

By: Stephenson

H.B. No. 1890

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain contracts between the Texas Windstorm Insurance
3 Association or the Texas Public Finance Authority and a financial
4 advisor or investment banking services provider.

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

6 SECTION 1. Subchapter M, Chapter 2210, Insurance Code, is
7 amended by adding Section 2210.622 to read as follows:

8 Sec. 2210.622. CONTRACT WITH FINANCIAL ADVISOR OR
9 INVESTMENT BANKING SERVICES PROVIDER. (a) In this section:

10 (1) "Financial advisor" means a person or business
11 entity that acts as a financial advisor, financial consultant,
12 money or investment manager, or securities broker. The term does
13 not include a person who acts solely as an underwriter or placement
14 agent with respect to an offering of securities.

15 (2) "Investment banking services" includes:

16 (A) participating as a placement agent,
17 underwriter, arranger, structurer, manager, or book runner in an
18 offering of securities or other capital markets transaction;

19 (B) financing or providing capital markets
20 capacity with respect to a transaction described by Paragraph (A);

21 (C) acting as counterparty in a financial
22 transaction, including any debt financing, guarantee arrangement,
23 bridge loan, structured or securitized financing, risk transfer, or
24 reinsurance arrangement; and

1 (D) providing investment appraisal or valuation
2 services, fairness opinions, contribution-in-kind reports, or
3 broker-dealer or other investment banking services.

4 (b) The association and, with respect to an offering of
5 public securities under this subchapter, the authority may not
6 contract with a person to:

7 (1) provide investment banking services to the
8 association or authority if, on the date the contract is entered
9 into or during the 12-month period immediately preceding the date
10 the contract is entered into, the person serves as a financial
11 advisor to the association or authority; or

12 (2) serve as a financial advisor or provide investment
13 banking services to the association or authority if, on the date the
14 contract is entered into or during the 12-month period immediately
15 preceding the date the contract is entered into, the person or an
16 affiliate of the person serves as a financial advisor or provides
17 investment banking services to a state or federal government
18 insurance program, pool, fund, or other residual market provider
19 that would reasonably be expected to incur substantial losses in
20 the event of any catastrophe that would also reasonably be expected
21 to cause substantial losses to the association, unless after notice
22 and public hearing the commissioner determines that:

23 (A) the contract would not give rise to a
24 conflict of interests; and

25 (B) the services already provided or to be
26 provided under the contract are immaterial to the association or
27 authority, as applicable, or to the state or federal government

1 insurance program, pool, fund, or residual market provider, as
2 applicable.

3 (c) A contract between the association or, with respect to
4 an offering of public securities under this subchapter, the
5 authority and a financial advisor or investment banking services
6 provider must include a provision that requires the financial
7 advisor or investment banking services provider, as a condition
8 subsequent, to promptly and on an ongoing basis disclose in writing
9 to the association or authority, as applicable, any change in the
10 contractual relationship between the financial advisor or
11 investment banking services provider, or an affiliate of the
12 financial advisor or investment banking services provider, and a
13 state or federal government insurance program, pool, fund, or other
14 residual market provider.

15 SECTION 2. Section 2210.622, Insurance Code, as added by
16 this Act, applies only to a contract entered into between the Texas
17 Windstorm Insurance Association or the Texas Public Finance
18 Authority and a financial advisor or investment banking services
19 provider on or after the effective date of this Act. A contract
20 entered into between the Texas Windstorm Insurance Association or
21 the Texas Public Finance Authority and a financial advisor or
22 investment banking services provider before the effective date of
23 this Act is governed by the law in effect on the date the contract is
24 entered into, and that law is continued in effect for that purpose.

25 SECTION 3. This Act takes effect September 1, 2013.