

Amend CSHB 272 (house committee printing) by striking SECTIONS 5, 6, and 7 of the bill (page 4, line 27, through page 6, line 2), inserting the following appropriately numbered SECTIONS, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 2210.003, Insurance Code, is amended by adding Subdivision (3-b) to read as follows:

(3-b) "Catastrophe year" means a calendar year in which an occurrence or a series of occurrences results in insured losses, regardless of when the insured losses are ultimately paid.

SECTION _____. Section 2210.071(a), Insurance Code, is amended to read as follows:

(a) If, in a catastrophe year, an occurrence or series of occurrences in a catastrophe area results in insured losses and operating expenses of the association in excess of premium and other revenue of the association, the excess losses and operating expenses shall be paid as provided by this subchapter.

SECTION _____. Section 2210.072, Insurance Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (b-1) to read as follows:

(a) Losses not paid under Section 2210.071 shall be paid as provided by this section from the proceeds from Class 1 public securities authorized to be issued in accordance with Subchapter M before, on, or after the date of any occurrence or series of occurrences that results in insured losses. Public securities issued under this section must be repaid within a period not to exceed 10 years, and may be repaid sooner if the board of directors elects to do so and the commissioner approves.

(b) Public securities described by Subsection (a) that are issued before an occurrence or series of occurrences that results in incurred losses may be issued if the board of directors determines, before the date of any occurrence, that the amount available from premium and other revenue, in combination with the amounts available from the catastrophe reserve trust fund, may be insufficient to pay insured losses.

(b-1) Public securities described by Subsection (a) shall be issued as necessary in a principal amount not to exceed \$1 billion per catastrophe year, in the aggregate, for securities

issued before the occurrence or series of occurrences that results in incurred losses in that year and securities issued on or after the date of that occurrence or series of occurrences.

(c) If [~~the losses are paid with~~] public securities are issued as described by this section, the public securities shall be repaid in the manner prescribed by Subchapter M from association premium revenue.

SECTION _____. Section 2210.073(b), Insurance Code, is amended to read as follows:

(b) Public securities described by Subsection (a) may be issued as necessary in a principal amount not to exceed \$1 billion per catastrophe year. If the losses are paid with public securities described by this section, the public securities shall be repaid in the manner prescribed by Subchapter M.

SECTION _____. Section 2210.074(b), Insurance Code, is amended to read as follows:

(b) Public securities described by Subsection (a) may be issued as necessary in a principal amount not to exceed \$500 million per catastrophe year. If the losses are paid with public securities described by this section, the public securities shall be repaid in the manner prescribed by Subchapter M through member assessments as provided by this section. The association shall notify each member of the association of the amount of the member's assessment under this section. The proportion of the losses allocable to each insurer under this section shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052. A member of the association may not recoup an assessment paid under this subsection through a premium surcharge or tax credit.

SECTION _____. Section 2210.602(2), Insurance Code, is amended to read as follows:

(2) "Class 1 public securities" means public securities authorized to be issued before, on, or after an occurrence or series of occurrences by Section 2210.072, including a commercial paper program authorized before the occurrence of a catastrophic event but in which [~~so long as~~] no tranche of commercial paper is issued under the program until after the

catastrophic event.

SECTION _____. Section 2210.604, Insurance Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) At the request of the association and with the approval of the commissioner, the Texas Public Finance Authority shall issue Class 1, Class 2, or Class 3 public securities. The association shall submit to the commissioner a cost-benefit analysis of various financing methods and funding structures when requesting the issuance of public securities under this subsection.

(a-1) The association and the commissioner must approve each tranche of commercial paper issued under a commercial paper program established under this chapter.

SECTION _____. Section 2210.609(b), Insurance Code, is amended to read as follows:

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

SECTION _____. Section 2210.611, Insurance Code, is amended to read as follows:

Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Revenue collected in any calendar year from a premium surcharge under Section 2210.613 that exceeds the amount of the public security obligations and public security administrative expenses payable in that calendar year and interest earned on the public security obligation fund may, in the discretion of the association, be:

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

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

(3) deposited in the catastrophe reserve trust fund.

SECTION _____. Section 2210.612(b), Insurance Code, is amended to read as follows:

(b) The association may enter financing arrangements as described by Section 2210.072(d) as necessary to obtain public securities issued under that section. Nothing in this subsection prevents [~~shall prevent~~] the authorization and creation of one or more programs for the issuance of commercial paper before the date of an occurrence that results in insured losses under Section 2210.072(a) but in which [~~so long as~~] no tranche of commercial paper is issued under a commercial paper program until after such an occurrence.

SECTION _____. Section 2210.613, Insurance Code, is amended to read as follows:

Sec. 2210.613. PAYMENT OF CLASS 2 PUBLIC SECURITIES. (a) The association shall pay Class 2 public securities issued under Section 2210.073 as provided by this section. Thirty percent of the cost of the public securities shall be paid through member assessments as provided by this section. The association shall notify each member of the association of the amount of the member's assessment under this section. The proportion of the losses allocable to each insurer under this section shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052. A member of the association:

(1) may not recoup an assessment paid under this subsection through a premium surcharge or tax credit; and

(2) notwithstanding Section 2210.073(a), may elect to pay an assessment under this subsection in a lump sum.

(b) Seventy percent of the cost of the public securities shall be paid by a [~~nonrefundable~~] premium surcharge collected under this section in an amount set by the commissioner. On approval by the commissioner, each insurer, the association, and the Texas FAIR Plan Association shall assess, as provided by this section, a premium surcharge to each policyholder of a policy that is in effect on or after the 180th day after the date the commissioner issues notice of the approval of the public securities [~~its policyholders as provided by this section~~]. The premium

surcharge must be set in an amount sufficient to pay, for the duration of the issued public securities, all debt service not already covered by available funds and all related expenses on the public securities.

(c) The premium surcharge under Subsection (b) shall be assessed on all policyholders of policies that cover [~~who reside or have operations in, or whose~~] insured property that is located in a catastrophe area, including automobiles principally garaged in a catastrophe area. The premium surcharge shall be assessed on [~~for~~] each Texas windstorm and hail insurance policy and each property and casualty insurance policy, including an automobile insurance policy, issued for automobiles and other property located in the catastrophe area. A premium surcharge under Subsection (b) applies to:

(1) all policies written under the following lines of insurance:

(A) fire and allied lines;

(B) farm and ranch owners;

(C) residential property insurance;

(D) private passenger automobile liability and physical damage insurance; and

(E) commercial passenger automobile liability and physical damage insurance; and

(2) the property insurance portion of a commercial multiple peril insurance [~~that provide coverage on any premises, locations, operations, or property located in the area described by this subsection for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance~~].

(d) A premium surcharge under Subsection (b) is a separate [~~nonrefundable~~] charge in addition to the premiums collected and is not subject to premium tax or commissions. Failure by a policyholder to pay the surcharge constitutes failure to pay premium for purposes of policy cancellation.

SECTION _____. Sections 2210.6135(a) and (c), Insurance Code, are amended to read as follows:

(a) The association shall pay Class 3 public securities issued under Section 2210.074 as provided by this section through member assessments. The association, for the payment of the losses, shall assess the members of the association an amount not to exceed \$500 million per catastrophe year [~~for the payment of the losses~~]. The association shall notify each member of the association of the amount of the member's assessment under this section.

(c) A member of the association:

(1) may not recoup an assessment paid under this section through a premium surcharge or tax credit; and

(2) notwithstanding Section 2210.074(a), may elect to pay an assessment under this section in a lump sum.