 read as follows:

24 Sec. 2210.151. ADOPTION OF PLAN OF OPERATION. With the  
25 advice of the board of directors, the commissioner by rule shall  
26 adopt the plan of operation to provide[+]

27 [~~1~~] Texas windstorm and hail insurance in a

1 catastrophe area[, and

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

4 SECTION 18. Section 2210.152(a), Insurance Code, is amended  
5 to read as follows:

6 (a) The plan of operation must:

7 (1) provide for the efficient, economical, fair, and  
8 nondiscriminatory administration of the association; and

9 (2) include:

10 (A) a plan for the equitable assessment of the  
11 members of the association to defray losses and expenses;

12 (B) underwriting standards;

13 (C) procedures for accepting and ceding  
14 reinsurance;

15 (D) procedures for determining the amount of  
16 insurance to be provided to specific risks;

17 (E) time limits and procedures for processing  
18 applications for insurance; ~~and~~

19 (F) a plan for the assessment of the Texas FAIR  
20 Plan Association; and

21 (G) other provisions as considered necessary by  
22 the department to implement the purposes of this chapter.

23 SECTION 19. Section 2210.202(a), Insurance Code, is amended  
24 to read as follows:

25 (a) A person who has an insurable interest in insurable  
26 property may apply to the association for insurance coverage  
provided under the plan of operation and an inspection of the

1 property, subject to any rules[~~, including any inspection fee,~~  
2 established by the board of directors and approved by the  
3 commissioner. The association shall make insurance available to  
4 each applicant in the catastrophe area whose property is insurable  
5 property but who, after diligent efforts, is unable to obtain  
6 property insurance through the voluntary market, as evidenced by  
7 two declinations from insurers authorized to engage in the business  
8 of, and writing, property insurance in this state. For purposes of  
9 this section, "declination" has the meaning assigned by the plan of  
10 operation and may include a refusal to offer coverage and the  
11 inability to obtain substantially equivalent insurance coverage  
12 and rates.

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

15 (a-1) Notwithstanding Subsection (a), if all or any part of  
16 the property for which an application for new or renewal insurance  
17 coverage is made is located in Zone V or another similar zone with  
18 an additional hazard associated with storm waves, as defined by the  
19 National Flood Insurance Program, and if flood insurance under that  
20 federal program is available, the association may not issue a new or  
21 renewal insurance policy unless evidence that the property is  
22 covered by a flood insurance policy is submitted to the  
23 association. If that flood insurance is unavailable in any portion  
24 of the seacoast territory, an association policy insuring a  
25 residential structure described by Section 2210.004(g) is subject  
26 to a premium surcharge for the insurance coverage obtained through  
27 the association in an amount equal to not less than 10 percent of

1 the premium, as set by the commissioner after notice and a hearing.  
2 A premium surcharge collected under this subsection shall be  
3 deposited in the catastrophe reserve trust fund under Subchapter J.  
4 A premium surcharge under this subsection is a separate charge in  
5 addition to the premiums collected and is not subject to premium tax  
6 or commissions. Failure to pay the surcharge by a policyholder  
7 constitutes failure to pay premium for purposes of policy  
8 cancellation.

9 SECTION 21. Subchapter E, Chapter 2210, Insurance Code, is  
10 amended by adding Section 2210.210 to read as follows:

11 Sec. 2210.210. NOTICE TO APPLICANTS FOR INSURANCE AND  
12 POLICYHOLDERS; CONSUMER INFORMATION. (a) Each application for  
13 insurance and each policy issued by the association must include a  
14 notice as provided by this section. The commissioner by rule may  
15 prescribe specific requirements for the notice. The notice must be  
16 substantially as follows:

17 IMPORTANT NOTICE TO TEXAS WINDSTORM INSURANCE

18 ASSOCIATION POLICYHOLDERS

19 Insurance policies issued by the Texas Windstorm Insurance  
20 Association are not guaranteed by the state or federal government.  
21 In the event of a major catastrophe, the association may not have  
22 sufficient funding resources to pay all losses to all policyholders  
23 suffering damage. In such an event, you may be paid less than the  
24 full amount of damages that you suffer. You may obtain additional  
25 information as to the association's potential exposure and its  
26 available funding resources at [www.tdi.state.tx.us](http://www.tdi.state.tx.us).

27 (b) The department shall establish a link on the

1 department's Internet website through which applicants for  
2 insurance coverage through the association and association  
3 policyholders may obtain information in a format easily understood  
4 about the association's exposure and available resources.

5 SECTION 22. Section 2210.251, Insurance Code, is amended to  
6 read as follows:

7 Sec. 2210.251. INSPECTION REQUIREMENTS. (a) Except as  
8 provided by this section, to be considered insurable property  
9 eligible for windstorm and hail insurance coverage from the  
10 association, a structure that is constructed or repaired or to  
11 which additions are made on or after January 1, 1988, must be  
12 inspected [~~or approved~~] by the association [~~department~~] for  
13 compliance with the plan of operation.

14 (b) After January 1, 2004, for geographic areas specified by  
15 the commissioner, the board of directors [~~commissioner by rule~~]  
16 shall recognize for the purposes of this chapter [~~adopt~~] the 2003  
17 International Residential Code for one- and two-family dwellings  
18 published by the International Code Council. For those geographic  
19 areas, the board of directors [~~commissioner by rule~~] may recognize  
20 [~~adopt~~] a subsequent edition of that code and [~~may adopt~~] any  
21 supplements published by the International Code Council and  
22 amendments to that code.

23 (c) After January 1, 2004, a person must submit a notice of a  
24 windstorm inspection to the association [~~unit responsible for~~  
25 ~~certification of windstorm inspections at the department~~] before  
26 beginning to construct, alter, remodel, enlarge, or repair a  
27 structure.

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

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

22 (1) a copy of a previous insurance policy;

23 (2) copies of canceled checks or agent's records that  
24 show payments for previous policies; and

25 (3) a copy of the title to the structure or mortgage  
26 company records that show previous policies.

27 (f) The association [~~department~~] shall issue a certificate

1 of compliance for each structure that qualifies for coverage. The  
2 certificate is evidence of insurability of the structure by the  
3 association.

4 (g) ~~[The department may enter into agreements and contracts~~  
5 ~~as necessary to implement this section.~~

6 [(h)] The association ~~[department]~~ may charge a reasonable  
7 fee to cover the cost of making building requirements and  
8 inspection standards available to the public.

9 (h) The association may charge a reasonable fee for each  
10 inspection in an amount set by commissioner rule. The association  
11 may use fees collected under this section for operating expenses.

12 (i) In the event of an occurrence or series of occurrences  
13 within a defined catastrophe area that results in widespread  
14 destruction of property, the association may:

15 (1) fund inspections, including the funding of  
16 expenses for:

17 (A) independent contractors hired by the  
18 association to serve as temporary qualified inspectors; and

19 (B) other persons designated by the association  
20 to assist with inspections or related responsibilities as necessary  
21 to facilitate recovery, rebuilding, and repair in the affected  
22 catastrophe area; or

23 (2) hire independent contractors and other persons as  
24 described by Subdivision (1) as necessary to facilitate recovery,  
25 rebuilding, and repair in the affected catastrophe area.

26 (j) Without limitation of the department's authority to  
27 otherwise enforce this chapter, the department shall monitor the

1 association's compliance with this subchapter and may take any  
2 disciplinary action available under this code to enforce this  
3 subchapter, including an action authorized under Chapters 82, 83,  
4 and 84.

5 (k) The commissioner may adopt rules in the manner  
6 prescribed by Subchapter A, Chapter 36, as necessary to implement  
7 this section.

8 SECTION 23. Section 2210.252, Insurance Code, is amended to  
9 read as follows:

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

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

24 SECTION 24. Sections 2210.254(a) and (b), Insurance Code,  
25 are amended to read as follows:

26 (a) For purposes of this chapter, a "qualified inspector"  
27 includes:

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

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

7 (3) an inspector who:

8 (A) is certified by the International Code  
9 Council, the Building Officials and Code Administrators  
10 International, Inc., the International Conference of Building  
11 Officials, or the Southern Building Code Congress International,  
12 Inc.;

13 (B) has certifications as a buildings inspector  
14 and coastal construction inspector; and

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

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

20 SECTION 25. Section 2210.255, Insurance Code, is amended to  
21 read as follows:

22 Sec. 2210.255. APPOINTMENT OF LICENSED ENGINEER AS  
23 INSPECTOR. (a) On request of an engineer licensed by the Texas  
24 Board of Professional Engineers, the association may [~~commissioner~~  
25 ~~shall~~] appoint the engineer as an inspector under this subchapter  
26 on receipt of information satisfactory to the board of directors  
27 [~~not later than the 10th day after the date the engineer delivers to~~

1 ~~the commissioner information demonstrating]~~ that the engineer is  
2 qualified to perform windstorm inspections under this subchapter.

3 (b) The board of directors shall consult with the  
4 commissioner regarding [~~shall adopt rules establishing~~] the  
5 information to be considered in appointing engineers under this  
6 section.

7 SECTION 26. Subchapter F, Chapter 2210, Insurance Code, is  
8 amended by adding Sections 2210.258 through 2210.261 to read as  
9 follows:

10 Sec. 2210.258. MANDATORY COMPLIANCE WITH BUILDING CODES;  
11 ELIGIBILITY. (a) Notwithstanding any other provision of this  
12 chapter, to be eligible for insurance through the association, all  
13 construction, alteration, remodeling, enlargement, and repair of  
14 any structure located in the catastrophe area that is begun on or  
15 after January 1, 2008, must be performed in compliance with the  
16 applicable building code standards, as set forth in the plan of  
17 operation.

18 (b) The association may not insure a structure described by  
19 Subsection (a) until:

20 (1) the structure has been inspected for compliance  
21 with the plan of operation in accordance with Section 2210.251(a);  
22 and

23 (2) a certificate of compliance has been issued for  
24 the structure in accordance with Section 2210.251(f).

25 Sec. 2210.259. EXCEPTION; SURCHARGE FOR CERTAIN  
26 NONCOMPLIANT STRUCTURES. (a) The association may not insure a  
27 structure that has not been inspected for compliance with the plan

1 of operation in accordance with Section 2210.251(a) and for which a  
2 certificate of compliance has not been issued on the structure in  
3 accordance with Section 2210.251(f), unless the structure:

4 (1) is a residential structure or is the property of a  
5 school district or public, or not-for-profit, postsecondary  
6 educational institution, including a junior college;

7 (2) was constructed, altered, remodeled, enlarged, or  
8 repaired before January 1, 2008, and has not been further altered,  
9 remodeled, enlarged, or repaired on or after January 1, 2008; and

10 (3) was:

11 (A) insured in the private market within the  
12 12-month period immediately preceding the date of the application;  
13 or

14 (B) property covered by a self-insured school  
15 district or postsecondary institution.

16 (b) A structure eligible for insurance under Subsection (a)  
17 is subject to a premium surcharge for insurance coverage obtained  
18 through the association. The commissioner shall determine the  
19 surcharge, after notice and a hearing, in an amount not less than an  
20 amount equal to 20 percent of the premium.

21 (c) A premium surcharge collected under this section shall  
22 be deposited in the catastrophe reserve trust fund under Subchapter  
23 J. A premium surcharge under this section is a separate charge in  
24 addition to the premiums collected and is not subject to premium tax  
25 or commissions. Failure to pay the surcharge by a policyholder  
26 constitutes failure to pay premium for purposes of policy  
27 cancellation.

1           Sec. 2210.260. STRUCTURES NOT SUBJECT TO PREMIUM SURCHARGE.

2           Notwithstanding Section 2210.259, the association may insure  
3           without a premium surcharge a structure that:

4                   (1) was constructed or repaired or to which additions  
5           were made before January 1, 1988, and not thereafter, and is  
6           eligible for association coverage under Section 2210.251(d) or (e);  
7           or

8                   (2) is the subject of a certificate of compliance  
9           issued by the department and that has not been altered, remodeled,  
10          enlarged, or repaired after the date of issuance of the last  
11          department certificate.

12          Sec. 2210.261. RULES. The commissioner may adopt rules to  
13          implement Sections 2210.258, 2210.259, and 2210.260.

14          SECTION 27. Section 2210.351(c), Insurance Code, is amended  
15          to read as follows:

16                  (c) Except as provided by Section 2210.352(a-1), as [As]  
17          soon as reasonably possible after the filing has been made, the  
18          commissioner in writing shall approve, modify, or disapprove the  
19          filing. A filing is considered approved unless modified or  
20          disapproved on or before the 30th day after the date of the filing.

21          SECTION 28. Section 2210.352, Insurance Code, is amended by  
22          amending Subsection (a) and adding Subsection (a-1) to read as  
23          follows:

24                  (a) Not later than August 15 of each year, the association  
25          shall file with the department [~~for approval by the commissioner~~] a  
26          proposed manual rate for all types and classes of risks written by  
27          the association. Chapter 40 does not apply to:

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

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

3 (a-1) The association may use a rate filed by the  
4 association without prior commissioner approval if:

5 (1) the filing is made not later than the 60th day  
6 before the date of any use or delivery for use of the rate;

7 (2) the filed rate does not exceed 105 percent of the  
8 rate used by the association during the preceding 12-month period;

9 (3) the filed rate does not reflect a rate change for  
10 an individual rating class that is five percent higher than any rate  
11 used by the association for that rating class during the preceding  
12 12-month period; and

13 (4) the commissioner has not provided written notice  
14 to the association that the filing will be disapproved or modified  
15 under the procedure established under Subsections (b)-(g).

16 SECTION 29. Section 2210.354(a), Insurance Code, is amended  
17 to read as follows:

18 (a) In conjunction with the review of a filing under Section  
19 2210.352 or 2210.353:

20 (1) the commissioner may request the association to  
21 provide additional supporting information relating to the filing;  
22 and

23 (2) in the case of a filing in which the filed rate  
24 exceeds 105 percent of the rate used by the association during the  
25 preceding 12-month period, any interested person may file a written  
26 request with the commissioner for additional supporting  
27 information relating to the filing.

1 SECTION 30. Section 2210.355, Insurance Code, is amended by  
2 adding Subsections (h) and (i) to read as follows:

3 (h) The association may establish rating territories and  
4 may vary rates among the territories. The association may use  
5 rating territories that subdivide a county only if the rate for any  
6 subdivision in the county is not greater than 15 percent higher than  
7 the rate used in any other subdivision of that county.

8 (i) Catastrophe models, including hurricane models, may not  
9 be used to develop rates under this chapter.

10 SECTION 31. Sections 2210.452(a) and (c), Insurance Code,  
11 are amended to read as follows:

12 (a) The commissioner shall adopt rules under which the  
13 association makes [~~members relinquish their net equity on an annual~~  
14 ~~basis as provided by those rules by making~~] payments to the  
15 catastrophe reserve trust fund. The trust fund may be used only to  
16 fund:

17 (1) the obligations of the trust fund under Section  
18 2210.058 [~~2210.058(a)~~]; and

19 (2) the mitigation and preparedness plan established  
20 under Section 2210.454 to reduce the potential for payments by  
21 association members and the Texas FAIR Plan Association that give  
22 rise to tax credits in the event of loss.

23 (c) At the end of each calendar year or policy year, the  
24 association shall pay the net gain from operations [~~equity~~] of the  
25 association [~~a member~~], including all premium and other revenue of  
26 the association in excess of incurred losses and operating  
27 expenses, to the trust fund or a reinsurance program approved by the

1 commissioner. For the purposes of this subsection, "operating  
2 expenses" includes the cost of any reinsurance.

3 SECTION 32. Section 2210.453, Insurance Code, is amended to  
4 read as follows:

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

- 7 (1) make payments into the trust fund; and [~~or~~]  
8 (2) purchase [~~establish a~~] reinsurance as part of the  
9 association's annual operating expenses to the extent [~~program~~]  
10 approved by the commissioner [~~department~~].

11 (b) As provided by this subsection, the [~~With the approval~~  
12 ~~of the department, the~~] association may purchase [~~establish a~~]  
13 reinsurance [~~program~~] that operates in addition to or in concert  
14 with the trust fund and with assessments authorized by this  
15 chapter. The association may purchase reinsurance in lieu of using  
16 public securities authorized under Section 2210.058 if, after a  
17 cost-benefit analysis or other appropriate examination, the board  
18 of directors determines that the use of reinsurance would result in  
19 lower costs to the association or is otherwise economically  
20 beneficial to the operations of the association.

21 SECTION 33. Chapter 2210, Insurance Code, is amended by  
22 adding Subchapter M to read as follows:

23 SUBCHAPTER M. PUBLIC SECURITIES PROGRAM

24 Sec. 2210.601. PURPOSE. The legislature finds that  
25 authorizing the issuance of public securities to provide a method  
26 to raise funds to provide windstorm and hail insurance through the  
27 association in certain designated portions of the state is for the

1 benefit of the public and in furtherance of a public purpose.

2 Sec. 2210.602. DEFINITIONS. In this subchapter:

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

5 (2) "Class 1 public securities" means public  
6 securities authorized to be issued before the occurrence of a  
7 catastrophic event by Section 2210.058(d).

8 (3) "Class 2 public securities" means public  
9 securities authorized to be issued on or after the occurrence of a  
10 catastrophic event by Section 2210.058(f).

11 (4) "Credit agreement" means:

12 (A) a loan agreement;

13 (B) a revolving credit agreement, an agreement  
14 establishing a line of credit, or a letter of credit;

15 (C) an interest rate swap agreement, an interest  
16 rate lock agreement, a currency swap agreement, or a forward  
17 payment conversion agreement;

18 (D) an agreement to provide payments based on  
19 levels of or changes in interest rates or currency exchange rates;

20 (E) an agreement to exchange cash flows or a  
21 series of payments;

22 (F) an option, put, or call to hedge payment,  
23 currency, interest rate, or other exposure; or

24 (G) another agreement that enhances the  
25 marketability, security, or creditworthiness of a public security  
26 issued under this subchapter.

27 (5) "Insurer" means each property and casualty insurer

1 authorized to engage in the business of property and casualty  
2 insurance in this state and an affiliate of such an insurer, as  
3 described by Section 823.003, including an affiliate that is not  
4 authorized to engage in the business of property and casualty  
5 insurance in this state. The term specifically includes a county  
6 mutual insurance company, a Lloyd's plan, and a reciprocal or  
7 interinsurance exchange.

8 (6) "Public security" means a debt instrument or other  
9 public security issued by the Texas Public Finance Authority.

10 (7) "Public security administrative expenses" means  
11 expenses incurred to administer public securities issued under this  
12 subchapter, including fees for paying agents, trustees, and  
13 attorneys, and for other professional services necessary to ensure  
14 compliance with applicable state or federal law.

15 (8) "Public security obligations" means the principal  
16 of a public security and any premium and interest on a public  
17 security issued under this subchapter, together with any amount  
18 owed under a related credit agreement.

19 (9) "Public security obligation revenue fund" means  
20 the dedicated trust fund established by the association outside the  
21 state treasury under this subchapter.

22 (10) "Public security resolution" means the  
23 resolution or order authorizing public securities to be issued  
24 under this subchapter.

25 Sec. 2210.603. APPLICABILITY OF OTHER LAWS. The board  
26 shall issue the public securities as described by Section 2210.604  
27 in accordance with and subject to the requirements of Chapter 1232,

1 Government Code, and other provisions of Title 9, Government Code,  
2 that apply to issuance of a public security by a state agency. In  
3 the event of a conflict, this subchapter controls.

4 Sec. 2210.604. ISSUANCE OF PUBLIC SECURITIES AUTHORIZED.

5 (a) At the request of the association and with the approval of the  
6 commissioner, the Texas Public Finance Authority shall issue Class  
7 1 or Class 2 public securities.

8 (b) The association shall specify in the association's  
9 request to the board the maximum principal amount of the public  
10 securities and the maximum term of the public securities, not to  
11 exceed 30 years.

12 (c) The principal amount determined by the association  
13 under Subsection (b) may be increased to include an amount  
14 sufficient to:

15 (1) pay the costs related to issuance of the public  
16 securities;

17 (2) provide a public security reserve fund; and

18 (3) capitalize interest for the period determined  
19 necessary by the association, not to exceed two years.

20 Sec. 2210.605. TERMS OF ISSUANCE. (a) The board shall  
21 determine the method of sale, type and form of public security,  
22 maximum interest rates, and other terms of the public securities  
23 that, in the board's judgment, best achieve the goals of the  
24 association and effect the borrowing at the lowest practicable  
25 cost. The board may enter into a credit agreement in connection  
26 with the public securities.

27 (b) Public securities must be issued in the name of the

1 association.

2 Sec. 2210.606. ADDITIONAL COVENANTS. The board may make  
3 additional covenants with respect to the public securities and the  
4 designated income and receipts of the association pledged to their  
5 payment, and provide for the flow of funds and the establishment,  
6 maintenance, and investment of funds and accounts with respect to  
7 the public securities, and the administration of those funds and  
8 accounts, as provided in the proceedings authorizing the public  
9 securities.

10 Sec. 2210.607. PUBLIC SECURITY PROCEEDS. The proceeds of  
11 public securities issued by the board under this subchapter may be  
12 deposited with a trustee selected by the association in  
13 consultation with the commissioner or held by the comptroller in a  
14 dedicated trust fund outside the state treasury in the custody of  
15 the comptroller.

16 Sec. 2210.608. USE OF PUBLIC SECURITY PROCEEDS. (a) Public  
17 security proceeds, including investment income, shall be held in  
18 trust for the exclusive use and benefit of the association. The  
19 association may use the proceeds to:

20 (1) pay incurred claims and operating expenses of the  
21 association;

22 (2) purchase reinsurance for the association;

23 (3) pay the costs of issuing the public securities,  
24 and public security administrative expenses, if any;

25 (4) provide a public security reserve; and

26 (5) pay capitalized interest and principal on the  
27 public securities for the period determined necessary by the

1 association, not to exceed two years.

2 (b) Any excess public security proceeds remaining after the  
3 purposes for which the public securities were issued are satisfied  
4 may be used to purchase or redeem outstanding public securities. If  
5 there are no outstanding public security obligations or public  
6 security administrative expenses, the excess proceeds shall be  
7 transferred to the catastrophe reserve trust fund.

8 Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY  
9 OBLIGATIONS. (a) The association shall pay all public security  
10 obligations from available funds collected by the association from  
11 and deposited into the public security obligation revenue fund. If  
12 the association determines that it is unable to pay the public  
13 security obligations and public security administrative expenses,  
14 if any, with available funds, the association shall pay those  
15 obligations and expenses in accordance with Sections 2210.612 and  
16 2210.613.

17 (b) The board shall notify the association of the amount of  
18 the public security obligations and the estimated amount of public  
19 security administrative expenses, if any, each year in a period  
20 sufficient, as determined by the association, to permit the  
21 association to determine the availability of funds and assess a  
22 premium surcharge if necessary.

23 (c) The association shall deposit all revenue collected  
24 under Sections 2210.612 and 2210.613 in the public security  
25 obligation revenue fund. Money deposited in the fund may be  
26 invested as permitted by general law. Money in the fund required to  
27 be used to pay public security obligations and public security

1 administrative expenses, if any, shall be transferred to the  
2 appropriate funds in the manner and at the time specified in the  
3 proceedings authorizing the public securities to ensure timely  
4 payment of obligations and expenses.

5 (d) The association shall provide for the payment of the  
6 public security obligations and the public security administrative  
7 expenses by irrevocably pledging revenues received from premiums,  
8 premium surcharges, and amounts on deposit in the public security  
9 obligation revenue fund, together with any public security reserve  
10 fund, as provided in the proceedings authorizing the public  
11 securities and related credit agreements.

12 (e) An amount owed by the board under a credit agreement  
13 shall be payable from and secured by a pledge of revenues received  
14 by the association or amounts from the obligation trust fund to the  
15 extent provided in the proceedings authorizing the credit  
16 agreement.

17 Sec. 2210.610. PUBLIC SECURITY PAYMENTS. (a) Revenues  
18 received from the premium surcharges under Section 2210.612 or  
19 2210.613 may be applied only as provided by this subchapter.

20 (b) The association may pay public security obligations  
21 with other legally available funds.

22 (c) Public security obligations are payable only from  
23 sources provided for payment in this subchapter.

24 Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT  
25 EARNINGS. Revenue collected in any year from a premium surcharge  
26 under Section 2210.612 or 2210.613 that exceeds the amount of the  
27 public security obligations and public security administrative

1 expenses payable in that year and interest earned on the public  
2 security obligation fund may, in the discretion of the association,  
3 be:

4 (1) used to pay public security obligations payable in  
5 the subsequent year, offsetting the amount of the premium surcharge  
6 that would otherwise be required to be levied for the year under  
7 this subchapter;

8 (2) used to redeem or purchase outstanding public  
9 securities; or

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

11 Sec. 2210.612. CLASS 1 PREMIUM SURCHARGE. (a) Each  
12 insurer, the association, and the Texas FAIR Plan Association may  
13 collect from their policyholders a surcharge in addition to any  
14 premiums to pay public security obligations and public security  
15 administrative expenses, if any, on Class 1 public securities.

16 (b) The association shall determine the premium surcharge  
17 at least annually.

18 (c) On approval by the commissioner, each insurer, the  
19 association, and the Texas FAIR Plan Association shall assess a  
20 premium surcharge to its policyholders as provided by this section.  
21 The premium surcharge must be set in an amount sufficient to pay all  
22 debt service not already covered by available funds and all related  
23 expenses on the public securities.

24 (d) The association shall collect the premium surcharge  
25 from its policyholders. Each insurer and the Texas FAIR Plan  
26 Association shall collect the premium surcharge from their  
27 policyholders who have a property or casualty policy that provides

1 coverage for premises, locations, operations, or property located  
2 in the catastrophe area and shall remit the premium surcharge to the  
3 association as required by commissioner rule.

4 (e) A premium surcharge under this section shall apply to  
5 all policies that provide coverage on any premises, locations,  
6 operations, or property located in the catastrophe area for all  
7 property and casualty lines of insurance, other than workers'  
8 compensation insurance, accident and health insurance, and medical  
9 malpractice insurance. The premium surcharge does not apply to  
10 premiums charged for any premises, locations, operations, or  
11 property located outside the catastrophe area, except for premiums  
12 charged by the association for property insured by the association.

13 (f) A premium surcharge under this section is a separate  
14 charge in addition to the premiums collected and is not subject to  
15 premium tax or commissions. Failure to pay the surcharge by a  
16 policyholder constitutes failure to pay premium for purposes of  
17 policy cancellation.

18 Sec. 2210.613. CLASS 2 PREMIUM SURCHARGE. (a) Each  
19 insurer, the association, and the Texas FAIR Plan Association shall  
20 collect from their policyholders a premium surcharge to pay public  
21 security obligations and public security administrative expenses,  
22 if any, on Class 2 public securities.

23 (b) The association shall determine the premium surcharge  
24 at least annually.

25 (c) On approval by the commissioner, each insurer, the  
26 association, and the Texas FAIR Plan Association shall assess a  
27 premium surcharge to its policyholders as provided by this section.

1 The premium surcharge must be set in an amount sufficient to pay all  
2 debt service and all related expenses on the public securities. The  
3 premium surcharge assessed under this section may not exceed six  
4 percent of premium and cumulatively may not exceed 10 percent of  
5 premium over a 12-month period beginning on the date the surcharge  
6 is first assessed.

7 (d) Each insurer, the association, and the Texas FAIR Plan  
8 Association shall collect the premium surcharge under this section  
9 from their policyholders who have a property or casualty policy  
10 that provides coverage for premises, locations, operations, or  
11 property located in this state, and shall remit the premium  
12 surcharge to the association as required by commissioner rule.

13 (e) A premium surcharge under this section shall apply to  
14 all policies that provide coverage on any premises, locations,  
15 operations, or property located in this state for all property and  
16 casualty lines of insurance, other than workers' compensation  
17 insurance, accident and health insurance, and medical malpractice  
18 insurance. The premium surcharge does not apply to premiums  
19 charged for any premises, locations, operations, or property  
20 located outside this state.

21 (f) A premium surcharge under this section is a separate  
22 charge in addition to the premiums collected and is not subject to  
23 premium tax or commissions. Failure to pay the surcharge by a  
24 policyholder constitutes failure to pay premium for purposes of  
25 policy cancellation.

26 Sec. 2210.614. SOURCE OF PAYMENT; STATE DEBT NOT CREATED.

27 (a) A public security or credit agreement is payable solely from

1 revenue as provided by this subchapter.

2 (b) A public security issued under this subchapter, and any  
3 related credit agreement, is not a debt of this state or any state  
4 agency or political subdivision of this state, and does not  
5 constitute a pledge of the faith and credit of this state or any  
6 state agency or political subdivision of this state.

7 (c) Each public security, and any related credit agreement,  
8 issued under this chapter must state on the security's face that:

9 (1) neither the state nor a state agency, political  
10 corporation, or political subdivision of the state is obligated to  
11 pay the principal of or interest on the public security except as  
12 provided by this subchapter; and

13 (2) neither the faith and credit nor the taxing power  
14 of the state or any state agency, political corporation, or  
15 political subdivision of the state is pledged to the payment of the  
16 principal of or interest on the public security.

17 Sec. 2210.615. STATE NOT TO IMPAIR PUBLIC SECURITY  
18 OBLIGATIONS. If public securities under this subchapter are  
19 outstanding, the state may not:

20 (1) take action to limit or restrict the rights of the  
21 association to fulfill its responsibility to pay public security  
22 obligations; or

23 (2) in any way impair the rights and remedies of the  
24 public security owners until the public securities are fully  
25 discharged.

26 Sec. 2210.616. ENFORCEMENT BY MANDAMUS. A writ of mandamus  
27 and any other legal and equitable remedies are available to a party

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

- 3 (1) this subchapter;  
4 (2) the Texas Constitution; or  
5 (3) a relevant public security resolution.

6 Sec. 2210.617. EXEMPTION FROM TAXATION. A public security  
7 issued under this subchapter, any transaction relating to the  
8 public security, and profits made from the sale of the public  
9 security are exempt from taxation by this state or by a municipality  
10 or other political subdivision of this state.

11 Sec. 2210.618. NO PERSONAL LIABILITY. The members of the  
12 association, association employees, the board, the employees of the  
13 Texas Public Finance Authority, the commissioner, and department  
14 employees are not personally liable as a result of exercising the  
15 rights and responsibilities granted under this subchapter.

6 Sec. 2210.619. AUTHORIZED INVESTMENTS. Public securities  
17 issued under this subchapter are authorized investments under:

- 18 (1) Subchapter B, Chapter 424;  
19 (2) Subchapter C, Chapter 425; and  
20 (3) Sections 425.203-425.213.

21 SECTION 34. Section 2211.104, Insurance Code, is amended to  
22 read as follows:

23 Sec. 2211.104. ADDITIONAL ASSESSMENT IN EVENT OF DEFICIT;  
24 PREMIUM SURCHARGE AUTHORIZED. (a) Except as provided by  
25 Subsection (f), if [~~if~~] the association incurs a deficit, the  
26 association, at the commissioner's direction, shall:

- 27 (1) request the issuance of public securities as

1 authorized by Subchapter E; or

2 (2) assess participating insurers in accordance with  
3 this section.

4 (b) Except as provided by Subsection (f), as [~~As~~]  
5 reimbursement for assessments paid under this section or service  
6 fees paid under Section 2211.209, each insurer may charge a premium  
7 surcharge on every property insurance policy insuring property in  
8 this state that the insurer issues, the effective date of which is  
9 within the three-year period beginning on the 90th day after the  
10 date of the assessment or the 90th day after the date the service  
11 fee under Section 2211.209 is paid, as applicable.

12 (c) Except as provided by Subsection (f), insurers [~~The~~  
13 ~~insurer~~] shall compute the amount of the surcharge under Subsection  
14 (b) as a uniform percentage of the premium on each policy described  
15 by Subsection (b). The percentage must be equal to one-third of the  
16 ratio of the amount of the participating insurer's assessment or  
17 service fee payment to the amount of the insurer's direct earned  
18 premiums, as reported to the department in the insurer's financial  
19 statement for the calendar year preceding the year in which the  
20 assessment or service fee payment is made so that, over the  
21 three-year period, the aggregate of all surcharges by the insurer  
22 under this section is at least equal to the amount of the assessment  
23 or service fee payment.

24 (d) The amount of any assessment paid and surcharged under  
25 this section may be carried by the insurer as an admitted asset of  
26 the insurer for all purposes, including exhibition in annual  
27 statements under Section 862.001, until collected.

1 (e) The commissioner shall adopt rules and procedures as  
2 necessary to implement this section.

3 (f) In the event of an occurrence or series of occurrences  
4 resulting in deficits for the association and the Texas Windstorm  
5 Insurance Association, the commissioner may adopt rules in the  
6 manner provided by Subchapter A, Chapter 36, to provide for the  
7 coordinated recoupment of those deficits. The rules may not  
8 provide for a recoupment of assessments through premium tax  
9 credits.

10 SECTION 35. Section 941.003, Insurance Code, is amended by  
11 adding Subsection (e) to read as follows:

12 (e) A Lloyd's plan is subject to Chapter 2210, as provided  
13 by that chapter.

14 SECTION 36. Section 942.003, Insurance Code, is amended by  
15 adding Subsection (f) to read as follows:

16 (f) An exchange is subject to Chapter 2210, as provided by  
17 that chapter.

18 SECTION 37. The following laws are repealed:

- 19 (1) Sections 2210.003(5) and (12), Insurance Code;
- 20 (2) Section 2210.059, Insurance Code;
- 21 (3) Section 2210.356, Insurance Code; and
- 22 (4) Subchapters G and I, Chapter 2210, Insurance Code.

23 SECTION 38. (a) The board of directors of the Texas  
24 Windstorm Insurance Association established under Section  
25 2210.102, Insurance Code, as that section existed before amendment  
26 by this Act, is abolished on the 30th day after the effective date  
27 of this Act.

1 (b) The commissioner of insurance shall appoint the members  
2 of the board of directors of the Texas Windstorm Insurance  
3 Association under Section 2210.102, Insurance Code, as amended by  
4 this Act, not later than the 31st day after the effective date of  
5 this Act.

6 (c) The term of a person who is serving as a member of the  
7 board of directors of the Texas Windstorm Insurance Association  
8 immediately before the abolition of that board under Subsection (a)  
9 of this section expires on the 30th day after the effective date of  
10 this Act. Such a person is eligible for appointment by the  
11 commissioner of insurance to the new board of directors of the Texas  
12 Windstorm Insurance Association under Section 2210.102, Insurance  
13 Code, as amended by this Act.

14 SECTION 39. The commissioner of insurance shall adopt rules  
15 as required by Chapter 2210, Insurance Code, as amended by this Act,  
16 not later than the 180th day after the effective date of this Act.

17 SECTION 40. Section 2210.202(a), Insurance Code, as amended  
18 by this Act, applies to an application for insurance coverage  
19 submitted to the Texas Windstorm Insurance Association on or after  
20 the effective date of this Act.

21 SECTION 41. Section 2210.251, Insurance Code, as amended by  
22 this Act, applies to an inspection conducted by the Texas Windstorm  
23 Insurance Association on or after the effective date of this Act.  
24 Except as otherwise specifically provided by that section, a person  
25 whose insurable property has been inspected by the Texas Department  
26 of Insurance and is in compliance with Section 2210.251, Insurance  
27 Code, as that section existed immediately before the effective date

1 of this Act, is not required to obtain an inspection from the Texas  
2 Windstorm Insurance Association to remain eligible for insurance  
3 coverage through that association.

4 SECTION 42. (a) In accordance with Section 311.031(c),  
5 Government Code, which gives effect to a substantive amendment  
6 enacted by the same legislature that codifies the amended statute,  
7 the text of Section 2211.104, Insurance Code, as set out in Section  
8 34 of this Act, gives effect to changes made by Chapter 1082, Acts  
9 of the 79th Legislature, Regular Session, 2005.

10 (b) To the extent of any conflict, this Act prevails over  
11 another Act of the 80th Legislature, Regular Session, 2007,  
12 relating to nonsubstantive additions and corrections in enacted  
13 codes.

14 SECTION 43. This Act takes effect immediately if it  
15 receives a vote of two-thirds of all the members elected to each  
16 house, as provided by Section 39, Article III, Texas Constitution.  
17 If this Act does not receive the vote necessary for immediate  
18 effect, this Act takes effect September 1, 2007.

# ADOPTED

MAY 31 2007

FLOOR AMENDMENT NO. 1

*Leta Spaw*  
Secretary of the Senate

BY:

*Fraser*

1 Amend C.S.H.B. No. 2960 (senate committee printing) as  
2 follows:

3 (1) In SECTION 1 of the bill, in added Subsection (b),  
4 Section 2210.002, Insurance Code (page 1, lines 23-24), between  
5 "are reviewed." and "This subsection", insert the following:

6 The association shall pay the costs incurred by the Sunset  
7 Advisory Commission in performing the review of the association  
8 under this subsection. The Sunset Advisory Commission shall  
9 determine the costs of the review performed under this  
10 subsection, and the association shall pay the amount of those  
11 costs promptly on receipt of a statement from the Sunset  
12 Advisory Commission regarding those costs.

13 (2) In SECTION 1A of the bill, in amended Section  
14 2210.001, Insurance Code (page 1, lines 27-30), strike "An  
15 adequate market for windstorm and[,] hail[, and fire] insurance  
16 in the seacoast territory is necessary to the economic welfare  
17 of this state, and without that insurance," and substitute "The  
18 primary purpose of the Texas Windstorm Insurance Association is  
19 the provision of an [An] adequate market for windstorm and[,]  
20 hail[, and fire] insurance in the seacoast territory of this  
21 state. The legislature finds that the provision of adequate  
22 windstorm and hail insurance is necessary to the economic  
23 welfare of this state, and without that insurance,".

24 (3) In SECTION 9 of the bill, in added Subsection (b),  
25 Section 2210.058, Insurance Code (page 3, lines 66-67), strike  
26 "require each member of the association" and substitute "require  
27 the association, each member of the association,".

28 (4) In SECTION 9 of the bill, at the end of added

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1 Subsection (b), Section 2210.058, Insurance Code (page 4, line  
2 7), after "fund.", insert the following:

3 A premium surcharge under this subsection is a separate charge  
4 in addition to the premiums collected and is not subject to  
5 premium tax or commissions.

6 (5) In SECTION 9 of the bill, in added Subsection (d),  
7 Section 2210.058, Insurance Code (page 4, lines 28-29), strike  
8 "issued by the association in accordance with Subchapter M" and  
9 substitute "authorized to be issued in accordance with  
10 Subchapter M".

11 (6) In SECTION 9 of the bill, in added Subsection (f),  
12 Section 2210.058, Insurance Code (page 4, line 48), strike  
13 "issued by the association in accordance with Subchapter M" and  
14 substitute "authorized to be issued in accordance with  
15 Subchapter M".

16 (7) In SECTION 9 of the bill, strike added Subsection (g),  
17 Section 2210.058, Insurance Code (page 4, lines 51-53), and  
18 substitute the following:

19 (g) Notwithstanding any other provision of this section,  
20 the association may pay losses in excess of premium and other  
21 revenue of the association with reinsurance proceeds from  
22 reinsurance purchased by the association as authorized under  
23 Section 2210.453.

24 (8) In SECTION 9 of the bill, in added Subsection (h),  
25 Section 2210.058, Insurance Code (page 4, lines 55-56), strike  
26 "(c), (e), and (g)" and substitute "(c) and (e)".

27 (9) In SECTION 12 of the bill, strike added Subsection  
28 (c), Section 2210.102, Insurance Code (page 5, lines 34-44), and  
29 substitute the following:

30 (c) Three members must be [, elected by the members as

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1 provided by the plan of operation;

2 [(2) two] public representatives:

3 (1) at least one of whom [who are nominated by the  
4 office of public insurance counsel and who], as of the date of  
5 the appointment, resides:

6 [(A) reside] in or owns property in a first tier coastal  
7 county [a catastrophe area;] and is a policyholder

8 [(B) are policyholders] of the association; and

9 (2) at least one of whom, as of the date of the  
10 appointment, does not reside in or own property in the seacoast  
11 territory.

12 (10) In SECTION 12 of the bill, in added Subsection (d),  
13 Section 2210.102, Insurance Code (page 5, lines 47-51), strike  
14 "One of the agents, as of the date of the appointment, must  
15 maintain the agent's principal office in a first tier coastal  
16 county. The second agent, as of the date of the appointment,  
17 may not maintain the agent's principal office in the seacoast  
18 territory." and substitute "Each of the agents, as of the date  
19 of the appointment, must maintain the agent's principal office  
20 in a first tier coastal county."

21 (11) In SECTION 12 of the bill, in amended Section  
22 2210.102, Insurance Code (page 5, between lines 57 and 58),  
23 insert the following:

24 (f) The commissioner shall appoint one person to serve as  
25 a nonvoting member of the board to advise the board regarding  
26 issues relating to the inspection process. The commissioner may  
27 give preference in an appointment under this subsection to a  
28 person who is a qualified inspector under Section 2210.254. The  
29 nonvoting member appointed under this section must:

30 (1) be an engineer licensed by, and in good standing

1 with, the Texas Board of Professional Engineers;

2 (2) reside in a first tier coastal county; and

3 (3) be knowledgeable of, and have professional  
4 expertise in, wind-related design and construction practices in  
5 coastal areas that are subject to high winds and hurricanes.

6 (12) In SECTION 13 of the bill, in added Subsection (c),  
7 Section 2210.103, Insurance Code (page 5, line 62), between  
8 "(c)" and "The commissioner", insert "A member of the board of  
9 directors may be removed by the commissioner without cause."

10 (13) In SECTION 22 of the bill, strike amended Subsection  
11 (b), Section 2210.251, Insurance Code (page 8, lines 1-9), and  
12 substitute the following:

13 (b) After January 1, 2004, for geographic areas specified  
14 by the commissioner, the commissioner by rule shall adopt the  
15 2003 International Residential Code for one- and two-family  
16 dwellings published by the International Code Council. For  
17 those geographic areas, the commissioner by rule may adopt a  
18 subsequent edition of that code and may adopt any supplements  
19 published by the International Code Council and amendments to  
20 that code.

21 (14) Strike SECTION 23 of the bill (page 9, lines 7-22).

22 (15) In the recital to SECTION 24 of the bill, (page 9,  
23 lines 23-24), strike "Sections 2210.254(a) and (b)" and  
24 substitute "Sections 2210.254(a), (c), and (d)".

25 (16) In SECTION 24 of the bill, strike amended Subsection  
26 (b), Section 2210.254, Insurance Code (page 9, lines 43-45).

27 (17) In SECTION 24 of the bill, in amended Section  
28 2210.254, Insurance Code (page 9, between lines 45 and 46),  
29 insert the following:

30 (c) Before performing building inspections, a qualified

1 inspector must be approved and appointed or employed by the  
2 association [department].

3 (d) The association [department] may charge a reasonable  
4 fee for the filing of applications by and determining the  
5 qualifications of persons for appointment as qualified  
6 inspectors.

7 (18) Between SECTION 25 and SECTION 26 of the bill (page  
8 9, between lines 59 and 60), insert the following new  
9 appropriately numbered SECTION:

10 SECTION \_\_. Subchapter F, Chapter 2210, Insurance Code, is  
11 amended by adding Section 2210.2565 to read as follows:

12 Sec. 2210.2565. PROCEDURES REGARDING APPOINTMENT OF  
13 INSPECTORS. The association shall develop procedures for the  
14 appointment and oversight of qualified inspectors appointed  
15 under Sections 2210.254 and 2210.255, including procedures  
16 relating to the suspension and revocation of an appointment made  
17 by the association.

18 (19) In SECTION 26 of the bill, in added Subdivision (1),  
19 Subsection (a), Section 2210.259, Insurance Code (page 10, line  
20 16), strike "school district or public, or not-for-profit,  
21 postsecondary" and substitute "school district, or public or  
22 not-for-profit postsecondary".

23 (20) In SECTION 30 of the bill, in added Subsection (i),  
24 Section 2210.355, Insurance Code (page 11, line 31), strike  
25 "Catastrophe models, including hurricane models," and substitute  
26 "Computer simulation models, including models used to estimate  
27 hurricane losses,".

28 (21) In SECTION 31 of the bill, in amended Subsection (a),  
29 Section 2210.452, Insurance Code, strike page 11, lines 39-45,  
30 and substitute "fund[:"

1 [(1)] the obligations of the trust fund under Section  
2 2210.058 [2210.058(a); and

3 [(2) the mitigation and preparedness plan established  
4 under Section 2210.454 to reduce the potential for payments by  
5 association members that give rise to tax credits in the event  
6 of loss]."

7 (22) In SECTION 32 of the bill, in amended Subsection (b),  
8 Section 2210.453, Insurance Code, strike page 11, lines 64-65,  
9 and substitute "with the trust fund, public securities, and  
10 assessments authorized by this chapter. The association may  
11 purchase reinsurance in lieu of, or in addition to, using".

12 (23) Between SECTION 32 and SECTION 33 of the bill (page  
13 12, between lines 1 and 2), insert the following new SECTION:

14 SECTION \_\_. Section 2210.454(b), Insurance Code, is  
15 amended to read as follows:

16 (b) Each state fiscal year, the department may fund the  
17 mitigation and preparedness plan using available funds [the  
18 investment income of the trust fund in an amount not less than  
19 \$1 million and not more than 10 percent of the investment income  
20 of the prior fiscal year. From that amount and as part of that  
21 plan, the department may use in each fiscal year \$1 million for  
22 the windstorm inspection program established under Section  
23 2210.251].

24 (24) In SECTION 33 of the bill, in added Subsection (a),  
25 Section 2210.609, Insurance Code (page 13, line 57), strike "by  
26 the association from", and substitute "by the association".

27 (25) In SECTION 33 of the bill, in added Section 2210.618,  
28 Insurance Code (page 16, line 14), between "association," and  
29 "association employees," insert "members of the association  
30 board of directors,".

1 (26) In SECTION 37 of the bill, strike page 17, lines 7-9,  
2 and substitute:

3 (2) Section 2210.059, Insurance Code;

4 (3) Section 2210.256, Insurance Code;

5 (4) Section 2210.356, Insurance Code; and

6 (5) Subchapters G and I, Chapter 2210, Insurance Code.

7 (27) In Subsection (a) of SECTION 38 of the bill (page 17,  
8 lines 13-14), strike "is abolished on the 30th day after the  
9 effective date of this Act." and substitute "is abolished  
10 effective December 31, 2007."

11 (28) In Subsection (b) of SECTION 38 of the bill (page 17,  
12 lines 18-19), strike "not later than the 31st day after the  
13 effective date of this Act." and substitute "not later than  
14 December 31, 2007."

15 (29) In Subsection (c) of SECTION 38 of the bill (page 17,  
16 lines 23-24), strike "on the 30th day after the effective date  
17 of this Act." and substitute "on December 31, 2007."

18 (30) Strike SECTION 39 of the bill (page 17, lines 28-30)  
19 and substitute the following:

20 SECTION 39. (a) The commissioner of insurance shall adopt  
21 rules as required by Sections 2210.452, 2210.612, and 2210.613,  
22 Insurance Code, as amended by this Act, not later than the 180th  
23 day after the effective date of this Act.

24 (b) The Texas Windstorm Insurance Association, through the  
25 board of directors of that association, shall propose to the  
26 commissioner of insurance amendments to the association's plan  
27 of operation as required by Chapter 2210, Insurance Code, as  
28 amended by this Act, not later than the 180th day after the  
29 effective date of this Act.

30 (31) In SECTION 41 of the bill, strike page 17, lines 38-

1 44, and substitute the following:

2 Except as otherwise specifically provided by that section,  
3 a structure that has been inspected and is the subject of a  
4 certificate of compliance issued by the Texas Department of  
5 Insurance under Section 2210.251(f), Insurance Code, as that  
6 section existed immediately before the effective date of this  
7 Act, is not required to obtain an inspection certificate from  
8 the Texas Windstorm Insurance Association to remain eligible for  
9 insurance coverage through that association unless the structure  
10 is altered, remodeled, enlarged, or repaired after the effective  
11 date of Section 2210.251, as amended by this Act.

12 (32) Strike SECTION 43 of the bill (page 17, lines 55-59)  
13 and substitute the following:

14 SECTION 43. (a) Except as provided by Subsection (b) of  
15 this section, this Act takes effect immediately if it receives a  
16 vote of two-thirds of all the members elected to each house, as  
17 provided by Section 39, Article III, Texas Constitution. If  
18 this Act does not receive the vote necessary for immediate  
19 effect, this Act takes effect September 1, 2007.

20 (b) The changes in law made by this Act to Sections  
21 2210.251, 2210.252, 2210.254, and 2210.255, Insurance Code, as  
22 amended by this Act, and Section 2210.2565, Insurance Code, as  
23 added by this Act, take effect September 1, 2008.

24 (33) Renumber SECTIONS of the bill appropriately.

25

26

# ADOPTED

MAY 21 2007

FLOOR AMENDMENT NO. 2

*Letty Spaw*  
Secretary of the Senate

BY: *From*

1 Amend C.S.H.B. No. 2960, senate committee printing, as  
2 follows:

3 (1) In SECTION 1 of the bill, in added Subsection (b),  
4 Section 2210.002, Insurance Code, (page 1, lines 23-24), by  
5 striking "abolished in 2013 are reviewed. This subsection  
6 expires September 1, 2013." and substituting "abolished in 2011  
7 are reviewed. This subsection expires September 1, 2011."

8 (2) Between SECTION 1A and SECTION 2 of the bill (page 1,  
9 between lines 34 and 35), insert the following:

10 SECTION 1B. Subchapter A, Chapter 2210, Insurance Code, is  
11 amended by adding Section 2210.0025 to read as follows:

12 Sec. 2210.0025. BIENNIAL REPORT TO LEGISLATURE. On or  
13 before December 31 of each even-numbered year, the board of  
14 directors shall submit to the commissioner, the appropriate  
15 committees of each house of the legislature, and to the Sunset  
16 Advisory Commission a written report relating to the operations  
17 of the association during the preceding biennium. The report  
18 must include:

19 (1) any proposed changes in the laws relating to  
20 regulation of the association and a statement of the reasons for  
21 the changes; and

22 (2) any information regarding association operations  
23 or procedures that is requested by the department to be  
24 addressed in the report.

25 (3) In SECTION 9 of the bill, in added Subsection (c),  
26 Section 2210.058, Insurance Code, (page 4, line 13), strike "2.5  
27 percent" and substitute "1.25 percent".

28 (4) In SECTION 9 of the bill, in added Subsection (e),

1 Section 2210.058, Insurance Code, (page 4, line 33), strike  
2 "four percent" and substitute "5.25 percent".

3 (5) In SECTION 9 of the bill, between added Subsections  
4 (j) and (k), Section 2210.058, Insurance Code, (page 5, between  
5 lines 2 and 3), insert the following:

6 (j-1) Public securities described by Subsection (f) may be  
7 issued in principal amounts not to exceed \$5 billion.

8  
9

# ADOPTED

FLOOR AMENDMENT NO. 3

MAY 21 2007

*Lataj Spaw*  
Secretary of the Senate

BY:

*Jackson*

1 Amend H.B. No. 2960, senate committee printing, in SECTION  
2 19 of the bill, in amended Subsection (a), Section 2210.202,  
3 Insurance Code (page 7, line 14), by inserting the following  
4 after "and rates.":  
5 "Notwithstanding any other provision of this subsection, a  
6 declination or other comparable evidence is not required with an  
7 application for renewal of an association policy unless the  
8 association has evidence that comparable voluntary market  
9 coverage is available in the area of the property to be insured  
10 for the same class of risk."

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# ADOPTED

FLOOR AMENDMENT NO. 4

MAY 21 2007

*Larry Spaw* BY: *Jackson*  
Secretary of the Senate

1 Amend H.B. No. 2960, senate committee printing, as follows

2 (1) In SECTION 31 of the bill, in amended Subsection (c),  
3 Section 2210.452, Insurance Code (page 11, lines 51-52), strike  
4 "For purposes of this subsection, "operating expenses" includes  
5 the cost of any reinsurance."

6 (2) In SECTION 32 of the bill, in amended Subsection (a),  
7 Section 2210.453, Insurance Code (page 11, lines 58-59), strike  
8 "as part of the association's annual operating expenses".

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**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

May 17, 2007

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** **HB2960** by Smithee (Relating to operation of the Texas Windstorm Insurance Association and the Texas FAIR Plan Association, including funding of coverage for certain catastrophic events through the issuance of public securities.. ), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2960, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2009.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$0
2009	\$0
2010	\$0
2011	\$0
2012	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings from <i>DEPT INS</i> <i>OPERATING ACCT</i> 36	Probable Revenue (Loss) from <i>DEPT INS</i> <i>OPERATING ACCT</i> 36	Probable Savings from <i>INSURANCE MAINT</i> <i>TAX FEES</i> 80-42	Probable Revenue (Loss) from <i>INSURANCE MAINT</i> <i>TAX FEES</i> 80-42
2008	\$1,000,000	(\$1,000,000)	\$833,280	(\$833,280)
2009	\$1,000,000	(\$1,000,000)	\$833,280	(\$833,280)
2010	\$1,000,000	(\$1,000,000)	\$833,280	(\$833,280)
2011	\$1,000,000	(\$1,000,000)	\$833,280	(\$833,280)
2012	\$1,000,000	(\$1,000,000)	\$833,280	(\$833,280)

Fiscal Year	Change in Number of State Employees from FY 2007
2008	(32.0)
2009	(32.0)
2010	(32.0)
2011	(32.0)
2012	(32.0)

**Fiscal Analysis**

The bill would amend Insurance Code Chapter 2210 relating to the operations and funding of the



Texas Windstorm Insurance Association (TWIA). The bill provides for Sunset review of TWIA and sets a priority for funding TWIA's losses due to catastrophic events in excess of premiums and other revenue and operating expenses. The bill provides for the issuance of pre and post-event bonds. The bonds would be issued by the Texas Public Finance Authority (TPFA), at the request of TWIA and with the approval of the Commissioner of Insurance. The bill would make TWIA responsible for inspecting structures that are constructed, repaired or to which additions are made for the purpose of obtaining a certificate of compliance. This certificate of compliance is necessary to obtain insurance from TWIA.

The bill would take effect immediately upon a two-thirds vote, otherwise the bill would take effect September 1, 2007.

### **Methodology**

Under current law the Texas Department of Insurance (TDI) is responsible for inspecting structures that are constructed, repaired or to which additions are made for the purpose of obtaining the certificate of compliance that is necessary to obtain insurance from TWIA. It is assumed that the transfer of this responsibility to TWIA would result in a reduction at TDI of 32 FTEs. Salaries and associated expenses for these FTEs total \$883,280 each fiscal year. Since TDI is required to generate revenues equivalent to its costs under current law, this analysis assumes that all savings incurred as a result of the bill would result in an equivalent decrease in insurance maintenance tax revenues.

Under current law TDI uses \$1,000,000 in investment income from the trust fund to fund the mitigation and preparedness plan. Since TDI is required to generate revenues equivalent to its costs under current law, this analysis assumes that savings incurred as a result of the elimination of this requirement would result in an equivalent revenue loss to General Revenue Dedicated Account Fund 36.

Based on the analysis of the Comptroller of Public Accounts, it is assumed that the bill would repeal the tax credit under current law that insurers subject to the CRTF are allowed to take against their insurance premium tax liability. Because future credits cannot be predicted, this analysis does not assume that provision of the bill would have a fiscal impact on the state. However, in the event that a future covered catastrophe of such magnitude were to occur to elicit creditable TWIA assessments, it is assumed that implementation of the provisions of the bill would result in a positive fiscal impact to the state relative to current law.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance, 304 Comptroller of Public Accounts, 347 Public Finance Authority

**LBB Staff:** JOB, JRO, MW, SK



**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

May 14, 2007

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** **HB2960** by Smithee (Relating to the operation and funding of the Texas Windstorm Insurance Association.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2960, As Engrossed: an impact of \$0 through the biennium ending August 31, 2009.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$0
2009	\$0
2010	\$0
2011	\$0
2012	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings from DEPT INS OPERATING ACCT 36	Probable Revenue (Loss) from DEPT INS OPERATING ACCT 36	Probable Revenue Gain from INSURANCE MAINT TAX FEES 8042	Probable (Cost) from INSURANCE MAINT TAX FEES 8042
2008	\$1,000,000	(\$1,000,000)	\$1,000,000	(\$1,000,000)
2009	\$1,000,000	(\$1,000,000)	\$0	\$0
2010	\$1,000,000	(\$1,000,000)	\$0	\$0
2011	\$1,000,000	(\$1,000,000)	\$0	\$0
2012	\$1,000,000	(\$1,000,000)	\$0	\$0

Fiscal Year	Probable Savings from INSURANCE MAINT TAX FEES 8042	Probable Revenue (Loss) from INSURANCE MAINT TAX FEES 8042	Change in Number of State Employees from FY 2007
2008	\$0	\$0	0.0
2009	\$833,280	(\$833,280)	(32.0)
2010	\$833,280	(\$833,280)	(32.0)
2011	\$833,280	(\$833,280)	(32.0)
2012	\$833,280	(\$833,280)	(32.0)

**Fiscal Analysis**

The bill would amend Insurance Code Chapters 2210 and 2251, relating to the operations and funding of the Texas Windstorm Insurance Association (TWIA). The bill would remove fire insurance from



the purpose of Chapter 2210, and it would restrict the purpose only to include the state's coastal counties.

The bill would amend Chapter 2210 to revise the funding procedures and assessment schedule to cover TWIA's excess losses, including the making of payments from the Catastrophe Reserve Trust Fund (CRTF). This bill would eliminate the premium tax credit and all insurer assessments. In their place, the bill would require that losses be paid from TWIA's available reserves, the CRTF, reinsurance, and public securities.

The bill would establish procedures for TWIA to issue pre-event and post-event public securities. At the request of TWIA, and with the approval of the Commissioner of Insurance, the Texas Public Finance Authority could issue public securities in varying amounts, depending on the schedule established by the bill.

The public securities issued under the new bill would be payable from the Public Security Obligation Revenue Fund, which would consist of TWIA's authorized revenue sources and from service fees administered by TWIA and assessed against member insurers as well as other TWIA revenues. Fees to service the public securities issued before or after a catastrophic event could be collected from policyholders in the catastrophe area; and fees to service the public securities issued to cover certain excess losses, as defined by the bill, could be collected from policyholders throughout the state.

The fee would be collected from policyholders in the form of a premium surcharge, which would be set by TWIA, with the approval of the Commissioner of Insurance, and in an amount sufficient to cover all security debt service and related expenses. The premium surcharge would be paid to TWIA and would apply to all property and casualty insurance lines except workers' compensation, accident and health, and medical malpractice. The policy surcharge would be a separate charge in addition to premiums collected and would not be subject to the insurance premium tax.

The bill would prohibit surplus lines insurers from membership in TWIA, but it would require a surplus lines policy fee equal to five percent of the total policy premium on all premiums collected after January 1, 2008. The bill would establish solvency requirements for TWIA and require TWIA to issue compliance certificates for structures that qualify for coverage. The bill would also require the Texas Department of Insurance (TDI) fund the mitigation and preparedness plan using available funds.

Provisions of the bill not relating to Sections 2210.251, 2210.252, 2210.254, and 2210.225 of the Insurance Code would take effect immediately upon a two-thirds vote, and otherwise take effect September 1, 2007. Provisions of the bill relating to Sections 2210.251, 2210.252, 2210.254, and 2210.225 of the Insurance Code would take effect September 1, 2008.

## **Methodology**

Under current law TDI is responsible for inspecting structures that are constructed, repaired or to which additions are made for the purpose of obtaining the certificate of compliance that is necessary to obtain insurance from TWIA. It is assumed that the transfer of this responsibility to TWIA at the beginning of fiscal year 2009 would result in a reduction at TDI of 32 FTEs. Salaries and associated expenses for these FTEs total \$883,280 each fiscal year. Since TDI is required to generate revenues equivalent to its costs under current law, this analysis assumes that all savings incurred as a result of the bill would result in an equivalent decrease in insurance maintenance tax revenues.

Under current law TDI uses \$1,000,000 in investment income from the trust fund to pay for the mitigation and preparedness plan. This analysis assumes this function would continue at TDI throughout fiscal year 2008 and would transfer in 2009. Since TDI is required to generate revenues equivalent to its costs under current law, this analysis assumes that savings would be realized as a result of the elimination of this requirement and that an equivalent revenue loss to General Revenue Dedicated Account Fund 36 would be incurred for this purpose; however, a like gain in insurance maintenance tax revenues would also be realized in 2008 to cover the costs of continuing operations through the end of 2008.



Based on the analysis of the Comptroller of Public Accounts, it is assumed that the bill would repeal the tax credit under current law that insurers subject to the CRTF are allowed to take against their insurance premium tax liability. Because future credits cannot be predicted, this analysis does not assume that provision of the bill would have a fiscal impact on the state. However, in the event that a future covered catastrophe of such magnitude were to occur to elicit creditable TWIA assessments, it is assumed that implementation of the provisions of the bill would result in a positive fiscal impact to the state relative to current law.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 347 Public Finance Authority, 454 Department of Insurance, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, SK, JRO, MW



**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

April 30, 2007

**TO:** Honorable John T. Smithee, Chair, House Committee on Insurance

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** **HB2960** by Smithee (Relating to the operation and funding of the Texas Windstorm Insurance Association. ), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2960, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2009.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$0
2009	\$0
2010	\$0
2011	\$0
2012	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings from <i>DEPT INS</i> <i>OPERATING ACCT</i> 36	Probable Revenue (Loss) from <i>DEPT INS</i> <i>OPERATING ACCT</i> 36	Probable Savings from <i>INSURANCE MAINT</i> <i>TAX FEES</i> 8042	Probable Revenue (Loss) from <i>INSURANCE MAINT</i> <i>TAX FEES</i> 8042
2008	\$1,000,000	(\$1,000,000)	\$833,280	(\$833,280)
2009	\$1,000,000	(\$1,000,000)	\$833,280	(\$833,280)
2010	\$1,000,000	(\$1,000,000)	\$833,280	(\$833,280)
2011	\$1,000,000	(\$1,000,000)	\$833,280	(\$833,280)
2012	\$1,000,000	(\$1,000,000)	\$833,280	(\$833,280)

Fiscal Year	Change in Number of State Employees from FY 2007
2008	(32.0)
2009	(32.0)
2010	(32.0)
2011	(32.0)
2012	(32.0)

**Fiscal Analysis**

The bill would amend Insurance Code Chapters 2210 and 2251, relating to the operations and funding of the Texas Windstorm Insurance Association (TWIA). The bill would remove fire insurance from the purpose of Chapter 2210, and it would restrict the purpose only to include the state's coastal

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counties.

The bill would amend Chapter 2210 to revise the funding procedures and assessment schedule to cover TWIA's excess losses, including the making of payments from the Catastrophe Reserve Trust Fund (CRTF). This bill would eliminate the premium tax credit and all insurer assessments. In their place, the bill would require that losses be paid from TWIA's available reserves, the CRTF, reinsurance, and public securities.

The bill would establish procedures for TWIA to issue pre-event and post-event public securities. At the request of TWIA, and with the approval of the Commissioner of Insurance, the Texas Public Finance Authority could issue public securities in varying amounts, depending on the schedule established by the bill.

The public securities issued under the new bill would be payable from the Public Security Obligation Revenue Fund, which would consist of TWIA's authorized revenue sources and from service fees administered by TWIA and assessed against member insurers as well as other TWIA revenues. Fees to service the public securities issued before or after a catastrophic event could be collected from policyholders in the catastrophe area; and fees to service the public securities issued to cover certain excess losses, as defined by the bill, could be collected from policyholders throughout the state.

The fee would be collected from policyholders in the form of a premium surcharge, which would be set by TWIA, with the approval of the Commissioner of Insurance, and in an amount sufficient to cover all security debt service and related expenses. The premium surcharge would be paid to TWIA and would apply to all property and casualty insurance lines except workers' compensation, accident and health, and medical malpractice. The policy surcharge would be a separate charge in addition to premiums collected and would not be subject to the insurance premium tax.

The bill would prohibit surplus lines insurers from membership in TWIA, but it would require a surplus lines policy fee equal to five percent of the total policy premium on all premiums collected after January 1, 2008. The fee would be remitted to TWIA by the agent placing property insurance through a surplus line insurer.

The bill would establish solvency requirements for TWIA and require TWIA to issue compliance certificates for structures that qualify for coverage. The bill would also require the Texas Department of Insurance (TDI) fund the mitigation and preparedness plan using available funds.

The bill would take effect immediately upon a two-thirds vote, otherwise the bill would take effect September 1, 2007.

#### **Methodology**

Under current law TDI is responsible for inspecting structures that are constructed, repaired or to which additions are made for the purpose of obtaining the certificate of compliance that is necessary to obtain insurance from TWIA. It is assumed that the transfer of this responsibility to TWIA would result in a reduction at TDI of 32 FTEs. Salaries and associated expenses for these FTEs total \$883,280 each fiscal year. Since TDI is required to generate revenues equivalent to its costs under current law, this analysis assumes that all savings incurred as a result of the bill would result in an equivalent decrease in insurance maintenance tax revenues.

Under current law TDI uses \$1,000,000 in investment income from the trust fund to fund the mitigation and preparedness plan. Since TDI is required to generate revenues equivalent to its costs under current law, this analysis assumes that savings incurred as a result of the elimination of this requirement would result in an equivalent revenue loss to General Revenue Dedicated Account Fund 36.

Based on the analysis of the Comptroller of Public Accounts, it is assumed that the bill would repeal the tax credit under current law that insurers subject to the CRTF are allowed to take against their insurance premium tax liability. Because future credits cannot be predicted, this analysis does not assume that provision of the bill would have a fiscal impact on the state. However, in the event



that a future covered catastrophe of such magnitude were to occur to elicit creditable TWIA assessments, it is assumed that implementation of the provisions of the bill would result in a positive fiscal impact to the state relative to current law.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 347 Public Finance Authority, 454 Department of Insurance

**LBB Staff:** JOB, JRO, MW, SK

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LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 2, 2007

TO: Honorable John T. Smithee, Chair, House Committee on Insurance

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2960** by Smithee (Relating to the operation and funding of the Texas Windstorm Insurance Association.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Insurance Code Chapters 2210 and 2251, relating to the operations and funding of the Texas Windstorm Insurance Association (TWIA). The bill would remove fire insurance from the purpose of Chapter 2210, and it would restrict the purpose only to include the state's coastal counties.

The bill would amend Chapter 2210 to revise the funding procedures and assessment schedule to cover TWIA's excess losses, including the making of payments from the Catastrophe Reserve Trust Fund (CRTF). The bill would eliminate the premium tax credit and all insurer assessments. In their place, the bill would require that losses be paid from TWIA's available reserves, the CRTF, reinsurance, and public securities.

The bill would establish procedures for TWIA to issue pre-event and post-event public securities. At the request of TWIA, and with the approval of the Commissioner of Insurance, the Texas Public Finance Authority could issue public securities, in an amount sufficient to cover the losses and operating expenses of TWIA, at a maturity of not more than ten years.

The public securities issued under the new bill would be payable from TWIA's authorized revenue sources and from service fees administered by TWIA and assessed against member insurers. Fees to service the public securities issued before or after a catastrophic event could be collected from policyholders in the catastrophe area; and fees to service the public securities issued to cover certain excess losses, as defined by the bill, could be collected from policyholders throughout the state.

The fee would be collected from policyholders in the form of a premium surcharge, which would be set by TWIA, with the approval of the Commissioner of Insurance, and in an amount sufficient to cover all security debt service and related expenses. The premium surcharge would be paid to TWIA and would apply to all property and casualty insurance lines except workers' compensation, accident and health, and medical malpractice. The policy surcharge would be a separate charge in addition to premiums collected and would not be subject to the insurance premium tax.

Based on the analysis of the Texas Department of Insurance, The Comptroller of Public Accounts, and the Texas Public Finance Authority, it is assumed that costs associated with implementing the provisions of the bill could be covered from existing resources.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2007.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

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**Source Agencies:** 304 Comptroller of Public Accounts, 347 Public Finance Authority, 454 Department of Insurance

**LBB Staff:** JOB, JRO, MW, SK, JW

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