

By: Hunter

H.B. No. 2352

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the operation of the Texas Windstorm Insurance  
3 Association and to catastrophe preparedness in the seacoast  
4 territories of this state; authorizing assessments, surcharges,  
5 and fees.

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

7 ARTICLE 1. PAYMENT OF INSURED LOSSES OF THE TEXAS WINDSTORM  
8 INSURANCE ASSOCIATION; FUNDING THE CATASTROPHE RESERVE TRUST FUND

9 SECTION 1.01. (a) Subchapter B-1, Chapter 2210, Insurance  
10 Code, is amended by adding Section 2210.076 to read as follows:

11 Sec. 2210.076. TERMINATION OF PUBLIC SECURITIES PROGRAM;  
12 EXPIRATION OF SUBCHAPTER. (a) Notwithstanding any other law, public  
13 securities described by this subchapter may not be issued on or  
14 after September 1, 2013.

15 (b) This subchapter expires September 1, 2027.

16 (b) Notwithstanding Section 2210.076, Insurance Code, as  
17 added by this section, Subchapter B-1, Chapter 2210, Insurance  
18 Code, is continued in effect on and after September 1, 2027, only to  
19 the extent necessary to avoid the impairment of a public security  
20 obligation under Chapter 2210, Insurance Code, if any, that exists  
21 on or after that date.

22 SECTION 1.02. (a) Subchapter M, Chapter 2210, Insurance  
23 Code, is amended by adding Section 2210.621 to read as follows:

24 Sec. 2210.621. TERMINATION OF PUBLIC SECURITIES PROGRAM;

1 EXPIRATION OF SUBCHAPTER. (a) Notwithstanding any other law, public  
2 securities described by this subchapter may not be issued on or  
3 after September 1, 2013.

4 (b) This subchapter expires September 1, 2027.

5 (b) Notwithstanding Section 2210.621, Insurance Code, as  
6 added by this section, Subchapter M, Chapter 2210, Insurance Code,  
7 is continued in effect on and after September 1, 2027, only to the  
8 extent necessary to avoid the impairment of a public security  
9 obligation under Chapter 2210, Insurance Code, if any, that exists  
10 on or after that date.

11 SECTION 1.03. Chapter 2210, Insurance Code, is amended by  
12 adding Subchapter B-2 to read as follows:

13 SUBCHAPTER B-2. PAYMENT OF LOSSES

14 Sec. 2210.081. DEFINITION. In this subchapter, "insurer"  
15 means a property and casualty insurer authorized to engage in the  
16 business of property and casualty insurance in this state and an  
17 affiliate of such an insurer, as described by Section 823.003,  
18 including an affiliate that is not authorized to engage in the  
19 business of property and casualty insurance in this state. The term  
20 includes a county mutual insurance company, a Lloyd's plan, and a  
21 reciprocal or interinsurance exchange but does not include an  
22 entity described by Section 2210.006(b).

23 Sec. 2210.082. PAYMENT OF EXCESS LOSSES; PAYMENT FROM  
24 RESERVES AND TRUST FUND. (a) If, on or after September 1, 2013, an  
25 occurrence or series of occurrences in a catastrophe area results  
26 in insured losses and operating expenses of the association in  
27 excess of premium and other revenue of the association, the excess

1 losses and operating expenses shall be paid as provided by this  
2 subchapter.

3 (b) The association shall pay losses in excess of premium  
4 and other revenue of the association from available reserves of the  
5 association and available amounts in the catastrophe reserve trust  
6 fund.

7 (c) Losses not paid under Subsection (b) shall be paid from  
8 the proceeds of public securities issued in accordance with this  
9 subchapter and Subchapter M-1 and insurer assessments assessed in  
10 accordance with this subchapter after the occurrence or series of  
11 occurrences that results in the losses.

12 Sec. 2210.083. PAYMENT FROM CLASS A PUBLIC SECURITIES AND  
13 INSURER ASSESSMENT. (a) On or after the date of an occurrence or  
14 series of occurrences that results in insured losses, any losses  
15 the association determines cannot be paid from available reserves  
16 or available amounts in the catastrophe reserve trust fund as  
17 provided by Section 2210.082(b) shall be paid as provided by this  
18 section from:

19 (1) the proceeds of Class A public securities  
20 authorized to be issued in accordance with Subchapter M-1; and

21 (2) an assessment against all insurers that provide  
22 property insurance in this state in accordance with this section.

23 (b) Public securities issued as described by this section:

24 (1) shall be issued as necessary in a principal amount  
25 not to exceed \$1 billion, whether for a single occurrence or a  
26 series of occurrences, and outstanding public securities may not  
27 exceed a principal amount of \$1 billion at any one time, regardless

1 of the calendar year or years in which outstanding public  
2 securities were issued;

3 (2) subject to the \$1 billion maximum described by  
4 Subdivision (1), may be issued, in one or more issuances or  
5 tranches; and

6 (3) must be repaid in the manner and from the sources  
7 prescribed by Subchapter M-1 within a period not to exceed 10 years,  
8 and may be repaid sooner if the board of directors elects to do so  
9 and the commissioner approves.

10 (c) If public securities are issued as described by this  
11 section, the department shall assess each insurer that provides  
12 property insurance in this state in accordance with this section.

13 (d) The total amount of an assessment under this section  
14 must equal one-half of the principal amount of the public  
15 securities issued under this section, and each insurer's share of  
16 the assessment must be based on the insurer's proportionate share  
17 of the total extended coverage and other allied lines premium  
18 received by all insurers for property insurance in this state in the  
19 calendar year preceding the year in which the assessment is made.

20 (e) The proceeds of an assessment under this section shall  
21 be deposited in the catastrophe reserve trust fund.

22 (f) The commissioner shall adopt rules to implement the  
23 assessment of insurers under this section.

24 Sec. 2210.084. PAYMENT FROM CLASS B PUBLIC SECURITIES AND  
25 INSURER ASSESSMENT. (a) On or after the date of an occurrence or  
26 series of occurrences that results in insured losses, any losses  
27 the association determines cannot be paid in the manner provided by

1 Sections 2210.082 and 2210.083 shall be paid as provided by this  
2 section from:

3 (1) the proceeds of Class B public securities  
4 authorized to be issued in accordance with Subchapter M-1; and

5 (2) an assessment against all insurers that provide  
6 property insurance in this state in accordance with this section.

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

8 (1) shall be issued as necessary in a principal amount  
9 not to exceed \$900 million, whether for a single occurrence or a  
10 series of occurrences, and outstanding public securities may not  
11 exceed a principal amount of \$900 million at any one time,  
12 regardless of the calendar year or years in which outstanding  
13 public securities were issued;

14 (2) subject to the \$900 million maximum described by  
15 Subdivision (1), may be issued, in one or more issuances or  
16 tranches; and

17 (3) must be repaid in the manner and from the sources  
18 prescribed by Subchapter M-1 within a period not to exceed 10 years,  
19 and may be repaid sooner if the board of directors elects to do so  
20 and the commissioner approves.

21 (c) If public securities are issued as described by this  
22 section, the department shall assess each insurer that provides  
23 property insurance in this state in accordance with this section.

24 (d) The total amount of an assessment under this section  
25 must be equal to the principal amount of the public securities  
26 issued under this section, and each insurer's share of the  
27 assessment must be based on the insurer's proportionate share of

1 the total extended coverage and other allied lines premium received  
2 by all insurers for property insurance in this state in the calendar  
3 year preceding the year in which the assessment is made.

4 (e) The proceeds of an assessment under this section shall  
5 be deposited in the catastrophe reserve trust fund.

6 (f) The commissioner shall adopt rules to implement the  
7 assessment of insurers under this section.

8 Sec. 2210.085. PAYMENT FROM CLASS C PUBLIC SECURITIES. (a)  
9 On or after the date of an occurrence or series of occurrences that  
10 results in insured losses, any losses the association determines  
11 cannot be paid in the manner provided by Sections 2210.082,  
12 2210.083, and 2210.084 shall be paid as provided by this section  
13 from the proceeds of Class C public securities authorized to be  
14 issued in accordance with Subchapter M-1.

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

16 (1) shall be issued as necessary in a principal amount  
17 not to exceed \$2.75 billion, whether for a single occurrence or a  
18 series of occurrences, and outstanding public securities may not  
19 exceed a principal amount of \$2.75 billion at any one time,  
20 regardless of the calendar year or years in which outstanding  
21 public securities were issued;

22 (2) subject to the \$2.75 billion maximum described by  
23 Subdivision (1), may be issued, in one or more issuances or  
24 tranches; and

25 (3) must be repaid in the manner and from the sources  
26 prescribed by Subchapter M-1 within a period not to exceed 14 years,  
27 and may be repaid sooner if the board of directors elects to do so

1 and the commissioner approves.

2 Sec. 2210.086. PAYMENT FROM CLASS D PUBLIC SECURITIES. (a)  
3 On or after the date of an occurrence or series of occurrences that  
4 results in insured losses, any losses the association determines  
5 cannot be paid in the manner provided by Sections 2210.082,  
6 2210.083, 2210.084, and 2210.085 shall be paid as provided by this  
7 section from the proceeds of Class D public securities authorized  
8 to be issued in accordance with Subchapter M-1.

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

10 (1) shall be issued as necessary in a principal amount  
11 and with terms and maturities necessary to pay insured losses  
12 described by Subsection (a) as determined under Section 2210.629;  
13 and

14 (2) must be repaid in the manner and from the sources  
15 prescribed by Subchapter M-1.

16 Sec. 2210.087. AUTHORIZATION TO ENTER INTO FINANCING  
17 ARRANGEMENTS. The association may borrow from, or enter into other  
18 financing arrangements with, any market source, under which the  
19 market source makes interest-bearing loans or other financial  
20 instruments available to the association to enable the association  
21 to pay losses under this subchapter or to obtain public securities  
22 under this subchapter. For purposes of this section, "financial  
23 instruments" includes commercial paper.

24 Sec. 2210.088. REINSURANCE. (a) Before an occurrence or  
25 series of occurrences described by this subchapter, an insurer may  
26 purchase reinsurance to cover an assessment for which the insurer  
27 would otherwise be liable under this subchapter.

1        (b) An insurer that elects to purchase reinsurance must  
2 notify the board of directors of the election in the form and manner  
3 prescribed by the association. If an insurer does not elect to  
4 purchase reinsurance under this section, the insurer remains liable  
5 for any assessment imposed under this subchapter.

6        SECTION 1.04. Section 2210.451, Insurance Code, is amended  
7 to read as follows:

8        Sec. 2210.451. DEFINITIONS [~~DEFINITION~~]. In this  
9 subchapter:

10        (1) "Insurer" means a property and casualty insurer  
11 authorized to engage in the business of property and casualty  
12 insurance in this state and an affiliate of such an insurer, as  
13 described by Section 823.003, including an affiliate that is not  
14 authorized to engage in the business of property and casualty  
15 insurance in this state. The term includes a county mutual  
16 insurance company, a Lloyd's plan, and a reciprocal or  
17 interinsurance exchange but does not include an entity described by  
18 Section 2210.006(b).

19        (2) "Trust [~~,"trust~~] fund" means the catastrophe  
20 reserve trust fund.

21        SECTION 1.05. Sections 2210.452(a), (c), and (d), Insurance  
22 Code, are amended to read as follows:

23        (a) The commissioner shall adopt rules under which the  
24 association makes payments to the catastrophe reserve trust  
25 fund. The trust fund may be used only to fund the obligations of  
26 the trust fund under Subchapters [~~Subchapter~~] B-1 and B-2.

27        (c) Following [~~At the end of~~] each calendar year [~~or policy~~



1 ~~year~~], the association shall pay ~~[use]~~ the total net gain from  
 2 operations of the association in that year, including all premium  
 3 and other revenue of the association in excess of incurred losses,  
 4 operating expenses, public security obligations, and public  
 5 security administrative expenses, to ~~[make payments to]~~ the trust  
 6 fund except as provided by this subsection. If at the end of the  
 7 calendar year the available balance in the trust fund is greater  
 8 than or equal to 1.5 percent of the association's direct exposure,  
 9 as determined under Section 2210.456, the association for that year  
 10 shall pay to the trust fund an amount equal to at least three-tenths  
 11 of one percent of the association's total exposure, as determined  
 12 under Section 2210.456, and may use any net gain remaining after  
 13 that payment~~[r]~~ to procure reinsurance~~[r]~~ or to make additional  
 14 payments to the trust fund ~~[and to procure reinsurance]~~.

15 (d) The commissioner by rule shall establish the procedure  
 16 relating to the disbursement of money from the trust fund to  
 17 policyholders in the event of an occurrence or series of  
 18 occurrences within a catastrophe area that results in a  
 19 disbursement under Subchapters ~~[Subchapter]~~ B-1 and B-2.

20 SECTION 1.06. Subchapter J, Chapter 2210, Insurance Code,  
 21 is amended by adding Section 2210.456 to read as follows:

22 Sec. 2210.456. CONTINGENT ADDITIONAL FUNDING; PREMIUM  
 23 SURCHARGE AND INSURER ASSESSMENT. (a) Not later than January 31 of  
 24 each year, the association shall submit to the commissioner in a  
 25 form and manner, and using a method or formula determined by the  
 26 commissioner by rule, a statement that reports:

27 (1) the association's total exposure for the previous

1 calendar year;

2 (2) the association's direct exposure for the previous  
3 calendar year; and

4 (3) the current balance in the trust fund available to  
5 pay any losses under Subchapter B-2.

6 (b) In a calendar year in which the commissioner determines  
7 based on information reported in the statement required by  
8 Subsection (a) that the available balance in the trust fund is less  
9 than 1.5 percent of the association's total exposure for the  
10 previous calendar year, or in which any class of public security  
11 issued under Subchapter M-1 remains outstanding in any amount, the  
12 department, in accordance with this section, shall:

13 (1) assess each insurer that provides property  
14 insurance in this state; and

15 (2) assess a premium surcharge on each policyholder of  
16 a policy that covers insured property in a first tier coastal  
17 county.

18 (c) The total amount of the insurer assessment under  
19 Subsection (b) in a calendar year must equal 0.15 percent of the  
20 association's direct exposure for the previous calendar year, as  
21 reported in the statement required by Subsection (a), and each  
22 insurer's assessment must be based on the insurer's proportionate  
23 share of the total extended coverage and other allied lines premium  
24 received by all insurers for property insurance in this state in the  
25 previous calendar year. An insurer may not recoup an assessment  
26 paid under this section through a premium surcharge or tax credit.

27 (d) The premium surcharge described by Subsection (b) must

1 equal 3.9 percent of premium and shall be assessed on each  
2 policyholder of a policy that covers insured property that is  
3 located in a first tier coastal county, including an automobile  
4 principally garaged in a first tier coastal county. The premium  
5 surcharge shall be assessed on each Texas windstorm and hail  
6 insurance policy and each property and casualty insurance policy,  
7 including an automobile insurance policy, issued for an automobile  
8 or other property located in the first tier coastal county. The  
9 premium surcharge applies to:

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

12 (A) fire and allied lines;

13 (B) farm and ranch owners;

14 (C) residential property insurance;

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

17 (E) commercial automobile liability and physical  
18 damage insurance; and

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

21 (e) A premium surcharge under this section is a separate  
22 charge in addition to the premiums collected and is not subject to  
23 premium tax or commissions. Failure by a policyholder to pay the  
24 surcharge constitutes failure to pay premium for purposes of policy  
25 cancellation.

26 (f) The proceeds of an insurer assessment or premium  
27 surcharge under this section shall be deposited in the catastrophe

1 reserve trust fund.

2 (g) The commissioner shall adopt rules to implement the  
3 assessment of insurers and policyholders under this section.

4 SECTION 1.07. Chapter 2210, Insurance Code, is amended by  
5 adding Subchapter M-1 to read as follows:

6 SUBCHAPTER M-1. PUBLIC SECURITIES PROGRAM

7 Sec. 2210.625. FINDINGS AND PURPOSE. (a) The legislature  
8 finds that authorizing the issuance of public securities to raise  
9 funds to provide windstorm and hail insurance through the  
10 association is for the benefit of the public and in furtherance of a  
11 public purpose.

12 (b) The legislature finds that a catastrophic event of a  
13 magnitude and severity that necessitates the issuance of Class D  
14 public securities under this chapter constitutes a public calamity  
15 within the meaning of Section 51, Article III, Texas Constitution.

16 Sec. 2210.626. DEFINITIONS. In this subchapter:

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

19 (2) "Board" means the board of directors of the  
20 authority.

21 (3) "Class A public securities" means public  
22 securities authorized to be issued as described by Section  
23 2210.083.

24 (4) "Class B public securities" means public  
25 securities authorized to be issued as described by Section  
26 2210.084.

27 (5) "Class B public security trust fund" means the

1 dedicated trust fund established by the board and held by the Texas  
2 Treasury Safekeeping Trust Company into which premium surcharges  
3 collected under Section 2210.637 for the purpose of repaying Class  
4 B public securities are deposited.

5 (6) "Class C public securities" means public  
6 securities authorized to be issued as described by Section  
7 2210.085.

8 (7) "Class C public security trust fund" means the  
9 dedicated trust fund established by the board and held by the Texas  
10 Treasury Safekeeping Trust Company into which premium surcharges  
11 collected under Section 2210.638 for the purpose of repaying Class  
12 C public securities are deposited.

13 (8) "Class D public securities" means public  
14 securities authorized to be issued as described by Section  
15 2210.086.

16 (9) "Class D public security trust fund" means the  
17 dedicated trust fund established by the board and held by the Texas  
18 Treasury Safekeeping Trust Company into which money received from  
19 any source for the purpose of repaying Class D public securities is  
20 deposited.

21 (10) "Credit agreement" has the meaning assigned by  
22 Chapter 1371, Government Code.

23 (11) "Insurer" means a property and casualty insurer  
24 authorized to engage in the business of property and casualty  
25 insurance in this state and an affiliate of such an insurer, as  
26 described by Section 823.003, including an affiliate that is not  
27 authorized to engage in the business of property and casualty

1 insurance in this state. The term includes a county mutual  
2 insurance company, a Lloyd's plan, and a reciprocal or  
3 interinsurance exchange but does not include an entity described by  
4 Section 2210.006(b).

5 (12) "Public security" means a debt instrument or  
6 other public security issued by the authority.

7 (13) "Public security administrative expenses" means  
8 expenses incurred to administer public securities issued under this  
9 subchapter, including fees for credit enhancement, paying agents,  
10 trustees, and attorneys, and for other professional services.

11 (14) "Public security obligations" means the  
12 principal of a public security and any premium and interest on a  
13 public security issued under this subchapter, together with any  
14 amount owed under a related credit agreement.

15 (15) "Public security obligation revenue fund" means  
16 the dedicated trust fund established by the association and held by  
17 the Texas Treasury Safekeeping Trust Company outside the state  
18 treasury under this subchapter.

19 Sec. 2210.627. APPLICABILITY OF OTHER LAWS. (a) The board  
20 shall issue the public securities described by Section 2210.628 in  
21 accordance with and subject to the requirements of Chapter 1232,  
22 Government Code, other than Section 1232.108 of that chapter, and  
23 in accordance with and subject to other provisions of Title 9,  
24 Government Code, that apply to issuance of a public security by a  
25 state agency. In the event of a conflict, this subchapter controls.

26 (b) A purpose for which public securities are issued under  
27 this chapter constitutes an eligible project for purposes of

1 Chapter 1371, Government Code.

2 Sec. 2210.628. ISSUANCE OF PUBLIC SECURITIES AUTHORIZED.

3 (a) At the request of the association and with the approval of the  
4 commissioner, the authority shall issue Class A, Class B, Class C,  
5 or Class D public securities. The association shall submit to the  
6 commissioner a cost-benefit analysis of various financing methods  
7 and funding structures when requesting the issuance of public  
8 securities under this subsection.

9 (b) The association shall specify in the association's  
10 request to the board the maximum principal amount of the public  
11 securities and the maximum term of the public securities.

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

15 (1) pay the costs related to issuance of the public  
16 securities;

17 (2) provide a public security reserve fund;

18 (3) capitalize interest for the period determined  
19 necessary by the association, not to exceed two years; and

20 (4) provide the amount of debt service coverage for  
21 public securities determined by the association, in consultation  
22 with the authority, to be required for the issuance of marketable  
23 public securities.

24 (d) An increase in the principal amount made under  
25 Subsection (c) is not included for purposes of determining the  
26 total amount of an assessment under Section 2210.083 or 2210.084.

27 Sec. 2210.629. TERMS OF ISSUANCE. (a) The board shall

1 determine the method of sale, type and form of public security,  
2 maximum interest rates, and other terms of the public securities  
3 that, in the board's judgment, best achieve the goals of the  
4 association and effect the borrowing at the lowest practicable  
5 cost. The board may enter into a credit agreement in connection with  
6 the public securities.

7 (b) Public securities must be issued by the board on behalf  
8 of the association.

9 Sec. 2210.630. ADDITIONAL COVENANTS. The board may make  
10 additional covenants with respect to the public securities and the  
11 designated income and receipts of the association pledged to their  
12 payment, and provide for the flow of funds and the establishment,  
13 maintenance, and investment of funds and accounts with respect to  
14 the public securities, and the administration of those funds and  
15 accounts, as provided in the proceedings authorizing the public  
16 securities.

17 Sec. 2210.631. PUBLIC SECURITY PROCEEDS. The proceeds of  
18 public securities issued by the board under this subchapter may be  
19 deposited with the Texas Treasury Safekeeping Trust Company in  
20 accordance with procedures established by the comptroller. The  
21 comptroller shall account to the association for the deposited  
22 money separately from all other money.

23 Sec. 2210.632. USE OF PUBLIC SECURITY PROCEEDS. (a) Public  
24 security proceeds, including investment income, shall be held in  
25 trust for the exclusive use and benefit of the association. The  
26 association may use the proceeds to:

27 (1) pay incurred claims and operating expenses of the



1 association;

2 (2) purchase reinsurance for the association;

3 (3) pay the costs of issuing the public securities and  
4 public security administrative expenses, if any;

5 (4) provide a public security reserve;

6 (5) pay capitalized interest and principal on the  
7 public securities for the period determined necessary by the  
8 association under Section 2210.628;

9 (6) pay private financial agreements entered into by  
10 the association as temporary sources of payment of losses and  
11 operating expenses of the association; and

12 (7) reimburse the association for any cost described  
13 by Subdivisions (1)-(6) paid by the association before issuance of  
14 the public securities.

15 (b) Any excess public security proceeds that remain after  
16 the purpose for which the public securities were issued is  
17 satisfied may be used to purchase or redeem outstanding public  
18 securities or pay public security administrative expenses. Any  
19 excess public security proceeds that remain after all outstanding  
20 public securities are purchased or redeemed and all public security  
21 administrative expenses are paid shall be transferred to the  
22 catastrophe reserve trust fund.

23 Sec. 2210.633. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY  
24 OBLIGATIONS. (a) The association shall provide for the payment of  
25 all public security obligations from available funds collected by  
26 the association and deposited into the public security obligation  
27 revenue fund. If the association determines that it is unable to pay

1 the public security obligations and public security administrative  
2 expenses, if any, with available funds, the association shall pay  
3 those obligations and expenses in accordance with Sections  
4 2210.636, 2210.637, 2210.638, and 2210.639, as applicable.

5 (b) If any public securities issued under this subchapter  
6 are outstanding, the authority shall notify the association of the  
7 amount of the public security obligations and the estimated amount  
8 of public security administrative expenses, if any, each calendar  
9 year in a period sufficient, as determined by the association, to  
10 permit the association to determine the availability of funds and,  
11 if necessary, assess a premium surcharge under Section 2210.637 or  
12 2210.638, as applicable.

13 (c) The association shall deposit:

14 (1) all revenue collected under Section 2210.636 in  
15 the public security obligation revenue fund;

16 (2) all money collected from a premium surcharge  
17 assessed under Section 2210.637 in the Class B public security  
18 trust fund;

19 (3) all money collected from a premium surcharge  
20 assessed under Section 2210.638 in the Class C public security  
21 trust fund; and

22 (4) all money received from any source for the purpose  
23 of repaying Class D public securities under Section 2210.639 in the  
24 Class D public security trust fund.

25 (d) Money deposited in a fund under this section may be  
26 invested as permitted by general law. Money in a fund required to be  
27 used to pay public security obligations and public security

1 administrative expenses, if any, shall be transferred to the  
2 appropriate funds in the manner and at the time specified in the  
3 proceedings authorizing the public securities in order to ensure  
4 timely payment of obligations and expenses. The board may establish  
5 funds and accounts with the comptroller that the board determines  
6 are necessary to administer and repay the public security  
7 obligations. If the association has not transferred amounts  
8 sufficient to pay the public security obligations to the board's  
9 designated interest and sinking fund in a timely manner, the board  
10 may direct the Texas Treasury Safekeeping Trust Company to transfer  
11 from the public security obligation revenue fund, or the Class B,  
12 Class C, or Class D public security trust fund, to the appropriate  
13 account the amount necessary to pay the public security obligation.

14 (e) The association shall provide for the payment of the  
15 public security obligations and the public security administrative  
16 expenses by irrevocably pledging revenues received from premiums,  
17 assessments, premium surcharges, and amounts on deposit in the  
18 public security obligation revenue fund, and the Class B, Class C,  
19 and Class D public security trust fund, together with any public  
20 security reserve fund, as provided in the proceedings authorizing  
21 the public securities and related credit agreements.

22 (f) An amount owed by the board under a credit agreement  
23 shall be payable from and secured by a pledge of revenues received  
24 by the association or amounts from the public security obligation  
25 trust fund or the Class B, Class C, or Class D public security trust  
26 fund to the extent provided in the proceedings authorizing the  
27 credit agreement.

1       Sec. 2210.634. PUBLIC SECURITY PAYMENTS. (a) Revenue  
2 received from a premium surcharge under Section 2210.637 or  
3 2210.638 may be applied only as provided by this subchapter.

4       (b) The association may pay public security obligations  
5 with other legally available funds.

6       (c) Public security obligations are payable only from  
7 sources provided for payment in this subchapter.

8       Sec. 2210.635. EXCESS REVENUE COLLECTIONS AND INVESTMENT  
9 EARNINGS. Revenue collected in any calendar year from a premium  
10 surcharge under Section 2210.637 or 2210.638 that exceeds the  
11 amount of the public security obligations and public security  
12 administrative expenses payable in that calendar year and interest  
13 earned on the public security obligation fund may, in the  
14 discretion of the association, be:

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

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

21           (3) deposited in the catastrophe reserve trust fund.

22       Sec. 2210.636. PAYMENT OF CLASS A PUBLIC SECURITIES. The  
23 association shall pay Class A public securities issued as described  
24 by Section 2210.083 from net premium and other revenue.

25       Sec. 2210.637. PAYMENT OF CLASS B PUBLIC SECURITIES. (a)  
26 The association shall pay Class B public securities issued as  
27 described by Section 2210.084 from:

1           (1) net premium and other revenue; and

2           (2) a first tier coastal county premium surcharge  
3 collected in accordance with this section.

4           (b) On approval by the commissioner, the association and  
5 each insurer that provides insurance in a first tier coastal county  
6 shall assess, as provided by this section, a premium surcharge to  
7 each policyholder of a policy described by Subsection (c) that is in  
8 effect on or after the 180th day after the date the commissioner  
9 issues notice of the approval of the public securities. The premium  
10 surcharge must be set in an amount sufficient to pay, for the  
11 duration of the issued public securities, all debt service not  
12 already covered by available funds and all related expenses on the  
13 public securities.

14           (c) The premium surcharge under this section shall be  
15 assessed on each policyholder of a policy that covers insured  
16 property that is located in a first tier coastal county, including  
17 an automobile principally garaged in a first tier coastal  
18 county. The premium surcharge shall be assessed on each Texas  
19 windstorm and hail insurance policy and each property and casualty  
20 insurance policy, including an automobile insurance policy, issued  
21 for an automobile or other property located in the first tier  
22 coastal county. The premium surcharge applies to:

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

25                   (A) fire and allied lines;

26                   (B) farm and ranch owners;

27                   (C) residential property insurance;

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

3           (E) commercial automobile liability and physical  
4 damage insurance; and

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

7           (d) A premium surcharge under this section is a separate  
8 charge in addition to the premiums collected and is not subject to  
9 premium tax or commissions. Failure by a policyholder to pay the  
10 surcharge constitutes failure to pay premium for purposes of policy  
11 cancellation.

12           Sec. 2210.638. PAYMENT OF CLASS C PUBLIC SECURITIES. (a)  
13 The association shall pay Class C public securities issued as  
14 described by Section 2210.085 from:

15           (1) net premium and other revenue; and

16           (2) a statewide premium surcharge collected in  
17 accordance with this section.

18           (b) On approval by the commissioner, the association and  
19 each insurer that provides insurance in this state shall assess, as  
20 provided by this section, a premium surcharge to each policyholder  
21 of a policy described by Subsection (c) that is in effect on or  
22 after the 180th day after the date the commissioner issues notice of  
23 the approval of the public securities. The premium surcharge must  
24 be set in an amount sufficient to pay, for the duration of the  
25 issued public securities, all debt service not already covered by  
26 available funds and all related expenses on the public securities.

27           (c) The premium surcharge under this section shall be

1 assessed on each policyholder of a policy that covers insured  
2 property that is located in this state, including an automobile  
3 registered in this state. The premium surcharge shall be assessed  
4 on each Texas windstorm and hail insurance policy and each property  
5 and casualty insurance policy, including an automobile insurance  
6 policy, issued for an automobile or other property located in this  
7 state. The premium surcharge applies to:

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

10 (A) fire and allied lines;

11 (B) farm and ranch owners;

12 (C) residential property insurance;

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

15 (E) commercial automobile liability and physical  
16 damage insurance; and

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

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

24 Sec. 2210.639. PAYMENT OF CLASS D PUBLIC SECURITIES. (a)  
25 The association shall pay Class D public securities issued as  
26 described by Section 2210.086 from:

27 (1) net premium and other revenue; and

1           (2) money received from any source, including money  
2 appropriated under Subsection (c), for the purpose of repaying  
3 Class D public securities.

4           (b) The association may accept for the use and benefit of  
5 the Class D public security trust fund any donation, contribution,  
6 gift, grant, or bequest of money or securities from any source.

7           (c) If, before any state fiscal biennium, the association  
8 determines that it is unable to pay public security obligations and  
9 public security administrative expenses incurred from issuance of  
10 Class D public securities during that biennium with funds available  
11 from the Class D public security trust fund, the comptroller shall  
12 request an appropriation in the comptroller's legislative  
13 appropriations request in an amount sufficient to pay, for the  
14 biennium, all debt service not already covered by available funds  
15 and all related expenses on the public securities.

16           Sec. 2210.640. AUTHORIZATION TO ENTER INTO FINANCING  
17 ARRANGEMENTS. The association may enter into financing  
18 arrangements as described by Section 2210.087 as necessary to  
19 obtain public securities issued under this subchapter.

20           Sec. 2210.641. REFINANCING PUBLIC SECURITIES. The  
21 association may request the board to refinance any public  
22 securities issued under this subchapter, whether Class A, Class B,  
23 Class C, or Class D public securities, with public securities  
24 payable from the same sources as the original public securities.  
25 Class A, Class B, Class C, or Class D public securities may be  
26 issued on a parity or subordinate lien basis with other Class A,  
27 Class B, Class C, or Class D public securities, respectively.



Sec. 2210.642. SOURCE OF PAYMENT; STATE DEBT NOT CREATED.

(a) A public security or credit agreement is payable solely from revenue as provided by this subchapter.

(b) A public security issued under this subchapter, and any related credit agreement, is not a debt of this state or any state agency or political subdivision of this state, and does not constitute a pledge of the faith and credit of this state or any state agency or political subdivision of this state.

(c) Each public security, and any related credit agreement, issued under this subchapter must state on the security's face that:

(1) neither the state nor a state agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the public security except as provided by this subchapter; and

(2) neither the faith and credit nor the taxing power of the state or any state agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of or interest on the public security.

Sec. 2210.643. 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 premium surcharges or the deposit of those funds into the Class B or Class C public security trust fund;

(2) reduce, alter, or impair the premium surcharges to

1 be imposed, collected, and remitted to financing parties until the  
2 principal, interest, and premium, and any other charges incurred  
3 and contracts to be performed in connection with the related public  
4 securities, have been paid and performed in full; or

5 (3) in any way impair the rights and remedies of the  
6 public security owners until the public securities are fully  
7 discharged.

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

11 Sec. 2210.644. ENFORCEMENT BY MANDAMUS. A writ of mandamus  
12 and any other legal and equitable remedies are available to a party  
13 in interest to require the association or another party to fulfill  
14 an agreement and to perform functions and duties under:

15 (1) this subchapter;

16 (2) the Texas Constitution; or

17 (3) a public security resolution or order authorizing  
18 public securities to be issued under this subchapter.

19 Sec. 2210.645. EXEMPTION FROM TAXATION. A public security  
20 issued under this subchapter, any transaction relating to the  
21 public security, and profits made from the sale of the public  
22 security are exempt from taxation by this state or by a municipality  
23 or other political subdivision of this state.

24 Sec. 2210.646. NO PERSONAL LIABILITY. The members of the  
25 association, members of the association board of directors,  
26 association employees, the board, the employees of the authority,  
27 the commissioner, and department employees are not personally

1 liable as a result of exercising the rights and responsibilities  
2 granted under this subchapter.

3 Sec. 2210.647. AUTHORIZED INVESTMENTS. Public securities  
4 issued under this subchapter are authorized investments under:

5 (1) Subchapter B, Chapter 424;

6 (2) Subchapter C, Chapter 425; and

7 (3) Sections 425.203-425.213.

8 ARTICLE 2. ASSOCIATION OPERATIONS

9 SECTION 2.01. Section 2210.0081, Insurance Code, is amended  
10 to read as follows:

11 Sec. 2210.0081. CERTAIN ACTIONS BROUGHT AGAINST  
12 ASSOCIATION BY COMMISSIONER. (a) In an action brought by the  
13 commissioner against the association under Chapter 441:

14 (1) the association's inability to satisfy obligations  
15 under Subchapters [~~Subchapter~~] M and M-1 related to the issuance of  
16 public securities under this chapter constitutes a condition that  
17 makes the association's continuation in business hazardous to the  
18 public or to the association's policyholders for the purposes of  
19 Section 441.052;

20 (2) a conservator shall complete the conservator's  
21 duties as required by Chapter 441 not later than six months after  
22 the date of the appointment [~~the time for the association to comply~~  
23 ~~with the requirements of supervision or for the conservator to~~  
24 ~~complete the conservator's duties, as applicable, is limited to~~  
25 ~~three years from the date the commissioner commences the action~~  
26 ~~against the association~~]; and

27 (3) unless the commissioner takes further action

1 against the association under Chapter 441, as a condition of  
2 release from supervision, the association must demonstrate to the  
3 satisfaction of the commissioner that the association:

4 (A) is able to satisfy obligations under  
5 Subchapters [~~Subchapter~~] M and M-1 related to the issuance of  
6 public securities under this chapter; and

7 (B) has met the criteria established under  
8 Subsection (b).

9 (b) The commissioner by rule shall establish specific  
10 criteria for the release of the association from conservatorship.

11 (c) The conservator shall provide a written report that  
12 states the release status of the association and explains in detail  
13 all efforts undertaken to meet the criteria established under  
14 Subsection (b) to:

15 (1) the association on a monthly basis; and

16 (2) the legislature on a quarterly basis.

17 (d) After notice and hearing, the commissioner may extend  
18 the conservatorship for one additional period not to exceed six  
19 months.

20 SECTION 2.02. Section 2210.202, Insurance Code, is amended  
21 by adding Subsection (c) to read as follows:

22 (c) The association shall develop and implement an  
23 automated initial application and renewal process that allows for  
24 the acceptance of an application for initial or renewal coverage,  
25 and payment of premiums, from a property and casualty agent or a  
26 person insured under this chapter.

27 SECTION 2.03. Subchapter E, Chapter 2210, Insurance Code,

1 is amended by adding Section 2210.2031 to read as follows:

2 Sec. 2210.2031. PREMIUM SURCHARGE TO REINSTATE PREVIOUS  
3 COVERAGE. An insured who without cause cancels or allows to lapse  
4 insurance coverage issued by the association may subsequently  
5 obtain coverage from the association for the previously insured  
6 property only by paying a premium surcharge of 20 percent.

7 SECTION 2.04. Section 2210.363(a), Insurance Code, is  
8 amended to read as follows:

9 (a) The association shall [~~may~~] offer a person insured under  
10 this chapter an actuarially justified premium discount on a policy  
11 issued by the association, or an actuarially justified credit  
12 against a surcharge assessed against the person, other than a  
13 surcharge assessed under Subchapters [~~Subchapter~~] M and M-1, if:

14 (1) the construction, alteration, remodeling,  
15 enlargement, or repair of, or an addition to, insurable property:

16 (A) exceeds applicable building code standards  
17 set forth in the plan of operation; or

18 (B) includes:

19 (i) roof strapping designed and  
20 manufactured to withstand a wind load as required by the plan of  
21 operation;

22 (ii) window and door coverings designed and  
23 manufactured to withstand a wind load as required by the plan of  
24 operation;

25 (iii) a roof designed and constructed to  
26 withstand a wind load as required by the plan of operation; or

27 (iv) a secondary roof seal; or

1           (2) the person elects to purchase a binding  
2 arbitration endorsement under Section 2210.554.

3           SECTION 2.05. Section 2210.0081, Insurance Code, as amended  
4 by this article, applies to an action by the commissioner against  
5 the association under Chapter 441, Insurance Code, brought before,  
6 on, or after the effective date of this Act. For a conservatorship  
7 pending on the effective date of this Act, the conservator shall  
8 complete the conservator's duties as required by Chapter 441,  
9 Insurance Code, not later than six months after the effective date  
10 of this Act.

11          SECTION 2.06. Section 2210.2031, Insurance Code, as added  
12 by this article, applies only to a reinstatement of an insurance  
13 policy that is canceled or lapses on or after the effective date of  
14 this Act. A reinstatement of a policy that is canceled or lapses  
15 before the effective date of this Act is governed by the law as it  
16 existed immediately before the effective date of this Act, and that  
17 law is continued in effect for that purpose.

18          SECTION 2.07. The change in law made by this article to  
19 Section 2210.363(a), Insurance Code, applies only to an insurance  
20 policy that is delivered, issued for delivery, or renewed on or  
21 after January 1, 2014. A policy delivered, issued for delivery, or  
22 renewed before January 1, 2014, is governed by the law as it existed  
23 immediately before the effective date of this Act, and that law is  
24 continued in effect for that purpose.

25                           ARTICLE 3. MARKET INCENTIVES

26          SECTION 3.01. Chapter 2210, Insurance Code, is amended by  
27 adding Subchapter J-1 to read as follows:

1                   SUBCHAPTER J-1. MARKET INCENTIVES

2           Sec. 2210.477. ASSUMED REINSURANCE PROGRAM. (a) The  
3 association may establish a reinsurance program under which the  
4 association, on a quota share or excess of loss basis or otherwise,  
5 assumes reinsurance ceded by insurers included on the list  
6 maintained under Section 2210.476 for a portion of the losses  
7 incurred by the ceding insurers by writing windstorm and hail  
8 insurance coverage for property in the seacoast territory.

9           (b) A program established under this section:

10           (1) must:

11                   (A) be administered under the plan of operation  
12 and operate in a manner consistent with sound insurance practices;

13                   (B) provide for efficient, economical, fair, and  
14 nondiscriminatory administration of the program; and

15                   (C) allow reasonable flexibility to accommodate  
16 insurers in situations of an unusual nature or in which undue  
17 hardship may result; and

18                   (2) may not in any way impair, override, supersede, or  
19 constrain the public purpose of the association.

20           (c) The plan of operation may provide for various levels of  
21 assumption of risk and retention in a program established under  
22 this section.

23           (d) A program established under this section must provide  
24 reimbursement to the insurer in the manner provided by the  
25 reinsurance contract for covered events in exchange for the  
26 reinsurance premium paid to the association as specified by the  
27 plan of operation. Each reinsurance contract must contain:

1           (1) a promise to pay the ceding insurer for the  
2 insurer's losses from each covered event in excess of the insurer's  
3 retention, if any, required by the plan of operation;

4           (2) a requirement that amounts due to the insurer not  
5 be reduced by reinsurance paid or payable to the insurer from other  
6 sources;

7           (3) a requirement that all contracts covering a  
8 particular contract year may not exceed the association's actual  
9 capacity to pay claims, up to a limit defined in the plan of  
10 operation;

11           (4) a requirement of interim quarterly reporting to  
12 the association from each insurer of losses from each covered  
13 event; and

14           (5) a requirement that, if the insurer becomes  
15 insolvent, the association shall pay the net amount owed to the  
16 insurer directly to the conservator, receiver, or other statutory  
17 successor for the benefit of the insurer's policyholders in this  
18 state.

19           (e) A premium paid by an insurer to the association under a  
20 reinsurance contract shall be treated as a premium paid by the  
21 insurer for approved reinsurance for all accounting and regulatory  
22 purposes.

23           Sec. 2210.478. INFORMATION SHARING. (a) The association  
24 shall:

25           (1) maintain an electronic database composed of  
26 information designed to assist an insurer in participating in or  
27 entering the voluntary windstorm and hail insurance market in the



1 seacoast territory; and

2 (2) provide access to the database to insurers that  
3 engage in the business of property insurance in this state.

4 (b) The database may include information on the  
5 association's business that may be disclosed under Chapter 552,  
6 Government Code, or other information as determined by the board,  
7 that relates to:

8 (1) underwriting;

9 (2) the issuance of policies;

10 (3) loss control services;

11 (4) the investigation or reporting of actual or  
12 potential fraud, misrepresentation, or criminal activity;

13 (5) ratemaking;

14 (6) reinsurance or excess loss insurance;

15 (7) the administration of consumer disputes and  
16 inquiries; and

17 (8) claims administration, adjustment, and  
18 management.

19 (c) The database must be designed to protect:

20 (1) private information about the association's  
21 policyholders or from which a policyholder is identifiable;

22 (2) information considered to be confidential by  
23 constitutional or statutory law or by judicial decision; and

24 (3) information relating to litigation of a civil or  
25 criminal nature to which the association is or may be a party or to  
26 which an officer or employee of the association, as a consequence of  
27 the person's office or employment, is or may be a party.

1       Sec. 2210.479. STUDY OF MARKET INCENTIVES; REPORTING. (a)

2       The department shall conduct a study of market incentives to  
3       promote participation in the voluntary windstorm and hail insurance  
4       market in the seacoast territory. The study must address as  
5       possible incentives:

6               (1) the mandatory or voluntary issuance of windstorm  
7       and hail insurance in conjunction with the issuance of a homeowners  
8       policy in the seacoast territory; and

9               (2) the establishment of an assigned risk pool.

10       (b) The department shall deliver to the legislature a  
11       biennial report on the results of the study.

12       Sec. 2210.480. WINDSTORM AND HAIL INSURANCE ISSUED BY  
13       PRIVATE MARKET: CLAIMS SETTLEMENT AND DISPUTE RESOLUTION. (a)

14       Except as otherwise provided by this section, windstorm and hail  
15       insurance coverage voluntarily issued by an insurer that is  
16       comparable to Texas windstorm and hail insurance issued by the  
17       association as determined by the commissioner by rule and that is  
18       issued for a structure located in the seacoast territory or  
19       corporeal movable property contained in the structure is subject to  
20       the claims settlement and dispute resolution provisions of  
21       Subchapter L-1 as if the insurer were the association and the  
22       windstorm and hail insurance coverage issued by the insurer were an  
23       association policy.

24       (b) The claims settlement and dispute resolution provisions  
25       applicable under this section apply only with respect to a claim  
26       that is a request for payment under the windstorm and hail insurance  
27       coverage issued by the insurer.

1       (c) Sections 2210.572(a) and (b) apply to an insurer that  
2 issues windstorm and hail insurance coverage to which this section  
3 applies only with respect to a claim described by Subsection (b).  
4 Section 2210.572(c) limits the insurer's liability for damages  
5 under Chapter 17, Business & Commerce Code, or any other provision  
6 of law providing for additional damages, punitive damages, or a  
7 penalty only to the extent the damages arise in connection with  
8 windstorm and hail insurance coverage to which this section  
9 applies.

10       (d) An insurer shall use the guidelines published under  
11 Section 2210.578 to settle claims under windstorm and hail  
12 insurance coverage to which this section applies.

13       (e) This section does not affect the terms for the  
14 submission, settlement, payment, or dispute resolution of any claim  
15 made under any other type of coverage provided in the same policy as  
16 the windstorm and hail insurance coverage.

17       Sec. 2210.481. WINDSTORM AND HAIL INSURANCE ISSUED BY  
18 PRIVATE MARKET: REQUIRED POLICY PROVISIONS. (a) A policy issued by  
19 an insurer that includes windstorm and hail insurance coverage  
20 described by Section 2210.480(a) must include provisions that  
21 comply with the requirements of Section 2210.205 with respect to  
22 that coverage. The time period for bringing a claim under the  
23 policy provision required by Section 2210.205(a)(1) is subject to  
24 extension by the commissioner in accordance with Section  
25 2210.205(b).

26       (b) To the extent the claims settlement and dispute  
27 resolution procedures prescribed by Subchapter L-1 are dependent on

1 terms included in an association policy, a policy that provides  
2 windstorm and hail insurance coverage that is subject to this  
3 section must include comparable provisions applicable to the  
4 coverage as prescribed by the commissioner by rule.

5 Sec. 2210.482. WINDSTORM AND HAIL INSURANCE ISSUED BY  
6 PRIVATE MARKET: ACCESSIBILITY OF OMBUDSMAN PROGRAM. (a) A person  
7 insured under windstorm and hail insurance coverage described by  
8 Section 2210.480(a) is entitled to assistance and information from  
9 the ombudsman program established under Section 2210.582 to the  
10 same extent as a person insured by the association under this  
11 chapter.

12 (b) An insurer that issues windstorm and hail insurance  
13 coverage described by Section 2210.480(a) shall notify the insured,  
14 in the manner prescribed by the commissioner by rule, concerning  
15 the operation of the ombudsman program.

16 SECTION 3.02. Section 2210.009, Insurance Code, is  
17 transferred to Subchapter J-1, Chapter 2210, Insurance Code, as  
18 added by this article, redesignated as Section 2210.476, Insurance  
19 Code, and amended to read as follows:

20 Sec. 2210.476 [2210.009]. LIST OF PRIVATE INSURERS;  
21 INCENTIVE PLAN. (a) The department shall maintain a list of all  
22 insurers that engage in the business of property and casualty  
23 insurance in the voluntary market in the seacoast territory.

24 (b) The department shall develop incentive programs that  
25 include the market incentives described by this subchapter [in the  
26 manner described by Section 2210.053(b)] to encourage authorized  
27 insurers to write windstorm and hail insurance on a voluntary basis

1 to cover property located in the seacoast territory and to minimize  
2 the use of the association as a means to obtain that insurance.

3 SECTION 3.03. Section 2210.053(b), Insurance Code, is  
4 amended to read as follows:

5 (b) The department may develop programs to improve the  
6 efficient operation of the association, including a program for  
7 approving policy forms under Section 2301.010 [~~and a program~~  
8 ~~designed to create incentives for insurers to write windstorm and~~  
9 ~~hail insurance voluntarily to cover property located in a~~  
10 ~~catastrophe area, especially property located on the barrier~~  
11 ~~islands of this state~~].

12 SECTION 3.04. Sections 2210.480, 2210.481, and 2210.482,  
13 Insurance Code, as added by this article, apply only to windstorm  
14 and hail insurance coverage under an insurance policy delivered,  
15 issued for delivery, or renewed on or after January 1, 2014.  
16 Coverage under a policy delivered, issued for delivery, or renewed  
17 before that date is governed by the law as it existed immediately  
18 before the effective date of this Act, and that law is continued in  
19 effect for that purpose.

20 ARTICLE 4. BUILDING STANDARDS

21 SECTION 4.01. Chapter 233, Local Government Code, is  
22 amended by adding Subchapter G to read as follows:

23 SUBCHAPTER G. RESIDENTIAL BUILDING CODE STANDARDS APPLICABLE TO  
24 UNINCORPORATED AREAS OF COASTAL COUNTIES

25 Sec. 233.201. DEFINITIONS. In this subchapter:

26 (1) "First tier coastal county" has the meaning  
27 assigned by Section 2210.003, Insurance Code.

1           (2) "Residential" means a single-family house or a  
2 duplex.

3           (3) "Windstorm certificate" means the certificate of  
4 compliance for eligibility for windstorm insurance coverage issued  
5 by the Texas Department of Insurance under Chapter 2210, Insurance  
6 Code.

7           Sec. 233.202. APPLICABILITY. This subchapter applies only  
8 to a first tier coastal county.

9           Sec. 233.203. WINDSTORM BUILDING CODE STANDARDS  
10 APPLICABLE. (a) Residential construction, including an  
11 alteration, remodel, enlargement, or repair involving one or more  
12 structural building components, in the unincorporated area of a  
13 county shall conform to the residential building code standards  
14 required to obtain a windstorm certificate.

15           (b) Standards required under this subchapter apply only to  
16 residential construction in the unincorporated area of a county  
17 that begins after September 1, 2013.

18           (c) If a municipality located in a county to which this  
19 subchapter applies has adopted a residential building code that  
20 conforms to the standards required to obtain a windstorm  
21 certificate and that applies in the municipality's  
22 extraterritorial jurisdiction, the requirements of this subchapter  
23 have no effect in the municipality's extraterritorial  
24 jurisdiction.

25           (d) This subchapter may not be construed to:

26           (1) require prior approval by the county before the  
27 beginning of residential construction; or

1           (2) authorize the commissioners court of a county to  
2 adopt or enforce zoning regulations.

3           (e) To the extent of a conflict between this subchapter and  
4 Subchapter F, this subchapter controls.

5           Sec. 233.204. CERTIFICATE OF OCCUPANCY. A county shall  
6 issue a certificate of occupancy for a residential structure  
7 located in the unincorporated area of the county if the owner of the  
8 structure presents a copy of a windstorm certificate for the  
9 structure with the application for the certificate of occupancy.

10          Sec. 233.205. RULES; FORMS; FEES. (a) The commissioners  
11 court of a county shall by order adopt the rules and forms necessary  
12 to implement this section.

13          (b) The commissioners court may by order adopt a reasonable  
14 fee for the issuance of a certificate of occupancy under this  
15 section.

16          Sec. 233.206. UTILITY CONNECTION. (a) An entity described  
17 by Subsection (b) may not serve or connect a residential structure  
18 located in the unincorporated area of a county and for which  
19 construction began after September 1, 2013, with water, sewer,  
20 electricity, gas, or other utility service unless the county has  
21 issued the structure a certificate of occupancy under this  
22 subchapter.

23          (b) This section applies to any entity that provides water,  
24 sewer, electricity, gas, or other utility service, including:

25               (1) a municipality or county;

26               (2) a municipally owned or operated utility;

27               (3) a public utility;

1           (4) a water supply or sewer service corporation  
2 operating under Chapter 67, Water Code; or

3           (5) a special district or authority created under  
4 state law.

5           SECTION 4.02. Chapter 250, Local Government Code, is  
6 amended by adding Section 250.007 to read as follows:

7           Sec. 250.007. MANDATORY INSPECTION OF RESIDENTIAL  
8 CONSTRUCTION IN SEACOAST TERRITORY. (a) In this section, "seacoast  
9 territory" has the meaning assigned by Section 2210.003, Insurance  
10 Code.

11           (b) This section applies to any residential construction,  
12 including an alteration, remodel, enlargement, or repair,  
13 involving one or more structural building components and located in  
14 the seacoast territory. This section applies without regard to  
15 whether an application for insurance for the property under Chapter  
16 2210, Insurance Code, has been or will be made.

17           (c) A municipality or county may not issue a certificate of  
18 occupancy or completion for residential construction unless:

19           (1) the roof of the construction has been designed for  
20 compliance with uniform static wind pressure requirements of 140  
21 miles per hour, for construction seaward of the intercoastal  
22 waterway, or 130 miles per hour, for construction inland of the  
23 intercoastal waterway; and

24           (2) the construction has been inspected and certified  
25 by the Texas Department of Insurance under Subchapter F, Chapter  
26 32, Insurance Code.

27           SECTION 4.03. Chapter 32, Insurance Code, is amended by



1 adding Subchapter F to read as follows:

2 SUBCHAPTER F. RESIDENTIAL CONSTRUCTION INSPECTIONS

3 Sec. 32.201. DEFINITION. In this subchapter, "seacoast  
4 territory" has the meaning assigned by Section 2210.003.

5 Sec. 32.202. APPLICABILITY. This subchapter applies to any  
6 residential construction to which Section 250.007, Local  
7 Government Code, applies.

8 Sec. 32.203. MANDATORY WIND RESISTANT STANDARDS. (a) The  
9 department shall conduct inspections for compliance with the  
10 standards established under Section 250.007, Local Government  
11 Code.

12 (b) The department shall issue a certificate of compliance  
13 if the construction meets the standards established under Section  
14 250.007, Local Government Code.

15 Sec. 32.204. WINDSTORM INSURANCE APPLICATION NOT REQUIRED.  
16 The department shall inspect property for compliance with standards  
17 established under Chapter 2210 without regard to whether an  
18 application has been or will be made under that chapter for  
19 insurance for the property.

20 SECTION 4.04. Section 250.007, Local Government Code, and  
21 Subchapter F, Chapter 32, Insurance Code, as added by this article,  
22 apply only with respect to residential construction commenced on or  
23 after the effective date of this Act. Residential construction  
24 commenced before the effective date of this Act is governed by the  
25 law applicable to the construction immediately before the effective  
26 date of this Act. For the purposes of this section, construction  
27 commenced before the effective date of this Act if the application

H.B. No. 2352

1 for a building permit under which the construction commences was  
2 submitted before the effective date of this Act.

3 ARTICLE 5. EFFECTIVE DATE

4 SECTION 5.01. This Act takes effect September 1, 2013.