

By: Eiland

H.B. No. 2487

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the establishment, funding, and operation of the Texas
3 natural disaster catastrophe fund and the disaster preparedness and
4 mitigation grant council.

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

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

8 CHAPTER 1809. NATURAL DISASTER CATASTROPHE FUND

9 SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

1 catastrophic exposures.

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

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

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

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

8 Sec. 1809.003. DEFINITIONS. In this chapter:

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

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

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

1 peril described by Subdivision (2).

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

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

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

14 (B) the Texas Windstorm Insurance Association
15 under Chapter 2210; and

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

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

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

22 [Sections 1809.004-1809.050 reserved for expansion]

23 SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT

24 AND COMMISSIONER

25 Sec. 1809.051. RULEMAKING. (a) The commissioner shall
26 adopt rules in the manner prescribed by Subchapter A, Chapter 36, as
27 reasonable and necessary to implement this chapter.

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

2 (1) conform to the legislature's specific intent in
3 establishing the fund, as provided by Section 1809.002; and

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

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

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

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

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

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

26 Sec. 1809.054. REINSURANCE ADVISORY COUNCIL. (a) To
27 provide the department with information and advice in connection

1 with the department's duties under this chapter, the commissioner
2 shall appoint a seven-member reinsurance advisory council composed
3 as follows:

- 4 (1) an actuary;
- 5 (2) a meteorologist;
- 6 (3) a representative of insurers;
- 7 (4) a representative of insurance agents;
- 8 (5) a representative of reinsurers; and
- 9 (6) two public members.

10 (b) The chair of the Senate Business and Commerce Committee
11 and the chair of the House Insurance Committee serve as ex officio
12 members of the advisory council.

13 (c) Appointed members of the advisory council serve at the
14 pleasure of the commissioner.

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

20 (e) The advisory council is not subject to Chapter 2110,
21 Government Code.

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

- 1 (1) coordination with the federal or multistate
- 2 program;
- 3 (2) termination of the fund; or
- 4 (3) other actions as the commissioner determines to be
- 5 appropriate.

6 [Sections 1809.056-1809.100 reserved for expansion]

7 SUBCHAPTER C. FUND

8 Sec. 1809.101. ESTABLISHMENT OF FUND. (a) The Texas

9 natural disaster catastrophe fund is a trust fund outside the state

10 treasury in the custody of the comptroller. The department shall

11 administer the fund.

12 (b) Money in the fund may not be spent, loaned, or

13 appropriated except to pay:

14 (1) obligations of the fund that arise out of

15 reimbursement contracts entered into under Subchapter E;

16 (2) debts, including obligations arising out of public

17 securities issued under Subchapter H;

18 (3) costs of the mitigation program under Section

19 1809.103;

20 (4) costs of procuring reinsurance; and

21 (5) costs of administration of the fund.

22 (c) The comptroller shall invest the money in the fund in

23 the manner provided by law for investment of state funds. Except as

24 otherwise provided by this chapter, earnings from all investments

25 shall be retained in the fund.

26 (d) The department may employ staff or contract with

27 professionals as the commissioner considers necessary for the

1 administration of the fund.

2 Sec. 1809.102. BORROWING AUTHORIZED. In addition to using
3 public securities under Subchapter H, the department may borrow
4 from any market sources at prevailing interest rates.

5 Sec. 1809.103. MITIGATION PROGRAM; USE OF FUND INVESTMENT
6 INCOME. (a) On certification by the comptroller, an amount not to
7 exceed 35 percent of the investment income of the fund for the prior
8 fiscal year shall be transferred to the disaster preparedness and
9 mitigation grant council established under Section 418.075,
10 Government Code.

11 (b) Notwithstanding Subsection (a), money is not available
12 for transfer under this section if the comptroller determines that
13 a transfer of investment income from the fund would jeopardize the
14 actuarial soundness of the fund.

15 Sec. 1809.104. SEMIANNUAL STATEMENT. In May and October of
16 each year, the comptroller shall publish in the Texas Register a
17 statement of the fund's anticipated borrowing capacity and the
18 balance of the fund as of the date of the statement.

19 Sec. 1809.105. REINSURANCE. The department may procure
20 reinsurance from reinsurers authorized under Subtitle F, Title 4
21 for the purpose of maximizing the capacity of the fund.

22 Sec. 1809.106. REVERSION OF FUND ASSETS ON TERMINATION.
23 The fund and the duties of the comptroller and the department under
24 this chapter may be terminated only by law. On termination of the
25 fund, all assets of the fund shall revert to the general revenue
26 fund.

27 Sec. 1809.107. ADVANCE PREMIUM PAYMENT. (a) To provide

1 startup money for the administration of the fund, each insurer
2 shall pay to the fund an advance premium payment of \$1,000. The
3 department shall collect the advance premium payments required by
4 this section for deposit in the fund. The insurer shall receive a
5 credit against future premiums for the advance payment.

6 (b) This section expires September 1, 2011.

7 [Sections 1809.108-1809.150 reserved for expansion]

8 SUBCHAPTER D. COMPUTATION OF INSURER'S RETENTION

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

12 Sec. 1809.152. RETENTION MULTIPLES. (a) The department
13 shall compute and report to each insurer the retention multiples
14 for each year.

15 (b) For the contract year beginning in 2009, the retention
16 multiple is equal to \$2 billion, divided by the total estimated
17 reimbursement premium for the contract year. For subsequent years,
18 the retention multiple is equal to \$2 billion, adjusted to reflect
19 the percentage growth in premium for covered policies since the
20 date of the initial contracts entered into under this chapter,
21 divided by the total estimated reimbursement premium for the
22 contract year.

23 Sec. 1809.153. INSURER ELECTION; PROVISIONAL AND ACTUAL
24 RETENTION. (a) The retention multiple determined under Section
25 1809.152(b) shall be adjusted to reflect the coverage level elected
26 by the insurer under Section 1809.202. For insurers electing:

27 (1) the 90 percent coverage level, the adjusted

1 retention multiple is 100 percent of the amount determined under
2 Section 1809.152(b);

3 (2) the 75 percent coverage level, the retention
4 multiple is 120 percent of the amount determined under Section
5 1809.152(b); and

6 (3) the 45 percent coverage level, the adjusted
7 retention multiple is 200 percent of the amount determined under
8 Section 1809.152(b).

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

10 (1) provisional retention by multiplying the insurer's
11 provisional reimbursement premium by the applicable adjusted
12 retention multiple; and

13 (2) actual retention by multiplying the insurer's
14 actual reimbursement premium by the applicable adjusted retention
15 multiple.

16 [Sections 1809.154-1809.200 reserved for expansion]

17 SUBCHAPTER E. REIMBURSEMENT CONTRACTS

18 Sec. 1809.201. REIMBURSEMENT CONTRACT REQUIRED. As a
19 condition of engaging in the business of insurance in this state,
20 each insurer that writes covered policies shall enter into a
21 contract with the department under which the department shall
22 provide to the insurer the reimbursement described by Section
23 1809.202 in exchange for the reimbursement premium paid to the fund
24 by the insurer under Subchapter G.

25 Sec. 1809.202. REIMBURSEMENT PERCENTAGES. (a) A
26 reimbursement contract must contain a promise by the department to
27 reimburse the insurer, as provided by Subsection (b), for a

1 percentage equal to 45 percent, 75 percent, or 90 percent of the
2 insurer's losses from each covered event in excess of the insurer's
3 retention, plus five percent of the reimbursed losses to cover loss
4 adjustment expenses.

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

8 (1) a lower payment percentage, if no public
9 securities under Subchapter H issued after a covered event are
10 outstanding; or

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

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

16 (d) A joint underwriting association or assigned risk plan
17 established under this code must elect the 90 percent payment
18 percentage.

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

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

23 (b) Recoveries from another source, together with
24 reimbursements under the contract, may not exceed 100 percent of
25 the insurer's losses from covered events. If those recoveries and
26 reimbursements exceed 100 percent of the insurer's losses from
27 covered events, and if an agreement between the insurer and the

1 reinsurer to the contrary does not exist, any amount in excess of
2 100 percent of the insurer's losses must be deposited in the fund.

3 Sec. 1809.204. DEPARTMENT OBLIGATION. A reimbursement
4 contract must provide that the obligation of the department with
5 respect to all contracts covering a particular year may not exceed
6 the current balance of the fund, together with the maximum amount
7 that the department is able to raise through the issuance of public
8 securities under Subchapter H.

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

12 (1) the fund's anticipated borrowing capacity for the
13 subsequent year;

14 (2) the balance of the fund as of the date of the
15 notification; and

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

18 (b) For all regulatory and reinsurance purposes, an insurer
19 may compute the insurer's projected payout from the fund as the
20 insurer's share of the total fund premium multiplied by the sum of
21 the fund balance and bonding capacity as reported under this
22 section.

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

1 (b) The department shall determine and pay, as soon as
2 practicable after receiving a report under Subsection (a), the
3 initial amount of reimbursement due and adjustments to that amount
4 based on later loss information. Adjustments to reimbursement
5 amounts shall require the department to pay, or the insurer to
6 return, amounts reflecting the most recent computation of losses.

7 Sec. 1809.207. LOANS TO MAINTAIN INSURER SOLVENCY. (a)

8 Each reimbursement contract must provide that the department shall
9 loan to an insurer, at market interest rates, the amounts necessary
10 to maintain the solvency of the insurer if the insurer demonstrates
11 to the satisfaction of the department that:

12 (1) the insurer is likely to qualify for reimbursement
13 under the contract; and

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

16 (b) A loan under Subsection (a) may not exceed an amount
17 equal to 50 percent of the department's estimate of the
18 reimbursement due the insurer. The insurer's reimbursement shall
19 be reduced by an amount equal to the amount of the loan and interest
20 on the loan.

21 Sec. 1809.208. EFFECT OF INSURER INSOLVENCY. (a) In this
22 section, the "net amount of all reimbursement moneys" means the
23 amount remaining after reimbursement for preliminary or duplicate
24 payments owed to private reinsurers, or other inuring reinsurance
25 payments to private reinsurers, that satisfy statutory or
26 contractual obligations to those reinsurers of the insolvent
27 insurer attributable to covered events. Notwithstanding any law to

1 the contrary, a private reinsurer described by this subsection
2 shall be reimbursed or otherwise paid before any payment to the
3 Texas Property and Casualty Insurance Guaranty Association under
4 Subsection (b).

5 (b) Each reimbursement contract must provide that in the
6 event of the insolvency of an insurer, the fund shall pay the net
7 amount of all reimbursement moneys owed to the insurer directly to
8 the Texas Property and Casualty Insurance Guaranty Association for
9 the benefit of the insurer's policyholders in this state. The
10 guaranty association shall pay all claims up to the maximum amount
11 permitted by Chapter 462. Any remaining moneys shall be paid pro
12 rata to claims not fully satisfied.

13 [Sections 1809.209-1809.250 reserved for expansion]

14 SUBCHAPTER F. REIMBURSEMENT IF FUNDS INSUFFICIENT

15 Sec. 1809.251. REIMBURSEMENT IF FUNDS INSUFFICIENT. If the
16 department determines that the current balance of the fund,
17 together with the amount that the department determines possible to
18 raise through public securities issued under Subchapter H, is
19 insufficient to reimburse all insurers at the level promised under
20 the reimbursement contracts, the department shall reimburse
21 insurers as provided by this subchapter.

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

- 25 (1) be in full compliance with this chapter;
26 (2) have surplus as to policyholders not exceeding \$20
27 million; and

1 (3) write at least 25 percent of the insurer's
2 countrywide property insurance premium in this state.

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

5 (1) \$10 million; or

6 (2) an amount equal to 10 times the insurer's
7 reimbursement premium for the current year.

8 (c) The amount of reimbursement paid under this section may
9 not exceed the full amount of reimbursement promised by the
10 reimbursement contract.

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

16 Sec. 1809.253. SECOND REIMBURSEMENT. After reimbursements
17 under Section 1809.252, the department shall pay to each insurer
18 the amount of reimbursement owed to that insurer, up to an amount
19 equal to the projected payout determined under Section 1809.254.

20 Sec. 1809.254. PRORATED REIMBURSEMENT. After
21 reimbursements under Section 1809.252, the department shall
22 establish the prorated reimbursement level at the highest level for
23 which any remaining fund balance or public security proceeds are
24 sufficient.

25 [Sections 1809.255-1809.300 reserved for expansion]

26 SUBCHAPTER G. REIMBURSEMENT PREMIUMS

27 Sec. 1809.301. PREMIUM PAYMENT. Each reimbursement

1 contract shall require the insurer to pay to the fund annually an
2 actuarially indicated premium for the promised reimbursement. In
3 establishing the premium, the department shall consider the
4 coverage level elected by the insurer under Section 1809.202 and
5 any factors that tend to enhance the actuarial sophistication of
6 ratemaking for the fund, including deductibles, type of
7 construction, type of coverage provided, relative concentration of
8 risks, and other factors considered appropriate by the
9 commissioner.

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

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

19 Sec. 1809.303. INSURER NOTICE; PAYMENT. (a) Not later than
20 September 1 of each year, each insurer shall notify the department
21 of the insurer's insured values under covered policies by zip code,
22 as of June 30 of that year.

23 (b) Based on the reports received under Subsection (a), the
24 department shall compute the premium due from each insurer, based
25 on the formula adopted under Section 1809.302. The insurer shall
26 pay the required annual premium under a periodic payment plan as
27 specified in the reimbursement contract. The department shall

1 provide for:

2 (1) payment of reimbursement premium in periodic
3 installments; and

4 (2) the adjustment of provisional premium
5 installments collected before submission of the exposure report to
6 reflect data in the exposure report.

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

10 Sec. 1809.304. EMERGENCY ASSESSMENT. (a) If the Texas
11 Public Finance Authority determines that the amount of revenue
12 produced under this subchapter through reimbursement premiums is
13 insufficient to fund any public securities issued under Subchapter
14 H as necessary to pay reimbursement at the levels promised in the
15 reimbursement contracts, the authority shall direct the department
16 to levy an emergency assessment on each insurer writing property
17 and casualty insurance in this state.

18 (b) Except as otherwise provided by this subsection, each
19 affected insurer shall pay to the fund, by July 1 of each year, an
20 amount equal to two percent of the insurer's gross direct written
21 premium for the prior year from all property and casualty insurance
22 written in this state. If the governor has declared a state of
23 emergency under Chapter 418, Government Code, because of the
24 occurrence of a covered event, the amount of the emergency
25 assessment under this subsection may be increased to an amount not
26 exceeding four percent of that premium.

27 (c) The annual assessments under this section continue

1 until the public securities issued with respect to which the
2 assessment was imposed are retired.

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

5 (e) Any rate filing or portion of a rate filing reflecting a
6 rate change attributable entirely to the assessment levied under
7 this section shall be deemed approved when made, subject to the
8 authority of the commissioner to require actuarial justification as
9 to the adequacy of any rate at any time. If the rate filing reflects
10 only a rate change attributable to the assessment under this
11 section, the filing may consist of a certification so stating.

12 [Sections 1809.305-1809.350 reserved for expansion]

13 SUBCHAPTER H. PUBLIC SECURITIES PROGRAM

14 Sec. 1809.351. PURPOSE. The legislature finds that the
15 issuance of public securities to fund a state program to provide
16 reimbursement to insurers for a portion of their losses incurred as
17 a result of certain natural disasters will create additional
18 insurance capacity to benefit this state's economy and the public
19 health, safety, and welfare.

20 Sec. 1809.352. DEFINITIONS. In this subchapter:

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

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

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

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

5 (b) The following laws also apply to public securities
6 issued under this subchapter to the extent consistent with this
7 section:

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

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

11 Sec. 1809.354. ISSUANCE OF PUBLIC SECURITIES AUTHORIZED.

12 (a) On the occurrence of a covered event and a determination by the
13 comptroller that the amount in the fund will be insufficient to pay
14 reimbursement at the levels promised under reimbursement contracts
15 under this chapter, the commissioner shall request the Texas Public
16 Finance Authority to issue public securities for the benefit of the
17 fund.

18 (b) The Texas Public Finance Authority may issue, on behalf
19 of the department, public securities in an amount sufficient to
20 fund the obligations of the department under reimbursement
21 contracts entered into under this chapter as determined by the
22 department and approved 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.

25 Sec. 1809.355. TERMS OF ISSUANCE. (a) Public securities
26 issued under this subchapter may be issued at a public or private
27 sale.

1 (b) Public securities must:

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

3 (2) mature not more than 15 years after the date
4 issued.

5 Sec. 1809.356. CONTENTS OF PUBLIC SECURITY RESOLUTION;
6 ADMINISTRATION OF ACCOUNTS. (a) In a public security resolution,
7 the board may:

8 (1) provide for the flow of funds and the
9 establishment, maintenance, and investment of funds and special
10 accounts with regard to the public securities, including an
11 interest and sinking fund account, a reserve account, and other
12 accounts; and

13 (2) make additional covenants with respect to the
14 public securities and the designated income and receipts of the
15 association pledged to the payment of the public securities.

16 (b) The board shall administer the accounts in accordance
17 with this subchapter.

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

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

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

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

27 (c) Each public security must:

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

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

6 (A) is payable solely from the revenue pledged
7 for that purpose; and

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

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

13 Sec. 1809.359. EXEMPTION FROM TAXATION. Public securities
14 issued under this subchapter, any interest from those public
15 securities, and all assets pledged to secure the payment of the
16 public securities are free from taxation by the state or a political
17 subdivision of this state.

18 Sec. 1809.360. AUTHORIZED INVESTMENTS. Public securities
19 issued under this subchapter are authorized investments under
20 Subchapter B, Chapter 424, and Subchapters C and D, Chapter 425.

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

1 Section 1809.003, Insurance Code.

2 (b) The disaster preparedness and mitigation grant council
3 is composed of:

4 (1) the following ex officio members:

5 (A) the executive commissioner of the Health and
6 Human Services Commission or that person's designee; and

7 (B) the director of the division or that person's
8 designee; and

9 (2) the following members appointed by the governor to
10 serve a two-year term:

11 (A) an engineer;

12 (B) two representatives of law enforcement;

13 (C) a public member;

14 (D) a representative of insurers; and

15 (E) two representatives of firefighters.

16 (c) The lieutenant governor shall designate two members of
17 the senate and the speaker of the house of representatives shall
18 designate two members of the house of representatives to advise the
19 council.

20 (d) The governor shall designate the presiding officer of
21 the council.

22 (e) A council member appointed under Subsection (b)(2) is
23 not entitled to compensation, but is entitled to reimbursement for
24 traveling expenses incurred in performing duties as a member of the
25 council up to the limit provided by the General Appropriations Act.

26 (f) Appointments to the council shall be made without regard
27 to the race, color, disability, sex, religion, age, or national

1 origin of the appointees.

2 (g) The division may use funds received under Section
3 1809.103, Insurance Code, to provide grant funding for local
4 governments, state agencies, public and private educational
5 institutions, and nonprofit organizations to support programs
6 intended to:

7 (1) improve natural disaster preparedness;

8 (2) reduce potential losses from covered events;

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

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

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

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

18 (h) The division may award money under Subsection (g) only
19 with the express written prior approval of the council. The council
20 shall consult with the advisors appointed under Subsection (c)
21 before approving a proposed grant.

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

26 SECTION 4. The disaster preparedness and mitigation grant
27 council established under Section 418.075, Government Code, as

1 added by this Act, shall be established as provided by that section
2 not later than the 60th day after the effective date of this Act.

3 SECTION 5. The commissioner of insurance shall adopt the
4 initial contract forms required under Chapter 1809, Insurance Code,
5 as added by this Act, not later than the 30th day after the
6 effective date of this Act, and shall adopt the initial premium
7 formula not later than the 60th day after the effective date of this
8 Act.

9 SECTION 6. The Texas Department of Insurance shall enter
10 into reimbursement contracts with insurers under Chapter 1809,
11 Insurance Code, as added by this Act, not later than the 90th day
12 after the effective date of this Act.

13 SECTION 7. (a) Except as provided by Subsection (b), an
14 insurer is not required to comply with Chapter 1809, Insurance
15 Code, until the 90th day after the effective date of this Act.

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

20 SECTION 8. Not later than the 120th day after the effective
21 date of this Act, the disaster preparedness and mitigation grant
22 council established under Section 418.075, Government Code, as
23 added by this Act, shall establish the grant program described by
24 that section.

25 SECTION 9. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2009.