

BILL ANALYSIS

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C.S.S.B. 1700
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Following Hurricane Celia in 1970, Texas established a coastal windstorm insurer of last resort known today as the Texas Windstorm Insurance Association (TWIA). TWIA offers windstorm insurance coverage to those who are unable to obtain coverage from a private insurer in the 14 counties along the Gulf Coast, known as Tier I counties. In 1995, the Texas FAIR Plan Association (FAIR Plan) was established to act as a statewide residential property insurer of last resort. The FAIR Plan offers coverage for windstorm and other perils such as theft and fire, except that FAIR Plan policies in Tier I counties leave windstorm coverage to TWIA.

In the 30 years since TWIA's inception, private insurers have increasingly withdrawn from the coastal windstorm insurance market based largely on the significant risk of loss associated with hurricanes along the coast. This has resulted in increasing numbers of coastal residents turning to TWIA for coverage. Over time, this trend caused TWIA's outstanding risk of loss to grow rapidly and significantly from less than \$13 billion in the year 2000 to now over \$75 billion. The trend has also had the unintended consequence of placing TWIA in a competitive position with private insurance carriers which has further exacerbated the exodus of private insurers from the coastal market. TWIA now carries approximately 60 percent of the residential property insurance market along the Gulf Coast. The combination of TWIA's growth, structural funding problems, and losses resulting in excessive litigation from Hurricanes Dolly and Ike in 2008, has rendered TWIA financially unstable.

During each of the past two legislative sessions, the legislature has made significant reforms to the TWIA program in an attempt to address these troubling circumstances. Unfortunately, despite the reforms, TWIA remains financially unprepared to meet its obligations should a hurricane hit the Texas coast. Potential losses above what TWIA could cover in the event of a major storm event pose a significant risk not only for businesses and residents along the Gulf Coast, but also for the state as a whole.

C.S.S.B. 1700 renames TWIA the Texas Residual Insurance Plan (TRIP).

This bill amends the makeup of the association's board and requires members to be appointed by the governor. C.S.S.B. 1700 replaces TWIA's management with a third-party administrator and restructures TWIA's governing board. The bill also establishes a single adjuster program for TWIA policyholders to streamline the claims process.

C.S.S.B. 1700 seeks to bring the voluntary insurance market back to the Texas coast by creating a voluntary electronic portal to facilitate private market participation and competition. C.S.S.B. 1700 establishes a schedule by which exposure must be reduced over time and sets forth the expectations that must be met by private carriers.

C.S.S.B. 1700 stabilizes the funding structure by dedicating a certain percentage of premium revenue annually to reserves and balances liabilities between association policyholders and member insurer companies. The bill authorizes the administrator under Chapter 2210 (Texas Windstorm Insurance Association) to also manage the FAIR Plan and adjust claims, requires FAIR Plan policyholders to submit certain information to a voluntary electronic portal, and requires the Texas Department of Insurance to study the possibility of an exposure reduction plan for FAIR Plan risk.

C.S.S.B. 1700 amends current law relating to the operation of the Texas Windstorm Insurance Association and the FAIR Plan Association and the renaming of the Texas Windstorm Insurance Association as the Texas Residual Insurance Plan.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 14 (Section 2210.212, Insurance Code) and SECTION 16 (Section 2210.452, Insurance Code) of this bill.

Rulemaking authority previously granted to the commissioner of insurance is modified in SECTION 16 (Section 2210.452, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2210.001, Insurance Code, as follows:

Sec. 2210.001. **PURPOSE.** Provides that the primary purpose of the Texas Residual Insurance Plan (TRIP), rather than the Texas Windstorm Insurance Association (TWIA), is the provision of an adequate market for windstorm and hail insurance in the seacoast territory of this state. Provides that TRIP is intended to serve as a residual insurer of last resort for windstorm and hail insurance in the seacoast territory. Requires TRIP to fulfill certain criteria. Makes conforming changes.

SECTION 2. Amends Section 2210.002, Insurance Code, by amending Subsection (a), and adding Subsection (a-1), as follows:

(a) Authorizes this chapter to be cited as the TRIP Act, rather than the TWIA Act.

(a-1) Provides that a reference in this chapter or other law to TWIA means TRIP.

SECTION 3. Amends Section 2210.003, Insurance Code, by amending Subdivision (1) and adding Subdivisions (3-c), and (14), to define "administrator," "exposure reduction plan fund," and "total insured expose" and adding Subdivision (1-a) to redefine "association" for this section.

SECTION 4. Amends Section 2210.014, Insurance Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Provides that Chapter 542 (Processing and Settlement of Claims) does not apply to the processing and settlement of claims by TRIP or to an agent or representative of TRIP.

(c) Provides that an insurer or adjuster, or administrator contracted under Section 2210.062, is an agent of TRIP for purposes of adjusting TRIP claims under this section.

SECTION 5. Amends Subchapter A, Chapter 2210, Insurance Code, by adding Section 2210.015, as follows:

Sec. 2210.015. **STUDY OF MARKET INCENTIVES; BIENNIAL REPORTING.** (a) Requires the Texas Department of Insurance (TDI), each biennium, to conduct a study of market incentives to promote participation in the voluntary windstorm and hail insurance market in the seacoast territory of this state. Requires that the study address as possible incentives the mandatory or voluntary issuance of windstorm and hail insurance in conjunction with the issuance of a homeowners policy in the seacoast territory.

(b) Requires TDI to include the results of the study conducted under this section in the report submitted under Section 32.022 (Biennial Report to Legislature).

SECTION 6. Amends Subchapter B, Chapter 2210, Insurance Code, by adding Sections 2210.062, 2210.063, 2210.064, 2210.065, and 2210.066, as follows:

Sec. 2210.062. ADMINISTRATION BY CONTRACTED ADMINISTRATOR. (a) Requires the commissioner of insurance (commissioner), notwithstanding any other law, to contract with an administrator to manage TRIP and administer the plan of operation beginning January 1, 2014 (administrator). Prohibits the administrator from exercising any power under the contract before January 1, 2014.

(b) Requires the administrator to hold either a managing general agent license issued under Chapter 4053 (Managing General Agents) or a third party administrator certificate of authority issued under Chapter 4151 (Third-Party Administrators).

(c) Prohibits the term of the administrator's contract from exceeding five years. Authorizes the contract to be renewed for additional terms not to exceed five years for each term.

(d) Requires the commissioner, in establishing the compensation paid to the administrator under the contract, to consider the cost of operations of TRIP and make every reasonable effort to ensure that the cost of operations of TRIP under the contract does not exceed average historical costs.

Sec. 2210.063. PROPRIETARY INFORMATION. (a) Provides that any information, analyses, programs, or data acquired or created by the administrator under a contract under this chapter or Chapter 2211 (FAIR Plan) are property of TDI.

(b) Provides that information, analyses, programs, or data described by Subsection (a) are confidential and exempt from public disclosure under Chapter 552 (Public Information), Government Code.

Sec. 2210.064. OFFICE; RECORDS. (a) Requires the administrator to maintain an office in Austin, Texas.

(b) Authorizes the commissioner to arrange to lease office space of TDI to the administrator.

Sec. 2210.065. AUDIT. (a) Provides that the administrator is subject to audit by the commissioner and is required to pay the costs incurred by the commissioner in performing an audit under this section in an amount the commissioner finds reasonable.

(b) Provides that work papers, as defined by Section 401.020(a) (defining "work papers"), from an audit are confidential and not subject to disclosure under Chapter 552, Government Code.

Sec. 2210.066. ANNUAL REPORT OF ADMINISTRATOR. (a) Requires the administrator, not later than March 1 of each year, to submit a report regarding the administrator's duties under this chapter and Chapter 2211 to:

(1) the governor;

(2) the lieutenant governor;

(3) the speaker of the house of representatives;

(4) the senate committee on business and commerce or the successor of that committee with jurisdiction over insurance;

(5) the house committee on insurance or the successor of that committee with jurisdiction over insurance; and

(6) the legislative oversight board established under Subchapter N (Legislative Oversight Board).

(b) Requires that the report be made in accordance with the terms of the administrator's contract with TDI.

SECTION 7. Amends Subchapter B-1, Chapter 2210, Insurance Code, by amending Section 2210.071, and adding Section 2210.0715, as follows:

Sec. 2210.071. New heading: PAYMENT OF EXCESS LOSSES. Deletes existing Subsection (a) designation. Makes no further change to this section.

Sec. 2210.0715. PAYMENT FROM RESERVES AND TRUST FUND. Creates this section from existing text of Section 2210.071(b). Makes no further change to this section.

Deletes existing Section 2210.071(c) requiring that losses not paid under Subsection (b) be paid from the proceeds from public securities issued in accordance with this subchapter and Subchapter M (Public Securities Program) and, notwithstanding Subsection (a), authorizing that losses 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.

SECTION 8. Amends Subchapter B-1, Chapter 2210, Insurance Code, by adding Section 2210.0716, as follows:

Sec. 2210.0716. PAYMENT FROM CLASS 1 ASSESSMENTS. (a) Requires that losses in a catastrophe year not paid under Section 2210.0715 be paid as provided by this section from member assessments not to exceed \$500 million for that catastrophe year.

(b) Requires the administrator, with the approval of the commissioner, to notify each member of the amount of the member's assessment under this section. Requires that the proportion of the losses allocable to each insurer under this section be determined in the manner used to determine each insurer's participation in TRIP for the year under Section 2210.052 (Member Participation in Association).

(c) Prohibits a member of TRIP from recouping an assessment paid under this section through a premium surcharge or tax credit.

SECTION 9. Amends Sections 2210.072(a), (b), (b-1), (c), and (f), Insurance Code, as follows:

(a) Requires that losses not paid under Sections 2210.0715 and 2210.0716, rather than Section 2210.071(b), be paid as provided by this section from the proceeds from Class 1 public securities authorized to be issued in accordance with Subchapter M before, on, or after the date of any occurrence or series of occurrences that results in insured losses. Requires that public securities issued under this section be paid within a period not to exceed 10 years, rather than be repaid within a period not to exceed 14 years, and authorizing them to be paid, rather than repaid, sooner if the board of directors of TRIP (board of directors) elects to do so and the commissioner approves.

(b) Provides that public securities described by Subsection (a) that are issued before an occurrence or series of occurrences that results in incurred losses are authorized to be issued on the request of the board of directors of TRIP with the approval of the commissioner and are prohibited from, in the aggregate, exceeding \$500 million, rather than \$1 billion, at any one time, regardless of the calendar year or years in which the outstanding public securities were issued.

(b-1) Provides that public securities described by Subsection (a):

(1) are required to be issued as necessary in a principal amount not to exceed \$500 million, rather than \$1 billion, per catastrophe year, in the aggregate, for

securities issued during that catastrophe year 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, and regardless of whether for a single occurrence or a series of occurrences; and

(2) subject to the \$500 million, rather than \$1 billion, maximum described by Subdivision (1), are authorized to 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 that year, during the following calendar year.

(c) Requires that the public securities, if public securities are issued as described by this section, be paid in the manner prescribed by Subchapter M, rather than be repaid in the manner prescribed by Subchapter M from TWIA premium revenue.

(f) Provides that, if, under Subsection (e) (relating to requiring that the proceeds of any outstanding public securities described by Subsection (a) that are issued before an occurrence or series of occurrences be depleted before the proceeds of any securities issued after an occurrence or series of occurrences are authorized to be used), the proceeds of any outstanding public securities issued during a previous catastrophe year are required to be depleted, those proceeds are required to count against the \$500 million, rather than \$1 billion, limit on public securities described by this section in the catastrophe year in which the proceeds are required to be depleted.

SECTION 10. Amends Subchapter B-1, Chapter 2210, Insurance Code, by adding Section 2210.0725, as follows:

Sec. 2210.0725. PAYMENT FROM CLASS 2 ASSESSMENTS. (a) Requires that losses in a catastrophe year not paid under Sections 2210.0715, 2210.0716, and 2210.072 (Payment from Class 1 Public Securities; Financial Instruments) be paid as provided by this section from member assessments not to exceed \$500 million for that catastrophe year.

(b) Requires the administrator, with the approval of the commissioner, to notify each member of the amount of the member's assessment under this section. Requires that the proportion of the losses allocable to each insurer under this section be determined in the manner used to determine each insurer's participation in TRIP for the year under Section 2210.052.

(c) Prohibits a member of TRIP from recouping an assessment paid under this section through a premium surcharge or tax credit.

SECTION 11. Amends Section 2210.073, Insurance Code, as follows:

Sec. 2210.073. PAYMENT FROM CLASS 2 PUBLIC SECURITIES. (a) Requires that losses not paid under Sections 2210.0715, 2210.0716, 2210.072, and 2210.0725, rather than Sections 2210.071 and 2210.072, be paid as provided by this section from the proceeds from Class 2 public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence or series of occurrences that results in insured losses, rather than after the date of any occurrence that results in insured losses under this subsection. Requires that public securities issued under this section be paid, rather than repaid, within a period not to exceed 10 years, and are authorized to be paid, rather than repaid, sooner if the board of directors elects to do so and the commissioner approves.

(b) Provides that public securities described by Subsection (a):

(1) are required, rather than are authorized, to be issued as necessary in a principal amount not to exceed \$500 million, rather than \$1 billion, per

catastrophe year, in the aggregate, whether for a single occurrence or a series of occurrences; and

(2) subject to the \$500 million, rather than \$1 billion, maximum described by Subdivision (1), are authorized to 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 that year, during the following calendar year.

(c) Requires that the public securities, if the losses are paid with public securities described by this section, be paid, rather than repaid, in the manner prescribed by Subchapter M.

SECTION 12. Amends Section 2210.102, Insurance Code, as follows:

Sec. 2210.102. COMPOSITION. (a) Provides that the board of directors is composed of nine members appointed by the governor, rather than the commissioner, in accordance with this section.

(b) Requires three members, rather than four members, to be representatives of the insurance industry who actively write and renew windstorm and hail insurance in the first tier coastal counties.

(c) Requires three members, rather than four members, to, as of the date of the appointment, reside in the first tier coastal counties. Requires that each of the following regions be represented by a member residing in the region and appointed under this subsection:

(1) the region consisting of Cameron, Kenedy, Kleberg, and Willacy Counties;

(2) the region consisting of Aransas, Calhoun, Nueces, Refugio, and San Patricio Counties; and

(3) the region consisting of Brazoria, Chambers, Galveston, Jefferson, and Matagorda Counties and any part of Harris County designated as a catastrophe area under Section 2210.005 (Designation as Catastrophe Area; Revocation of Designation).

(c-1) Requires one of the members appointed under Subsection (c) to be a property and casualty agent who is licensed under this code and is not a captive agent, rather than requires at least one of the members appointed under this subsection to be a property and casualty agent who is licensed under this code and is not a captive agent.

(d) Requires one member to be a representative of an area of this state that is not located in the seacoast territory, rather than not located in the seacoast territory with demonstrated expertise in insurance and actuarial principles.

(d-1) Requires one member to be an engineer who is knowledgeable of, and has professional expertise in, wind-related design and construction practices in coastal areas that are subject to high winds and hurricanes and resides in a second tier coastal county.

(d-2) Requires one member to be a representative of the financial industry who resides in a second tier coastal county.

(e) Requires all members to have demonstrated experience in insurance, general business, or actuarial principles and the member's area of expertise, if any, sufficient to make the success of TRIP probable.

(f) Requires insurers who are members of TRIP to nominate, from among those members, persons to fill any vacancy in the three, rather than four, board of director seats reserved for representatives of the insurance industry. Requires the board of directors to solicit nominations from the members and submit the nominations to the governor, rather than the commissioner. Requires that the nominee slate submitted to the governor, rather than the commissioner, under this subsection include at least three more names than the number of vacancies. Authorizes the governor, rather than requires the commissioner, to appoint replacement insurance industry representatives from the nominee slate.

(g) Requires the governor in addition to the nine members appointed under Subsection (a), to appoint three individuals to serve as nonvoting ex officio members of the board to advise the board, rather than requires the commissioner to appoint one person to serve as a nonvoting member of the board to advise the board regarding issues relating to the inspection process. Requires each nonvoting member appointed under this section to:

(1) hold an elective office of this state or a political subdivision of this state; and

(2) reside in and represent one of the following areas:

(A) the northern portion of the seacoast territory;

(B) the southern portion of the seacoast territory; or

(C) an area of this state that is not located in the seacoast territory.

Deletes existing text authorizing the commissioner to give preference in an appointment under this subsection to a person who is a qualified inspector under Section 2210.254 (Qualified Inspectors). Deletes existing text requiring the nonvoting member appointed under this section to be an engineer licensed by, and in good standing with, the Texas Board of Professional Engineers, reside in a first tier coastal county, and be knowledgeable of, and have professional expertise in, wind-related design and construction practices in coastal areas that are subject to high winds and hurricanes. Makes nonsubstantive changes.

(h) Requires the persons appointed under Subsection (c) to reside in, rather than be from, different counties. Requires the persons appointed under Subsection (g) to reside in different counties.

SECTION 13. Amends Section 2210.103(c), Insurance Code, as follows:

(c) Authorizes a member of the board of directors to be removed by the governor, rather than the commissioner, with cause stated in writing and posted on TRIP's website. Requires the governor, rather than the commissioner, to appoint a replacement in the manner provided by Section 2210.102 for a member who leaves or is removed from the board of directors.

SECTION 14. Amends Subchapter E, Chapter 2210, Insurance Code, by adding Sections 2210.2022, 2210.211, 2210.212, and 2210.213, as follows:

Sec. 2210.2022. INFORMATION REQUIRED FOR CERTAIN APPLICATIONS. Requires that an application for TRIP coverage, including an application for new or renewal coverage on or after January 1, 2014, include information on the applicant's policy that covers perils other than windstorm and hail, if any, including:

(1) the total premium for that policy, including a policy number for coverage issued by the FAIR Plan Association under Chapter 2211, if applicable, and the

amount of insurance on the dwelling and contents or if the policy is a tenants policy or condominium owners policy, the insured amount for the contents coverage; and

(2) the deductibles applicable for each policy.

Sec. 2210.211. VOLUNTARY ELECTRONIC PORTAL. (a) Requires the administrator, as soon as practicable after January 1, 2014, to make available to all insurers an electronic portal to provide insurers access to information described by Subsection (b).

(b) Requires that the portal provide insurers access to information on each insured's TRIP policy and other policy, if any, that covers other perils, if known, including:

(1) the insured's total premium amount on TRIP policy; and

(2) for coverage for perils other than windstorm and hail:

(A) the total premium for that policy, including a policy issued by the FAIR Plan Association under Chapter 2211, if applicable, and the amount of insurance on the dwelling and its contents or, if the policy is a tenants policy or condominium owners policy, the insured amount for the contents coverage; and

(B) the deductibles applicable for each policy.

Sec. 2210.212. EXPOSURE REDUCTION PLAN. (a) Requires TRIP to reduce TRIP's total insured exposure determined as of January 1, 2013, according to the following schedule:

(1) not later than January 1, 2016, the amount of TRIP's total insured exposure must reflect a 20 percent reduction from TRIP's total insured exposure as of January 1, 2013;

(2) not later than January 1, 2018, the amount of TRIP's total insured exposure must reflect a 35 percent reduction from the total insured exposure as of January 1, 2013;

(3) not later than January 1, 2020, the amount of TRIP's total insured exposure must reflect a 45 percent reduction from TRIP's total insured exposure as of January 1, 2013;

(4) not later than January 1, 2022, the amount of TRIP's total insured exposure must reflect a 55 percent reduction from TRIP's total insured exposure as of January 1, 2013; and

(5) not later than January 1, 2024, the amount of TRIP's total insured exposure must reflect a 60 percent reduction from TRIP's total insured exposure as of January 1, 2013.

(b) Requires the board of directors, as soon as practicable after January 1, 2016, January 1, 2018, January 1, 2020, and January 1, 2024, respectively, to determine whether the reductions in TRIP's total insured exposure required under Subsection (a) have been achieved.

(c) Requires the board of directors, if on January 1, 2016, TRIP did not achieve the reduction in the total insured exposure required by Subsection (a)(1), to establish a plan to reduce TRIP's total insured exposure, which is required to include imposing an assessment as described by Subsection (e).

(d) Requires the board of directors, if on January 1, 2018, January 1, 2020, and January 1, 2024, respectively, TRIP did not achieve the reduction in the total insured exposure required for that date, to establish a plan to reduce TRIP's total insured exposure, which is required to include imposing an assessment as described by Subsection (f).

(e) Requires that an exposure reduction plan under Subsection (c) or (d) be implemented not later than March 31 in the year in which the board of directors determines that the required reduction was not achieved and must result in the achievement of the required reduction by not later than December 31 of that year.

(f) Requires that an assessment imposed under this section be paid into the exposure reduction plan fund and is assessed against each member of TRIP that, as determined by the board of directors, has not met the member's proportionate responsibility for reduction of TRIP's total insured exposure. Provides that the total aggregate amount of an assessment under this section, if assessed against all members of TRIP, is \$200 million.

(g) Requires that the amount of a member's assessment paid under Subsection (f) be equal to the portion of \$200 million that is consistent with the member's proportionate participation in TRIP as determined under Section 2210.052.

(h) Prohibits a member of TRIP from recouping an assessment paid under this section through a premium surcharge or tax credit or through a rate increase.

(i) Requires the administrator, at the request of the commissioner, but not less frequently than twice each year, to submit a report to the commissioner detailing the amount of TRIP's total insured exposure and any statistical information or experience data requested by the commissioner concerning the characteristics of that exposure.

(j) Requires the commissioner, not later than May 15 and November 15 of each year, to submit a report to the windstorm insurance legislative oversight board established under Subchapter N summarizing the contents of the report submitted to the commissioner under Subsection (i).

(k) Requires the commissioner, in determining whether TRIP has met the goal established under Subsection (a), to make adjustments to book value of the total insured exposure as of January 1, 2013, to reflect any change in the BOECKH Index. Requires the commissioner, if the BOECKH Index ceases to exist, to make adjustments in the same manner based on another index that the board of directors determines accurately reflects changes in the cost of construction or residential values in the catastrophe area.

(l) Requires TDI, not later than January 1 of each year, beginning January 1, 2014, to notify each member of the member's proportionate share of TRIP's total insured exposure required to be reduced under this section and of the member's potential liability for an assessment under this section.

(m) Requires the commissioner to adopt rules necessary to implement and enforce this section.

Sec. 2210.213. CONFIDENTIAL INFORMATION. (a) Provides that, except as provided by Subsection (b), all information, data, and databases collected and used under Sections 2210.2022, 2210.211, and 2210.212 are confidential information not subject to disclosure under Chapter 552, Government Code.

(b) Authorizes information described by Subsection (a) to be used for the purposes and in the manner described by this chapter and Chapter 2211.

SECTION 15. Amends Section 2210.451, Insurance Code, to provide that, except to the extent that context clearly requires otherwise, in this subchapter, "trust fund" means the catastrophe reserve trust fund.

SECTION 16. Amends Section 2210.452, Insurance Code, by amending Subsections (a), (c), and (d), and adding Subsection (f), as follows:

(a) Requires the commissioner to adopt rules under which TRIP makes payments to the catastrophe reserve trust fund. Authorizes the trust fund, except as otherwise specifically provided by this section, to be used only for purposes directly related to funding the payment of insured losses, including:

(1) funding the obligations of the trust fund under Subchapter B-1 (Payment of Losses); and

(2) purchasing reinsurance or using alternative risk financing mechanisms under Sections 2210.453(Reinsurance) and 2210.4531.

(c) Requires TRIP, at the end of each calendar year or policy year, to use the net gain from operations of TRIP, including all premium and other revenue of TRIP in excess of incurred losses, operating expenses, deposits to the trust fund under Section 2210.4521, 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.

(d) Requires the commissioner by rule to establish the procedure relating to the disbursement of money from the trust fund to policyholders and for TRIP administrative expenses directly related to funding the payment of insured losses in the event of an occurrence or series of occurrences within a catastrophe area that results in a disbursement under Subchapter B-1.

(f) Requires the commissioner by rule to establish the procedure relating to the disbursement of money from the trust fund to pay for operating expenses, including reinsurance or alternate risk financing mechanisms under Sections 2210.453 and 2210.4531, if TRIP does not have sufficient premium and other revenue.

SECTION 17. Amends Subchapter J, Chapter 2210, Insurance Code, by adding Section 2210.4521, as follows:

Sec. 2210.4521. CATASTROPHE RESERVE TRUST FUND DEDICATION. (a) Requires TRIP, notwithstanding any other provision in this chapter, as provided for in the plan of operation, to deposit monthly in a fund, separate from the catastrophe reserve trust fund established under Section 2210.452, an amount sufficient to accumulate on an annual calendar year basis an amount equal to 30 percent of TRIP's earned premium for the preceding calendar year.

(b) Provides that the fund described by Subsection (a) is a trust fund with the Texas Treasury Safekeeping Trust Company to be held outside the state treasury.

(c) Requires TRIP, not later than February 1 of each year, to direct the Texas Treasury Safekeeping Trust Company to deposit all amounts deposited in the fund described by Subsection (a) during the preceding calendar year, and interest earned on those amounts, into the catastrophe reserve trust fund.

(d) Provides that money deposited in the fund described by Subsection (a) is irrevocably pledged to be distributed to the catastrophe reserve trust fund as provided in this section and is exempt from any other claim or attachment under law.

(e) Authorizes money deposited under this section to be invested by the Texas Treasury Safekeeping Trust Company as permitted by general law.

SECTION 18. Amends Section 2210.453, Insurance Code, as follows:

Sec. 2210.453. New heading: REINSURANCE AND ALTERNATIVE RISK FINANCING MECHANISMS. (a) Requires TRIP to purchase reinsurance or use alternative risk financing mechanisms in an amount equal to \$1 billion, rather than authorizes TWIA to make payments into the trust fund and purchase reinsurance.

(b) Provides that the reinsurance or alternative risk financing mechanisms purchased or used under this section operate in addition to public securities, other approved financial instruments, and assessments authorized by this chapter, rather than authorizing TWIA to purchase reinsurance that operates in addition to or in concert with the trust fund, public securities, financial instruments, and assessments authorized by this chapter.

(c) Prohibits the attachment point for reinsurance purchased under this section from being less than the aggregate amount of all funding available to TRIP under Subchapter B-1. Deletes existing text requiring the board, if TWIA does not purchase reinsurance as authorized by this section, not later than June 1 of each year, to 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. Deletes existing text requiring that the report required by this subsection document and denominate TWIA's resources available to pay claims, including cash or other highly liquid assets, assessments that TWIA is projected to impose, pre-event and post-event bonding capacity, and private-sector recognized risk-transfer mechanisms, including catastrophe bonds and reinsurance; 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 TWIA's needs; and 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.

Deletes existing Subsection (d) prohibiting a person who prepares a report required by Subsection (c) from contracting to provide any other service to TWIA, 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.

Deletes existing Subsection (e) providing that the report submitted under this section is for informational purposes only and does not bind TWIA to a particular course of action.

SECTION 19. Amends Subchapter J, Chapter 2210, by adding Section 2210.4531, as follows:

Sec. 2210.4531. ADDITIONAL REINSURANCE. (a) Requires TRIP to purchase, in addition to any reinsurance purchased under Section 2210.453, reinsurance in an amount not greater than the lesser of \$800 million or an amount such that TRIP's total loss funding is sufficient to fund its probable maximum loss for a catastrophe year with a probability of one in 100.

(b) Prohibits the attachment point for reinsurance purchased under this section from being less than the aggregate amount of all funding available to TRIP under Subchapter B-1 and Section 2210.453.

(c) Requires TRIP to assess member insurers the cost of reinsurance purchased under this section. Requires that the proportion of the reinsurance cost allocable to each insurer under this section be determined in the manner used to determine each insurer's participation in TRIP for the year under Section 2210.052.

SECTION 20. Amends Subchapter L-1, Chapter 2210, Insurance Code, by adding Section 2210.5725, as follows:

Sec. 2210.5725. ASSOCIATION CLAIMS PROCESSING. (a) Requires an insurer that has primary coverage on property for loss by fire to adjust all claims made on TRIP policy covering the same property.

(b) Provides that an insurer acting under this section is an agent of TRIP for purposes of Sections 2210.014 (Applicability of Certain Other Law) and 2210.572 (Exclusive Remedies and Limitation on Award) and is required to process claims as prescribed by this chapter and the plan of operation.

(c) Provides that an insurer acting under this section is not liable for any amount payable under the terms of the TRIP policy.

SECTION 21. Amends Section 2210.602, Insurance Code, by adding Subdivisions (2-a) and (3-a) to define "Class 1 public security trust fund" and "Class 2 public security trust fund" for this section.

SECTION 22. Amends Section 2210.604(a), Insurance Code, to require the Texas Public Finance Authority (TPFA), at the request of TRIP and with the approval of the commissioner, to issue Class 1 or Class 2 public securities, rather than Class 1, Class 2, or Class 3 public securities.

SECTION 23. Amends Section 2210.609, Insurance Code, as follows:

Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY OBLIGATIONS. (a) Requires the board of directors of TPFA (TPFA board) and TRIP to enter into an agreement under which TRIP is required to provide for the payment of all public security obligations from available funds collected by TRIP and deposited as required by this subchapter, rather than deposited into the public security obligation revenue fund. Requires TRIP, if TRIP determines that it is unable to pay the public security obligations and public security administrative expenses, if any, with available funds, to pay those obligations and expenses in accordance with Section 2210.612 (Payment of Class 1 Public Securities) and 2210.613 (Payment of Class 2 Public Securities), rather than with Sections 2210.612, 2210.613, 2210.6135 (Payment of Class 3 Public Securities), and 2210.6136 (Alternative Sources of Payment) as applicable. Authorizes Class 1 or Class 2 public securities, rather than Class 1, Class 2, or Class 3 public securities, to be issued on a parity or subordinate lien basis with other Class 1 or Class 2 public securities, rather than with other Class 1, Class 2, or Class 3 public securities, respectively.

(b) Requires TPFA, if any public securities issued under this chapter are outstanding, to notify TRIP 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 TRIP, to permit TRIP to determine the availability of funds and assess a premium surcharge if necessary, rather than determine the availability of funds, assess members of TWIA under Section 2210.613 and 2210.6135, and assess a premium surcharge if necessary.

(c) Requires TRIP to deposit all revenue collected under Section 2210.612, in the Class 1 public security trust fund and all revenue collected under Section 2210.613 in the Class 2 public security trust fund, rather than revenue collected under Section 2210.612 in the public security obligation revenue fund, all revenue collected under Section 2210.613 (b) (relating to requiring that seventy percent of

the cost of the public securities be paid by a premium surcharge) in the premium surcharge trust fund, and all revenue collected under Sections 2210.613(a) (relating to TRIP paying Class 2 public securities) and 2210.6135 in the member assessment trust fund. Authorizes the TPFA board, if TRIP has not transferred amounts sufficient to pay the public security obligations to the TPFA board's designated interest and sinking fund in a timely manner, to direct the Texas Treasury Safekeeping Trust Company to transfer from the Class 1 public security trust fund or the Class 2 public security trust fund, rather than 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) Requires TRIP to provide for the payment of the public security obligations and the public security administrative expenses by irrevocably pledging revenues received from premiums, premium surcharges, and amounts on deposit in the Class 1 public security trust fund and the Class 2 public security trust fund, rather than 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) Requires that an amount owed by the TPFA board under a credit agreement be payable from and secured by a pledge of revenues received by TRIP, the Class 1 public security trust fund, and the Class 2 security trust fund, rather than by TWIA 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.

SECTION 24. Amends Section 2210.610(a), Insurance Code, to authorize revenues received from the premium surcharges under Sections 2210.612 and 2210.613, rather than under Section 2210.613 and member assessments under Sections 2210.613 and 2210.6135, to be applied only as provided by this subchapter.

SECTION 25. Amends Section 2210.611, Insurance Code, as follows:

Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Authorizes revenue collected in any calendar year from a premium surcharge under Section 2210.612 and 2210.613, rather than 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 calendar year and interest earned on the funds, rather than public security obligation fund, to, in the discretion of TRIP, 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, rather than 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; or

(2)-(3) Makes no change to these subdivisions.

SECTION 26. Amends Section 2210.612, Insurance Code, as follows:

Sec. 2210.612. PAYMENT OF CLASS 1 PUBLIC SECURITIES. (a) Requires TRIP to pay Class 1 public securities issued under Section 2210.072 from net premium and other revenue and if net premium and other revenue are not sufficient to pay the securities, a catastrophe area premium surcharge collected in accordance with this section. Makes nonsubstantive changes.

(b) Requires TRIP and each insurer that provides insurance in a catastrophe area, on approval by the commissioner, to assess, as provided by this section, a premium surcharge to each policyholder of a policy described by Subsection (c). Requires that the premium surcharge 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) Requires that the premium surcharge under this section be assessed on all policyholders of policies that cover insured property that is located in a catastrophe area, including an automobile principally garaged in a catastrophe area. Requires that the premium surcharge be assessed on each Texas windstorm and hail insurance policy and each property and casualty insurance policy, including an automobile insurance policy, issued for an automobile or other property located in the catastrophe area. Provides that the premium surcharge applies to:

(1) all policies written under the following lines of insurance: fire and allied lines; farm and ranch owners; residential property insurance; private passenger automobile liability and physical damage insurance; and commercial automobile liability and physical damage insurance; and

(2) the property insurance portion of a commercial multiple peril insurance policy.

(d) Provides that a premium surcharge under this section is a separate charge in addition to the premiums collected and is not subject to premium tax or commissions. Provides that failure by a policyholder to pay the surcharge constitutes failure to pay premium for purposes of policy cancellation.

(e) Redesignates existing Subsection (b) as Subsection (e) and makes no further change to this subsection.

SECTION 27. Amends Section 2210.613, Insurance Code, as follows:

Sec. 2210.613. PAYMENT OF CLASS 2 PUBLIC SECURITIES. (a) Requires TRIP to pay Class 2 public securities issued under Section 2210.073 from net premium and other revenue and if net premium and other revenue are not sufficient to pay the securities, a catastrophe area premium surcharge collected in accordance with this section.

(b) Requires TRIP and each insurer that provides insurance in a catastrophe area, on approval by the commissioner, to assess, as provided by this section, a premium surcharge to each policyholder of a policy described by Subsection (c). Requires that the premium surcharge 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. Deletes existing text to require TWIA to pay Class 2 public securities issued under Section 2210.073 as provided by this section. Deletes existing text requiring that thirty percent of the cost of the public securities be paid through member assessments as provided by this section. Deletes existing text requiring TWIA to notify each member of TWIA of the amount of the member's assessment under this section. Deletes existing text providing that the proportion of the losses allocable to each insurer under this section be determined in the manner used to determine each insurer's participation in TWIA for the year under Section 2210.052. Deletes existing text prohibiting a member of TWIA from recouping an assessment paid under this subsection through a premium surcharge or tax credit.

Deletes existing Subsection (b) requiring that seventy percent of the cost of the public securities be paid by a premium surcharge collected under this section in an amount set by the commissioner. Deletes existing text requiring each insurer, TWIA, and the Texas FAIR Plan Association, on approval by the commissioner,

to 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. Deletes existing text requiring that the premium surcharge 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) Requires that the premium surcharge under this section, rather than Subsection (b), be assessed on all policyholders of policies that cover insured property that is located in a catastrophe area, including automobiles principally garaged in a catastrophe area. Provides that the premium surcharge under this section, rather than Subsection (b), applies to certain policies.

(d) Provides that a premium surcharge under this section, rather than subsection (b), is a separate charge in addition to the premiums collected and is not subject to premium tax or commissions.

SECTION 28. Amends Section 2210.614, Insurance Code, to authorize TRIP to request the TPFSA board to refinance any Class 2 public securities issued in accordance with Subchapter B-1, whether Class 1 or Class 2 public securities, rather than Class 1, Class 2, or Class 3 public securities, with public securities payable from the same sources as the original public securities.

SECTION 29. Amends Section 2210.616(a), Insurance Code, as follows:

(a) Provides that the state pledges for the benefit and protection of financing parties, the TPFSA board, and TRIP that the state will not take or permit any action that would:

(1) impair the collection of premium surcharges or the deposit of those funds into the Class 1 public security trust fund or Class 2 public security trust fund, rather than impair the collection of member assessments and 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 premium surcharges, rather than 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) Makes no change to this subdivision.

SECTION 30. Amends Section 2210.6165, Insurance Code, to provide that, if public securities issued under this subchapter are outstanding, the rights and interests of TRIP, a successor to TRIP, any member of TRIP, or any member of the Texas FAIR Plan Association, including the right to impose, collect, and receive a premium surcharge, rather than 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 TRIP's public security obligations as provided by Section 2210.609.

SECTION 31. Amends Section 2210.653(a), Insurance Code, as follows:

(a) Requires the TPFSA board to:

(1) Makes no change to this subdivision;

(2) review the reports required by Section 2210.212(j);

(3) Makes no change to this subdivision;

(4) monitor the activities of the administrator under Section 2210.212, including the performance of the administrator contracted to administer TRIP; the progress toward meeting the requirements of Section 2210.212; and the extent of voluntary market participation in coastal and historically underserved areas in this state;

(5) review and provide input with regard to efforts to meet the requirements of Section 2210.212; and

(6) Makes no change to this subdivision.

SECTION 32. Amends Section 2211.001, Insurance Code, by amending Subdivision (1) and adding Subdivision (1-a), to define "administrator" and "association" for this section.

SECTION 33. Amends Subchapter B, Chapter 2211, Insurance Code, by adding Sections 2211.0522 and 2211.0555, as follows:

Sec. 2211.0522. ADMINISTRATION BY CONTRACTED ADMINISTRATOR. (a) Requires the administrator, notwithstanding Section 2211.052 (Administration of FAIR Plan; Composition of Governing Committee) or any other law, to manage the Texas FAIR Plan Association (association) and administer the plan of operation beginning January 1, 2014. Prohibits the administrator from exercising any power under the contract before January 1, 2014.

Sec. 2211.0555. ASSOCIATION CLAIMS PROCESSING. (a) Requires the administrator to adjust claims made on or after January 1, 2014, on an association policy.

(b) Provides that the administrator is not liable for any amount payable under the terms of an association policy.

SECTION 34. Amends Subchapter D, Chapter 2211, Insurance Code, by adding Sections 2211.1514, and 2211.1515, as follows:

Sec. 2211.1514. VOLUNTARY ELECTRONIC PORTAL. (a) Requires the administrator, as soon as practicable after January 1, 2014, to make available to all insurers an electronic portal to provide insurers access to information described by Subsection (b).

(b) Requires that the portal provide insurers access to information on each insured's association policy and other policy, if any, that covers other perils, if known, including:

(1) the insured's total premium amount on the association policy;

(2) the total premium for a policy that covers losses due to windstorm and hail, if any, including a policy issued by TRIP under Chapter 2210, if applicable, and the amount of insurance on the dwelling and its contents, or, if the policy is a tenants policy or condominium owners policy, the insured amount for the contents coverage; and

(3) the deductibles applicable for each policy.

Sec. 2211.1515. CONFIDENTIAL INFORMATION. (a) Provides that, except as provided by Subsection (b), all information and data collected and used under Section 2211.1514 constitute confidential information not subject to disclosure under Chapter 552, Government Code.

(b) Authorizes information described by Subsection (a) to be used for the purposes and in the manner described by this chapter and Chapter 2210.

SECTION 35. Requires TDI to conduct a study to consider possible exposure reduction plans for the FAIR Plan Association established under Chapter 2211, Insurance Code. Requires TDI, not later than January 1, 2014, to submit a report containing the findings of the study to the governor; the lieutenant governor; the speaker of the house of representatives; the senate committee on business and commerce or the successor of that committee with jurisdiction over insurance; the house committee on insurance or the successor of that committee with jurisdiction over insurance; and the legislative oversight board established under Subchapter N, Chapter 2210, Insurance Code.

SECTION 36. Repealers: Sections 2210.074 (Payment Through Class 3 Public Securities) and 2210.075 (Reinsurance), Insurance Code;

Repealers: Sections 2210.602(4) (defining "Class 3 public securities"), (5-a) (defining "gross premium"), (6-b) (defining "member assessment trust fund"), (6-c) (defining "premium surcharge trust fund"), and (10) (defining "public security obligation revenue fund"), Insurance Code;

Repealers: Section 2210.605(c) (relating to providing that public securities issued under Section 2210.6136 are eligible obligations), Insurance Code; and

Repealers: Sections 2210.6135 (Payment of Class 3 Public Securities) and 2210.6136 (Alternative Sources of Payment), Insurance Code.

SECTION 37. (a) Abolishes the board of directors of TWIA established under Section 2210.102, Insurance Code, as that section existed before amendment by this Act, effective November 1, 2013.

(b) Requires the governor to appoint the members of the board of directors of TRIP under Section 2210.102, Insurance Code, as amended by this Act, effective November 1, 2013. Requires the initial directors to draw lots to achieve staggered terms, with three of the directors serving one-year terms, three of the directors serving two-year terms, and three of the directors serving three-year terms.

(c) Provides that the term of a person who is serving as a member of the board of directors of TWIA immediately before the abolition of that board under Subsection (a) of this section expires on November 1, 2013. Provides that such a person is eligible for appointment by the governor to the new board of directors of TRIP under Section 2210.102, Insurance Code, as amended by this Act.

(d) Requires TRIP, notwithstanding Section 2210.4521, Insurance Code, as added by this Act, beginning on the effective date of this Act and continuing until December 31, 2013, to deposit 30 percent of its earned premium into the trust fund described by that section. Requires that the plan, not later than February 1, 2014, direct the Texas Treasury Safekeeping Trust Company to deposit all amounts deposited in the trust fund during the 2013 calendar year, and interest earned on those funds, into the catastrophe reserve trust fund as described by that section.

(e) Provides that Section 2210.4521, Insurance Code, as added by this Act, applies to all TRIP premium earned on and after January 1, 2014.

(f) Prohibits amounts collected under Section 2210.4521, Insurance Code, as added by this Act, notwithstanding Subsection (d) of this section and Section 2210.0715, Insurance Code, as added by this Act, from being used to pay for a covered insured association loss incurred before June 1, 2013.

(g) Provides that Section 2210.5725, Insurance Code, as added by this Act, applies only to adjustment of a claim made on or after the effective date of this Act.

(h) Provides that it is the intent of the legislature that each member of the legislative oversight board appointed under Section 2210.652, Insurance Code, and serving on the

effective date of this Act continues to serve after the effective date of this Act until a successor is appointed under that section.

SECTION 24. Effective date: upon passage or September 1, 2013.