

By: Hinojosa

S.B. No. 1089

A BILL TO BE ENTITLED

AN ACT

relating to the operation of the Texas Windstorm Insurance Association and to catastrophe preparedness in the seacoast territories of this state.

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

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

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

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

(b) This subchapter expires September 1, 2027.

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

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

Sec. 2210.621. TERMINATION OF PUBLIC SECURITIES PROGRAM; EXPIRATION OF SUBCHAPTER. (a) Notwithstanding any other law, public

securities described by this subchapter may not be issued on or after September 1, 2013.

(b) This subchapter expires September 1, 2027.

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

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

SUBCHAPTER B-2. PAYMENT OF LOSSES

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

Sec. 2210.082. PAYMENT OF EXCESS LOSSES; PAYMENT FROM RESERVES AND TRUST FUND. (a) If, on or after September 1, 2013, an occurrence or series of occurrences in a catastrophe area results in insured losses and operating expenses of the association in excess of premium and other revenue of the association, the excess losses and operating expenses shall be paid as provided by this

1 subchapter.

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

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

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

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

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

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

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

1 securities were issued;

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

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

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

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

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

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

23 Sec. 2210.084. PAYMENT FROM CLASS B PUBLIC SECURITIES AND  
24 INSURER ASSESSMENT. (a) On or after the date of an occurrence or  
25 series of occurrences that results in insured losses, any losses  
26 the association determines cannot be paid in the manner provided by  
27 Sections 2210.082 and 2210.083 shall be paid as provided by this

1 section from:

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

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

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

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

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

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

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

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

1 by all insurers for property insurance in this state in the calendar  
2 year preceding the year in which the assessment is made.

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

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

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

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

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

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

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

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

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

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

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

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

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

27       (b) An insurer that elects to purchase reinsurance must

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

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

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

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

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

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

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

26 (c) Following [~~At the end of~~] each calendar year [~~or policy~~  
27 ~~year~~], the association shall pay [~~use~~] the total net gain from



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

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

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

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

26 (1) the association's total exposure for the previous  
 27 calendar year;

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

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

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

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

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

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

26           (d) The premium surcharge described by Subsection (b) must  
27 equal 3.9 percent of premium and shall be assessed on each

policyholder of a policy that covers insured property that is located in a first tier coastal county, including an automobile principally garaged in a first tier coastal county. The premium surcharge shall 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 first tier coastal county. The premium surcharge applies to:

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

- (A) fire and allied lines;
- (B) farm and ranch owners;
- (C) residential property insurance;
- (D) private passenger automobile liability and physical damage insurance; and
- (E) commercial automobile liability and physical damage insurance; and

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

(e) 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. Failure by a policyholder to pay the surcharge constitutes failure to pay premium for purposes of policy cancellation.

(f) The proceeds of an insurer assessment or premium surcharge under this section shall be deposited in the catastrophe reserve trust fund.

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

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

5               SUBCHAPTER M-1. PUBLIC SECURITIES PROGRAM

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

11       Sec. 2210.626. DEFINITIONS. In this subchapter:

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

14               (2) "Board" means the board of directors of the  
15 authority.

16               (3) "Class A public securities" means public  
17 securities authorized to be issued as described by Section  
18 2210.083.

19               (4) "Class B public securities" means public  
20 securities authorized to be issued as described by Section  
21 2210.084.

22               (5) "Class B public security trust fund" means the  
23 dedicated trust fund established by the board and held by the Texas  
24 Treasury Safekeeping Trust Company into which premium surcharges  
25 collected under Section 2210.637 for the purpose of repaying Class  
26 B public securities are deposited.

27               (6) "Class C public securities" means public

1 securities authorized to be issued as described by Section  
2 2210.085.

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

8 (8) "Class D public securities" means public  
9 securities authorized to be issued as described by Section  
10 2210.086.

11 (9) "Class D public security trust fund" means the  
12 dedicated trust fund established by the board and held by the Texas  
13 Treasury Safekeeping Trust Company into which money received from  
14 any source for the purpose of repaying Class D public securities is  
15 deposited.

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

18 (11) "Insurer" means a property and casualty insurer  
19 authorized to engage in the business of property and casualty  
20 insurance in this state and an affiliate of such an insurer, as  
21 described by Section 823.003, including an affiliate that is not  
22 authorized to engage in the business of property and casualty  
23 insurance in this state. The term includes a county mutual  
24 insurance company, a Lloyd's plan, and a reciprocal or  
25 interinsurance exchange but does not include an entity described by  
26 Section 2210.006(b).

27 (12) "Public security" means a debt instrument or

1 other public security issued by the authority.

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

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

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

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

21 (b) A purpose for which public securities are issued under  
22 this chapter constitutes an eligible project for purposes of  
23 Chapter 1371, Government Code.

24 Sec. 2210.628. ISSUANCE OF PUBLIC SECURITIES AUTHORIZED.

25 (a) At the request of the association and with the approval of the  
26 commissioner, the authority shall issue Class A, Class B, Class C,  
27 or Class D public securities. The association shall submit to the

1 commissioner a cost-benefit analysis of various financing methods  
2 and funding structures when requesting the issuance of public  
3 securities under this subsection.

4 (b) The association shall specify in the association's  
5 request to the board the maximum principal amount of the public  
6 securities and the maximum term of the public securities.

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

10 (1) pay the costs related to issuance of the public  
11 securities;

12 (2) provide a public security reserve fund;

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

15 (4) provide the amount of debt service coverage for  
16 public securities determined by the association, in consultation  
17 with the authority, to be required for the issuance of marketable  
18 public securities.

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

22 Sec. 2210.629. TERMS OF ISSUANCE. (a) The board shall  
23 determine the method of sale, type and form of public security,  
24 maximum interest rates, and other terms of the public securities  
25 that, in the board's judgment, best achieve the goals of the  
26 association and effect the borrowing at the lowest practicable  
27 cost. The board may enter into a credit agreement in connection with

1 the public securities.

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

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

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

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

22 (1) pay incurred claims and operating expenses of the  
23 association;

24 (2) purchase reinsurance for the association;

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

27 (4) provide a public security reserve;



1           (5) pay capitalized interest and principal on the  
2 public securities for the period determined necessary by the  
3 association under Section 2210.628;

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

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

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

18          Sec. 2210.633. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY  
19 OBLIGATIONS. (a) The association shall provide for the payment of  
20 all public security obligations from available funds collected by  
21 the association and deposited into the public security obligation  
22 revenue fund. If the association determines that it is unable to pay  
23 the public security obligations and public security administrative  
24 expenses, if any, with available funds, the association shall pay  
25 those obligations and expenses in accordance with Sections  
26 2210.636, 2210.637, 2210.638, and 2210.639, as applicable.

27          (b) If any public securities issued under this subchapter

are outstanding, the authority shall notify the association of the amount of the public security obligations and the estimated amount of public security administrative expenses, if any, each calendar year in a period sufficient, as determined by the association, to permit the association to determine the availability of funds and, if necessary, assess a premium surcharge under Section 2210.637 or 2210.638, as applicable.

(c) The association shall deposit:

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

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

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

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

(d) Money deposited in a fund under this section may be invested as permitted by general law. Money in a fund required to be used to pay public security obligations and public security administrative expenses, if any, shall be transferred to the appropriate funds in the manner and at the time specified in the proceedings authorizing the public securities in order to ensure timely payment of obligations and expenses. The board may establish funds and accounts with the comptroller that the board determines

are necessary to administer and repay the public security obligations. If the association has not transferred amounts sufficient to pay the public security obligations to the board's designated interest and sinking fund in a timely manner, the board may direct the Texas Treasury Safekeeping Trust Company to transfer from the public security obligation revenue fund, or the Class B, Class C, or Class D public security trust fund, to the appropriate account the amount necessary to pay the public security obligation.

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

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

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

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

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

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

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

14            (2) used to redeem or purchase outstanding public  
15 securities; or

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

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

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

23            (1) net premium and other revenue; and

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

26            (b) On approval by the commissioner, the association and  
27 each insurer that provides insurance in a first tier coastal county

shall assess, as provided by this section, a premium surcharge to each policyholder of a policy described by Subsection (c) that is in effect on or after the 180th day after the date the commissioner issues notice of the approval of the public securities. The premium surcharge must be set in an amount sufficient to pay, for the duration of the issued public securities, all debt service not already covered by available funds and all related expenses on the public securities.

(c) The premium surcharge under this section shall be assessed on each policyholder of a policy that covers insured property that is located in a first tier coastal county, including an automobile principally garaged in a first tier coastal county. The premium surcharge shall 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 first tier coastal county. The premium surcharge applies to:

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

- (A) fire and allied lines;
- (B) farm and ranch owners;
- (C) residential property insurance;
- (D) private passenger automobile liability and physical damage insurance; and
- (E) commercial automobile liability and physical damage insurance; and

(2) the property insurance portion of a commercial

1 multiple peril insurance policy.

2 (d) A premium surcharge under this section is a separate  
3 charge in addition to the premiums collected and is not subject to  
4 premium tax or commissions. Failure by a policyholder to pay the  
5 surcharge constitutes failure to pay premium for purposes of policy  
6 cancellation.

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

10 (1) net premium and other revenue; and

11 (2) a statewide premium surcharge collected in  
12 accordance with this section.

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

22 (c) The premium surcharge under this section shall be  
23 assessed on each policyholder of a policy that covers insured  
24 property that is located in this state, including an automobile  
25 registered in this state. The premium surcharge shall be assessed  
26 on each Texas windstorm and hail insurance policy and each property  
27 and casualty insurance policy, including an automobile insurance

policy, issued for an automobile or other property located in this state. The premium surcharge applies to:

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

(A) fire and allied lines;

(B) farm and ranch owners;

(C) residential property insurance;

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

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

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

(d) 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. Failure by a policyholder to pay the surcharge constitutes failure to pay premium for purposes of policy cancellation.

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

(1) net premium and other revenue; and

(2) money received from any source for the purpose of repaying Class D public securities.

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

1       Sec. 2210.640. AUTHORIZATION TO ENTER INTO FINANCING  
2 ARRANGEMENTS. The association may enter into financing  
3 arrangements as described by Section 2210.087 as necessary to  
4 obtain public securities issued under this subchapter.

5       Sec. 2210.641. REFINANCING PUBLIC SECURITIES. The  
6 association may request the board to refinance any public  
7 securities issued under this subchapter, whether Class A, Class B,  
8 Class C, or Class D public securities, with public securities  
9 payable from the same sources as the original public securities.  
10 Class A, Class B, Class C, or Class D public securities may be  
11 issued on a parity or subordinate lien basis with other Class A,  
12 Class B, Class C, or Class D public securities, respectively.

13       Sec. 2210.642. SOURCE OF PAYMENT; STATE DEBT NOT CREATED.  
14 (a) A public security or credit agreement is payable solely from  
15 revenue as provided by this subchapter.

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

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

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



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

5           Sec. 2210.643. STATE NOT TO IMPAIR PUBLIC SECURITY  
6 OBLIGATIONS. (a) The state pledges for the benefit and protection  
7 of financing parties, the board, and the association that the  
8 state will not take or permit any action that would:

9           (1) impair the collection of premium surcharges or the  
10 deposit of those funds into the Class B or Class C public security  
11 trust fund;

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

17           (3) in any way impair the rights and remedies of the  
18 public security owners until the public securities are fully  
19 discharged.

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

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

27           (1) this subchapter;

1           (2) the Texas Constitution; or

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

4           Sec. 2210.645. EXEMPTION FROM TAXATION. A public security  
5 issued under this subchapter, any transaction relating to the  
6 public security, and profits made from the sale of the public  
7 security are exempt from taxation by this state or by a municipality  
8 or other political subdivision of this state.

9           Sec. 2210.646. NO PERSONAL LIABILITY. The members of the  
10 association, members of the association board of directors,  
11 association employees, the board, the employees of the authority,  
12 the commissioner, and department employees are not personally  
13 liable as a result of exercising the rights and responsibilities  
14 granted under this subchapter.

15           Sec. 2210.647. AUTHORIZED INVESTMENTS. Public securities  
16 issued under this subchapter are authorized investments under:

17                   (1) Subchapter B, Chapter 424;

18                   (2) Subchapter C, Chapter 425; and

19                   (3) Sections 425.203-425.213.

20                   ARTICLE 2. ASSOCIATION OPERATIONS

21           SECTION 2.01. Section 2210.0081, Insurance Code, is amended  
22 to read as follows:

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

26                   (1) the association's inability to satisfy obligations  
27 under Subchapters [~~Subchapter~~] M and M-1 related to the issuance of

1 public securities under this chapter constitutes a condition that  
2 makes the association's continuation in business hazardous to the  
3 public or to the association's policyholders for the purposes of  
4 Section 441.052;

5           (2) a conservator shall complete the conservator's  
6 duties as required by Chapter 441 not later than six months after  
7 the date of the appointment ~~[the time for the association to comply~~  
8 ~~with the requirements of supervision or for the conservator to~~  
9 ~~complete the conservator's duties, as applicable, is limited to~~  
10 ~~three years from the date the commissioner commences the action~~  
11 ~~against the association]~~; and

12           (3) unless the commissioner takes further action  
13 against the association under Chapter 441, as a condition of  
14 release from supervision, the association must demonstrate to the  
15 satisfaction of the commissioner that the association:

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

19           (B) has met the criteria established under  
20 Subsection (b).

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

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

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

1           (2) the legislature on a quarterly basis.

2           (d) After notice and hearing, the commissioner may extend  
3 the conservatorship for one additional period not to exceed six  
4 months.

5           SECTION 2.02. Section 2210.102, Insurance Code, is amended  
6 to read as follows:

7           Sec. 2210.102. COMPOSITION. (a) The board of directors is  
8 composed of 11 [~~nine~~] members appointed by the governor  
9 [~~commissioner~~] in accordance with this section.

10           (b) Three [~~Four~~] members must be representatives of the  
11 insurance industry who actively write and renew windstorm and hail  
12 insurance in the seacoast territory.

13           (c) Six [~~Four~~] members must, as of the date of the  
14 appointment, reside in the first tier coastal counties. Of the six  
15 members appointed under this subsection:

16                 (1) two [~~At least one of the members appointed under~~  
17 ~~this subsection~~] must be [~~a~~] property and casualty agents [~~agent~~]  
18 who are [~~is~~] licensed under this code and are [~~is~~] not [~~a~~] captive  
19 agents;

20                 (2) one must be a representative of the construction  
21 industry;

22                 (3) one must be a coastal engineer; and

23                 (4) two must be policyholders of the association and  
24 not agents [~~agent~~].

25           (d) One member must be a representative of an area of this  
26 state that is not located in the seacoast territory with  
27 demonstrated expertise in insurance and actuarial principles.

(d-1) One member must be a representative of the financial industry.

(e) All members must have demonstrated experience in insurance, general business, ~~[or]~~ actuarial principles, finance, engineering, or construction sufficient to make the success of the association probable.

(f) Insurers who are members of the association shall nominate, from among those members, persons to fill any vacancy in the three ~~[four]~~ board of director seats reserved for representatives of the insurance industry. The board of directors shall solicit nominations from the members and submit the nominations to the governor ~~[commissioner]~~. The nominee slate submitted to the governor ~~[commissioner]~~ under this subsection must include at least three more names than the number of vacancies. The governor ~~[commissioner]~~ shall appoint replacement insurance industry representatives from the nominee slate.

(g) The governor ~~[commissioner]~~ shall appoint three persons ~~[one person]~~ to serve as ~~[a]~~ nonvoting members ~~[member]~~ of the board, each of whom must, as of the date of the appointment, be a public official of a first tier coastal county, with each of the following regions represented by one nonvoting member:

(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 ~~[to advise the board]~~

1 ~~regarding issues relating to the inspection process. The~~  
2 ~~commissioner may give preference in an appointment under this~~  
3 ~~subsection to a person who is a qualified inspector under Section~~  
4 ~~2210.254. The nonvoting member appointed under this section must:~~

5 ~~[(1) be an engineer licensed by, and in good standing~~  
6 ~~with, the Texas Board of Professional Engineers,~~

7 ~~[(2) reside in a first tier coastal county, and~~

8 ~~[(3) be knowledgeable of, and have professional~~  
9 ~~expertise in, wind-related design and construction practices in~~  
10 ~~coastal areas that are subject to high winds and hurricanes].~~

11 (h) The persons appointed under Subsection (c) must be from  
12 different counties with each of the regions listed in Subsection  
13 (g) represented by at least one person.

14 SECTION 2.03. Section 2210.202, Insurance Code, is amended  
15 by adding Subsection (c) to read as follows:

16 (c) The association shall develop and implement an  
17 automated initial application and renewal process that allows for  
18 the acceptance of an application for initial or renewal coverage,  
19 and payment of premiums, from a property and casualty agent or a  
20 person insured under this chapter.

21 SECTION 2.04. Subchapter E, Chapter 2210, Insurance Code,  
22 is amended by adding Section 2210.2031 to read as follows:

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

SECTION 2.05. Section 2210.363(a), Insurance Code, is amended to read as follows:

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

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

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

(B) includes:

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

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

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

(iv) a secondary roof seal; or

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

SECTION 2.06. Section 2210.0081, Insurance Code, as amended by this article, applies to an action by the commissioner against the association under Chapter 441, Insurance Code, brought before, on, or after the effective date of this Act. For a conservatorship

1 pending on the effective date of this Act, the conservator shall  
2 complete the conservator's duties as required by Chapter 441,  
3 Insurance Code, not later than six months after the effective date  
4 of this Act.

5       SECTION 2.07. (a) The board of directors of the Texas  
6 Windstorm Insurance Association established under Section  
7 2210.102, Insurance Code, as that section existed before amendment  
8 by this article, is abolished effective December 31, 2013.

9       (b) The governor shall appoint the members of the board of  
10 directors of the Texas Windstorm Insurance Association under  
11 Section 2210.102, Insurance Code, as amended by this article, not  
12 later than December 31, 2013.

13       (c) The term of a person who is serving as a member of the  
14 board of directors of the Texas Windstorm Insurance Association  
15 immediately before the abolition of that board under Subsection (a)  
16 of this section expires on December 31, 2013. Such a person is  
17 eligible for appointment by the governor to the new board of  
18 directors of the Texas Windstorm Insurance Association, subject to  
19 the requirements of Section 2210.102, Insurance Code, as amended by  
20 this article.

21       SECTION 2.08. Section 2210.2031, Insurance Code, as added  
22 by this article, applies only to a reinstatement of an insurance  
23 policy that is canceled or lapses on or after the effective date of  
24 this Act. A reinstatement of a policy that is canceled or lapses  
25 before the effective date of this Act is governed by the law as it  
26 existed immediately before the effective date of this Act, and that  
27 law is continued in effect for that purpose.



SECTION 2.09. The change in law made by this article to Section 2210.363(a), Insurance Code, applies only to an insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2014. A policy delivered, issued for delivery, or renewed before January 1, 2014, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

ARTICLE 3. MARKET INCENTIVES

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

SUBCHAPTER J-1. MARKET INCENTIVES

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

(b) A program established under this section:

(1) must:

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

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

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

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

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

6           (d) A program established under this section must provide  
7 reimbursement to the insurer in the manner provided by the  
8 reinsurance contract for covered events in exchange for the  
9 reinsurance premium paid to the association as specified by the  
10 plan of operation. Each reinsurance contract must contain:

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

14           (2) a requirement that amounts due to the insurer not  
15 be reduced by reinsurance paid or payable to the insurer from other  
16 sources;

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

21           (4) a requirement of interim quarterly reporting to  
22 the association from each insurer of losses from each covered  
23 event; and

24           (5) a requirement that, if the insurer becomes  
25 insolvent, the association shall pay the net amount owed to the  
26 insurer directly to the conservator, receiver, or other statutory  
27 successor for the benefit of the insurer's policyholders in this

1 state.

2 (e) A premium paid by an insurer to the association under a  
3 reinsurance contract shall be treated as a premium paid by the  
4 insurer for approved reinsurance for all accounting and regulatory  
5 purposes.

6 Sec. 2210.478. INFORMATION SHARING. (a) The association  
7 shall:

8 (1) maintain an electronic database composed of  
9 information designed to assist an insurer in participating in or  
10 entering the voluntary windstorm and hail insurance market in the  
11 seacoast territory; and

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

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

18 (1) underwriting;  
19 (2) the issuance of policies;  
20 (3) loss control services;  
21 (4) the investigation or reporting of actual or  
22 potential fraud, misrepresentation, or criminal activity;

23 (5) ratemaking;  
24 (6) reinsurance or excess loss insurance;  
25 (7) the administration of consumer disputes and  
26 inquiries; and

27 (8) claims administration, adjustment, and

1 management.

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

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

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

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

11 Sec. 2210.479. STUDY OF MARKET INCENTIVES; REPORTING. (a)  
12 The department shall conduct a study of market incentives to  
13 promote participation in the voluntary windstorm and hail insurance  
14 market in the seacoast territory. The study must address as  
15 possible incentives:

16 (1) the mandatory or voluntary issuance of windstorm  
17 and hail insurance in conjunction with the issuance of a homeowners  
18 policy in the seacoast territory; and

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

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

22 Sec. 2210.480. WINDSTORM AND HAIL INSURANCE ISSUED BY  
23 PRIVATE MARKET: CLAIMS SETTLEMENT AND DISPUTE RESOLUTION. (a)  
24 Except as otherwise provided by this section, windstorm and hail  
25 insurance coverage voluntarily issued by an insurer that is  
26 comparable to Texas windstorm and hail insurance issued by the  
27 association as determined by the commissioner by rule and that is

issued for a structure located in the seacoast territory or corporeal movable property contained in the structure is subject to the claims settlement and dispute resolution provisions of Subchapter L-1 as if the insurer were the association and the windstorm and hail insurance coverage issued by the insurer were an association policy.

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

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

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

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

Sec. 2210.481. WINDSTORM AND HAIL INSURANCE ISSUED BY

1 PRIVATE MARKET: REQUIRED POLICY PROVISIONS. (a) A policy issued by  
2 an insurer that includes windstorm and hail insurance coverage  
3 described by Section 2210.480(a) must include provisions that  
4 comply with the requirements of Section 2210.205 with respect to  
5 that coverage. The time period for bringing a claim under the  
6 policy provision required by Section 2210.205(a)(1) is subject to  
7 extension by the commissioner in accordance with Section  
8 2210.205(b).

9 (b) To the extent the claims settlement and dispute  
10 resolution procedures prescribed by Subchapter L-1 are dependent on  
11 terms included in an association policy, a policy that provides  
12 windstorm and hail insurance coverage that is subject to this  
13 section must include comparable provisions applicable to the  
14 coverage as prescribed by the commissioner by rule.

15 Sec. 2210.482. WINDSTORM AND HAIL INSURANCE ISSUED BY  
16 PRIVATE MARKET: ACCESSIBILITY OF OMBUDSMAN PROGRAM. (a) A person  
17 insured under windstorm and hail insurance coverage described by  
18 Section 2210.480(a) is entitled to assistance and information from  
19 the ombudsman program established under Section 2210.582 to the  
20 same extent as a person insured by the association under this  
21 chapter.

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

26 SECTION 3.02. Section 2210.009, Insurance Code, is  
27 transferred to Subchapter J-1, Chapter 2210, Insurance Code, as

1 added by this article, redesignated as Section 2210.476, Insurance  
2 Code, and amended to read as follows:

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

7       (b) The department shall develop incentive programs that  
8 include the market incentives described by this subchapter [~~in the~~  
9 ~~manner described by Section 2210.053(b)~~] to encourage authorized  
10 insurers to write windstorm and hail insurance on a voluntary basis  
11 to cover property located in the seacoast territory and to minimize  
12 the use of the association as a means to obtain that insurance.

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

15       (b) The department may develop programs to improve the  
16 efficient operation of the association, including a program for  
17 approving policy forms under Section 2301.010 [~~and a program~~  
18 ~~designed to create incentives for insurers to write windstorm and~~  
19 ~~hail insurance voluntarily to cover property located in a~~  
20 ~~catastrophe area, especially property located on the barrier~~  
21 ~~islands of this state]~~.

22       SECTION 3.04. Sections 2210.480, 2210.481, and 2210.482,  
23 Insurance Code, as added by this article, apply only to windstorm  
24 and hail insurance coverage under an insurance policy delivered,  
25 issued for delivery, or renewed on or after January 1, 2014.  
26 Coverage under a policy delivered, issued for delivery, or renewed  
27 before that date is governed by the law as it existed immediately

before the effective date of this Act, and that law is continued in effect for that purpose.

ARTICLE 4. BUILDING STANDARDS

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

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

Sec. 233.201. DEFINITIONS. In this subchapter:

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

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

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

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

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

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



1        (c) If a municipality located in a county to which this  
2 subchapter applies has adopted a residential building code that  
3 conforms to the standards required to obtain a windstorm  
4 certificate and that applies in the municipality's  
5 extraterritorial jurisdiction, the requirements of this subchapter  
6 have no effect in the municipality's extraterritorial  
7 jurisdiction.

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

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

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

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

15        Sec. 233.204. CERTIFICATE OF OCCUPANCY. A county shall  
16 issue a certificate of occupancy for a residential structure  
17 located in the unincorporated area of the county if the owner of the  
18 structure presents a copy of a windstorm certificate for the  
19 structure with the application for the certificate of occupancy.

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

23        (b) The commissioners court may by order adopt a reasonable  
24 fee for the issuance of a certificate of occupancy under this  
25 section.

26        Sec. 233.206. UTILITY CONNECTION. (a) An entity described  
27 by Subsection (b) may not serve or connect a residential structure

1 located in the unincorporated area of a county and for which  
2 construction began after September 1, 2013, with water, sewer,  
3 electricity, gas, or other utility service unless the county has  
4 issued the structure a certificate of occupancy under this  
5 subchapter.

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

- 8 (1) a municipality or county;  
9 (2) a municipally owned or operated utility;  
10 (3) a public utility;  
11 (4) a water supply or sewer service corporation  
12 operating under Chapter 67, Water Code; or  
13 (5) a special district or authority created under  
14 state law.

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

17 Sec. 250.007. MANDATORY INSPECTION OF RESIDENTIAL  
18 CONSTRUCTION IN SEACOAST TERRITORY. (a) In this section,  
19 "seacoast territory" has the meaning assigned by Section 2210.003,  
20 Insurance Code.

21 (b) This section applies to any residential construction,  
22 including an alteration, remodel, enlargement, or repair,  
23 involving one or more structural building components and located in  
24 the seacoast territory. This section applies without regard to  
25 whether an application for insurance for the property under Chapter  
26 2210, Insurance Code, has been or will be made.

27 (c) A municipality or county may not issue a certificate of

occupancy or completion for residential construction unless:

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

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

SECTION 4.03. Chapter 32, Insurance Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. RESIDENTIAL CONSTRUCTION INSPECTIONS

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

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

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

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

Sec. 32.204. WINDSTORM INSURANCE APPLICATION NOT REQUIRED. The department shall inspect property for compliance with standards established under Chapter 2210 without regard to whether an

1 application has been or will be made under that chapter for  
2 insurance for the property.

3       SECTION 4.04. Section 250.007, Local Government Code, and  
4 Subchapter F, Chapter 32, Insurance Code, as added by this article,  
5 apply only with respect to residential construction commenced on or  
6 after the effective date of this Act. Residential construction  
7 commenced before the effective date of this Act is governed by the  
8 law applicable to the construction immediately before the effective  
9 date of this Act. For the purposes of this section, construction  
10 commenced before the effective date of this Act if the application  
11 for a building permit under which the construction commences was  
12 submitted before the effective date of this Act.

13                   ARTICLE 5. EFFECTIVE DATE

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