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

(c) This chapter also applies to:

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

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

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

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

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

No equivalent provision.

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SECTION 1. Same as House version.

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

(b) On a finding by the trier of fact that the defendant knowingly committed the act complained of, the trier of fact may award an amount not to exceed three times the amount of actual damages. [FA3,FA4(1),(2)]

SECTION 3. Section 542.052, Insurance Code, is amended to read as follows:

Sec. 542.052. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies to any insurer authorized to engage in business as an insurance company or to provide insurance in this state, including:

- (1) a stock life, health, or accident insurance company;
- (2) a mutual life, health, or accident insurance company;
- (3) a stock fire or casualty insurance company;
- (4) a mutual fire or casualty insurance company;

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- (5) a Mexican casualty insurance company;
 - (6) a Lloyd's plan;
 - (7) a reciprocal or interinsurance exchange;
 - (8) a fraternal benefit society;
 - (9) a stipulated premium company;
 - (10) a nonprofit legal services corporation;
 - (11) a statewide mutual assessment company;
 - (12) a local mutual aid association;
 - (13) a local mutual burial association;
 - (14) an association exempt under Section 887.102;
 - (15) a nonprofit hospital, medical, or dental service corporation, including a corporation subject to Chapter 842;
 - (16) a county mutual insurance company;
 - (17) a farm mutual insurance company;
 - (18) a risk retention group;
 - (19) a purchasing group;
 - (20) an eligible surplus lines insurer; and
 - (21) except as provided by Section 542.053(b), a guaranty association operating under Chapter 462 or 463.
- (b) This subchapter does not apply to the Texas Windstorm Insurance Association.

SECTION 3. The heading to Chapter 2210, Insurance Code, is amended to read as follows:

CHAPTER 2210. TEXAS COASTAL [~~WINDSTORM~~]
INSURANCE PLAN [~~ASSOCIATION~~]

No equivalent provision.

SECTION 4. Section 2210.002, Insurance Code, is amended to read as follows:

Sec. 2210.002. SHORT TITLE; SUNSET PROVISION. (a)

No equivalent provision.

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This chapter may be cited as the Texas Coastal [~~Windstorm~~] Insurance Plan [~~Association~~] Act. A reference to the Texas Windstorm Insurance Act means this chapter.

(b) The association is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The association shall be reviewed during the period in which state agencies abolished in 2013 [~~2015~~] are reviewed. The association shall pay the costs incurred by the Sunset Advisory Commission in performing the review of the association under this subsection. The Sunset Advisory Commission shall determine the costs of the review performed under this subsection, and the association shall pay the amount of those costs promptly on receipt of a statement from the Sunset Advisory Commission regarding those costs. This subsection expires September 1, 2013 [~~2015~~].

SECTION 5. Section 2210.003(1), Insurance Code, is amended to read as follows:

(1) "Association" means the Texas Coastal [~~Windstorm~~] Insurance Plan Association.

No equivalent provision.

SECTION 6. 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.

No equivalent provision.

SECTION 7. Subchapter A, Chapter 2210, Insurance Code, is amended by adding Sections 2210.0081, 2210.010, 2210.012,

SECTION 4. Subchapter A, Chapter 2210, Insurance Code, is amended by adding Sections 2210.0081 and 2210.010 to read

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and 2210.013 to read as follows:

Sec. 2210.0081. CERTAIN ACTIONS BROUGHT AGAINST ASSOCIATION BY COMMISSIONER. In an action brought by the commissioner against the association under Chapter 441:

(1) the association's inability to satisfy obligations under Subchapter M related to the issuance of public securities under this chapter constitutes a condition that makes the association's continuation in business hazardous to the public or to the association's policyholders for the purposes of Section 441.052;

(2) the time for the association to comply with the requirements of supervision or for the conservator to complete the conservator's duties, as applicable, is limited to three years from the date the commissioner commences the action against the association; and

(3) unless the commissioner takes further action against the association under Chapter 441, as a condition of release from supervision, the association must demonstrate to the satisfaction of the commissioner that the association is able to satisfy obligations under Subchapter M related to the issuance of public securities under this chapter.

Sec. 2210.010. APPLICABILITY OF CERTAIN OTHER LAW. (a) A person may not bring a private action against the association, including a claim against an agent or representative of the association, under Chapter 541 or 542.

(b) Chapter 542 does not apply to the processing and settlement of claims by the association.

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as follows:

Sec. 2210.0081. CERTAIN ACTIONS BROUGHT AGAINST ASSOCIATION BY COMMISSIONER. In an action brought by the commissioner against the association under Chapter 441:

(1) the association's inability to satisfy obligations under Subchapter M related to the issuance of public securities under this chapter constitutes a condition that makes the association's continuation in business hazardous to the public or to the association's policyholders for the purposes of Section 441.052;

(2) the time for the association to comply with the requirements of supervision or for the conservator to complete the conservator's duties, as applicable, is limited to three years from the date the commissioner commences the action against the association; and

(3) unless the commissioner takes further action against the association under Chapter 441, as a condition of release from supervision, the association must demonstrate to the satisfaction of the commissioner that the association is able to satisfy obligations under Subchapter M related to the issuance of public securities under this chapter.

Sec. 2210.010. CERTAIN CONDUCT IN DISPUTE RESOLUTION PROHIBITED. (a) For purposes of this

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section, "presiding officer" includes a judge, arbitrator, appraiser, or panel member.

(b) If a person insured under this chapter is assigned to act as presiding officer to preside over or resolve a dispute involving the association and another person insured under this chapter, the presiding officer shall, not later than the seventh day after the date of assignment, give written notice to the association and to each other party to the dispute, or the association's or other party's attorney, that the presiding officer is insured under this chapter.

(c) In a proceeding with respect to which the commissioner has authority to designate the presiding officer, the association or other party that receives notice under Subsection (b) may file with the commissioner a written objection to the assignment of the presiding officer to the dispute. The written objection must contain the factual basis on which the association or other party objects to the assignment.

(d) The commissioner shall assign a different presiding officer to the dispute if, after reviewing the objection filed under Subsection (c), the commissioner determines that the presiding officer originally assigned to the dispute has a direct financial or personal interest in the outcome of the dispute.

(e) The association or another party must file an objection under Subsection (c) not later than the earlier of:

(1) the seventh day after the date the association or other party receives actual notice that the presiding officer is insured under this chapter; or

(2) the seventh day before the date of the first proceeding concerning the dispute.

(f) The commissioner may, on a showing of good cause, extend the deadline to file an objection under Subsection (e).

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Sec. 2210.012. STANDARDS OF CONDUCT: BOARD OF DIRECTORS AND EMPLOYEES; REPORT OF CERTAIN FRAUDULENT CONDUCT. (a) A member of the board of directors or an employee of the association may not:

(1) accept or solicit any gift, favor, or service that might reasonably tend to influence the member or employee in the discharge of duties related to the operation or business of the association or that the member or employee knows or should know is being offered with the intent to influence the member's or employee's conduct related to the operation or business of the association;

(2) accept other employment or engage in a business or professional activity that the member or employee might reasonably expect would require or induce the member or employee to disclose confidential information acquired by reason of the member's or employee's position with the association;

(3) accept other employment or compensation that could reasonably be expected to impair the member's or employee's independence of judgment in the performance of the member's or employee's duties related to the operation or business of the association;

(4) make personal investments that could reasonably be expected to create a substantial conflict between the member's or employee's private interest and the interest of the association; or

(5) intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the member's or employee's powers related to the operation or business of the association or having performed, in favor of another, the member's or employee's duties related to the operation or business of the association.

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(b) An association employee who violates Subsection (a) or a code of conduct established under Section 2210.107(a)(4) is subject to an employment-related sanction, including termination of the employee's employment with the association.

(c) A member of the board of directors or an association employee who violates Subsection (a) is subject to any applicable civil or criminal penalty if the violation also constitutes a violation of another statute or rule.

(d) A board member, employee of the association, or member of the windstorm insurance legislative oversight board established under Subchapter N who reasonably suspects that a fraudulent insurance act has been or is about to be committed by any board member, employee of the association, or member of the windstorm insurance legislative oversight board established under Subchapter N shall, not later than the 30th day after discovering the conduct, report the conduct and identity of the person engaging in the conduct to the Travis County district attorney or the department.

Sec. 2210.013. CERTAIN EMPLOYMENT AND CONTRACTS PROHIBITED. A member of the board of directors or an employee of the association may not appoint or employ, or contract with, the following individuals for the provision of goods or services in connection with the operation or business of the association, if the individual to be appointed or employed, or with whom a contract is to be entered into, is to be directly or indirectly compensated from funds of the association:

(1) an individual related to the member or employee within a degree of relationship described by Section 573.002, Government Code; or

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(2) an individual related to any member of the board of directors or employee of the association within a degree of relationship described by Section 573.002, Government Code.

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

(c) The association may not be considered a debtor authorized to file a petition or seek relief in bankruptcy under Title 11, United States Code.

No equivalent provision.

No equivalent provision.

SECTION 9. Subchapter B, Chapter 2210, Insurance Code, is amended by adding Section 2210.058 to read as follows:

No equivalent provision.

SECTION 5. Section 2210.054(a), Insurance Code, is amended to read as follows:

(a) The association shall file annually with the department and the state auditor's office a statement covering periods designated by the department that summarizes the transactions, conditions, operations, and affairs of the association during the preceding year.

SECTION 6. Section 2210.056(c), Insurance Code, is amended to read as follows:

(c) On dissolution of the association, all assets of the association, other than assets pledged for the repayment of public securities issued under this chapter, revert to this state.

SECTION 7. Subchapter B, Chapter 2210, Insurance Code, is amended by adding Sections 2210.058, 2210.059, and 2210.061 to read as follows:

Sec. 2210.058. AUDIT OF ASSOCIATION. (a) The

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association is subject to audit by the state auditor and shall pay the costs incurred by the state auditor in performing an audit under this section.

(b) The association shall pay the costs described by Subsection (a) promptly after receipt of a statement from the state auditor's office regarding the amount of those costs.

Sec. 2210.058. CLAIMS PRACTICES AUDIT. (a) If the commissioner determines that 100 or more claims have been filed under association policies the bases of which are damage to insured property caused by the same storm, the department shall conduct a random audit of the claim files of those claims to:

(1) determine whether the association is adequately and properly documenting claims decisions in each claim file; and
(2) ensure that each claim is being handled appropriately, including being handled in accordance with the terms of the policy under which the claim is filed.

(b) The department shall conduct an audit required under this section as soon as possible after the filing of the 100th claim described by Subsection (a) to ensure the quality of the process with which the association is handling claims described by Subsection (a).

(c) If, following an audit conducted under this section, the commissioner determines that the association is not adequately and properly documenting claims decisions or that claims described by Subsection (a) are not otherwise being handled appropriately, the commissioner shall:

(1) notify the board of directors of that determination; and
(2) identify the manner in which the association should correct any deficiencies identified by the commissioner.

Sec. 2210.059. CLAIMS PRACTICES AUDIT. (a) If the commissioner determines that 1,000 or more claims have been filed under association policies the bases of which are damage to insured property caused by the same storm, the department shall conduct a random audit of the claim files of those claims to:

(1) determine whether the association is adequately and properly documenting claims decisions in each claim file; and
(2) ensure that each claim is being handled appropriately, including being handled in accordance with the terms of the policy under which the claim is filed.

(b) The department shall conduct an audit required under this section as soon as possible after the filing of the 1,000th claim described by Subsection (a) to ensure the quality of the process with which the association is handling claims described by Subsection (a).

(c) If, following an audit conducted under this section, the commissioner determines that the association is not adequately and properly documenting claims decisions or that claims described by Subsection (a) are not otherwise being handled appropriately, the commissioner shall:

(1) notify the board of directors of that determination; and
(2) identify the manner in which the association should correct any deficiencies identified by the commissioner.

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Sec. 2210.061. CONTRACTORS AND MANAGERIAL EMPLOYEES: COMPENSATION AND BONUSES. The association shall post on the association's Internet website any compensation, monetary or otherwise, and any bonus that, when aggregated, exceed \$100,000 in a 12-month period and that are paid or given by the association to:
(1) a vendor or independent contractor with whom the association has a contract; and
(2) an association employee who serves in a managerial capacity. [FA2(1),(2)]

SECTION 10. 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 11. 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

SECTION 8. Section 2210.071, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) Losses not paid under Subsection (b) shall be paid from the proceeds from public securities issued in accordance with this subchapter and Subchapter M and, notwithstanding Subsection (a), may be paid from the proceeds of public securities issued under Section 2210.072(a) before an occurrence or series of occurrences that results in insured losses. [FA1(1)]

SECTION 9. Section 2210.072, Insurance Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Losses not paid under Section 2210.071 shall be paid as

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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

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provided by this section from the proceeds from Class 1 public securities authorized to be issued in accordance with Subchapter M. On request of the association and approval by the commissioner, and subject to Subsection (a-2), Class 1 public securities may be issued under this section at any time during a calendar year, including before, on, or after an occurrence or series of occurrences that results in insured losses, if the association determines that insured losses in the calendar year have exceeded, or are likely to exceed, the amount available for the payment of losses under Section 2210.071(b).

(a-1) The commissioner by rule shall, subject to Subsection (a-2), establish, for each calendar year, the maximum principal amount in which public securities may be issued under this section before an occurrence or series of occurrences that results in insured losses. The commissioner shall consult the Texas Public Finance Authority when adopting rules under this subsection.

(a-2) [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 14 [10] years, and may be repaid sooner if the board of directors elects to do so and the commissioner approves. The amount of outstanding public securities issued under this section before an occurrence or series of occurrences that results in insured losses may not, in the aggregate, exceed \$1 billion at any one time, regardless of the calendar year or years in which the outstanding public securities were issued.

(b) Public securities described by Subsection (a):

(1) shall be issued as necessary in a principal amount not to

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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 12. 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.

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exceed \$1 billion in the aggregate whether for a single occurrence or a series of occurrences that takes place in a calendar ~~per~~ year and results in insured losses; and (2) may be issued, in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in the calendar year in which the occurrence or series of occurrences takes place, during the following calendar year. [FA2(3)-(7)]

SECTION 10. Section 2210.073, Insurance Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Public securities described by Subsection (a):
(1) may be issued as necessary in a principal amount not to exceed \$1 billion in the aggregate whether for a single occurrence or a series of occurrences that takes place in a calendar ~~per~~ year and results in insured losses; and
(2) may be issued, in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in the calendar year in which the occurrence or series of occurrences takes place, during the following calendar year.

(c) 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. [FA2(8)]

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SECTION 13. 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.

No equivalent provision.

SECTION 11. Section 2210.074, Insurance Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Public securities described by Subsection (a):
(1) may be issued as necessary in a principal amount not to exceed \$500 million in the aggregate whether for a single occurrence or a series of occurrences that takes place in a calendar ~~per~~ year and results in insured losses; and
(2) may be issued, in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in the calendar year in which the occurrence or series of occurrences takes place, during the following calendar year.

(c) 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. [FA2(9)]

SECTION 12. Section 2210.075, Insurance Code, is amended to read as follows:

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Sec. 2210.075. REINSURANCE. (a) Before any occurrence or series of occurrences, an insurer may elect to purchase reinsurance to cover an assessment for which the insurer would otherwise be liable under Section 2210.074(c) [~~2210.074(b)~~].
(b) An insurer must notify the board of directors, in the manner prescribed by the association whether the insurer will be purchasing reinsurance. If the insurer does not elect to purchase reinsurance under this section, the insurer remains liable for any assessment imposed under Section 2210.074(c) [~~2210.074(b)~~].

SECTION 14. Section 2210.102, Insurance Code, is amended by adding Subsection (i) to read as follows:

(i) Notwithstanding Subsection (f), for a vacancy occurring in a position under Subsection (b), the commissioner may appoint, for the lesser of 120 days or until the vacancy is filled, a person who has demonstrated knowledge in insurance principles. This subsection does not apply to a vacancy due to the expiration of a term occurring under Section 2210.103. This subsection expires December 31, 2012, and any appointment in effect on that date is continued until the expiration of the term of the appointment.

SECTION 13. Same as House version.

SECTION 15. Section 2210.104, Insurance Code, is amended to read as follows:

Sec. 2210.104. OFFICERS AND MANAGERIAL EMPLOYEES; SALARIES AND BONUSES. (a) The board of directors shall elect from the board's membership an executive committee consisting of a presiding officer,

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assistant presiding officer, and secretary-treasurer.

(b) The association shall post on the association's Internet website the salary of each association employee who serves in a managerial capacity and any bonuses paid to those association employees.

SECTION 16. Section 2210.105, Insurance Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1), (e), and (f) to read as follows:

(a) Except for an emergency meeting, the association shall:
(1) notify the department not later than the 11th day before the date of a meeting of the board of directors or of the members of the association; and

(2) not later than the seventh day before the date of a meeting of the board of directors, post notice of the meeting on the association's Internet website and the department's Internet website.

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

~~[(1) the commissioner or the commissioner's designated representative; and~~

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

(b-1) A meeting of the board of directors or the members of the association, including a closed meeting authorized by Subchapter D, Chapter 551, Government Code, is open to the commissioner or the commissioner's designated representative. The commissioner or the commissioner's designated representative shall maintain the confidentiality of, and may not disclose the content of, any confidential information discussed in a closed meeting authorized by

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SECTION 14. Section 2210.105, Insurance Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1), (e), and (f) to read as follows:

(a) Except for an emergency meeting, the association shall:
(1) notify the department not later than the 11th day before the date of a meeting of the board of directors or of the members of the association; and

(2) not later than the seventh day before the date of a meeting of the board of directors, post notice of the meeting on the association's Internet website and the department's Internet website.

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

~~[(1) the commissioner or the commissioner's designated representative; and~~

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

(b-1) The commissioner or the commissioner's designated representative may attend a meeting of the board of directors or the members of the association, including a closed meeting authorized by Subchapter D, Chapter 551, Government Code, except for those portions of a closed meeting that involve the rendition of legal advice to the board concerning a regulatory matter or that would constitute an ex parte communication with the commissioner.

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(e) The association shall:

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

(2) maintain on the association's Internet website an archive of meetings of the board of directors.

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

SECTION 17. Section 2210.107, Insurance Code, is amended to read as follows:

Sec. 2210.107. PRIMARY BOARD OBJECTIVES; REPORT. (a) The primary objectives of the board of directors are to ensure that the board and the association:

(1) operate [operates] in accordance with this chapter, the plan of operation, and commissioner rules;

(2) comply [complies] with sound insurance principles; [and]

(3) meet [meets] all standards imposed under this chapter;

(4) establish a code of conduct and performance standards for association employees and persons with which the association contracts; and

(5) establish, and adhere to terms of, an annual evaluation of association management necessary to achieve the statutory purpose, board objectives, and any performance or enterprise risk management objectives established by the board.

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(e) The association shall:

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

(2) archive the recording of a meeting until the second anniversary of the meeting.

(f) The presence of the commissioner or the commissioner's designated representative at a closed meeting does not waive or impair any privilege, including attorney-client privilege, that exists in statute or at common law.

SECTION 15. Section 2210.107, Insurance Code, is amended to read as follows:

Sec. 2210.107. PRIMARY BOARD OBJECTIVES; REPORT. (a) The primary objectives of the board of directors are to ensure that the association:

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

(2) complies with sound insurance principles; and

(3) meets all standards imposed under this chapter, including that claims against the association are promptly and fairly resolved.

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(b) Not later than June 1 of each year, the association shall submit to the commissioner, the legislative oversight board established under Subchapter N, the governor, the lieutenant governor, and the speaker of the house of representatives a report evaluating the extent to which the board met the objectives described by Subsection (a) in the 12-month period immediately preceding the date of the report.

SECTION 18. Subchapter C, Chapter 2210, Insurance Code, is amended by adding Section 2210.108 to read as follows:

Sec. 2210.108. OPEN MEETINGS AND OPEN RECORDS.

(a) Except as specifically provided by this chapter or another law, the association is subject to Chapters 551 and 552, Government Code.

(b) A settlement agreement to which the association is a party:

(1) is public information and is not exempted from required disclosure under Chapter 552, Government Code; and

(2) if applicable, must contain the name of any attorney or adjuster involved with the claim that is the basis of the settlement.

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(b) Every two months, the general manager of the association shall submit to the board a report evaluating the extent to which the association met the objectives described by Subsection (a) in the two-month period immediately preceding the date of the report.

(c) Not later than June 1 of each year, the association shall submit to the commissioner, the legislative oversight board established under Subchapter N, the governor, the lieutenant governor, and the speaker of the house of representatives a report evaluating the extent to which the board met the objectives described by Subsection (a) in the 12-month period immediately preceding the date of the report.

SECTION 16. Subchapter C, Chapter 2210, Insurance Code, is amended by adding Section 2210.108 to read as follows:

Sec. 2210.108. OPEN MEETINGS AND OPEN RECORDS.

(a) Except as specifically provided by this chapter or another law, the association is subject to Chapters 551 and 552, Government Code.

(b) Except as provided by Subsection (c), the following information is exempt from disclosure under Chapter 552, Government Code:

(1) a name, address, telephone number, tax identification number, social security number, or policy or claim number of a person insured under this chapter;

(2) policy information related to:

(A) insured amounts; or

(B) insured items that identify specific property or could reasonably be used to identify specific property;

(3) claim file information, including photographs and descriptive reports, that identifies specific property or could

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(c) Subsection (b) may not be construed to limit or otherwise restrict the categories of information that are public information under Section 552.022, Government Code.

SECTION 19. Section 2210.152, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) The plan of operation shall require the association to use the claim settlement guidelines published by the commissioner under Section 2210.577(f) in evaluating the extent to which a loss to insured property is incurred as a result of wind, waves, tidal surges, rising waters not caused by waves or surges, or wind-driven rain associated with a storm.

SECTION 20. Section 2210.202, Insurance Code, is amended to read as follows:

Sec. 2210.202. APPLICATION FOR COVERAGE. (a) A person who has an insurable interest in insurable property may apply to the association for insurance coverage provided under the plan of operation and an inspection of the property, subject

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reasonably be used to identify specific property; and
(4) other information that could be considered personally identifiable financial information.

(c) This section may not be construed to limit a request:
(1) by a person insured under this chapter, or the person's counsel, for information contained in that person's association policy or for claim information related to a loss claimed under that policy;
(2) by the commissioner or the department for information for a purpose authorized under this code, including for the purposes of developing and implementing incentive programs under Sections 2210.009(b) and 2210.053(b);
(3) for aggregate policy, coverage, and claims information; or
(4) for discovery in a judicial or administrative proceeding.

No equivalent provision.

SECTION 17. Section 2210.202, Insurance Code, is amended to read as follows:

Sec. 2210.202. APPLICATION FOR COVERAGE. (a) A person who has an insurable interest in insurable property may apply to the association for insurance coverage provided under the plan of operation and an inspection of the property, subject

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to any rules established by the board of directors and approved by the commissioner. The association shall make insurance available to each applicant in the catastrophe area whose property is insurable property but who, after diligent efforts, is unable to obtain property insurance through the voluntary market, as evidenced by one declination from an insurer authorized to engage in the business of, and writing, property insurance providing windstorm and hail coverage in the first tier coastal counties. For purposes of this section, "declination" has the meaning assigned by the plan of operation and shall include a refusal to offer coverage for the perils of windstorm and hail and the inability to obtain substantially equivalent insurance coverage for the perils of windstorm and hail. Notwithstanding Section 2210.203(c), evidence of one declination every three calendar years is also required with an application for renewal of an association policy.

(b) A property and casualty agent must submit an application for initial [the] insurance coverage on behalf of the applicant on forms prescribed by the association. A person insured under this chapter may submit an application for renewal coverage directly to the association on forms prescribed by the association. An [The] application for initial or renewal coverage must contain:

(1) a statement as to whether the applicant has submitted or will submit the premium in full from personal funds or, if not, to whom a balance is or will be due; and

(2) [~~Each application for initial or renewal coverage must also contain~~] a statement that the agent acting on behalf of the applicant possesses proof of the declination described by Subsection (a) and proof of flood insurance coverage or

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to any rules established by the board of directors and approved by the commissioner. The association shall make insurance available to each applicant in the catastrophe area whose property is insurable property but who, after diligent efforts, is unable to obtain property insurance through the voluntary market, as evidenced by one declination from an insurer authorized to engage in the business of, and writing, property insurance providing windstorm and hail coverage in the first tier coastal counties. For purposes of this section, "declination" has the meaning assigned by the plan of operation and shall include a refusal to offer coverage for the perils of windstorm and hail and the inability to obtain substantially equivalent insurance coverage for the perils of windstorm and hail. Notwithstanding Section 2210.203(c), evidence of one declination every three calendar years is also required with an application for renewal of an association policy.

(b) A property and casualty agent must submit an application for initial [the] insurance coverage on behalf of the applicant on forms prescribed by the association. The association shall develop a simplified renewal process that allows for the acceptance of an application for renewal coverage, and payment of premiums, from a property and casualty agent or a person insured under this chapter. An [The] application for initial or renewal coverage must contain:

(1) a statement as to whether the applicant has submitted or will submit the premium in full from personal funds or, if not, to whom a balance is or will be due; and

(2) [~~Each application for initial or renewal coverage must also contain~~] a statement that the agent acting on behalf of the applicant possesses proof of the declination described by Subsection (a) and proof of flood insurance coverage or

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unavailability of that coverage as described by Section 2210.203(a-1), regardless of whether the agent or the applicant submits the application for coverage.

SECTION 21. Section 2210.203, Insurance Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) If the association determines that the property for which an application for initial insurance coverage is made is insurable property, the association, on payment of the premium, shall direct the issuance of an insurance policy as provided by the plan of operation.

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unavailability of that coverage as described by Section 2210.203(a-1).

SECTION 18. Section 2210.203, Insurance Code, is amended by amending Subsections (a-1) and (c) and adding Subsections (a-2) and (a-3) to read as follows:

(a-1) [This subsection applies only to a structure constructed, altered, remodeled, or enlarged on or after September 1, 2009, and only for insurable property located in areas designated by the commissioner.] Notwithstanding Subsection (a), if all or any part of the property to be insured ~~[which this subsection applies]~~ is located in Zone V or another similar zone with an additional hazard associated with storm waves, as defined by the National Flood Insurance Program, or is a residential structure located in an area described by Section 2210.004(g)(2), [and if flood insurance under that federal program is available,] the association may not issue an insurance policy for initial or renewal coverage unless evidence is submitted to the association that the property to be covered under the policy is also covered by a flood insurance policy that has a deductible or self-insurance amount comparable to the association policy to be issued and that is issued under the National Flood Insurance Program or by an insurer in an aggregate amount that is:

(1) equal to or greater than the amount of coverage under the

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policy to be issued by the association; or
(2) equal to the maximum amount obtainable through the National Flood Insurance Program or an insurer.
(a-2) Subsection (a-1) does not apply to property for which flood insurance is not available under the National Flood Insurance Program [is submitted to the association].
(a-3) An agent offering or selling a Texas windstorm and hail insurance policy [in any area designated by the commissioner under this subsection] shall offer flood insurance coverage required under Subsection (a-1) to a [the] prospective insured, if that coverage is available.
(c) A policy is automatically [may be] renewed annually [on application for renewal] as long as the property continues to be insurable property.

(d) The commissioner shall adopt rules governing the rate of agent commissions on policies renewed under Subsection (c). Rules adopted under this subsection must require that commission rates be reasonable and not excessive, based on the time required of, and the nature of work to be performed by, an agent.

SECTION 22. Sections 2210.204(d) and (e), Insurance Code, are amended to read as follows:

(d) If an insured requests cancellation of the insurance coverage, the association shall refund the unearned premium, less any minimum retained premium set forth in the plan of operation, payable to the insured and the holder of an unpaid balance. The property and casualty agent who received a commission as the result of the issuance of an association policy providing the canceled coverage [submitted the application] shall refund the agent's commission on any

No equivalent provision.

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unearned premium in the same manner.

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

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

SECTION 23. Subchapter E, Chapter 2210, Insurance Code, is amended by adding Sections 2210.205 and 2210.210 to read as follows:

Sec. 2210.205. REQUIRED POLICY PROVISIONS: DEADLINE FOR FILING CLAIM; NOTICE CONCERNING **RESOLUTION OF CERTAIN DISPUTES.**

(a) A windstorm and hail insurance policy issued by the association must:

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

(2) contain, **in boldface type**, a conspicuous notice concerning the resolution of disputes under the policy, including:

(A) **the processes and deadlines for appraisal under Section 2210.575 and independent coverage review under Section 2210.576; and**

(B) **the necessity of complying with the requirements of**

SECTION 19. Subchapter E, Chapter 2210, Insurance Code, is amended by adding Sections 2210.205, 2210.210, and 2210.211 to read as follows:

Sec. 2210.205. REQUIRED POLICY PROVISIONS: DEADLINE FOR FILING CLAIM; NOTICE CONCERNING **DISPUTE RESOLUTION.**

(a) A windstorm and hail insurance policy issued by the association must:

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

(2) contain a conspicuous notice concerning the resolution of disputes under the policy, including:

(A) **describing the appraisal process under Section 2210.576;**

(B) **describing the alternative dispute resolution process under Section 2210.577; and**

(C) **stating that compliance with the provisions described by**

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Subchapter L-1 to seek administrative or judicial relief.

(b) The commissioner, on a showing of good cause by a person insured under this chapter, may extend the one-year period described by Subsection (a)(1) for a period not to exceed 180 days.

Sec. 2210.210. COVERAGE OF CERTAIN STRUCTURES PROHIBITED. The association may not issue coverage for the following structures, regardless of whether the structure is otherwise insurable property under this chapter:

(1) a wind turbine;

(2) a structure used primarily as a casino or other gambling establishment;

(3) a structure used as a sexually oriented business, as defined by Section 243.002, Local Government Code; or

(4) a structure in which, or in any portion of which, an establishment is located that is used primarily for the operation of video lottery machines, eight-liners, or other gambling devices, regardless of whether the gambling devices are regulated under state law.

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Paragraphs (A) and (B) is a condition precedent to seeking administrative relief under Subchapter L-1.

(b) The association shall extend the one-year period described by Subsection (a)(1) for an additional period not to exceed 120 days if, before the 120th day after the expiration of the one-year period, the insured shows good cause in a written request to the association.

Sec. 2210.210. COVERAGE OF CERTAIN STRUCTURES PROHIBITED. The association may not issue coverage for a wind turbine regardless of whether the turbine could otherwise be considered insurable property under this chapter.

Sec. 2210.211. PROOF OF OTHER COVERAGE REQUIRED FOR SETTLEMENT OF CERTAIN CLAIMS; CLAIMS PAYMENT LIMITED. (a) This section applies only to a claim filed under an association policy the issuance or renewal of which, under Section 2210.203(a-1), requires evidence of coverage by a flood insurance policy.

(b) The association may not pay or settle a portion of a claim filed under a policy described by Subsection (a) if:

(1) that portion of the claim is for damage that is covered by the flood insurance policy, if the required flood insurance

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coverage was in effect on the date the damage occurred; or (2) that portion of the claim is for damage that would have been covered by the flood insurance policy, if the required flood insurance coverage was not in effect on the date the damage occurred.

SECTION 24. Section 2210.254, Insurance Code, is amended by adding Subsection (e) to read as follows:

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

SECTION 25. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Section 2210.2551 to read as follows:

Sec. 2210.2551. EXCLUSIVE ENFORCEMENT AUTHORITY; RULES. (a) The department has exclusive authority over all matters relating to the appointment and oversight of qualified inspectors for purposes of this chapter.

(b) The commissioner by rule shall establish criteria to ensure that a person seeking appointment as a qualified inspector under this subchapter, including an engineer seeking appointment under Section 2210.255, possesses the knowledge, understanding, and professional competence to perform windstorm inspections under this chapter and to comply with other requirements of this chapter.

(c) Subsection (b) applies only to a determination concerning the appointment of a qualified inspector under this chapter. The exclusive jurisdiction of the department under this section does not apply to the practice of engineering as defined by Section 1001.003, Occupations Code, or to a license issued, qualification required, determination made, order issued,

SECTION 20. Same as House version.

SECTION 21. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Section 2210.2551 to read as follows:

Sec. 2210.2551. EXCLUSIVE ENFORCEMENT AUTHORITY; RULES. (a) The department has exclusive authority over all matters relating to the appointment and oversight of qualified inspectors for purposes of this chapter.

(b) The commissioner by rule shall establish criteria to ensure that a person seeking appointment as a qualified inspector under this subchapter, including an engineer seeking appointment under Section 2210.255, possesses the knowledge, understanding, and professional competence to perform windstorm inspections under this chapter and to comply with other requirements of this chapter.

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judgment rendered, or other action of a board operating under Chapter 1001, Occupations Code. In the event of conflict, the authority of that board prevails with regard to the practice of engineering.

SECTION 26. The heading to Section 2210.256, Insurance Code, is amended to read as follows:

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

SECTION 27. Section 2210.256, Insurance Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In addition to any other action authorized under this section, the commissioner ex parte may enter an emergency cease and desist order under Chapter 83 against a qualified inspector, or a person acting as a qualified inspector, if:

(1) the commissioner believes that:

(A) the qualified inspector has:

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

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

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

(2) the commissioner determines that the conduct described

SECTION 22. Same as House version.

SECTION 23. Same as House version.

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by Subdivision (1) is fraudulent or hazardous or creates an immediate danger to the public.

No equivalent provision.

SECTION 28. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Section 2210.260 to read as follows:

Sec. 2210.260. ALTERNATIVE ELIGIBILITY FOR COVERAGE. (a) On and after January 1, 2012, a person who has an insurable interest in a residential structure may obtain insurance coverage through the association for that structure without obtaining a certificate of compliance under Section 2210.251(g) in accordance with this section and rules adopted by the commissioner.

(b) The department may issue an alternative certification for a residential structure if the person who has an insurable interest in the structure demonstrates that at least one qualifying structural building component of the structure has been:

(1) inspected by a department inspector or by a qualified inspector; and

(2) determined to be in compliance with applicable building code standards, as set forth in the plan of operation.

(c) The commissioner shall adopt reasonable and necessary

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SECTION __. Section 2210.259, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) The commissioner by rule may provide for a discount of, or a credit against, a surcharge assessed under Subsection (a) in instances in which a policyholder demonstrates that the noncompliant structure was constructed with at least one structural building component that complies with the building code standards set forth in the plan of operation. [FA2(11)]

SECTION 24. Same as House version.

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rules to implement this section. The rules adopted under this section must establish which structural building components are considered qualifying structural building components for the purposes of Subsection (b), taking into consideration those items that are most probable to generate losses for the association's policyholders and the cost to upgrade those items.

(d) Except as provided in Section 2210.251(f), a person who has an insurable interest in a residential structure that is insured by the association as of January 1, 2012, but for which the person has not obtained a certificate of compliance under Section 2210.251(g), must obtain an alternative certification under this section before the association, on or after January 1, 2013, may renew coverage for the structure.

(e) Each residential structure for which a person obtains an alternative certification under this section must comply with:

(1) the requirements of this chapter, including Section 2210.258; and

(2) the association's underwriting requirements, including maintaining the structure in an insurable condition and paying premiums in the manner required by the association.

(f) The association shall develop and implement an actuarially sound rate, credit, or surcharge that reflects the risks presented by structures with reference to which alternative certifications have been obtained under this section. A rate, credit, or surcharge under this subsection may vary based on the number of qualifying structural building components included in a structure with reference to which an alternative certification is obtained under this section.

No equivalent provision.

SECTION 25. The heading to Subchapter H, Chapter 2210,

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Insurance Code, is amended to read as follows:
SUBCHAPTER H. RATES; DISCOUNTS AND CREDITS

No equivalent provision.

SECTION 26. Sections 2210.355(b) and (g), Insurance Code, are amended to read as follows:

(b) In adopting rates under this chapter, the following must be considered:

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

(2) expenses of operation, including acquisition costs;

(3) a reasonable margin for profit and contingencies;

(4) payment of public security obligations for Class 1 public securities issued under this chapter, including the additional amount of any debt service coverage determined by the association to be required for the issuance of marketable public securities; and

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

(g) A commission paid to an agent for a windstorm and hail insurance policy issued by the association must comply with the commission structure approved by the commissioner under Section 2210.356 and be reasonable, adequate, not unfairly discriminatory, and nonconfiscatory.

No equivalent provision.

SECTION 27. Subchapter H, Chapter 2210, Insurance Code, is amended by adding Section 2210.356 to read as follows:

Sec. 2210.356. AGENT COMMISSIONS. (a) The commissioner, after receiving a recommendation from the board, shall approve a commission structure for payment of an

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agent who submits an application for coverage to the association on behalf of a person who has an insurable interest in insurable property.

(b) The commission structure adopted by the commissioner must be fair and reasonable, taking into consideration the amount of work performed by an agent in submitting an application to the association and the prevailing commission structure in the private windstorm insurance market.

No equivalent provision.

SECTION 28. 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) The association may offer a person insured under this chapter an actuarially justified premium discount on a policy issued by the association, or an actuarially justified credit against a surcharge assessed against the person, other than a surcharge assessed under Subchapter M, if the construction, alteration, remodeling, enlargement, or repair of, or an addition to, insurable property exceeds applicable building code standards set forth in the plan of operation.

(b) The association shall offer a person insured under this chapter an actuarially justified premium discount on a policy issued by the association, or an actuarially justified credit against a surcharge assessed against the person, other than a surcharge assessed under Subchapter M, if, in the policy period immediately preceding the policy period for which the premium is paid, the person chose binding arbitration offered by the association under Section 2210.553.

(c) The commissioner shall adopt rules necessary to implement and enforce this section.

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No equivalent provision.

SECTION 29. Chapter 2210, Insurance Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. EXPERT PANEL

Sec. 2210.401. FUNDING AND RESOURCES. (a) At the request of the commissioner, the association shall provide the funds and resources necessary to implement Section 2210.402, including:

(1) employing or retaining persons to perform the functions necessary or proper under Section 2210.402;

(2) providing administrative assistance and services, including planning, contracting, and purchasing; and

(3) providing computer equipment and support.

(b) A person or entity employed or retained under Subsection (a) acts solely under the direction of, and performs duties assigned by, the commissioner.

Sec. 2210.402. EXPERT PANEL. (a) This section applies only to losses concurrently caused by wind and tidal surges in which no substantial portion of an insured structure, other than the foundation of the structure, remains.

(b) The commissioner shall appoint a panel of experts to advise the association concerning the extent to which a loss to insurable property that is described by Subsection (a) was caused by wind and tidal surges. The panel consists of the number of experts determined by the commissioner, and the commissioner shall appoint one member of the panel to serve as the presiding officer of the panel.

(c) Members of the panel must have professional expertise in, and be knowledgeable concerning, the geography and meteorology of the seacoast territory as well as the scientific basis for determining the extent to which a loss is caused by wind and tidal surges. The areas of expertise of the panel members may include structural engineering, hydrology,

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statistical science, actuarial science, claims adjusting, and other areas of expertise determined to be necessary and advisable by the commissioner.

(d) The panel shall meet at the request of the commissioner or the call of the presiding officer of the panel.

(e) The panel shall investigate, collect, and evaluate the information necessary to provide recommendations under Subsection (f).

(f) At the request of the commissioner, the panel shall recommend to the commissioner methods or models for determining the extent to which a loss to insurable property may be or was caused by wind and tidal surges with respect to any weather-related event for geographic areas or regions designated by the commissioner. The panel shall, at the request of the commissioner, develop both pre-event and post-event methods or models for determining the extent to which a loss to insurable property may be or was caused by wind and tidal surges. The methods or models developed by the panel shall provide guidance to the commissioner on the issue of whether loss to insurable property resulting from a weather-related event may be or has been caused by wind and tidal surges. The methods or models must be based on sound scientific principles.

(g) After consideration of the recommendations made by the panel under Subsection (f), the commissioner shall publish guidelines that the association will use to settle or pay a claim based on a loss described by this section.

Sec. 2210.403. RULES. The commissioner may adopt rules as necessary to implement this subchapter.

No equivalent provision.

SECTION 30. Section 2210.452(c), Insurance Code, is

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amended to read as follows:

(c) At the end of each calendar year or policy year, the association shall use the net gain from operations of the association, including all premium and other revenue of the association in excess of incurred losses, ~~and~~ operating expenses, public security obligations, and public security administrative expenses, to make payments to the trust fund, to procure reinsurance, or to make payments to the trust fund and to procure reinsurance.

No equivalent provision.

SECTION 31. The heading to Section 2210.453, Insurance Code, is amended to read as follows:

Sec. 2210.453. RISK TRANSFER FINANCING;
REINSURANCE.

SECTION 29. Section 2210.453, Insurance Code, is amended by adding Subsections (c) and (d) to read as follows:

SECTION 32. Section 2210.453, Insurance Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) Not later than January 1 of each year, to establish the solvency level required under this chapter, the board of directors shall determine the association's current probable maximum loss, based on an average of at least two recognized catastrophe models, as follows:

(1) for calendar years 2011 and 2012, at not less than a one in 50 year occurrence;

(2) for calendar year 2013, at not less than a one in 75 year occurrence; and

(3) for each calendar year after calendar year 2013, at not less than a one in 100 year occurrence.

(d) The board of directors shall, on January 1 of each year, develop a plan to obtain pre-event risk transfer financing from

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(c) If the association does not purchase reinsurance as authorized by this section, the board, not later than June 1 of each year, shall submit to the commissioner, the legislative oversight board established under Subchapter N, the governor, the lieutenant governor, and the speaker of the house of representatives a report containing an actuarial plan for paying losses in the event of a catastrophe with estimated damages of \$2.5 billion or more. The report **required by** this subsection **must:**

(1) document and denominate the association's resources

private sector sources determined by the board of directors to be reasonable and appropriate to the association's risk of loss and in an amount sufficient to maintain the claims paying ability of the association in the event of a catastrophe with estimated damages of \$2.5 billion or more. The plan submitted under this subsection is for informational purposes only and does not bind the association to a particular course of action. The plan shall, at a minimum, include:

(1) a certification to the governor, lieutenant governor, speaker of the house of representatives, and commissioner stating whether or not the required solvency level of the association is satisfied for that calendar year;

(2) an analysis of the claims paying ability of the association both with and without reliance upon borrowing authorized by this chapter;

(3) consideration of the costs, availability, and effects of reinsurance, bonds, and other risk transfer financing mechanisms;

(4) the likelihood and maximum size of assessments authorized by this chapter; and

(5) the probability of exhausting the association's financial resources.

(e) If the association does not purchase reinsurance as authorized by this section, the board, not later than June 1 of each year, shall submit to the commissioner, the legislative oversight board established under Subchapter N, the governor, the lieutenant governor, and the speaker of the house of representatives a report containing an actuarial plan for paying losses in the event of a catastrophe with estimated damages of \$2.5 billion or more. The report **submitted under** this subsection **is for informational purposes only and does not bind the association to a particular course of action.**

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available to pay claims, including cash or other highly liquid assets, assessments that the association is projected to impose, pre-event and post-event bonding capacity, and private-sector recognized risk-transfer mechanisms, including catastrophe bonds and reinsurance;

(2) include an independent, third-party appraisal of the likelihood of an assessment, the maximum potential size of the assessment, and an estimate of the probability that the assessment would not be adequate to meet the association's needs; and

(3) include an analysis of financing alternatives to assessments that includes the costs of borrowing and the consequences that additional purchase of reinsurance, catastrophe bonds, or other private-sector recognized risk-transfer instruments would have in reducing the size or potential of assessments.

(d) A person who prepares a report required by Subsection (c) may not contract to provide any other service to the association, except for the preparation of similar reports, before the third anniversary of the date the last report prepared by the person under that subsection is submitted.

SECTION 30. Subchapter J, Chapter 2210, Insurance Code, is amended by adding Section 2210.455 to read as follows:
Sec. 2210.455. CATASTROPHE PLAN. (a) Not later than June 1 of each year, the board shall submit to the commissioner, the legislative oversight board established under Subchapter N, the governor, the lieutenant governor, and the speaker of the house of representatives a catastrophe plan covering the period beginning on the date the plan is submitted and ending on the following May 31.

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(b) The catastrophe plan must:

(1) describe the manner in which the association will, during the period covered by the plan, evaluate losses and process claims after the following windstorms affecting an area of maximum exposure to the association:

(A) a windstorm with a four percent chance of occurring during the period covered by the plan;

(B) a windstorm with a two percent chance of occurring during the period covered by the plan; and

(C) a windstorm with a one percent chance of occurring during the period covered by the plan; and

(2) include, if the association does not purchase reinsurance under Section 2210.453 for the period covered by the plan, an actuarial plan for paying losses in the event of a catastrophe with estimated damages of \$2.5 billion or more.

(c) The catastrophe plan must include a description of how losses under association policies will be paid, and how claims under association policies will be administered and adjusted, during the period covered by the plan.

No equivalent provision.

SECTION 33. Section 2210.502, Insurance Code, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding Subsection (a), the maximum liability limit described by Section 2210.501(b)(1) may not exceed \$1.5 million.

No equivalent provision.

SECTION 34. The heading to Subchapter L, Chapter 2210, Insurance Code, is amended to read as follows:

SUBCHAPTER L. CERTAIN APPEALS AND OTHER ACTIONS

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SECTION 31. Sections 2210.551(a) and (b), Insurance Code, are amended to read as follows:

(a) This section:

(1) does not apply to a person who is required to resolve a dispute under Subchapter L-1; and

(2) applies only to:

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

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

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

SECTION 32. The heading to Section 2210.552, Insurance Code, is amended to read as follows:

Sec. 2210.552. [~~CLAIM~~] DISPUTES OTHER THAN CLAIM DISPUTES; VENUE.

SECTION 33. Section 2210.552, Insurance Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

SECTION 35. Sections 2210.551(a) and (b), Insurance Code, are amended to read as follows:

(a) This section:

(1) does not apply to:

(A) a claimant who has made a claim, as those terms are defined by Section 2210.571; or

(B) a person insured under this chapter who has elected binding arbitration offered by the association under Section 2210.553; and

(2) applies only to:

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

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

(b) A person or entity described by Subsection (a)(2) [~~+~~] who is aggrieved by an act, ruling, or decision of the association may appeal to the commissioner not later than the 30th day after the date of that act, ruling, or decision. [FA9(1)]

SECTION 36. The heading to Section 2210.552, Insurance Code, is amended to read as follows:

Sec. 2210.552. CERTAIN [~~CLAIM~~] DISPUTES; VENUE AND NOTICE OF INTENT TO BRING ACTION. [FA9(2)]

SECTION 37. Section 2210.552, Insurance Code, is amended by amending Subsection (a) and adding Subsections (e) and (f) to read as follows:

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(a) Except as provided by Sections 2210.007 and 2210.106 and Subchapter L-1, a person insured under this chapter who is aggrieved by an act, ruling, or decision of the association [relating to the payment of, the amount of, or the denial of a claim] may:

(1) bring an action against the association [, including an action under Chapter 541]; or

(2) appeal the act, ruling, or decision under Section 2210.551.

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

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

(2) may not recover consequential, punitive, or exemplary damages, including damages under Section 541.152(b) of this code or Section 17.50, Business & Commerce Code.

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(a) Except as provided by Sections 2210.007 and 2210.106 and subject to Subsection (e), a person insured under this chapter who is aggrieved by an act, ruling, or decision of the association relating to the payment of, the amount of, or the denial of a claim may:

(1) after providing the association the notice that meets the requirements of Section 541.154, bring an action against the association, including an action under Chapter 541; or

(2) if applicable, appeal the act, ruling, or decision under Section 2210.551.

(e) This subchapter provides the exclusive remedies for a claimant to resolve a dispute with the association concerning the payment of, the amount of, or the denial of a claim. A claimant may not bring an action against the association concerning the payment of, the amount of, or the denial of a claim before exhausting all remedies under Subchapter L-1 and 2210.578. If a claimant brings an action against the association concerning the payment of, the amount of, or the denial of a claim before exhausting all remedies under that subchapter, the court shall abate the action until all remedies under that subchapter have been exhausted. For purposes of this subsection, "claim" and "claimant" have the meanings assigned by Section 2210.571.

(f) A claimant who prevails in an action against the association under this section:

(1) may recover:

(A) the relief described in Sections 541.152(a) and 2210.575; and

(B) prejudgment interest; and

(2) may recover damages under Section 541.152(b) or under Section 17.50, Business & Commerce Code, not to exceed two times the amount of actual damages, only if the claimant

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proves by clear and convincing evidence that the association knowingly or intentionally committed an act prohibited by Chapter 541 as an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.
[FA3,FA4(3);FA9(3)]

SECTION 34. Subchapter L, Chapter 2210, Insurance Code, is amended by adding Section 2210.553 to read as follows:

SECTION 38. Subchapter L, Chapter 2210, Insurance Code, is amended by adding Sections 2210.553 and 2210.554 to read as follows:

Sec. 2210.553. VOLUNTARY ARBITRATION OF CERTAIN COVERAGE AND CLAIM DISPUTES. (a) If a person insured under this chapter has a dispute with the association involving an act, ruling, or decision of the association relating to the payment of, the amount of, or the denial of a claim filed by the person, the association may offer to the person that the association and the person resolve the dispute through binding arbitration.
(b) An arbitration under this section shall be conducted in the manner and under rules and deadlines prescribed by the commissioner by rule.

Sec. 2210.553. LIMITATIONS PERIOD. (a) Notwithstanding any other law, including Section 541.162, a person insured under this chapter who brings an action against the association in the manner described by Section 2210.552(a)(1) must bring the action not later than the second anniversary of the date of the act, ruling, or decision of the association by which the insured is aggrieved.
(b) This section is a statute of repose and controls over any other applicable limitations period.

Sec. 2210.554. LIMITATIONS PERIOD. Notwithstanding any other law, including Section 541.162, a person insured under this chapter who brings an action against the association must bring the action not later than the second anniversary of the date of the act, ruling, or decision of the association by which the insured is aggrieved.

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SECTION 35. Chapter 2210, Insurance Code, is amended by adding Subchapter L-1 to read as follows:

SUBCHAPTER L-1. CLAIMS: SETTLEMENT AND DISPUTE RESOLUTION

Sec. 2210.571. DEFINITIONS. In this subchapter:

(1) "Association policy" means a windstorm and hail insurance policy issued by the association.

(2) "Causation dispute" means a dispute involving the extent to which damage to property insured under an association policy was caused by an event or peril covered under the policy.

(3) "Claim" means a request for payment under an association policy. The term also includes any other claim against the association, or an agent or representative of the association, relating to an insured loss, under any theory or cause of action of any kind, regardless of the theory under which the claim is asserted, the cause of action brought, or the type of damages sought.

(4) "Claimant" means a person who makes a claim.

(5) "Coverage dispute" means a dispute that involves whether, or the extent to which, an association policy covers damages to property alleged to be insured under the policy. The term does not include a causation dispute.

(6) "Damage dispute" means a dispute that involves the extent of damage to property, or the cost of repairing or replacing property, insured under an association policy. The term does not include a causation dispute or coverage dispute.

Sec. 2210.572. EXCLUSIVE REMEDIES AND LIMITATION ON AWARD. (a) This subchapter provides the exclusive remedies for a claim against the association, including an agent or representative of the association.

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SECTION 39. Chapter 2210, Insurance Code, is amended by adding Subchapter L-1 to read as follows:

SUBCHAPTER L-1. CLAIMS: SETTLEMENT, APPRAISAL, AND DISPUTE RESOLUTION

Sec. 2210.571. DEFINITIONS. In this subchapter:

(1) "Association policy" means a windstorm and hail insurance policy issued by the association.

(2) "Claim" means a request for payment under an association policy following damage to property insured under the policy.

(3) "Claimant" means a person who makes a claim.

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(b) The association or an agent or representative of the association may not be held liable for any amount on a claim other than:

(1) amounts payable under the terms of the association policy for loss to an insured structure, loss to contents of an insured structure, and additional living expenses; and

(2) any costs and fees awarded under Section 2210.578.

(c) The association or an agent or representative of the association may not be held liable for damages under Chapter 17, Business & Commerce Code, or under any provision of any law providing for trebling of damages or a penalty.

Sec. 2210.573. FILING OF CLAIM; CLAIM PROCESSING.

(a) Subject to Section 2210.205(b), an insured must file a claim under an association policy not later than the first anniversary of the date on which the damage to property that is the basis of the claim occurs.

(b) Except as provided by Subsection (d), not later than the 90th day after the date the association receives a claim, the association shall:

(1) notify the claimant in writing of the amount of money, if any, the association will pay the claimant for the claim; and

(2) provide the claimant with:

(A) a detailed description of the assumptions or estimates used by the association in determining the amount of the claim to be paid, including the estimated labor and materials

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Sec. 2210.572. FILING OF CLAIM. Subject to Section 2210.205(b), an insured must file a claim under an association policy not later than the first anniversary of the date on which the damage to property that is the basis of the claim occurs.

Sec. 2210.573. RECEIPT OF NOTICE OF CLAIM. (a) Subject to the good cause extension to which a claimant is entitled under Section 2210.205(b), an insured must file a claim under an association policy not later than the first anniversary of the date on which the damage to property that is the basis of the claim occurs.

(b) Not later than the 30th day after the date the association receives notice of a claim, the association shall:

(1) acknowledge receipt of the claim;

(2) commence any investigation of the claim; and

(3) request from the claimant all items, statements, and forms that the association reasonably believes, at that time, will be required from the claimant.

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required and the estimated prices for the labor and materials;
or

(B) if the association determines that, in whole or in part, the property damaged is not insured under the association policy, or that the property insured under the association policy was damaged by an event or peril not covered by the association policy, a detailed description of the factual and legal basis on which the association determined that a coverage or causation dispute exists concerning all or part of the claim.

(c) If the association does not notify the claimant within the period required by Subsection (b), the claim is presumed to be covered by the association policy.

(d) The association may extend the 90-day period described by Subsection (b) for a period not to exceed 90 days, if, before the end of the 90-day period described by Subsection (b), the association determines that special circumstances require an extension of the 90-day period described by Subsection (b) and notifies the claimant in writing of that determination and those circumstances.

(e) If a claimant fails to submit information necessary for the association to determine whether to pay a claim or any portion of a claim or to deny payment of a claim or any portion of a claim, the association shall, not later than the 15th day after the date the association receives notice of the claim, request in writing any necessary information from the claimant.

For good cause, the association may make a request for additional information under this subsection not later than the 30th day after the date the association receives notice of a claim. If the association makes a written request for information, the applicable period described by Subsection (b) or (d) is tolled from the date the association requests the

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(b) The association may make additional requests for information if during the investigation of the claim the additional requests are necessary.

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information until the date the association receives from the claimant information responsive to the request.

(f) In addition to the notice and information otherwise required under this section, the association shall notify a claimant of the time limits under Section 2210.574 to request review of the association's determination under Subsection (e).

Sec. 2210.574. REQUEST FOR REVIEW OF ASSOCIATION DETERMINATION. (a) A claimant aggrieved by a determination of the association under Section 2210.573 may, not later than the 30th day after the date the claimant receives the association's determination, request in writing a review of the determination. A claimant may submit written comments, documents, records, and other information to the association with or following the request for review.

(b) The association shall, on request and free of charge, provide a claimant requesting review of an association determination under Subsection (a) reasonable access to all information relevant to the determination of the association that is being reviewed. The claimant may copy the information at the claimant's own cost or may request the association to provide a copy of all or part of the information to the claimant. The association may charge a claimant the actual cost incurred by the association in providing a copy of information under this section, excluding any amount for labor involved in making any information or copy of information available to a claimant.

(c) Not later than the 60th day after the date the association receives a request for review under Subsection (a), the association shall notify the claimant in writing of the outcome

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(c) If the acknowledgment of receipt of a claim is not made in writing, the association shall make a record of the date, manner, and content of the acknowledgment.

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of the association's review. The association and the claimant may agree to extend the 60-day period described by this subsection.

(d) The association's notice to the claimant of the outcome of the association's review must be in writing, contain the reasons for the outcome, and notify the claimant of the time limits to request, as applicable, appraisal under Section 2210.575 or review by an independent review panel under Section 2210.576.

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Sec. 2210.574. NOTICE OF ACCEPTANCE OR REJECTION OF CLAIM. (a) Except as provided by Subsection (c), the association shall notify a claimant in writing of the acceptance or rejection of a claim not later than the 30th day after the date the association receives all items, statements, and forms required by the association to secure final proof of loss.

(b) If the association rejects the claim, the notice required by Subsection (a) must state the reasons for the rejection.

(c) If the association is unable to accept or reject the claim within the period specified by Subsection (a), the association, within that same period, shall notify the claimant of the reasons that the association needs additional time. The association shall accept or reject the claim not later than the 30th day after the date the association notifies a claimant under this subsection.

Sec. 2210.575. PAYMENT OF CLAIM; DELAY IN PAYMENT OF CLAIM; INTEREST ON CLAIM. (a) Except as provided by Subsection (b) or (e), if the association notifies a claimant under Section 2210.574 that the association will pay a claim or part of a claim, the association shall pay the claim not later than the 10th day after the date notice is

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made.

(b) Except as provided by Subsection (e), if payment of the claim or part of the claim is conditioned on the performance of an act by the claimant, the association shall pay the claim not later than the 10th day after the date the act is performed.

(c) Except as otherwise provided, if the association, after receiving all items, statements, and forms reasonably requested and required under Section 2210.573, delays payment of the claim for more than 60 days, the association shall pay damages and other items as provided by Subsection (f).

(d) Subsection (c) does not apply in a case in which it is finally determined, in accordance with this subchapter, that a claim received by the association is invalid and should not be paid by the association.

(e) If the association does not have sufficient cash on hand or available in the catastrophe reserve trust fund to comply with this section, the commissioner by rule may extend the periods described by Subsections (a), (b), and (c) by an additional period not to exceed 120 days.

(f) If the association is liable for a claim under an association policy and does not comply with the deadlines prescribed under Subsection (a), (b), or (c) or any extension of those deadlines under Subsection (e), or with Section 2210.573 or 2210.574, the association is liable to pay the claimant, in addition to the amount of the claim, interest on the amount of the claim at the rate of 18 percent a year as damages. A claimant may bring an action as described by Section 2210.578 to enforce this subsection.

Sec. 2210.5751. EXTENSION OF CERTAIN DEADLINES. In the event of a weather-related catastrophe or major natural

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Sec. 2210.575. APPRAISAL IN DAMAGE DISPUTES.

(a) If, after review of an association determination under Section 2210.574, a damage dispute exists with reference to a claim filed under an association policy, but a coverage or causation dispute does not exist with reference to that claim, the claimant may request appraisal of the extent of damage to the property, or the cost of repairing or replacing the property, insured under the policy.

(b) A claimant must make a written request for appraisal not later than the 30th day after the date the claimant receives actual or constructive notice of the outcome of the association's review of a determination under Section 2210.574 that is the basis of the damage dispute.

If a claimant, on a showing of good cause and not later than the 60th day after the expiration of the 30-day period described by this subsection, requests in writing that the 30-day period to request appraisal be extended, the commissioner may grant an additional 30-day period in which the claimant may request appraisal.

(c) If a claimant requests appraisal under Subsection (b), the claimant and the association shall resolve the damage dispute through appraisal, in accordance with the terms of the association policy. The results of the appraisal:

(1) are binding on the claimant and the association and are subject to appeal and judicial review only in the manner

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disaster, as defined by the commissioner, the claim-handling deadlines under Sections 2210.573, 2210.574, and 2210.575 are extended for an additional 15 days.

Sec. 2210.576. DISPUTES CONCERNING AMOUNT OF LOSS.

(a) If a claimant disputes the amount of loss determined by the association, the claimant or the association may resolve that dispute by, not later than the 60th day after the date the claimant receives the notice from the association that gives rise to the dispute, requesting appraisal in accordance with the terms of the insurance policy.

(b) The 60-day period described by Subsection (a) may be extended for:

(1) an agreed period of time by mutual consent of the claimant and the association; or

(2) 30 days by the claimant if, before the expiration of the 60-day period described by Subsection (a), the claimant is unable to retain an appraiser and provides written notice of that inability to the association.

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provided by Section 2210.578; and

(2) become final and appealable on the 15th day after the date the appealing party receives actual or constructive notice of the results.

(d) A request for appraisal, and participation in the appraisal process, under this section is a condition precedent to contesting a determination made by the association concerning the extent of damage to property, or the cost of repairing or replacing property, insured under an association policy. A claimant who does not request appraisal within the applicable period described by Subsection (b) waives the claimant's right to contest a determination of the association concerning the extent of damage to property, or the cost of repairing or replacing property, insured under an association policy.

(e) If a claimant requests appraisal under this section, the claimant is responsible for paying any costs incurred or charged by an appraiser retained by and on behalf of the claimant, the association is responsible for paying any costs incurred or charged by an appraiser retained by and on behalf of the association, and the claimant and the association are responsible in equal shares for any costs incurred or charged by any other appraiser chosen by the claimant's and the association's appraisers to participate in the resolution of the dispute.

(f) The commissioner by rule shall establish policies and procedures for an appraisal requested and conducted under this section.

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(c) If a claimant or the association requests appraisal under this section, the claimant is responsible for paying any costs incurred or charged by an appraiser retained by and on behalf of the claimant, the association is responsible for paying any costs incurred or charged by an appraiser retained by and on behalf of the association, and the claimant and the association are responsible in equal shares for any costs incurred or charged by any umpire.

(d) Except as provided by Subsection (b), if the association or a claimant does not demand appraisal before the expiration of the 60-day period described by Subsection (a), the association or claimant, as applicable, waives the right to have the amount

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of loss determined by appraisal.

(e) This section applies only to disputes regarding the amount of loss and does not apply to disputes regarding the association's determination concerning coverage for a claim or causation of damage to property insured under an association policy that is the basis of a claim.

(f) The appraisal decision is binding on the claimant and the association as to the amount of loss and is subject to review only if the claimant brings an action against the association as described by Section 2210.578.

Sec. 2210.576. REVIEW BY INDEPENDENT REVIEW PANEL. (a) If, after review of an association determination under Section 2210.574, a coverage or causation dispute exists with reference to a claim filed under an association policy, the claimant may seek resolution of all disputes concerning the claim, including a damage dispute, through review by an independent review panel.

(b) A claimant must make a written request, mailed or served on the association or the commissioner, for review by an independent review panel not later than the 30th day after the date the claimant receives actual or constructive notice of the outcome of the association's review of a determination under Section 2210.574 that is the basis of the causation, coverage, or damage dispute. If a claimant mails or serves a request for review by an independent review panel, the association shall immediately forward the request for review to the commissioner.

Sec. 2210.577. ALTERNATE DISPUTE RESOLUTION. (a) If a claimant disputes the association's determination concerning coverage for a claim or causation of damage to property insured under an association policy that is the basis of a claim and provides notice of intent to bring an action that meets the requirements of Section 541.154, the association may require the claimant, as a prerequisite to filing the action against the association, to submit the dispute to alternate dispute resolution by mediation or moderated settlement conference, as provided by Chapter 154, Civil Practice and Remedies Code.

(b) The association must request alternate dispute resolution of a dispute described by Subsection (a) not later than the 60th day after the date the association receives from the claimant notice of intent to bring an action.

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(c) If a claimant, on a showing of good cause and not later than the 60th day after the expiration of the 30-day period described by Subsection (b), requests in writing that the 30-day period to request review by an independent review panel be extended, the commissioner may grant an additional 30-day period in which the claimant may request independent review under this section.

(d) The commissioner shall appoint an independent review panel to resolve a dispute in the manner described by this section. A panel appointed under this section must consist of three members, selected by the commissioner from a roster of qualified panel members maintained and published by the commissioner. If a selected panel member cannot serve or declines to serve for any reason, the commissioner shall select a new panel member not later than the 10th day after the date the panel member notifies the commissioner of the member's inability or unwillingness to serve. The commissioner shall appoint one member of the panel to serve as the presiding officer of the panel.

(e) An independent review panel appointed under Subsection (b) shall make a determination concerning, as applicable, the causation, coverage, or damage dispute submitted to the panel for review and notify the claimant and the association in writing of the panel's determination as soon as practicable, but not later than the 120th day after the date the independent review panel is appointed. If the independent review panel does not make a determination concerning a dispute before the 120th day, the commissioner may grant a reasonable

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(c) Alternate dispute resolution under this section must be completed not later than the 60th day after the date a request for alternate dispute resolution is made under Subsection (b). The 60-day period described by this subsection may be extended by the commissioner by rule or by the association and a claimant by mutual consent.

(d) If alternate dispute resolution is not completed before the expiration of the 60-day period described by Subsection (c) or, if applicable, any extension under that subsection, the claimant may bring an action against the association as described by Section 2210.578.

(e) A moderated settlement conference under this section may be conducted by a panel consisting of one or more impartial third parties.

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extension for the panel to make a determination or dissolve the panel and appoint a new panel to conduct the review.

(f) An independent review panel shall determine whether the review of a dispute involves a technical issue requiring guidance or information from the technical panel appointed under Section 2210.577. If the review of a dispute involves a technical issue, the independent review panel shall request from the technical panel guidance and any information relevant to the dispute.

(g) The 120-day period described by Subsection (e) is tolled from the date the independent review panel requests guidance or information from the technical panel through the date on which the independent review panel receives the requested guidance or information.

(h) The determination of an independent review panel:

(1) is binding on the claimant and the association and is subject to appeal and judicial review only in the manner provided by Section 2210.578; and

(2) becomes final and appealable on the 15th day after the date the appealing party receives actual or constructive notice of the determination.

(i) The commissioner by rule shall establish:

(1) the qualifications for members of the independent review panel;

(2) procedures and deadlines to be used in independent review;

(3) procedures and requirements relating to the exchange of documents during the independent review process, including the content of those documents; and

(4) procedures or requirements necessary for any other matter regarding the handling of requests for review.

(j) The rules adopted by the commissioner under Subsection

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(f) The commissioner shall establish rules to implement this section, including provisions for expediting alternate dispute resolution, facilitating the ability of a claimant to appear with or without counsel, and providing that formal rules of evidence shall not apply to the proceedings.

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(i) must ensure that the independent review process is fair to the claimant and enables the claimant to participate in the independent review process without engaging legal counsel.

Sec. 2210.577. TECHNICAL PANEL. (a) The commissioner shall appoint a technical panel of experts to advise the association concerning the extent to which damage to property insured under an association policy was incurred as a result of wind, waves, tidal surges, rising waters not caused by waves or surges, and wind-driven rain associated with a storm. The panel shall consist of a number of experts to be decided by the commissioner. The commissioner shall appoint one member of the panel to serve as the presiding officer of the panel.

(b) Members of the panel must have professional expertise in, and be knowledgeable concerning, the geography and meteorology of the Texas seacoast territory, as well as the scientific basis for determining the extent to which damage to property is caused by wind, waves, tidal surges, rising waters not caused by waves or surges, and wind-driven rain associated with a storm.

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

(c-1) The commissioner shall adopt rules regarding notice of panel meetings and the transparency of deliberations of the technical panel.

(d) The panel shall investigate, collect, and evaluate the information necessary to provide recommendations under Subsection (e) and to provide guidance or other information requested by an independent review panel under Section 2210.576.

(e) At the request of the commissioner, the technical panel

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See Section 2210.402, Insurance Code, added by SECTION 29, above.

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shall recommend to the commissioner methods for determining the extent to which damage to property insured under an association policy resulted from wind, waves, tidal surges, rising waters not caused by waves or surges, and wind-driven rain associated with a storm for geographic areas or regions designated by the commissioner.

(f) After consideration of the recommendations made by the panel under Subsection (e), the commissioner shall publish guidelines that the association will use to settle claims.

(g) A member of the technical panel is not individually liable for an act or failure to act in the performance of the official duties in connection with the individual's work on the panel.

Sec. 2210.578. JUDICIAL REVIEW. (a) A claimant who has exhausted all administrative remedies under this subchapter and who is aggrieved by an appraisal under Section 2210.575 or the determination of an independent review panel under Section 2210.576 is entitled to judicial review. A claimant may not seek judicial review before exhausting all administrative remedies under this subchapter.

(b) A claimant may seek judicial review of an appraisal under Section 2210.575 or the determination of an independent review panel under Section 2210.576 in the manner provided for the appeal of contested cases under Subchapter G, Chapter 2001, Government Code. The standard for judicial review under this section is the substantial evidence rule.

(c) In a proceeding for judicial review under this section, the court may award only the amount described by Section 2210.572(b), plus court costs and reasonable and necessary attorney's fees.

(d) Notwithstanding Subsection (b), a claimant aggrieved by an appraisal process under Section 2210.575 or the

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Sec. 2210.578. ACTION BY CLAIMANT. (a) Subject to providing notice of intent to bring an action that meets the requirements of Section 541.154, a claimant aggrieved by the association's decision concerning a claim under this subchapter, including an appraisal process under Section 2210.576 or the outcome of alternate dispute resolution under Section 2210.577, or seeking to enforce Section 2210.575(f), may bring an action against the association.

(b) If six or more claimants file civil actions against the association as a result of a weather-related event, an action brought against the association under this section must be presided over by a judge appointed by the judicial panel on multidistrict litigation designated under Section 74.161, Government Code. A judge appointed under this section must be an active judge in Travis County, for suits filed in Travis County, or an active judge in the county in which suit is filed, for a suit filed in a county other than Travis County. 'Active judge' shall be defined as in Section 74.041, Government Code.

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determination of an independent review panel under Section 2210.576 may appeal to a district court in the county in which the loss that, as applicable, is the subject of the appraisal or independent review occurred, for a determination concerning:

- (1) the amount of the loss;
- (2) whether the loss is covered by or insured under the association policy;
- (3) whether the loss was caused by a hazard or risk insured under the policy; and
- (4) the amount of court costs and reasonable and necessary attorney's fees.

(e) An appeal to a district court under Subsection (d) shall be trial de novo. The only questions that may be presented and determined at the trial de novo are:

- (1) the amount of the loss;
- (2) whether the loss is covered by or insured under the association policy;
- (3) whether the loss was caused by a hazard or risk insured under the policy; and
- (4) the amount of court costs and reasonable and necessary attorney's fees.

(f) The only evidence that may be admitted in a trial de novo under Subsection (d) is evidence that was admitted or presented in the appraisal process under Section 2210.575 or the independent review process under Section 2210.576. The Texas Rules of Evidence govern whether evidence presented during the appraisal process under Section 2210.575 or the independent review process under Section 2210.576 is admissible in a trial de novo under Subsection (d).

(g) A petition for trial de novo under Subsection (d) must be filed with a district court in the county in which the loss that, as applicable, is the subject of the appraisal or independent

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(c) An action brought against the association is governed by this subchapter and Sections 2210.552 and 2210.554.

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review occurred, not later than the 30th day after the date on which the determination being appealed is final and appealable under this subchapter.

(h) The appeal seeking a trial de novo under Subsection (d) shall be presided over by a judge appointed by the judicial panel on multidistrict litigation designated under Section 74.161, Government Code. A judge appointed under this section must be a resident of a first tier coastal county or a second tier coastal county.

(i) The Texas Supreme Court shall adopt rules governing the proceedings of a trial de novo under Subsection (d).

Sec. 2210.579. CONSTRUCTION WITH OTHER LAW. To the extent of any conflict between a provision of this subchapter and any other law, the provision of this subchapter prevails.

Sec. 2210.580. MEDIATION; CERTAIN DEADLINES TOLLED. A deadline imposed on a claimant under Section 2210.574, 2210.575, or 2210.576 is tolled for a single period not to exceed 45 consecutive days during which the claimant is actively seeking resolution of the causation dispute, coverage dispute, or damage dispute through a mediation administered by the department.

SECTION 36. Section 2210.602(2), Insurance Code, is amended to read as follows:

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Sec. 2210.579. CONSTRUCTION WITH OTHER LAW. (a) To the extent of any conflict between a provision of this subchapter and any other law, the provision of this subchapter prevails.

(b) Notwithstanding any other law, the association may not bring an action against a claimant, for declaratory or other relief, before the 180th day after the date an appraisal under Section 2210.576, or alternate dispute resolution under Section 2210.577, is completed. [FA5;FA9(5)-(10)]

SECTION 40. Section 2210.602, Insurance Code, is amended by amending Subdivisions (1) and (2) and adding

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(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.

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Subdivisions (1-a), (1-b), (5-a), (6-a), (6-b), (6-c), and (6-d) to read as follows:

(1) "Authority" means the Texas Public Finance Authority.

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

(1-b) "Catastrophic event" means an occurrence or a series of occurrences that occurs in a catastrophe area during a calendar year and that results in insured losses and operating expenses of the association in excess of premium and other revenue of the association.

(2) "Class 1 public securities" means public securities authorized to be issued [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 [so long as no tranche of commercial paper is issued under the program until after the catastrophic event].

(5-a) "Gross premium" means association premium, less premium returned to policyholders for canceled or reduced policies.

(6-a) "Marketable" means, with reference to public securities, securities:

(A) for which the authority has determined there to be demonstrable market demand; and

(B) that can be rated by at least two nationally recognized rating agencies for municipal securities in:

(i) the highest rating category for a short-term debt instrument; or

(ii) one of the three highest rating categories for a long-term debt instrument.

(6-b) "Member assessment trust fund" means the dedicated trust fund established by the board and held by the Texas

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(6-c) "Net premium" means gross premium, less:

(A) premium collected by the association but that has not yet been earned by the association;

(B) earned premium expected to be paid in connection with the disposition of losses not associated with a catastrophic event;

(C) operating expenses; and

(D) any amounts necessary to fund or replenish a reasonable operating reserve for the association.

(6-d) "Premium surcharge trust fund" means the dedicated trust fund established by the board and held by the Texas Safekeeping Trust Company into which premium surcharges collected under Section 2210.613 are deposited.

SECTION 37. 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 41. Section 2210.604, Insurance Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) The association shall specify in the association's request to

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the board the maximum principal amount of the public securities and the maximum term of the public securities. The maximum principal requested under this subsection may not exceed the amount of public securities the association, in consultation with the authority, determines to be marketable.

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

- (1) pay the costs related to issuance of the public securities;
- (2) provide a public security reserve fund; ~~and~~
- (3) capitalize interest for the period determined necessary by the association, not to exceed two years; and
- (4) provide the amount of debt service coverage for public securities determined by the association, in consultation with the authority, to be required for the issuance of marketable public securities.

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

No equivalent provision.

SECTION 42. Section 2210.605(c), Insurance Code, is amended to read as follows:

(c) Public securities issued under Section 2210.6136 ~~[this chapter]~~ are eligible obligations under Section 404.027, Government Code.

No equivalent provision.

SECTION 43. Section 2210.608(a), Insurance Code, is amended to read as follows:

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- (a) Public security proceeds, including investment income, shall be held in trust for the exclusive use and benefit of the association. The association may use the proceeds to:
- (1) pay incurred claims and operating expenses of the association;
 - (2) purchase reinsurance for the association;
 - (3) pay the costs of issuing the public securities, and public security administrative expenses, if any;
 - (4) provide a public security reserve; ~~and~~
 - (5) pay capitalized interest and principal on the public securities for the period determined necessary by the association;
 - (6) pay private financial agreements entered into by the association as temporary sources of payment of losses and operating expenses of the association; and
 - (7) reimburse the association for any cost described by Subdivisions (1)-(6) paid by the association before issuance of the public securities.

SECTION 38. Section 2210.609(b), Insurance Code, is amended to read as follows:

SECTION 44. Section 2210.609, Insurance Code, is amended to read as follows:

Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY OBLIGATIONS. (a) The board and the association shall enter into an agreement under which the association shall provide for the payment of all public security obligations from available funds collected by the association and deposited into the public security obligation revenue fund. If the association determines that it is unable to pay the public security obligations and public security administrative expenses, if any, with available funds, the association shall pay those obligations and expenses in accordance with

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(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.

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Sections 2210.612, 2210.613, ~~[and]~~ 2210.6135, and 2210.6136 as applicable. Class 1, Class 2, or Class 3 public securities may be issued on a parity or subordinate lien basis with other Class 1, Class 2, or Class 3 public securities, respectively.

(b) If any public securities issued under this chapter are outstanding, the authority ~~[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 year in a period sufficient, as determined by the association, to permit the association to determine the availability of funds, assess members of the association under Sections 2210.613 and 2210.6135, and assess a premium surcharge if necessary.

(c) The association shall deposit all revenue collected under Section ~~[Sections]~~ 2210.612 ~~[-, 2210.613, and 2210.6135]~~ in the public security obligation revenue fund, all revenue collected under Section 2210.613(b) in the premium surcharge trust fund, and all revenue collected under Sections 2210.613(a) and 2210.6135 in the member assessment trust fund. Money deposited in a ~~[the]~~ fund may be invested as permitted by general law. Money in a ~~[the]~~ fund required to be used to pay public security obligations and public security administrative expenses, if any, shall be transferred to the appropriate funds in the manner and at the time specified in the proceedings authorizing the public securities to ensure timely payment of obligations and expenses. This may include the board establishing funds and accounts with the comptroller that the board determines are necessary to administer and repay the public security obligations. If the association has not transferred amounts sufficient to pay the public security obligations to the board's designated interest

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and sinking fund in a timely manner, the board may direct the Texas Treasury Safekeeping Trust Company to transfer from the public security obligation revenue fund, the premium surcharge trust fund, or the member assessment trust fund to the appropriate account the amount necessary to pay the public security obligation.

(d) The association shall provide for the payment of the public security obligations and the public security administrative expenses by irrevocably pledging revenues received from premiums, member assessments, premium surcharges, and amounts on deposit in the public security obligation revenue fund, the premium surcharge trust fund, and the member assessment trust fund, together with any public security reserve fund, as provided in the proceedings authorizing the public securities and related credit agreements.

(e) An amount owed by the board under a credit agreement shall be payable from and secured by a pledge of revenues received by the association or amounts from the public security obligation trust fund, the premium surcharge trust fund, and the member assessment trust fund to the extent provided in the proceedings authorizing the credit agreement.

No equivalent provision.

SECTION 45. Section 2210.610(a), Insurance Code, is amended to read as follows:

(a) Revenues received from the premium surcharges under Section 2210.613 and member assessments under Sections 2210.613 and 2210.6135 may be applied only as provided by this subchapter.

SECTION 39. Section 2210.611, Insurance Code, is amended

SECTION 46. Section 2210.611, Insurance Code, is amended

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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 40. 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 ~~[se~~

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to read as follows:

Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Revenue collected in any year from a premium surcharge under Section 2210.613 and member assessments under Sections 2210.613 and 2210.6135 that exceeds the amount of the public security obligations and public security administrative expenses payable in that 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 year, offsetting the amount of the premium surcharge and member assessments, as applicable, 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 47. Section 2210.612, Insurance Code, is amended to read as follows:

Sec. 2210.612. PAYMENT OF CLASS 1 PUBLIC SECURITIES. (a) The association shall pay Class 1 public securities issued under Section 2210.072 from its net premium and other revenue.

(b) The association may enter financing arrangements as described by Section 2210.072(d) as necessary to obtain public securities issued under Section 2210.072 ~~[that section]~~. Nothing in this subsection shall prevent the authorization and creation of one or more programs for the issuance of commercial paper before the date of an occurrence or series of occurrences that results in insured losses under Section

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~~long as] no tranche of commercial paper is issued under a commercial paper program until after such an occurrence.~~

SECTION 41. 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

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2210.072(a) ~~[so long as no tranche of commercial paper is issued under a commercial paper program until after such an occurrence].~~

SECTION 48. Sections 2210.613(b), (c), and (d), Insurance Code, are amended to read as follows:

(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

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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

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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 or member assessments 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 policy [~~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

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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 42. 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.

No equivalent provision.

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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 49. Section 2210.6135(a), Insurance Code, is 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. For the payment of the losses, the [The] association shall assess the members of the association an amount not to exceed \$500 million per occurrence or series of occurrences in a calendar year that results in insured losses [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.

SECTION 50. Subchapter M, Chapter 2210, Insurance Code, is amended by adding Section 2210.6136 to read as follows:

Sec. 2210.6136. COMBINED SOURCES OF PAYMENT.

(a) In lieu of issuing distinct Class 1, Class 2, or Class 3 public securities, on request of the association and approval by the commissioner, the board may issue public securities payable from all of the sources described in Sections 2210.612, 2210.613, and 2210.6135 with:

(1) the first source of payment being as described in Section 2210.612, to the extent public securities described by that

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section are marketable;

(2) the second source of payment being as described in Section 2210.613, in an amount not to exceed the amount of Class 2 public securities that could be issued under Section 2210.073 in the calendar year in which securities are issued under this section;

(3) the third source of payment being as described in Section 2210.6135, in an amount not to exceed the amount of Class 3 public securities that could be issued under Section 2210.074 in the calendar year in which securities are issued under this section; and

(4) the fourth source of payment, if necessary, being a distribution among member assessment and premium surcharges described in Sections 2210.613 and 2210.6135 that complies with the commissioner's order issued under Subsection (b).

(b) The commissioner by order shall specify the distribution of the fourth source of payment under Subsection (a)(4) based on the amount of public securities issued under this section, the total amount of outstanding public securities issued under this chapter, the sources of payment for the outstanding public securities, and any other factors the commissioner determines to be relevant.

(b) The aggregate principal amount of public securities issued in the manner described by this section may not exceed \$2.5 billion in any consecutive 12-month period from the earlier of, as applicable:

(1) the date on which public securities are issued under Section 2210.072(a) before an occurrence or series of occurrences that results in insured losses; or

(2) the date of an occurrence or series of occurrences in a calendar year that results in insured losses in excess of

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premium and other revenue of the association from available reserves of the association and available amounts in the catastrophe reserve trust fund. [FA1(2);FA6(1)]

No equivalent provision.

SECTION 51. Section 2210.614, Insurance Code, is amended to read as follows:

Sec. 2210.614. REFINANCING PUBLIC SECURITIES. (a) The association may request the board to refinance, in accordance with Chapter 1207, Government Code, any public securities issued in accordance with Subchapter B-1, whether Class 1, Class 2, or Class 3 public securities, with public securities payable from any of the [same] sources described by Section 2210.612, 2210.613, 2210.6135, or 2210.6136 [as the original public securities]. The amount of public securities that may be refinanced under this subsection with the proceeds of Class 1 public securities may not exceed \$1 billion for a single occurrence or a series of occurrences that takes place in a calendar year.

(b) Notwithstanding Section 1207.006, Government Code, public securities refinanced under this section may not have a term that is greater than 14 years.

No equivalent provision.

SECTION 52. Section 2210.616, Insurance Code, is amended to read as follows:

Sec. 2210.616. STATE NOT TO IMPAIR PUBLIC SECURITY OBLIGATIONS. (a) The state pledges for the benefit and protection of financing parties, the board, and the association that the state will not take or permit any action that would:

(1) impair the collection of member assessments and

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premium surcharges or the deposit of those funds into the member assessment trust fund or premium surcharge trust fund;

(2) reduce, alter, or impair the member assessments or premium surcharges to be imposed, collected, and remitted to financing parties until the principal, interest, and premium, and any other charges incurred and contracts to be performed in connection with the related public securities, have been paid and performed in full; or

(3) [If public securities under this subchapter are outstanding, the state may not:

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

or

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

(b) A party issuing public securities under this subchapter may include the pledge described by Subsection (a) in any documentation relating to those securities.

No equivalent provision.

SECTION 53. Subchapter M, Chapter 2210, Insurance Code, is amended by adding Section 2210.6165 to read as follows:

Sec. 2210.6165. PROPERTY RIGHTS. If public securities issued under this subchapter are outstanding, the rights and interests of the association, a successor to the association, any member of the association, or any member of the Texas FAIR Plan Association, including the right to impose, collect, and receive a premium surcharge or a member assessment authorized under this subchapter, are only contract rights until those revenues are first pledged for the repayment of the association's public security obligations as provided by

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Section 2210.609.

SECTION 43. Section 2210.551(e), Insurance Code, is repealed.

No equivalent provision.

SECTION 44. (a) A legislative interim study committee shall conduct a study of alternative ways to provide insurance to the seacoast territory of this state through a quasi-governmental entity.
(b) The committee is composed of **nine** members appointed as follows:
(1) **three** members of the senate appointed by the lieutenant

SECTION 54. Sections 2210.502(c) and 2210.551(e), Insurance Code, are repealed.

SECTION 55. (a) The Texas Department of Insurance and the Texas Windstorm Insurance Association shall jointly study whether the association's using a single adjuster program would improve the effectiveness and efficiency with which the association receives, processes, settles, and pays claims filed under insurance policies issued by the association under Chapter 2210, Insurance Code.
(b) The commissioner of insurance shall study the feasibility of the association writing policies directly and the impact the association writing policies directly would have on rates for policies issued by the association. The commissioner shall submit the finding of the study conducted under this subsection to the board of directors of the association.
(c) The results of the studies conducted under Subsections (a) and (b) of this section shall be included in the 2012 biennial report submitted to the legislature by the association under Section 2210.0025, Insurance Code.

SECTION 56. (a) A legislative interim study committee shall conduct a study of alternative ways to provide insurance to the seacoast territory of this state through a quasi-governmental entity.
(b) The committee is composed of **12** members appointed as follows:
(1) **four** members of the senate appointed by the lieutenant

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governor;

(2) **three** members of the house of representatives appointed by the speaker of the house of representatives; and

(3) **three** public members with a background in actuarial science or insurance appointed as follows:

(A) **one** by the governor;

(B) one by the lieutenant governor; and

(C) one by the speaker of the house of representatives.

(c) The speaker of the house of representatives and the lieutenant governor shall jointly designate a chair or, alternatively, designate two co-chairs, from among the committee membership.

(d) The committee shall:

(1) examine alternative ways to provide insurance to the seacoast territory of this state through a quasi-governmental entity;

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governor, **two of whom represent one or more first tier coastal counties and two of whom do not represent a first tier coastal county;**

(2) **four** members of the house of representatives appointed by the speaker of the house of representatives, **two of whom represent one or more first tier coastal counties and two of whom do not represent a first tier coastal county;** and

(3) **four** public members with a background in actuarial science, **law, business,** or insurance, as follows:

(A) **two members who do not reside in a first tier coastal county,** appointed by the governor;

(B) one member **who resides in a first tier coastal county,** appointed by the lieutenant governor; and

(C) one member **who resides in a first tier coastal county,** appointed by the speaker of the house of representatives.

(c) The speaker of the house of representatives and the lieutenant governor shall jointly designate a chair or, alternatively, designate two co-chairs, from among the committee membership, **one of whom represents or resides in a first tier coastal county.**

(d) The committee shall:

(1) examine alternative ways to provide insurance to the seacoast territory of this state through a quasi-governmental entity, **including providing insurance coverage through a system or program in which insurers in this state provide insurance in the seacoast territory of this state in proportion to the percentage of insurance coverage provided in geographic areas of this state other than the seacoast territory;**

(2) **study the residual markets for windstorm and hail insurance in other states to determine if those markets operate more efficiently and effectively than the residual market for**

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(2) recommend:

(A) the appropriate scope of authority and responsibility for the entity to provide insurance to the seacoast territory of this state;

(B) an organizational structure to exercise authority and responsibility over the provision of insurance to the seacoast territory of this state;

(C) a timetable for implementation; and

(D) specific amendments to state laws and rules that are necessary to implement the committee's recommendations under this subdivision; and

(3) estimate funding requirements to implement the recommendations.

(e) The committee may adopt rules necessary to conduct business under and implement this section.

(f) Except as specifically provided by this section, the committee may operate in the same manner as a joint committee of the 82nd Legislature.

(g) Not later than December 1, 2012, the committee shall report to the governor and the legislature the recommendations made under this section.

SECTION 45. (a) The name of the Texas Windstorm Insurance Association is changed to the Texas Coastal Insurance Plan Association.

(b) A reference in law to the Texas Windstorm Insurance Association or the Texas Windstorm Insurance Association Act means the Texas Coastal Insurance Plan Association or the Texas Coastal Insurance Plan Act, respectively.

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windstorm and hail insurance coverage in this state;

(3) recommend:

(A) the appropriate scope of authority and responsibility for the entity to provide insurance to the seacoast territory of this state;

(B) an organizational structure to exercise authority and responsibility over the provision of insurance to the seacoast territory of this state;

(C) a timetable for implementation; and

(D) specific amendments to state laws and rules that are necessary to implement the committee's recommendations under this subdivision; and

(4) estimate funding requirements to implement the recommendations.

(e) The committee may adopt rules necessary to conduct business under and implement this section.

(f) Except as specifically provided by this section, the committee may operate in the same manner as a joint committee of the 82nd Legislature.

(g) Not later than December 1, 2012, the committee shall report to the governor and the legislature the recommendations made under this section.

(h) This section expires June 1, 2013. [FA2(10);FA7]

No equivalent provision.

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No equivalent provision.

SECTION 46. (a) The adjuster advisory board established under this section is composed of the following nine members appointed by the commissioner:

- (1) two public insurance adjusters;
 - (2) two members who represent the general public;
 - (3) two independent adjusters;
 - (4) one adjuster who represents a domestic insurer authorized to engage in business in this state;
 - (5) one adjuster who represents a foreign insurer authorized to engage in business in this state; and
 - (6) one representative of the Independent Insurance Agents of Texas.
- (b) A member who represents the general public may not be:
- (1) an officer, director, or employee of:
 - (A) an adjuster or adjusting company;
 - (B) an insurance agent or agency;
 - (C) an insurance broker;
 - (D) an insurer; or
 - (E) any other business entity regulated by the department;
 - (2) a person required to register as a lobbyist under Chapter 305, Government Code; or
 - (3) a person related within the second degree of affinity or consanguinity to a person described by Subdivision (1) or (2).
- (c) The advisory board shall make recommendations to the commissioner regarding:
- (1) matters related to the licensing, testing, and continuing education of licensed adjusters;
 - (2) matters related to claims handling, catastrophic loss preparedness, ethical guidelines, and other professionally relevant issues; and

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ARTICLE __. ADJUSTER ADVISORY BOARD [FA8]

SECTION __.001. Same as House version. [FA8]

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(3) any other matter the commissioner submits to the advisory board for a recommendation.

(d) A member of the advisory board serves without compensation. If authorized by the commissioner, a member is entitled to reimbursement for reasonable expenses incurred in attending meetings of the advisory board.

(e) The advisory board is subject to Chapter 2110, Government Code.

SECTION 47. This Act applies only to a Texas windstorm and hail insurance policy, and a claim or dispute arising under a Texas windstorm and hail insurance policy, delivered, issued for delivery, or renewed by the Texas Windstorm Insurance Association on or after the 30th day after the effective date of this Act. A Texas windstorm and hail insurance policy, and a claim or dispute arising under a Texas windstorm and hail insurance policy, delivered, issued for delivery, or renewed by the Texas Windstorm Insurance Association before the 30th day after the effective date of this Act, are governed by the law in effect **immediately before the effective date of this Act**, and the former law is continued in effect for that purpose.

SECTION 48. The Texas Windstorm Insurance Association shall amend the association's plan of operation to conform to the changes in law made by this Act not later than January 1, 2012.

SECTION 49. If any provision of this Act or its application to

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SECTION 57. This Act applies only to a Texas windstorm and hail insurance policy, and a claim or dispute arising under a Texas windstorm and hail insurance policy, delivered, issued for delivery, or renewed by the Texas Windstorm Insurance Association on or after the 30th day after the effective date of this Act. A Texas windstorm and hail insurance policy, and a claim or dispute arising under a Texas windstorm and hail insurance policy, delivered, issued for delivery, or renewed by the Texas Windstorm Insurance Association before the 30th day after the effective date of this Act, are governed by the law in effect **on the date the policy was delivered, issued for delivery, or renewed**, and the former law is continued in effect for that purpose.

SECTION 58. Same as House version.

No equivalent provision.

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any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

No equivalent provision.

SECTION 50. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

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SECTION 59. Section 2210.605(c), Insurance Code, as amended by this Act, and Section 2210.6136, Insurance Code, as added by this Act, apply to the issuance and repayment of public securities issued by the Texas Windstorm Insurance Association under Chapter 2210, Insurance Code, in response to an occurrence or series of occurrences that takes place on or after June 1, 2011. The issuance and repayment of public securities issued by the association under Chapter 2210, Insurance Code, before June 1, 2011, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 60. Same as House version.

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