

By: Martinez

H.B. No. 2886

A BILL TO BE ENTITLED

AN ACT

relating to insurer assessments to fund the catastrophe reserve trust fund.

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

SECTION 1. Subchapter B, Chapter 2210, Insurance Code, is amended by adding Section 2210.0581 to read as follows:

Sec. 2210.0581. TRUST FUND SOLVENCY ASSESSMENT; TAX CREDIT.

(a) In this section, "trust fund" means the catastrophe reserve trust fund established under Subchapter J.

(b) To ensure available reserves and the capacity to pay excess losses, the members of the association shall be assessed, for deposit in the trust fund, an amount equal to 0.025 percent of all members' net direct premium written in this state.

(c) The assessment under Subsection (b) shall be collected annually until a determination is made under Subsection (d) that the reserves in the trust fund are adequate to:

(1) pay any obligations of the trust fund under Section 2210.058 existing as of the date of the assessment;

(2) establish a surplus in an amount reasonably computed to pay future obligations incurred by the fund; and

(3) fund the mitigation and preparedness plan established under Section 2210.454.

(d) The commissioner and the board of directors shall meet annually in December to determine whether the reserves in the trust

1 fund are adequate under Subsection (c). The commissioner shall
2 notify each member of the association, not later than January 1 of
3 the subsequent year:

4 (1) of the amount of the member's assessment under this
5 section for that year, if the determination is made that the
6 reserves are not adequate; and

7 (2) that the assessment under this section will not be
8 collected, if the determination is made that the reserves are
9 adequate.

10 (e) A member of the association may not recoup an assessment
11 paid under this section through a premium surcharge.

12 (f) An insurer may credit an amount paid in accordance with
13 Subsection (b) in a calendar year against the insurer's premium tax
14 under Chapter 221. The tax credit authorized under this subsection
15 shall be allowed at a rate not to exceed 20 percent per year for five
16 or more successive years beginning the calendar year that the
17 assessments under this section are paid. The balance of payments
18 made by the insurer and not claimed as a premium tax credit may be
19 reflected in the books and records of the insurer as an admitted
20 asset of the insurer for all purposes, including exhibition in an
21 annual statement under Section 862.001.

22 SECTION 2. Section 2210.059, Insurance Code, is amended to
23 read as follows:

24 Sec. 2210.059. NOTIFICATION REGARDING TAX CREDITS. (a)
25 The association shall immediately notify the department if an
26 occurrence or series of occurrences in a catastrophe area results
27 in insured losses that result in a tax credit under Section

1 2210.058(c) in a calendar year.

2 ~~[(b)]~~ On receipt of notice under this subsection
3 ~~[Subsection (a)]~~, the department shall immediately notify the
4 governor and the appropriate committees of each house of the
5 legislature of the amount of insured losses eligible for tax
6 credits under Section 2210.058(c).

7 (b) The department shall annually notify the governor and
8 the appropriate committees of each house of the legislature of the
9 amount eligible for tax credits under Section 2210.0581.

10 SECTION 3. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2009.