

By: Taylor of Galveston

H.B. No. 2818

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the operation of the Texas Windstorm Insurance  
3 Association and to the resolution of certain disputes concerning  
4 claims made to that association.

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

6 SECTION 1. Section 83.002, Insurance Code, is amended by  
7 adding Subsection (c) to read as follows:

8 (c) This chapter also applies to:

9 (1) a person appointed as a qualified inspector under  
10 Section 2210.254 or 2210.255; and

11 (2) a person acting as a qualified inspector under  
12 Section 2210.254 or 2210.255 without being appointed as a qualified  
13 inspector under either of those sections.

14 SECTION 2. Section 541.152, Insurance Code, is amended by  
15 amending Subsection (b) and adding Subsection (c) to read as  
16 follows:

17 (b) Except as provided by Subsection (c), on [On] a finding  
18 by the trier of fact that the defendant knowingly committed the act  
19 complained of, the trier of fact may award an amount not to exceed  
20 three times the amount of actual damages.

21 (c) Subsection (b) does not apply to an action under this  
22 subchapter brought against the Texas Windstorm Insurance  
23 Association by a person who is insured under Chapter 2210.

24 SECTION 3. Subchapter A, Chapter 2210, Insurance Code, is

1 amended by adding Section 2210.010 to read as follows:

2 Sec. 2210.010. EXPERT PANEL. (a) The commissioner shall  
3 appoint a panel of experts to advise the commissioner concerning  
4 the manner in which, following a storm, the association should  
5 evaluate the extent to which a loss to insurable property was  
6 incurred as a result of wind, waves, tidal surges, rising waters not  
7 caused by waves or surges, and wind-driven rain associated with the  
8 storm. The commissioner shall appoint one member of the panel to  
9 serve as the presiding officer of the panel.

10 (b) To be a member of the panel, a person must have  
11 professional expertise in, and be knowledgeable concerning, the  
12 geography of the seacoast territory, the meteorological patterns  
13 common in the seacoast territory, the scientific basis for  
14 meteorological patterns in coastal areas, or the technology  
15 necessary to evaluate the geography of, or meteorological patterns  
16 common to, the seacoast territory.

17 (c) The panel shall meet at the call of the commissioner or  
18 the call of the presiding officer of the panel.

19 (d) The panel shall collect and evaluate the data necessary  
20 to perform the panel's general duties under Subsection (a).

21 (e) Immediately following a storm, for geographic areas or  
22 regions designated by the commissioner, the panel shall recommend  
23 to the commissioner standardized data necessary to evaluate the  
24 extent to which a loss to insurable property was incurred as a  
25 result of wind, waves, tidal surges, rising waters not caused by  
26 waves or surges, and wind-driven rain associated with the storm,  
27 including wind speed, total rainfall, and the extent of wave action

1 or tidal surges.

2 (f) After consideration of the recommendations made by the  
3 panel under Subsection (e), the commissioner by rule shall adopt  
4 standardized data as part of the formula that the association will  
5 use to settle claims following the storm from which the  
6 standardized data recommendations were derived.

7 SECTION 4. Section 2210.072(b), Insurance Code, is amended  
8 to read as follows:

9 (b) Public securities described by Subsection (a) shall be  
10 issued as necessary in a principal amount not to exceed \$1 billion  
11 per occurrence or series of occurrences in a calendar year that  
12 results in insured losses.

13 SECTION 5. Section 2210.073(b), Insurance Code, is amended  
14 to read as follows:

15 (b) Public securities described by Subsection (a) may be  
16 issued as necessary in a principal amount not to exceed \$1 billion  
17 per occurrence or series of occurrences in a calendar year that  
18 results in insured losses. If the losses are paid with public  
19 securities described by this section, the public securities shall  
20 be repaid in the manner prescribed by Subchapter M.

21 SECTION 6. Section 2210.074(b), Insurance Code, is amended  
22 to read as follows:

23 (b) Public securities described by Subsection (a) may be  
24 issued as necessary in a principal amount not to exceed \$500 million  
25 per occurrence or series of occurrences in a calendar year that  
26 results in insured losses. If the losses are paid with public  
27 securities described by this section, the public securities shall

1 be repaid in the manner prescribed by Subchapter M through member  
2 assessments as provided by this section. The association shall  
3 notify each member of the association of the amount of the member's  
4 assessment under this section. The proportion of the losses  
5 allocable to each insurer under this section shall be determined in  
6 the manner used to determine each insurer's participation in the  
7 association for the year under Section 2210.052. A member of the  
8 association may not recoup an assessment paid under this subsection  
9 through a premium surcharge or tax credit.

10 SECTION 7. Section 2210.105, Insurance Code, is amended by  
11 amending Subsection (b) and adding Subsections (b-1), (e), and (f)  
12 to read as follows:

13 (b) Except for a closed meeting authorized by Subchapter D,  
14 Chapter 551, Government Code, a meeting of the board of directors or  
15 of the members of the association is open to[+]

16 [~~(1) the commissioner or the commissioner's designated~~  
17 ~~representative, and~~

18 [~~(2)~~] the public.

19 (b-1) A meeting of the board of directors or the members of  
20 the association, including a closed meeting authorized by  
21 Subchapter D, Chapter 551, Government Code, is open to the  
22 commissioner or the commissioner's designated representative.

23 (e) The association shall:

24 (1) broadcast live on the association's Internet  
25 website all meetings of the board of directors, other than closed  
26 meetings; and

27 (2) maintain on the association's Internet website an

1 archive of meetings of the board of directors.

2 (f) A recording of a meeting must be maintained in the  
3 archive required under Subsection (e) through and including the  
4 second anniversary of the meeting.

5 SECTION 8. Subchapter C, Chapter 2210, Insurance Code, is  
6 amended by adding Section 2210.108 to read as follows:

7 Sec. 2210.108. OPEN MEETINGS AND OPEN RECORDS. Except as  
8 specifically provided by this chapter or another law, the  
9 association is subject to Chapters 551 and 552, Government Code.

10 SECTION 9. Section 2210.152, Insurance Code, is amended by  
11 adding Subsection (c) to read as follows:

12 (c) The plan of operation shall require the association to  
13 use the standardized data recommendations adopted by the  
14 commissioner under Section 2210.010(f) in evaluating the extent to  
15 which a loss to insurable property is incurred as a result of wind,  
16 waves, tidal surges, rising waters not caused by waves or surges, or  
17 wind-driven rain associated with a storm.

18 SECTION 10. Section 2210.203, Insurance Code, is amended by  
19 amending Subsection (a-1) and adding Subsection (a-2) to read as  
20 follows:

21 (a-1) [~~This subsection applies only to a structure~~  
22 ~~constructed, altered, remodeled, or enlarged on or after September~~  
23 ~~1, 2009, and only for insurable property located in areas~~  
24 ~~designated by the commissioner.] Notwithstanding Subsection (a),~~

25 if all or any part of the property to which this subsection applies  
26 is located in Zone V or another similar zone with an additional  
27 hazard associated with storm waves, as defined by the National

1 Flood Insurance Program, [~~and if flood insurance under that federal~~  
2 ~~program is available,~~] the association may not issue an insurance  
3 policy for initial or renewal coverage unless evidence is submitted  
4 to the association that the property to be covered under the policy  
5 is also covered by a flood insurance policy issued under the  
6 National Flood Insurance Program. This subsection does not apply  
7 to property for which flood insurance is not available under the  
8 National Flood Insurance Program [~~is submitted to the association~~].

9       (a-2) An agent offering or selling a Texas windstorm and  
10 hail insurance policy [~~in any area designated by the commissioner~~  
11 ~~under this subsection~~] shall offer flood insurance coverage  
12 required under Subsection (a-1) to a the prospective insured, if  
13 that coverage is available.

14       SECTION 11. Section 2210.204(e), Insurance Code, is amended  
15 to read as follows:

16       (e) For cancellation of insurance coverage under this  
17 section, the minimum retained premium in the plan of operation must  
18 be for a period of not less than 90 [~~180~~] days, except for events  
19 specified in the plan of operation that reflect a significant  
20 change in the exposure or the policyholder concerning the insured  
21 property, including:

- 22               (1) the purchase of similar coverage in the voluntary  
23 market;
- 24               (2) sale of the property to an unrelated party;
- 25               (3) death of the policyholder; or
- 26               (4) total loss of the property.

27       SECTION 12. Subchapter E, Chapter 2210, Insurance Code, is

1 amended by adding Section 2210.205 to read as follows:

2 Sec. 2210.205. REQUIRED POLICY PROVISIONS: DEADLINE FOR  
3 FILING CLAIM; NOTICE CONCERNING ARBITRATION. A windstorm and hail  
4 insurance policy issued by the association must:

5 (1) require an insured to file a claim under the policy  
6 not later than the first anniversary of the date on which the damage  
7 or loss that is the basis of the claim occurs; and

8 (2) contain, in boldface type, a conspicuous notice  
9 concerning the mandatory arbitration of certain coverage and claim  
10 disputes under Section 2210.554 and the voluntary arbitration of  
11 other coverage and claim disputes under Section 2210.555, including  
12 the deadline for requesting an arbitration under those sections.

13 SECTION 13. Section 2210.254, Insurance Code, is amended by  
14 adding Subsection (e) to read as follows:

15 (e) The department may establish an annual renewal period  
16 for persons appointed as qualified inspectors.

17 SECTION 14. Subchapter F, Chapter 2210, Insurance Code, is  
18 amended by adding Section 2210.2551 to read as follows:

19 Sec. 2210.2551. EXCLUSIVE ENFORCEMENT AUTHORITY; RULES.

20 (a) The department has exclusive authority over all matters  
21 relating to the appointment and oversight of qualified inspectors  
22 for purposes of this chapter.

23 (b) The commissioner by rule shall establish criteria to  
24 ensure that a person seeking appointment as a qualified inspector  
25 under this subchapter, including an engineer seeking appointment  
26 under Section 2210.255, possesses the knowledge, understanding,  
27 and professional competence to perform windstorm inspections under

1 this chapter and to comply with other requirements of this chapter.

2 SECTION 15. The heading to Section 2210.256, Insurance  
3 Code, is amended to read as follows:

4 Sec. 2210.256. DISCIPLINARY PROCEEDINGS REGARDING  
5 APPOINTED INSPECTORS AND CERTAIN OTHER PERSONS.

6 SECTION 16. Section 2210.256, Insurance Code, is amended by  
7 adding Subsection (a-2) to read as follows:

8 (a-2) In addition to any other action authorized under this  
9 section, the commissioner ex parte may enter an emergency cease and  
10 desist order under Chapter 83 against a qualified inspector, or a  
11 person acting as a qualified inspector, if:

12 (1) the commissioner believes that:

13 (A) the qualified inspector has:

14 (i) through submitting or failing to submit  
15 to the department sealed plans, designs, calculations, or other  
16 substantiating information, failed to demonstrate that a structure  
17 or a portion of a structure subject to inspection meets the  
18 requirements of this chapter and department rules; or

19 (ii) refused to comply with requirements  
20 imposed under this chapter or department rules; or

21 (B) the person acting as a qualified inspector is  
22 acting without appointment as a qualified inspector under Section  
23 2210.254 or 2210.255; and

24 (2) the commissioner determines that the conduct  
25 described by Subdivision (1) is fraudulent or hazardous or creates  
26 an immediate danger to the public.

27 SECTION 17. Section 2210.258(b), Insurance Code, is amended



1 to read as follows:

2 (b) The association may not insure a structure described by  
3 Subsection (a) until:

4 (1) the structure has been inspected for compliance  
5 with the plan of operation in accordance with Section 2210.251(a);  
6 and

7 (2) except as provided by Section 2210.260, a  
8 certificate of compliance has been issued for the structure in  
9 accordance with Section 2210.251(g).

10 SECTION 18. Subchapter F, Chapter 2210, Insurance Code, is  
11 amended by adding Section 2210.260 to read as follows:

12 Sec. 2210.260. ALTERNATIVE ELIGIBILITY FOR COVERAGE. (a)  
13 On and after September 1, 2011, a person who has an insurable  
14 interest in insurable property may obtain insurance coverage  
15 through the association for a residential structure without  
16 obtaining a certificate of compliance under Section 2210.251(g) if:

17 (1) within the 12-month period preceding the date of  
18 the application for coverage by the association, the structure was  
19 insured on an annual basis under a residential property insurance  
20 policy that included windstorm and hail coverage;

21 (2) the insurer that issued the coverage described by  
22 Subdivision (1) has ceased to:

23 (A) provide windstorm and hail insurance under  
24 the policy; or

25 (B) issue residential property insurance  
26 policies in the portion of the catastrophe area in which the  
27 structure is located; and

1           (3) the applicant for coverage:

2                   (A) complies with:

3                           (i) the flood insurance requirement of  
4 Section 2210.203(a-1), if applicable;

5                           (ii) the mandatory building code  
6 requirement of Section 2210.258(a); and

7                           (iii) all other association underwriting  
8 requirements, including maintaining the structure in an insurable  
9 condition and paying premiums in the manner required by the  
10 association; and

11                   (B) provides evidence of declination as required  
12 by Section 2210.202(a).

13           (b) Coverage issued under this section may be renewed by the  
14 association only once.

15           SECTION 19. Section 2210.355, Insurance Code, is amended by  
16 amending Subsection (i) and adding Subsections (j), (k), and (l) to  
17 read as follows:

18           (i) The association shall ~~[may]~~ establish rating  
19 territories and shall ~~[may]~~ vary rates among the territories in  
20 accordance with Subsections (j) and (k) ~~[as provided by this~~  
21 ~~subsection. A rating territory that subdivides a county may be used~~  
22 ~~only if the rate for any subdivision in the county is not more than:~~

23                           ~~[(A) five percent higher than the rate used by~~  
24 ~~the association in 2009 in any other subdivision in the county,~~

25                           ~~[(B) six percent higher than the rate used by the~~  
26 ~~association in 2010 in any other subdivision in the county,~~

27                           ~~[(C) seven percent higher than the rate used by~~

~~the association in 2011 in any other subdivision in the county; and  
[(D) eight percent higher than the rate used by  
the association in 2012 in any other subdivision in the county].~~

(j) Notwithstanding Section 2210.351, the association may use rate relativities for rating territories that subdivide a county without prior commissioner approval if the resulting rate for any subdivision in the county:

(1) is not more than 15 percent greater than the resulting rate used in any other subdivision in that county for identical coverage for insureds having risk characteristics that are identical except for rating territory; and

(2) is not unfairly discriminatory.

(k) The association may use rate relativities for rating territories that subdivide a county only with prior commissioner approval if the resulting rate for any subdivision in the county is not described by Subsection (j)(1).

(l) A rate relativity described by Subsection (k) must be based on sound actuarial principles supported by data filed with the department, including reasonable output from recognized catastrophe models, and must produce rates that comply with the statutory and regulatory requirements of this chapter.

SECTION 20. The heading to Subchapter H, Chapter 2210, Insurance Code, is amended to read as follows:

SUBCHAPTER H. RATES; DISCOUNTS AND CREDITS

SECTION 21. Subchapter H, Chapter 2210, Insurance Code, is amended by adding Section 2210.363 to read as follows:

Sec. 2210.363. PREMIUM DISCOUNTS; SURCHARGE CREDITS. (a)

1 The association may offer a person insured under this chapter a  
2 premium discount on a policy issued by the association, or a credit  
3 against any surcharge assessed against the person, if:

4 (1) the person elects a voluntary binding arbitration  
5 endorsement under Section 2210.555; or

6 (2) the construction, alteration, remodeling,  
7 enlargement, or repair of, or an addition to, insurable property  
8 exceeds applicable building code standards set forth in the plan of  
9 operation.

10 (b) The commissioner shall adopt rules necessary to  
11 implement and enforce this section.

12 SECTION 22. Section 2210.502, Insurance Code, is amended by  
13 adding Subsection (e) to read as follows:

14 (e) Notwithstanding Subsection (a), the maximum liability  
15 limit described by Section 2210.501(b)(1) may not exceed \$500,000  
16 if all or any part of the property on which the dwelling, including  
17 an individually owned townhouse, is located in a geographic area  
18 with a hazard associated with storm waves.

19 SECTION 23. The heading to Subchapter L, Chapter 2210,  
20 Insurance Code, is amended to read as follows:

21 SUBCHAPTER L. APPEALS AND OTHER ACTIONS; ARBITRATION

22 SECTION 24. Sections 2210.551(a) and (b), Insurance Code,  
23 are amended to read as follows:

24 (a) This section:

25 (1) does not apply to a person insured under this  
26 chapter who is required to resolve a dispute concerning the payment  
27 of, the amount of, or the denial of a particular claim under Section

1 2210.554 or who has elected to resolve the dispute as provided by  
2 Section 2210.555; and

3 (2) applies only to:

4 (A) [~~(1)~~] a person not described by Subdivision  
5 (1) who is insured under this chapter or an authorized  
6 representative of the person; or

7 (B) [~~(2)~~] an affected insurer.

8 (b) A person or entity described by Subsection (a)(2) [~~(a)~~]  
9 who is aggrieved by an act, ruling, or decision of the association  
10 may appeal to the commissioner not later than the 30th day after the  
11 date of that act, ruling, or decision.

12 SECTION 25. The heading to Section 2210.552, Insurance  
13 Code, is amended to read as follows:

14 Sec. 2210.552. CERTAIN CLAIM DISPUTES; VENUE AND NOTICE OF  
15 INTENT TO BRING ACTION.

16 SECTION 26. Section 2210.552, Insurance Code, is amended by  
17 amending Subsection (a) and adding Subsections (e) and (f) to read  
18 as follows:

19 (a) Except as provided by Sections 2210.007, [~~and~~]  
20 2210.106, 2210.554, and 2210.555, a person insured under this  
21 chapter who is aggrieved by an act, ruling, or decision of the  
22 association relating to the payment of, the amount of, or the denial  
23 of a claim may:

24 (1) after providing the association the notice  
25 required under Subsection (f), bring an action against the  
26 association, including an action under Chapter 541; or

27 (2) appeal the act, ruling, or decision under Section

1 2210.551.

2 (e) A person who brings an action against the association  
3 under this section:

4 (1) may recover the amount of actual damages, plus  
5 court costs and reasonable and necessary attorney's fees; and

6 (2) may not recover punitive or exemplary damages,  
7 including damages under Section 541.152(b).

8 (f) A person insured under this chapter who brings an action  
9 against the association in the manner described by Subsection  
10 (a)(1) may not bring the action until the 61st day after the date  
11 the person provides written notice to the association of the  
12 person's intent to dispute the association's handling of the  
13 person's claim. A notice provided under this section must advise  
14 the association of the insured's specific complaint concerning the  
15 handling of the person's claim.

16 SECTION 27. Subchapter L, Chapter 2210, Insurance Code, is  
17 amended by adding Sections 2210.553, 2210.554, and 2210.555 to read  
18 as follows:

19 Sec. 2210.553. LIMITATIONS PERIOD. Notwithstanding any  
20 other law, including Section 541.162, a person insured under this  
21 chapter who brings an action against the association in the manner  
22 described by Section 2210.552(a)(1) must bring the action not later  
23 than the second anniversary of the date of the act, ruling, or  
24 decision of the association by which the insured is aggrieved.

25 Sec. 2210.554. MANDATORY ARBITRATION OF CERTAIN COVERAGE  
26 AND CLAIM DISPUTES. (a) A dispute involving an act, ruling, or  
27 decision of the association relating to the payment of, the amount

1 of, or the denial of a claim based on a loss to insurable property  
2 that has a hazard associated with storm waves:

3 (1) must be resolved through binding arbitration in  
4 accordance with this section; and

5 (2) may not be resolved in the manner described by  
6 Section 2210.551 or 2210.552.

7 (b) A person insured under this chapter who is aggrieved by  
8 an act, ruling, or decision of the association relating to the  
9 payment of, the amount of, or the denial of a claim described by  
10 Subsection (a) may request binding arbitration of the person's  
11 grievance.

12 (c) A person insured under this chapter must request binding  
13 arbitration under this section not later than the later of the  
14 second anniversary of the date on which the damage or loss that is  
15 the basis of the particular claim occurs.

16 (d) The commissioner by rule shall establish procedures for  
17 the conduct of the arbitration of grievances under this section.  
18 The rules adopted under this subsection must:

19 (1) establish a procedure through which arbitrators  
20 may become certified to conduct arbitrations under this section;  
21 and

22 (2) require an arbitrator conducting an arbitration  
23 under this section to be certified by the department.

24 (e) In addition to the rules required under Subsection (d),  
25 the commissioner may adopt any other rules necessary to implement  
26 this section, including rules concerning the manner in which  
27 arbitrators may be chosen and the manner in which an arbitrator's

1 fees are to be paid under this section.

2 (f) The department shall make publicly available a list of  
3 arbitrators certified to conduct arbitrations under this section.

4 (g) Except to the extent of any conflict with this section,  
5 Chapter 171, Civil Practice and Remedies Code, applies to an  
6 arbitration conducted under this section.

7 Sec. 2210.555. VOLUNTARY ARBITRATION OF CERTAIN COVERAGE  
8 AND CLAIM DISPUTES. (a) A person insured under this chapter may  
9 elect to purchase a binding arbitration endorsement in a form  
10 prescribed by the commissioner. A person who elects to purchase an  
11 endorsement under this section must arbitrate a dispute involving  
12 an act, ruling, or decision of the association relating to the  
13 payment of, the amount of, or the denial of the claim.

14 (b) An arbitration under this section shall be conducted in  
15 the same manner as, and is governed by the same rules and deadlines  
16 as, an arbitration conducted under Section 2210.554.

17 SECTION 28. Section 2210.604, Insurance Code, is amended by  
18 amending Subsection (b) and adding Subsection (d) to read as  
19 follows:

20 (b) The association shall specify in the association's  
21 request to the board the maximum principal amount of the public  
22 securities and the maximum term of the public securities. The  
23 maximum principal requested under this subsection may not exceed  
24 the amount of public securities the association determines to be  
25 marketable.

26 (d) If the amount of marketable Class 1 public securities is  
27 insufficient to pay the excess losses for which the securities are



1 issued, marketable Class 2 public securities may be issued. If the  
2 amount of marketable Class 2 public securities is insufficient to  
3 pay the excess losses for which the securities are issued,  
4 marketable Class 3 public securities may be issued.

5 SECTION 29. Sections 2210.613(b), (c), and (d), Insurance  
6 Code, are amended to read as follows:

7 (b) Seventy percent of the cost of the public securities  
8 shall be paid by a ~~[nonrefundable]~~ premium surcharge collected  
9 under this section in an amount set by the commissioner. On  
10 approval by the commissioner, each insurer, the association, and  
11 the Texas FAIR Plan Association shall assess, as provided by this  
12 section, a premium surcharge to each policyholder of a policy that  
13 is in effect on or after the 180th day after the date the  
14 commissioner issues notice of the approval of the public securities  
15 ~~[its policyholders as provided by this section]~~. The premium  
16 surcharge must be set in an amount sufficient to pay, for the  
17 duration of the issued public securities, all debt service not  
18 already covered by available funds and all related expenses on the  
19 public securities.

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

1 catastrophe area. A premium surcharge under Subsection (b) applies  
2 to:

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

5 (A) fire and allied lines;

6 (B) farm and ranch owners;

7 (C) residential property insurance;

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

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

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

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

24 SECTION 30. Section 2210.6135(a), Insurance Code, is  
25 amended to read as follows:

26 (a) The association shall pay Class 3 public securities  
27 issued under Section 2210.074 as provided by this section through

1 member assessments. The association, for the payment of the  
2 losses, shall assess the members of the association an amount not to  
3 exceed \$500 million per occurrence or series of occurrences that  
4 results in insured losses in a calendar year [~~for the payment of the~~  
5 ~~losses~~]. The association shall notify each member of the  
6 association of the amount of the member's assessment under this  
7 section.

8 SECTION 31. (a) The commissioner of insurance shall  
9 appoint an advisory committee to advise the Texas Department of  
10 Insurance and Texas Windstorm Insurance Association concerning  
11 appropriate building code standards to be used by the association  
12 in the performance of its duties under Chapter 2210, Insurance  
13 Code. The commissioner shall designate one member of the committee  
14 to serve as the presiding officer of the committee.

15 (b) The commissioner of insurance shall ensure that the  
16 following groups or interests are represented on the advisory  
17 committee:

18 (1) insurers that write windstorm insurance in the  
19 private windstorm insurance market in this state;

20 (2) policyholders of windstorm insurance issued both  
21 by the association and by insurers in the private windstorm  
22 insurance market in this state; and

23 (3) building and construction professionals,  
24 including qualified inspectors appointed under Sections 2210.254  
25 and 2210.255, Insurance Code.

26 (c) The advisory committee shall submit a report to the  
27 association, for inclusion in the association's biennial report to

1 be submitted on or before December 31, 2012, under Section  
2 2210.0025, Insurance Code, containing recommendations concerning  
3 appropriate building code standards to be used by the association  
4 in the performance of its duties under Chapter 2210, Insurance  
5 Code.

6 (d) Chapter 2110, Government Code, does not apply to the  
7 size, composition, or duration of the advisory committee or to the  
8 appointment of the committee's presiding officer.

9 (e) The advisory committee shall meet at least once each  
10 year and may meet at other times at the call of the commissioner of  
11 insurance or the committee's presiding officer.

12 (f) The advisory committee may meet by telephone conference  
13 call, video conference call, or other similar audiovisual  
14 telecommunication.

15 (g) This section expires January 1, 2013.

16 SECTION 32. This Act applies only to a Texas windstorm and  
17 hail insurance policy, and a dispute arising under a Texas  
18 windstorm and hail insurance policy, delivered, issued for  
19 delivery, or renewed by the Texas Windstorm Association on or after  
20 the 30th day after the effective date of this Act. A Texas  
21 windstorm and hail insurance policy, and a dispute arising under a  
22 Texas windstorm and hail insurance policy, delivered, issued for  
23 delivery, or renewed by the Texas Windstorm Insurance Association  
24 before the 30th day after the effective date of this Act, are  
25 governed by the law in effect on the date the policy was delivered,  
26 issued for delivery, or renewed, and the former law is continued in  
27 effect for that purpose.

1           SECTION 33. The Texas Windstorm Insurance Association  
2 shall, not later than January 1, 2012, amend the association's plan  
3 of operation as necessary to conform to the changes in law made by  
4 this Act.

5           SECTION 34. This Act takes effect immediately if it  
6 receives a vote of two-thirds of all the members elected to each  
7 house, as provided by Section 39, Article III, Texas Constitution.  
8 If this Act does not receive the vote necessary for immediate  
9 effect, this Act takes effect September 1, 2011.