

1-1 By: Taylor S.B. No. 1700  
 1-2 (In the Senate - Filed March 8, 2013; March 18, 2013, read  
 1-3 first time and referred to Committee on Business and Commerce;  
 1-4 May 9, 2013, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 6, Nays 1; May 9, 2013,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12		X		
1-13	X			
1-14	X			
1-15			X	
1-16	X			
1-17			X	

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1700 By: Taylor

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the operation of the Texas Windstorm Insurance  
 1-22 Association and the FAIR Plan Association and the renaming of the  
 1-23 Texas Windstorm Insurance Association as the Texas Residual  
 1-24 Insurance Plan.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 2210.001, Insurance Code, is amended to  
 1-27 read as follows:

1-28 Sec. 2210.001. PURPOSE. The primary purpose of the Texas  
 1-29 Residual [~~Windstorm~~] Insurance Plan [~~Association~~] is the provision  
 1-30 of an adequate market for windstorm and hail insurance in the  
 1-31 seacoast territory of this state. The legislature finds that the  
 1-32 provision of adequate windstorm and hail insurance is necessary to  
 1-33 the economic welfare of this state, and without that insurance, the  
 1-34 orderly growth and development of this state would be severely  
 1-35 impeded. This chapter provides a method by which adequate  
 1-36 windstorm and hail insurance may be obtained in certain designated  
 1-37 portions of the seacoast territory of this state. The plan  
 1-38 [~~association~~] is intended to serve as a residual insurer of last  
 1-39 resort for windstorm and hail insurance in the seacoast territory.  
 1-40 The plan [~~association~~] shall:

1-41 (1) function in such a manner as to not be a direct  
 1-42 competitor in the private market; and

1-43 (2) provide windstorm and hail insurance coverage to  
 1-44 those who are unable to obtain that coverage in the private market.

1-45 SECTION 2. Section 2210.002, Insurance Code, is amended by  
 1-46 amending Subsection (a) and adding Subsection (a-1) to read as  
 1-47 follows:

1-48 (a) This chapter may be cited as the Texas Residual  
 1-49 [~~Windstorm~~] Insurance Plan [~~Association~~] Act.

1-50 (a-1) A reference in this chapter or other law to the Texas  
 1-51 Windstorm Insurance Association means the Texas Residual Insurance  
 1-52 Plan.

1-53 SECTION 3. Section 2210.003, Insurance Code, is amended by  
 1-54 amending Subdivision (1) and adding Subdivisions (1-a), (3-c), and  
 1-55 (14) to read as follows:

1-56 (1) "Administrator" means the entity contractually  
 1-57 retained to:

1-58 (A) manage the association and administer the  
 1-59 plan of operation under Section 2210.062;

1-60 (B) establish, administer, and maintain the

2-1 electronic portal under Section 2210.211; and  
2-2 (C) manage the FAIR Plan Association and  
2-3 administer the plan of operation under Section 2211.0522.

2-4 (1-a) "Association" means the Texas Residual  
2-5 [Windstorm] Insurance Plan [Association].

2-6 (3-c) "Exposure reduction plan fund" means the  
2-7 dedicated trust fund established by the board of directors and held  
2-8 by the Texas Treasury Safekeeping Trust Company into which  
2-9 assessments collected under Section 2210.212 are deposited for the  
2-10 purpose of achieving the association's required exposure reduction  
2-11 through means including mitigation, rate assistance, or any other  
2-12 means related to that purpose considered necessary by the board.

2-13 (14) "Total insured exposure" means the total of all  
2-14 risks insured by the association in any class of business.

2-15 SECTION 4. Section 2210.014, Insurance Code, is amended by  
2-16 amending Subsection (b) and adding Subsection (c) to read as  
2-17 follows:

2-18 (b) Chapter 542 does not apply to the processing and  
2-19 settlement of claims by the association or to an agent or  
2-20 representative of the association.

2-21 (c) An insurer or adjuster, or the administrator contracted  
2-22 under Section 2210.062, is an agent of the association for purposes  
2-23 of adjusting association claims under this section.

2-24 SECTION 5. Subchapter A, Chapter 2210, Insurance Code, is  
2-25 amended by adding Section 2210.015 to read as follows:

2-26 Sec. 2210.015. STUDY OF MARKET INCENTIVES; BIENNIAL  
2-27 REPORTING. (a) Each biennium, the department shall conduct a  
2-28 study of market incentives to promote participation in the  
2-29 voluntary windstorm and hail insurance market in the seacoast  
2-30 territory of this state. The study must address as possible  
2-31 incentives the mandatory or voluntary issuance of windstorm and  
2-32 hail insurance in conjunction with the issuance of a homeowners  
2-33 policy in the seacoast territory.

2-34 (b) The department shall include the results of the study  
2-35 conducted under this section in the report submitted under Section  
2-36 32.022.

2-37 SECTION 6. Subchapter B, Chapter 2210, Insurance Code, is  
2-38 amended by adding Sections 2210.062, 2210.063, 2210.064, 2210.065,  
2-39 and 2210.066 to read as follows:

2-40 Sec. 2210.062. ADMINISTRATION BY CONTRACTED ADMINISTRATOR.

2-41 (a) Notwithstanding any other law, the commissioner shall  
2-42 contract with an administrator to manage the association and  
2-43 administer the plan of operation beginning January 1, 2014. The  
2-44 administrator may not exercise any power under the contract before  
2-45 January 1, 2014.

2-46 (b) The administrator must hold either a managing general  
2-47 agent license issued under Chapter 4053 or a third-party  
2-48 administrator certificate of authority issued under Chapter 4151.

2-49 (c) The term of the administrator's contract may not exceed  
2-50 five years. The contract may be renewed for additional terms not to  
2-51 exceed five years for each term.

2-52 (d) In establishing the compensation paid to the  
2-53 administrator under the contract, the commissioner shall consider  
2-54 the cost of operations of the association and make every reasonable  
2-55 effort to ensure that the cost of operations of the association  
2-56 under the contract does not exceed average historical costs.

2-57 Sec. 2210.063. PROPRIETARY INFORMATION. (a) Any  
2-58 information, analyses, programs, or data acquired or created by the  
2-59 administrator under a contract under this chapter or Chapter 2211  
2-60 are property of the department.

2-61 (b) Information, analyses, programs, or data described by  
2-62 Subsection (a) are confidential and exempt from public disclosure  
2-63 under Chapter 552, Government Code.

2-64 Sec. 2210.064. OFFICE; RECORDS. (a) The administrator  
2-65 shall maintain an office in Austin, Texas.

2-66 (b) The commissioner may arrange to lease office space of  
2-67 the department to the administrator.

2-68 Sec. 2210.065. AUDIT. (a) The administrator is subject to  
2-69 audit by the commissioner and shall pay the costs incurred by the

3-1 commissioner in performing an audit under this section in an amount  
 3-2 the commissioner finds reasonable.

3-3 (b) Work papers, as defined by Section 401.020(a), from an  
 3-4 audit are confidential and not subject to disclosure under Chapter  
 3-5 552, Government Code.

3-6 Sec. 2210.066. ANNUAL REPORT OF ADMINISTRATOR. (a) Not  
 3-7 later than March 1 of each year, the administrator shall submit a  
 3-8 report regarding the administrator's duties under this chapter and  
 3-9 Chapter 2211 to:

3-10 (1) the governor;

3-11 (2) the lieutenant governor;

3-12 (3) the speaker of the house of representatives;

3-13 (4) the Senate Committee on Business and Commerce or  
 3-14 the successor of that committee with jurisdiction over insurance;

3-15 (5) the House Committee on Insurance or the successor  
 3-16 of that committee with jurisdiction over insurance; and

3-17 (6) the legislative oversight board established under  
 3-18 Subchapter N.

3-19 (b) The report must be made in accordance with the terms of  
 3-20 the administrator's contract with the department.

3-21 SECTION 7. Subchapter B-1, Chapter 2210, Insurance Code, is  
 3-22 amended by amending Section 2210.071 and adding Section 2210.0715  
 3-23 to read as follows:

3-24 Sec. 2210.071. PAYMENT OF EXCESS LOSSES [~~-, PAYMENT FROM~~  
 3-25 ~~RESERVES AND TRUST FUND~~]. [~~(a)~~] If, in a catastrophe year, an  
 3-26 occurrence or series of occurrences in a catastrophe area results  
 3-27 in insured losses and operating expenses of the association in  
 3-28 excess of premium and other revenue of the association, the excess  
 3-29 losses and operating expenses shall be paid as provided by this  
 3-30 subchapter.

3-31 Sec. 2210.0715. PAYMENT FROM RESERVES AND TRUST FUND. [~~(b)~~]  
 3-32 The association shall pay losses in excess of premium and other  
 3-33 revenue of the association from available reserves of the  
 3-34 association and available amounts in the catastrophe reserve trust  
 3-35 fund.

3-36 [~~(c) Losses not paid under Subsection (b) shall be paid from~~  
 3-37 ~~the proceeds from public securities issued in accordance with this~~  
 3-38 ~~subchapter and Subchapter M and, notwithstanding Subsection (a),~~  
 3-39 ~~may be paid from the proceeds of public securities issued under~~  
 3-40 ~~Section 2210.072(a) before an occurrence or series of occurrences~~  
 3-41 ~~that results in insured losses.]~~

3-42 SECTION 8. Subchapter B-1, Chapter 2210, Insurance Code, is  
 3-43 amended by adding Section 2210.0716 to read as follows:

3-44 Sec. 2210.0716. PAYMENT FROM CLASS 1 ASSESSMENTS.

3-45 (a) Losses in a catastrophe year not paid under Section 2210.0715  
 3-46 shall be paid as provided by this section from member assessments  
 3-47 not to exceed \$500 million for that catastrophe year.

3-48 (b) The administrator, with the approval of the  
 3-49 commissioner, shall notify each member of the amount of the  
 3-50 member's assessment under this section. The proportion of the  
 3-51 losses allocable to each insurer under this section shall be  
 3-52 determined in the manner used to determine each insurer's  
 3-53 participation in the association for the year under Section  
 3-54 2210.052.

3-55 (c) A member of the association may not recoup an assessment  
 3-56 paid under this section through a premium surcharge or tax credit.

3-57 SECTION 9. Subsections (a), (b), (b-1), (c), and (f),  
 3-58 Section 2210.072, Insurance Code, are amended to read as follows:

3-59 (a) Losses not paid under Sections 2210.0715 and 2210.0716  
 3-60 [~~Section 2210.071(b)~~] shall be paid as provided by this section  
 3-61 from the proceeds from Class 1 public securities authorized to be  
 3-62 issued in accordance with Subchapter M before, on, or after the date  
 3-63 of any occurrence or series of occurrences that results in insured  
 3-64 losses. Public securities issued under this section must be paid  
 3-65 [~~repaid~~] within a period not to exceed 10 [~~14~~] years, and may be  
 3-66 paid [~~repaid~~] sooner if the board of directors elects to do so and  
 3-67 the commissioner approves.

3-68 (b) Public securities described by Subsection (a) that are  
 3-69 issued before an occurrence or series of occurrences that results

4-1 in incurred losses:

4-2 (1) may be issued on the request of the board of  
4-3 directors with the approval of the commissioner; and

4-4 (2) may not, in the aggregate, exceed \$500 million [~~\$1~~  
4-5 ~~billion~~] at any one time, regardless of the calendar year or years  
4-6 in which the outstanding public securities were issued.

4-7 (b-1) Public securities described by Subsection (a):

4-8 (1) shall be issued as necessary in a principal amount  
4-9 not to exceed \$500 million [~~\$1 billion~~] per catastrophe year, in the  
4-10 aggregate, for securities issued during that catastrophe year  
4-11 before the occurrence or series of occurrences that results in  
4-12 incurred losses in that year and securities issued on or after the  
4-13 date of that occurrence or series of occurrences, and regardless of  
4-14 whether for a single occurrence or a series of occurrences; and

4-15 (2) subject to the \$500 million [~~\$1 billion~~] maximum  
4-16 described by Subdivision (1), may be issued, in one or more  
4-17 issuances or tranches, during the calendar year in which the  
4-18 occurrence or series of occurrences occurs or, if the public  
4-19 securities cannot reasonably be issued in that year, during the  
4-20 following calendar year.

4-21 (c) If public securities are issued as described by this  
4-22 section, the public securities shall be paid [~~repaid~~] in the manner  
4-23 prescribed by Subchapter M [~~from association premium revenue~~].

4-24 (f) If, under Subsection (e), the proceeds of any  
4-25 outstanding public securities issued during a previous catastrophe  
4-26 year must be depleted, those proceeds shall count against the \$500  
4-27 million [~~\$1 billion~~] limit on public securities described by this  
4-28 section in the catastrophe year in which the proceeds must be  
4-29 depleted.

4-30 SECTION 10. Subchapter B-1, Chapter 2210, Insurance Code,  
4-31 is amended by adding Section 2210.0725 to read as follows:

4-32 Sec. 2210.0725. PAYMENT FROM CLASS 2 ASSESSMENTS.

4-33 (a) Losses in a catastrophe year not paid under Sections  
4-34 2210.0715, 2210.0716, and 2210.072 shall be paid as provided by  
4-35 this section from member assessments not to exceed \$500 million for  
4-36 that catastrophe year.

4-37 (b) The administrator, with the approval of the  
4-38 commissioner, shall notify each member of the amount of the  
4-39 member's assessment under this section. The proportion of the  
4-40 losses allocable to each insurer under this section shall be  
4-41 determined in the manner used to determine each insurer's  
4-42 participation in the association for the year under Section  
4-43 2210.052.

4-44 (c) A member of the association may not recoup an assessment  
4-45 paid under this section through a premium surcharge or tax credit.

4-46 SECTION 11. Section 2210.073, Insurance Code, is amended to  
4-47 read as follows:

4-48 Sec. 2210.073. PAYMENT FROM CLASS 2 PUBLIC SECURITIES.

4-49 (a) Losses not paid under Sections 2210.0715, 2210.0716,  
4-50 [2210.071 and] 2210.072, and 2210.0725 shall be paid as provided by  
4-51 this section from the proceeds from Class 2 public securities  
4-52 authorized to be issued in accordance with Subchapter M on or after  
4-53 the date of any occurrence or series of occurrences that results in  
4-54 insured losses [under this subsection]. Public securities issued  
4-55 under this section must be paid [repaid] within a period not to  
4-56 exceed 10 years, and may be paid [repaid] sooner if the board of  
4-57 directors elects to do so and the commissioner approves.

4-58 (b) Public securities described by Subsection (a):

4-59 (1) shall [~~may~~] be issued as necessary in a principal  
4-60 amount not to exceed \$500 million [~~\$1 billion~~] per catastrophe  
4-61 year, in the aggregate, whether for a single occurrence or a series  
4-62 of occurrences; and

4-63 (2) subject to the \$500 million [~~\$1 billion~~] maximum  
4-64 described by Subdivision (1), may be issued, in one or more  
4-65 issuances or tranches, during the calendar year in which the  
4-66 occurrence or series of occurrences occurs or, if the public  
4-67 securities cannot reasonably be issued in that year, during the  
4-68 following calendar year.

4-69 (c) If the losses are paid with public securities described

5-1 by this section, the public securities shall be paid ~~repaid~~ in the  
5-2 manner prescribed by Subchapter M.

5-3 SECTION 12. Section 2210.102, Insurance Code, is amended to  
5-4 read as follows:

5-5 Sec. 2210.102. COMPOSITION. (a) The board of directors is  
5-6 composed of nine members appointed by the governor ~~commissioner~~  
5-7 in accordance with this section.

5-8 (b) Three ~~Four~~ members must be representatives of the  
5-9 insurance industry who actively write and renew windstorm and hail  
5-10 insurance in the first tier coastal counties.

5-11 (c) Three ~~Four~~ members must, as of the date of the  
5-12 appointment, reside in the first tier coastal counties. Each of  
5-13 the following regions must be represented by a member residing in  
5-14 the region and ~~[At least one of the members]~~ appointed under this  
5-15 subsection:

5-16 (1) the region consisting of Cameron, Kenedy, Kleberg,  
5-17 and Willacy Counties;

5-18 (2) the region consisting of Aransas, Calhoun, Nueces,  
5-19 Refugio, and San Patricio Counties; and

5-20 (3) the region consisting of Brazoria, Chambers,  
5-21 Galveston, Jefferson, and Matagorda Counties and any part of Harris  
5-22 County designated as a catastrophe area under Section 2210.005.

5-23 (c-1) One of the members appointed under Subsection (c) must  
5-24 be a property and casualty agent who is licensed under this code and  
5-25 is not a captive agent.

5-26 (d) One member must be a representative of an area of this  
5-27 state that is not located in the seacoast territory ~~[with~~  
5-28 ~~demonstrated expertise in insurance and actuarial principles]~~.

5-29 (d-1) One member must be an engineer who:

5-30 (1) is knowledgeable of, and has professional  
5-31 expertise in, wind-related design and construction practices in  
5-32 coastal areas that are subject to high winds and hurricanes; and

5-33 (2) resides in a second tier coastal county.

5-34 (d-2) One member must be a representative of the financial  
5-35 industry who resides in a second tier coastal county.

5-36 (e) All members must have demonstrated experience in  
5-37 insurance, general business, or actuarial principles and the  
5-38 member's area of expertise, if any, sufficient to make the success  
5-39 of the association probable.

5-40 (f) Insurers who are members of the association shall  
5-41 nominate, from among those members, persons to fill any vacancy in  
5-42 the three ~~four~~ board of director seats reserved for  
5-43 representatives of the insurance industry. The board of directors  
5-44 shall solicit nominations from the members and submit the  
5-45 nominations to the governor ~~commissioner~~. The nominee slate  
5-46 submitted to the governor ~~commissioner~~ under this subsection must  
5-47 include at least three more names than the number of vacancies. The  
5-48 governor may ~~commissioner shall~~ appoint replacement insurance  
5-49 industry representatives from the nominee slate.

5-50 (g) In addition to the nine members appointed under  
5-51 Subsection (a), the governor ~~The commissioner~~ shall appoint three  
5-52 individuals ~~one person~~ to serve as ~~[a]~~ nonvoting ex officio  
5-53 members ~~member~~ of the board to advise the board ~~[regarding issues~~  
5-54 ~~relating to the inspection process. The commissioner may give~~  
5-55 ~~preference in an appointment under this subsection to a person who~~  
5-56 ~~is a qualified inspector under Section 2210.254].~~ Each ~~The~~  
5-57 nonvoting member appointed under this section must:

5-58 (1) hold an elective office of this state or a  
5-59 political subdivision of this state; and

5-60 (2) reside in and represent one of the following  
5-61 areas:

5-62 (A) the northern portion of the seacoast  
5-63 territory ~~[be an engineer licensed by, and in good standing with,~~  
5-64 ~~the Texas Board of Professional Engineers];~~

5-65 (B) the southern portion of the seacoast  
5-66 territory ~~[(2) reside in a first tier coastal county];~~ or ~~[and]~~

5-67 (C) an area of this state that is not located in  
5-68 the seacoast territory ~~[(3) be knowledgeable of, and have~~  
5-69 ~~professional expertise in, wind-related design and construction~~

6-1 ~~practices in coastal areas that are subject to high winds and~~  
6-2 ~~hurricanes].~~

6-3 (h) The persons appointed under Subsection (c) must reside  
6-4 in [be from] different counties. The persons appointed under  
6-5 Subsection (g) must reside in different counties.

6-6 SECTION 13. Subsection (c), Section 2210.103, Insurance  
6-7 Code, is amended to read as follows:

6-8 (c) A member of the board of directors may be removed by the  
6-9 governor [commissioner] with cause stated in writing and posted on  
6-10 the association's website. The governor [commissioner] shall  
6-11 appoint a replacement in the manner provided by Section 2210.102  
6-12 for a member who leaves or is removed from the board of directors.

6-13 SECTION 14. Subchapter E, Chapter 2210, Insurance Code, is  
6-14 amended by adding Sections 2210.2022, 2210.211, 2210.212, and  
6-15 2210.213 to read as follows:

6-16 Sec. 2210.2022. INFORMATION REQUIRED FOR CERTAIN  
6-17 APPLICATIONS. An application for association coverage, including  
6-18 an application for new or renewal coverage on or after January 1,  
6-19 2014, must include information on the applicant's policy that  
6-20 covers perils other than windstorm and hail, if any, including:

6-21 (1) the total premium for that policy, including a  
6-22 policy number for coverage issued by the FAIR Plan Association  
6-23 under Chapter 2211, if applicable, and:

6-24 (A) the amount of insurance on the dwelling and  
6-25 contents; or

6-26 (B) if the policy is a tenants policy or  
6-27 condominium owners policy, the insured amount for the contents  
6-28 coverage; and

6-29 (2) the deductibles applicable for each policy.

6-30 Sec. 2210.211. VOLUNTARY ELECTRONIC PORTAL. (a) As soon  
6-31 as practicable after January 1, 2014, the administrator shall make  
6-32 available to all insurers an electronic portal to provide insurers  
6-33 access to information described by Subsection (b).

6-34 (b) The portal must provide insurers access to information  
6-35 on each insured's association policy and other policy, if any, that  
6-36 covers other perils, if known, including:

6-37 (1) the insured's total premium amount on the  
6-38 association policy; and

6-39 (2) for coverage for perils other than windstorm and  
6-40 hail:

6-41 (A) the total premium for that policy, including  
6-42 a policy issued by the FAIR Plan Association under Chapter 2211, if  
6-43 applicable, and:

6-44 (i) the amount of insurance on the dwelling  
6-45 and its contents; or

6-46 (ii) if the policy is a tenants policy or  
6-47 condominium owners policy, the insured amount for the contents  
6-48 coverage; and

6-49 (B) the deductibles applicable for each policy.

6-50 Sec. 2210.212. EXPOSURE REDUCTION PLAN. (a) The  
6-51 association shall reduce the association's total insured exposure  
6-52 determined as of January 1, 2013, according to the following  
6-53 schedule:

6-54 (1) not later than January 1, 2016, the amount of the  
6-55 association's total insured exposure must reflect a 20 percent  
6-56 reduction from the association's total insured exposure as of  
6-57 January 1, 2013;

6-58 (2) not later than January 1, 2018, the amount of the  
6-59 association's total insured exposure must reflect a 35 percent  
6-60 reduction from the total insured exposure as of January 1, 2013;

6-61 (3) not later than January 1, 2020, the amount of the  
6-62 association's total insured exposure must reflect a 45 percent  
6-63 reduction from the association's total insured exposure as of  
6-64 January 1, 2013;

6-65 (4) not later than January 1, 2022, the amount of the  
6-66 association's total insured exposure must reflect a 55 percent  
6-67 reduction from the association's total insured exposure as of  
6-68 January 1, 2013; and

6-69 (5) not later than January 1, 2024, the amount of the

7-1 association's total insured exposure must reflect a 60 percent  
 7-2 reduction from the association's total insured exposure as of  
 7-3 January 1, 2013.

7-4 (b) As soon as practicable after January 1, 2016, January 1,  
 7-5 2018, January 1, 2020, and January 1, 2024, respectively, the board  
 7-6 of directors shall determine whether the reductions in the  
 7-7 association's total insured exposure required under Subsection (a)  
 7-8 have been achieved.

7-9 (c) If on January 1, 2016, the association did not achieve  
 7-10 the reduction in the total insured exposure required by Subsection  
 7-11 (a)(1), the board of directors shall establish a plan to reduce the  
 7-12 association's total insured exposure, which must include imposing  
 7-13 an assessment as described by Subsection (f).

7-14 (d) If on January 1, 2018, January 1, 2020, and January 1,  
 7-15 2024, respectively, the association did not achieve the reduction  
 7-16 in the total insured exposure required for that date, the board of  
 7-17 directors shall establish a plan to reduce the association's total  
 7-18 insured exposure, which must include imposing an assessment as  
 7-19 described by Subsection (f).

7-20 (e) An exposure reduction plan under Subsection (c) or (d)  
 7-21 must be implemented not later than March 31 in the year in which the  
 7-22 board of directors determines that the required reduction was not  
 7-23 achieved and must result in the achievement of the required  
 7-24 reduction by not later than December 31 of that year.

7-25 (f) An assessment imposed under this section must be paid  
 7-26 into the exposure reduction plan fund and is assessed against each  
 7-27 member of the association that, as determined by the board of  
 7-28 directors, has not met the member's proportionate responsibility  
 7-29 for reduction of the association's total insured exposure. The  
 7-30 total aggregate amount of an assessment under this section, if  
 7-31 assessed against all members of the association, is \$200 million.

7-32 (g) The amount of a member's assessment paid under  
 7-33 Subsection (f) must be equal to the portion of \$200 million that is  
 7-34 consistent with the member's proportionate participation in the  
 7-35 association as determined under Section 2210.052.

7-36 (h) A member of the association may not recoup an assessment  
 7-37 paid under this section through a premium surcharge or tax credit or  
 7-38 through a rate increase.

7-39 (i) At the request of the commissioner, but not less  
 7-40 frequently than twice each year, the administrator shall submit a  
 7-41 report to the commissioner detailing the amount of the  
 7-42 association's total insured exposure and any statistical  
 7-43 information or experience data requested by the commissioner  
 7-44 concerning the characteristics of that exposure.

7-45 (j) Not later than May 15 and November 15 of each year, the  
 7-46 commissioner shall submit a report to the windstorm insurance  
 7-47 legislative oversight board established under Subchapter N  
 7-48 summarizing the contents of the report submitted to the  
 7-49 commissioner under Subsection (i).

7-50 (k) In determining whether the association has met the goal  
 7-51 established under Subsection (a), the commissioner shall make  
 7-52 adjustments to book value of the total insured exposure as of  
 7-53 January 1, 2013, to reflect any change in the BOECKH Index. If the  
 7-54 BOECKH Index ceases to exist, the commissioner shall make  
 7-55 adjustments in the same manner based on another index that the board  
 7-56 of directors determines accurately reflects changes in the cost of  
 7-57 construction or residential values in the catastrophe area.

7-58 (l) Not later than January 1 of each year, beginning January  
 7-59 1, 2014, the department shall notify each member of the member's  
 7-60 proportionate share of the association's total insured exposure  
 7-61 required to be reduced under this section and of the member's  
 7-62 potential liability for an assessment under this section.

7-63 (m) The commissioner shall adopt rules necessary to  
 7-64 implement and enforce this section.

7-65 Sec. 2210.213. CONFIDENTIAL INFORMATION. (a) Except as  
 7-66 provided by Subsection (b), all information, data, and databases  
 7-67 collected and used under Sections 2210.2022, 2210.211, and 2210.212  
 7-68 are confidential information not subject to disclosure under  
 7-69 Chapter 552, Government Code.

8-1 (b) Information described by Subsection (a) may be used for  
 8-2 the purposes and in the manner described by this chapter and Chapter  
 8-3 2211.

8-4 SECTION 15. Section 2210.451, Insurance Code, is amended to  
 8-5 read as follows:

8-6 Sec. 2210.451. DEFINITION. Except to the extent that  
 8-7 context clearly requires otherwise, in ~~[In]~~ this subchapter, "trust  
 8-8 fund" means the catastrophe reserve trust fund.

8-9 SECTION 16. Section 2210.452, Insurance Code, is amended by  
 8-10 amending Subsections (a), (c), and (d) and adding Subsection (f) to  
 8-11 read as follows:

8-12 (a) The commissioner shall adopt rules under which the  
 8-13 association makes payments to the catastrophe reserve trust fund.  
 8-14 Except as otherwise specifically provided by this section, the  
 8-15 ~~[The]~~ trust fund may be used only for purposes directly related to  
 8-16 funding the payment of insured losses, including:

8-17 (1) funding ~~[to fund]~~ the obligations of the trust  
 8-18 fund under Subchapter B-1; and

8-19 (2) purchasing reinsurance or using alternative risk  
 8-20 financing mechanisms under Sections 2210.453 and 2210.4531.

8-21 (c) At the end of each calendar year or policy year, the  
 8-22 association shall use the net gain from operations of the  
 8-23 association, including all premium and other revenue of the  
 8-24 association in excess of incurred losses, operating expenses,  
 8-25 deposits to the fund under Section 2210.4521, public security  
 8-26 obligations, and public security administrative expenses, to make  
 8-27 payments to the trust fund, to procure reinsurance, or to make  
 8-28 payments to the trust fund and to procure reinsurance.

8-29 (d) The commissioner by rule shall establish the procedure  
 8-30 relating to the disbursement of money from the trust fund to  
 8-31 policyholders and for association administrative expenses directly  
 8-32 related to funding the payment of insured losses in the event of an  
 8-33 occurrence or series of occurrences within a catastrophe area that  
 8-34 results in a disbursement under Subchapter B-1.

8-35 (f) The commissioner by rule shall establish the procedure  
 8-36 relating to the disbursement of money from the trust fund to pay for  
 8-37 operating expenses, including reinsurance or alternate risk  
 8-38 financing mechanisms under Sections 2210.453 and 2210.4531, if the  
 8-39 association does not have sufficient premium and other revenue.

8-40 SECTION 17. Subchapter J, Chapter 2210, Insurance Code, is  
 8-41 amended by adding Section 2210.4521 to read as follows:

8-42 Sec. 2210.4521. CATASTROPHE RESERVE TRUST FUND DEDICATION.

8-43 (a) Notwithstanding any other provision in this chapter, as  
 8-44 provided for in the plan of operation, the association shall  
 8-45 deposit monthly in a fund, separate from the catastrophe reserve  
 8-46 trust fund established under Section 2210.452, an amount sufficient  
 8-47 to accumulate on an annual calendar year basis an amount equal to 30  
 8-48 percent of the association's earned premium for the preceding  
 8-49 calendar year.

8-50 (b) The fund described by Subsection (a) is a trust fund  
 8-51 with the Texas Treasury Safekeeping Trust Company to be held  
 8-52 outside the state treasury.

8-53 (c) Not later than February 1 of each year the association  
 8-54 shall direct the Texas Treasury Safekeeping Trust Company to  
 8-55 deposit all amounts deposited in the fund described by Subsection  
 8-56 (a) during the preceding calendar year, and interest earned on  
 8-57 those amounts, into the catastrophe reserve trust fund.

8-58 (d) Money deposited in the fund described by Subsection (a)  
 8-59 is irrevocably pledged to be distributed to the catastrophe reserve  
 8-60 trust fund as provided in this section and is exempt from any other  
 8-61 claim or attachment under law.

8-62 (e) Money deposited under this section may be invested by  
 8-63 the Texas Treasury Safekeeping Trust Company as permitted by  
 8-64 general law.

8-65 SECTION 18. Section 2210.453, Insurance Code, is amended to  
 8-66 read as follows:

8-67 Sec. 2210.453. REINSURANCE AND ALTERNATIVE RISK FINANCING  
 8-68 MECHANISMS. (a) The association shall ~~[may:~~

8-69 ~~[(1) make payments into the trust fund; and~~



9-1 ~~[(2)] purchase reinsurance or use alternative risk~~  
 9-2 ~~financing mechanisms in an amount equal to \$1 billion.~~

9-3 ~~(b) The [association may purchase] reinsurance or~~  
 9-4 ~~alternative risk financing mechanisms purchased or used under this~~  
 9-5 ~~section operate [that operates] in addition to [or in concert with~~  
 9-6 ~~the trust fund,] public securities, other approved financial~~  
 9-7 ~~instruments, and assessments authorized by this chapter.~~

9-8 ~~(c) The attachment point for reinsurance purchased under~~  
 9-9 ~~this section may not be less than the aggregate amount of all~~  
 9-10 ~~funding available to the association under Subchapter B-1. [If the~~  
 9-11 ~~association does not purchase reinsurance as authorized by this~~  
 9-12 ~~section, the board, not later than June 1 of each year, shall submit~~  
 9-13 ~~to the commissioner, the legislative oversight board established~~  
 9-14 ~~under Subchapter N, the governor, the lieutenant governor, and the~~  
 9-15 ~~speaker of the house of representatives a report containing an~~  
 9-16 ~~actuarial plan for paying losses in the event of a catastrophe with~~  
 9-17 ~~estimated damages of \$2.5 billion or more. The report required by~~  
 9-18 ~~this subsection must:~~

9-19 ~~[(1) document and denominate the association's~~  
 9-20 ~~resources available to pay claims, including cash or other highly~~  
 9-21 ~~liquid assets, assessments that the association is projected to~~  
 9-22 ~~impose, pre-event and post-event bonding capacity, and~~  
 9-23 ~~private-sector recognized risk-transfer mechanisms, including~~  
 9-24 ~~catastrophe bonds and reinsurance;~~

9-25 ~~[(2) include an independent, third-party appraisal of~~  
 9-26 ~~the likelihood of an assessment, the maximum potential size of the~~  
 9-27 ~~assessment, and an estimate of the probability that the assessment~~  
 9-28 ~~would not be adequate to meet the association's needs; and~~

9-29 ~~[(3) include an analysis of financing alternatives to~~  
 9-30 ~~assessments that includes the costs of borrowing and the~~  
 9-31 ~~consequences that additional purchase of reinsurance, catastrophe~~  
 9-32 ~~bonds, or other private-sector recognized risk-transfer~~  
 9-33 ~~instruments would have in reducing the size or potential of~~  
 9-34 ~~assessments.~~

9-35 ~~[(d) A person who prepares a report required by Subsection~~  
 9-36 ~~(c) may not contract to provide any other service to the~~  
 9-37 ~~association, except for the preparation of similar reports, before~~  
 9-38 ~~the third anniversary of the date the last report prepared by the~~  
 9-39 ~~person under that subsection is submitted.~~

9-40 ~~[(e) The report submitted under this section is for~~  
 9-41 ~~informational purposes only and does not bind the association to a~~  
 9-42 ~~particular course of action.]~~

9-43 SECTION 19. Subchapter J, Chapter 2210, Insurance Code, is  
 9-44 amended by adding Section 2210.4531 to read as follows:

9-45 Sec. 2210.4531. ADDITIONAL REINSURANCE. (a) The  
 9-46 association shall purchase, in addition to any reinsurance  
 9-47 purchased under Section 2210.453, reinsurance in an amount not  
 9-48 greater than the lesser of:

9-49 (1) \$800 million; or  
 9-50 (2) an amount such that the association's total loss  
 9-51 funding is sufficient to fund its probable maximum loss for a  
 9-52 catastrophe year with a probability of 1 in 100.

9-53 (b) The attachment point for reinsurance purchased under  
 9-54 this section may not be less than the aggregate amount of all  
 9-55 funding available to the association under Subchapter B-1 and  
 9-56 Section 2210.453.

9-57 (c) The association shall assess member insurers the cost of  
 9-58 reinsurance purchased under this section. The proportion of the  
 9-59 reinsurance cost allocable to each insurer under this section shall  
 9-60 be determined in the manner used to determine each insurer's  
 9-61 participation in the association for the year under Section  
 9-62 2210.052.

9-63 SECTION 20. Subchapter L-1, Chapter 2210, Insurance Code,  
 9-64 is amended by adding Section 2210.5725 to read as follows:

9-65 Sec. 2210.5725. ASSOCIATION CLAIMS PROCESSING. (a) An  
 9-66 insurer that has primary coverage on property for loss by fire must  
 9-67 adjust all claims made on an association policy covering the same  
 9-68 property.

9-69 (b) An insurer acting under this section is an agent of the

10-1 association for purposes of Sections 2210.014 and 2210.572 and  
 10-2 shall process claims as prescribed by this chapter and the plan of  
 10-3 operation.

10-4 (c) An insurer acting under this section is not liable for  
 10-5 any amount payable under the terms of the association policy.

10-6 SECTION 21. Section 2210.602, Insurance Code, is amended by  
 10-7 adding Subdivisions (2-a) and (3-a) to read as follows:

10-8 (2-a) "Class 1 public security trust fund" means the  
 10-9 dedicated trust fund established by the board and held by the Texas  
 10-10 Treasury Safekeeping Trust Company into which premium surcharges  
 10-11 collected under Section 2210.612 for the purpose of repaying Class  
 10-12 1 public securities are deposited.

10-13 (3-a) "Class 2 public security trust fund" means the  
 10-14 dedicated trust fund established by the board and held by the Texas  
 10-15 Treasury Safekeeping Trust Company into which premium surcharges  
 10-16 collected under Section 2210.613 for the purpose of repaying Class  
 10-17 2 public securities are deposited.

10-18 SECTION 22. Subsection (a), Section 2210.604, Insurance  
 10-19 Code, is amended to read as follows:

10-20 (a) At the request of the association and with the approval  
 10-21 of the commissioner, the Texas Public Finance Authority shall issue  
 10-22 Class 1 or [7] Class 2 [~~7~~ or Class 3] public securities. The  
 10-23 association shall submit to the commissioner a cost-benefit  
 10-24 analysis of various financing methods and funding structures when  
 10-25 requesting the issuance of public securities under this subsection.

10-26 SECTION 23. Section 2210.609, Insurance Code, is amended to  
 10-27 read as follows:

10-28 Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY  
 10-29 OBLIGATIONS. (a) The board and the association shall enter into  
 10-30 an agreement under which the association shall provide for the  
 10-31 payment of all public security obligations from available funds  
 10-32 collected by the association and deposited as required by this  
 10-33 subchapter [~~into the public security obligation revenue fund~~]. If  
 10-34 the association determines that it is unable to pay the public  
 10-35 security obligations and public security administrative expenses,  
 10-36 if any, with available funds, the association shall pay those  
 10-37 obligations and expenses in accordance with Sections 2210.612 and  
 10-38 [~~7~~] 2210.613, [~~2210.6135, and 2210.6136~~] as applicable. Class 1 or  
 10-39 [~~7~~] Class 2 [~~7~~ or Class 3] public securities may be issued on a  
 10-40 parity or subordinate lien basis with other Class 1 or [~~7~~] Class 2 [~~7~~  
 10-41 or Class 3] public securities, respectively.

10-42 (b) If any public securities issued under this chapter are  
 10-43 outstanding, the authority shall notify the association of the  
 10-44 amount of the public security obligations and the estimated amount  
 10-45 of public security administrative expenses, if any, each calendar  
 10-46 year in a period sufficient, as determined by the association, to  
 10-47 permit the association to determine the availability of funds [~~7~~  
 10-48 ~~assess members of the association under Sections 2210.613 and~~  
 10-49 ~~2210.6135,~~] and assess a premium surcharge if necessary.

10-50 (c) The association shall deposit all revenue collected  
 10-51 under Section 2210.612 in the Class 1 public security trust fund  
 10-52 [~~public security obligation revenue fund,~~] and all revenue  
 10-53 collected under Section 2210.613 [~~2210.613(b)~~] in the Class 2  
 10-54 public security trust fund [~~premium surcharge trust fund, and all~~  
 10-55 ~~revenue collected under Sections 2210.613(a) and 2210.6135 in the~~  
 10-56 ~~member assessment trust fund~~]. Money deposited in a fund may be  
 10-57 invested as permitted by general law. Money in a fund required to  
 10-58 be used to pay public security obligations and public security  
 10-59 administrative expenses, if any, shall be transferred to the  
 10-60 appropriate funds in the manner and at the time specified in the  
 10-61 proceedings authorizing the public securities to ensure timely  
 10-62 payment of obligations and expenses. This may include the board  
 10-63 establishing funds and accounts with the comptroller that the board  
 10-64 determines are necessary to administer and repay the public  
 10-65 security obligations. If the association has not transferred  
 10-66 amounts sufficient to pay the public security obligations to the  
 10-67 board's designated interest and sinking fund in a timely manner,  
 10-68 the board may direct the Texas Treasury Safekeeping Trust Company  
 10-69 to transfer from the Class 1 public security trust fund [~~public~~

11-1 ~~security obligation revenue fund, the premium surcharge trust~~  
 11-2 ~~fund,] or the Class 2 public security trust fund [member assessment~~  
 11-3 ~~trust fund] to the appropriate account the amount necessary to pay~~  
 11-4 the public security obligation.

11-5 (d) The association shall provide for the payment of the  
 11-6 public security obligations and the public security administrative  
 11-7 expenses by irrevocably pledging revenues received from premiums,  
 11-8 ~~[member assessments,] premium surcharges, and amounts on deposit in~~  
 11-9 the Class 1 public security trust fund [public security obligation  
 11-10 revenue fund, the premium surcharge trust fund,] and the Class 2  
 11-11 public security trust fund [member assessment trust fund], together  
 11-12 with any public security reserve fund, as provided in the  
 11-13 proceedings authorizing the public securities and related credit  
 11-14 agreements.

11-15 (e) An amount owed by the board under a credit agreement  
 11-16 shall be payable from and secured by a pledge of revenues received  
 11-17 by the association ~~[or amounts from the public security obligation~~  
 11-18 ~~trust fund], the Class 1 public security trust fund [premium~~  
 11-19 ~~surcharge trust fund], and the Class 2 public security trust fund~~  
 11-20 ~~[member assessment trust fund] to the extent provided in the~~  
 11-21 ~~proceedings authorizing the credit agreement.~~

11-22 SECTION 24. Subsection (a), Section 2210.610, Insurance  
 11-23 Code, is amended to read as follows:

11-24 (a) Revenues received from the premium surcharges under  
 11-25 Sections 2210.612 and ~~[Section] 2210.613 [and member assessments~~  
 11-26 ~~under Sections 2210.613 and 2210.6135]~~ may be applied only as  
 11-27 provided by this subchapter.

11-28 SECTION 25. Section 2210.611, Insurance Code, is amended to  
 11-29 read as follows:

11-30 Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT  
 11-31 EARNINGS. Revenue collected in any calendar year from a premium  
 11-32 surcharge under Sections 2210.612 and ~~[Section] 2210.613 [and~~  
 11-33 ~~member assessments under Sections 2210.613 and 2210.6135]~~ that  
 11-34 exceeds the amount of the public security obligations and public  
 11-35 security administrative expenses payable in that calendar year and  
 11-36 interest earned on the funds [public security obligation fund] may,  
 11-37 in the discretion of the association, be:

11-38 (1) used to pay public security obligations payable in  
 11-39 the subsequent calendar year, offsetting the amount of the premium  
 11-40 surcharge ~~[and member assessments, as applicable,] that would~~  
 11-41 otherwise be required to be levied for the year under this  
 11-42 subchapter;

11-43 (2) used to redeem or purchase outstanding public  
 11-44 securities; or

11-45 (3) deposited in the catastrophe reserve trust fund.

11-46 SECTION 26. Section 2210.612, Insurance Code, is amended to  
 11-47 read as follows:

11-48 Sec. 2210.612. PAYMENT OF CLASS 1 PUBLIC SECURITIES.

11-49 (a) The association shall pay Class 1 public securities issued  
 11-50 under Section 2210.072 from:

11-51 (1) [its] net premium and other revenue; and  
 11-52 (2) if net premium and other revenue are not  
 11-53 sufficient to pay the securities, a catastrophe area premium  
 11-54 surcharge collected in accordance with this section.

11-55 (b) On approval by the commissioner, the association and  
 11-56 each insurer that provides insurance in a catastrophe area shall  
 11-57 assess, as provided by this section, a premium surcharge to each  
 11-58 policyholder of a policy described by Subsection (c). The premium  
 11-59 surcharge must be set in an amount sufficient to pay, for the  
 11-60 duration of the issued public securities, all debt service not  
 11-61 already covered by available funds and all related expenses on the  
 11-62 public securities.

11-63 (c) The premium surcharge under this section shall be  
 11-64 assessed on all policyholders of policies that cover insured  
 11-65 property that is located in a catastrophe area, including an  
 11-66 automobile principally garaged in a catastrophe area. The premium  
 11-67 surcharge shall be assessed on each Texas windstorm and hail  
 11-68 insurance policy and each property and casualty insurance policy,  
 11-69 including an automobile insurance policy, issued for an automobile

12-1 or other property located in the catastrophe area. The premium  
 12-2 surcharge applies to:

12-3 (1) all policies written under the following lines of  
 12-4 insurance:

12-5 (A) fire and allied lines;

12-6 (B) farm and ranch owners;

12-7 (C) residential property insurance;

12-8 (D) private passenger automobile liability and

12-9 physical damage insurance; and

12-10 (E) commercial automobile liability and physical

12-11 damage insurance; and

12-12 (2) the property insurance portion of a commercial

12-13 multiple peril insurance policy.

12-14 (d) A premium surcharge under this section is a separate

12-15 charge in addition to the premiums collected and is not subject to

12-16 premium tax or commissions. Failure by a policyholder to pay the

12-17 surcharge constitutes failure to pay premium for purposes of policy

12-18 cancellation.

12-19 (e) [~~(b)~~] The association may enter financing arrangements

12-20 as described by Section 2210.072(d) as necessary to obtain public

12-21 securities issued under Section 2210.072. Nothing in this

12-22 subsection shall prevent the authorization and creation of one or

12-23 more programs for the issuance of commercial paper before the date

12-24 of an occurrence or series of occurrences that results in insured

12-25 losses under Section 2210.072(a).

12-26 SECTION 27. Section 2210.613, Insurance Code, is amended to

12-27 read as follows:

12-28 Sec. 2210.613. PAYMENT OF CLASS 2 PUBLIC SECURITIES.

12-29 (a) The association shall pay Class 2 public securities issued

12-30 under Section 2210.073 from:

12-31 (1) net premium and other revenue; and

12-32 (2) if net premium and other revenue are not

12-33 sufficient to pay the securities, a catastrophe area premium

12-34 surcharge collected in accordance with this section.

12-35 (b) On approval by the commissioner, the association and

12-36 each insurer that provides insurance in a catastrophe area shall

12-37 assess, as provided by this section, a premium surcharge to each

12-38 policyholder of a policy described by Subsection (c). The premium

12-39 surcharge must be set in an amount sufficient to pay, for the

12-40 duration of the issued public securities, all debt service not

12-41 already covered by available funds and all related expenses on the

12-42 public securities. [~~as provided by this section. Thirty percent of~~

12-43 ~~the cost of the public securities shall be paid through member~~

12-44 ~~assessments as provided by this section. The association shall~~

12-45 ~~notify each member of the association of the amount of the member's~~

12-46 ~~assessment under this section. The proportion of the losses~~

12-47 ~~allocable to each insurer under this section shall be determined in~~

12-48 ~~the manner used to determine each insurer's participation in the~~

12-49 ~~association for the year under Section 2210.052. A member of the~~

12-50 ~~association may not recoup an assessment paid under this subsection~~

12-51 ~~through a premium surcharge or tax credit.~~

12-52 [~~(b)~~ Seventy percent of the cost of the public securities

12-53 ~~shall be paid by a premium surcharge collected under this section in~~

12-54 ~~an amount set by the commissioner. On approval by the~~

12-55 ~~commissioner, each insurer, the association, and the Texas FAIR~~

12-56 ~~Plan Association shall assess, as provided by this section, a~~

12-57 ~~premium surcharge to each policyholder of a policy that is in effect~~

12-58 ~~on or after the 180th day after the date the commissioner issues~~

12-59 ~~notice of the approval of the public securities. The premium~~

12-60 ~~surcharge must be set in an amount sufficient to pay, for the~~

12-61 ~~duration of the issued public securities, all debt service not~~

12-62 ~~already covered by available funds or member assessments and all~~

12-63 ~~related expenses on the public securities.]~~

12-64 (c) The premium surcharge under this section [~~Subsection~~

12-65 ~~(b)~~] shall be assessed on all policyholders of policies that cover

12-66 insured property that is located in a catastrophe area, including

12-67 automobiles principally garaged in a catastrophe area. The

12-68 premium surcharge shall be assessed on each Texas windstorm and

12-69 hail insurance policy and each property and casualty insurance

13-1 policy, including an automobile insurance policy, issued for  
13-2 automobiles and other property located in the catastrophe area.  
13-3 The [A] premium surcharge under this section [~~Subsection (b)~~]  
13-4 applies to:

13-5 (1) all policies written under the following lines of  
13-6 insurance:

- 13-7 (A) fire and allied lines;
- 13-8 (B) farm and ranch owners;
- 13-9 (C) residential property insurance;
- 13-10 (D) private passenger automobile liability and  
13-11 physical damage insurance; and
- 13-12 (E) commercial automobile liability and physical  
13-13 damage insurance; and

13-14 (2) the property insurance portion of a commercial  
13-15 multiple peril insurance policy.

13-16 (d) A premium surcharge under this section [~~Subsection (b)~~]  
13-17 is a separate charge in addition to the premiums collected and is  
13-18 not subject to premium tax or commissions. Failure by a  
13-19 policyholder to pay the surcharge constitutes failure to pay  
13-20 premium for purposes of policy cancellation.

13-21 SECTION 28. Section 2210.614, Insurance Code, is amended to  
13-22 read as follows:

13-23 Sec. 2210.614. REFINANCING PUBLIC SECURITIES. The  
13-24 association may request the board to refinance any public  
13-25 securities issued in accordance with Subchapter B-1, whether Class  
13-26 1 or [7] Class 2 [~~or Class 3~~] public securities, with public  
13-27 securities payable from the same sources as the original public  
13-28 securities.

13-29 SECTION 29. Subsection (a), Section 2210.616, Insurance  
13-30 Code, is amended to read as follows:

13-31 (a) The state pledges for the benefit and protection of  
13-32 financing parties, the board, and the association that the state  
13-33 will not take or permit any action that would:

13-34 (1) impair the collection of [~~member assessments and~~]  
13-35 premium surcharges or the deposit of those funds into the Class 1  
13-36 public security [~~member assessment~~] trust fund or Class 2 public  
13-37 security [~~premium surcharge~~] trust fund;

13-38 (2) reduce, alter, or impair the [~~member assessments~~  
13-39 ~~or~~] premium surcharges to be imposed, collected, and remitted to  
13-40 financing parties until the principal, interest, and premium, and  
13-41 any other charges incurred and contracts to be performed in  
13-42 connection with the related public securities, have been paid and  
13-43 performed in full; or

13-44 (3) in any way impair the rights and remedies of the  
13-45 public security owners until the public securities are fully  
13-46 discharged.

13-47 SECTION 30. Section 2210.6165, Insurance Code, is amended  
13-48 to read as follows:

13-49 Sec. 2210.6165. PROPERTY RIGHTS. If public securities  
13-50 issued under this subchapter are outstanding, the rights and  
13-51 interests of the association, a successor to the association, any  
13-52 member of the association, or any member of the Texas FAIR Plan  
13-53 Association, including the right to impose, collect, and receive a  
13-54 premium surcharge [~~or a member assessment~~] authorized under this  
13-55 subchapter, are only contract rights until those revenues are first  
13-56 pledged for the repayment of the association's public security  
13-57 obligations as provided by Section 2210.609.

13-58 SECTION 31. Subsection (a), Section 2210.653, Insurance  
13-59 Code, is amended to read as follows:

13-60 (a) The board shall:

13-61 (1) receive information about rules proposed by the  
13-62 department relating to windstorm insurance and may submit comments  
13-63 to the commissioner on the proposed rules;

13-64 (2) review the reports required by Section  
13-65 2210.212(j);

13-66 (3) monitor windstorm insurance in this state,  
13-67 including:

- 13-68 (A) the adequacy of rates;
- 13-69 (B) the operation of the association; and

14-1 (C) the availability of coverage; ~~and~~  
 14-2 (4) monitor the activities of the administrator under  
 14-3 Section 2210.212, including:  
 14-4 (A) the performance of the administrator  
 14-5 contracted to administer the association;  
 14-6 (B) the progress toward meeting the requirements  
 14-7 of Section 2210.212; and  
 14-8 (C) the extent of voluntary market participation  
 14-9 in coastal and historically underserved areas in this state;  
 14-10 (5) review and provide input with regard to efforts to  
 14-11 meet the requirements of Section 2210.212; and  
 14-12 (6) ~~(3)~~ review recommendations for legislation  
 14-13 proposed by the department or the association.

14-14 SECTION 32. Section 2211.001, Insurance Code, is amended by  
 14-15 amending Subdivision (1) and adding Subdivision (1-a) to read as  
 14-16 follows:

14-17 (1) "Administrator" means the entity contractually  
 14-18 retained to manage:

14-19 (A) the Texas Residual Insurance Plan under  
 14-20 Section 2210.062; and

14-21 (B) the association under Section 2211.0522.

14-22 (1-a) "Association" means the FAIR Plan Association  
 14-23 established under this chapter.

14-24 SECTION 33. Subchapter B, Chapter 2211, Insurance Code, is  
 14-25 amended by adding Sections 2211.0522 and 2211.0555 to read as  
 14-26 follows:

14-27 Sec. 2211.0522. ADMINISTRATION BY ADMINISTRATOR.  
 14-28 Notwithstanding Section 2211.052 or any other law, the  
 14-29 administrator shall manage the association and administer the plan  
 14-30 of operation beginning January 1, 2014. The administrator may not  
 14-31 exercise any power under the contract before January 1, 2014.

14-32 Sec. 2211.0555. ASSOCIATION CLAIMS PROCESSING. (a) The  
 14-33 administrator shall adjust claims made on or after January 1, 2014,  
 14-34 on an association policy.

14-35 (b) The administrator is not liable for any amount payable  
 14-36 under the terms of an association policy.

14-37 SECTION 34. Subchapter D, Chapter 2211, Insurance Code, is  
 14-38 amended by adding Sections 2211.1514 and 2211.1515 to read as  
 14-39 follows:

14-40 Sec. 2211.1514. VOLUNTARY ELECTRONIC PORTAL. (a) As soon  
 14-41 as practicable after January 1, 2014, the administrator shall make  
 14-42 available to all insurers an electronic portal to provide insurers  
 14-43 access to information described by Subsection (b).

14-44 (b) The portal must provide insurers access to information  
 14-45 on each insured's association policy and other policy, if any, that  
 14-46 covers other perils, if known, including:

14-47 (1) the insured's total premium amount on the  
 14-48 association policy;

14-49 (2) the total premium for a policy that covers losses  
 14-50 due to windstorm and hail, if any, including a policy issued by the  
 14-51 Texas Residual Insurance Plan under Chapter 2210, if applicable,  
 14-52 and:

14-53 (A) the amount of insurance on the dwelling and  
 14-54 its contents; or

14-55 (B) if the policy is a tenants policy or  
 14-56 condominium owners policy, the insured amount for the contents  
 14-57 coverage; and

14-58 (3) the deductibles applicable for each policy.

14-59 Sec. 2211.1515. CONFIDENTIAL INFORMATION. (a) Except as  
 14-60 provided by Subsection (b), all information and data collected and  
 14-61 used under Section 2211.1514 constitute confidential information  
 14-62 not subject to disclosure under Chapter 552, Government Code.

14-63 (b) Information described by Subsection (a) may be used for  
 14-64 the purposes and in the manner described by this chapter and Chapter  
 14-65 2210.

14-66 SECTION 35. The Texas Department of Insurance shall conduct  
 14-67 a study to consider possible exposure reduction plans for the FAIR  
 14-68 Plan Association established under Chapter 2211, Insurance Code.  
 14-69 Not later than January 1, 2014, the department shall submit a report

15-1 containing the findings of the study to:  
 15-2 (1) the governor;  
 15-3 (2) the lieutenant governor;  
 15-4 (3) the speaker of the house of representatives;  
 15-5 (4) the Senate Committee on Business and Commerce or  
 15-6 the successor of that committee with jurisdiction over insurance;  
 15-7 (5) the House Committee on Insurance or the successor  
 15-8 of that committee with jurisdiction over insurance; and  
 15-9 (6) the legislative oversight board established under  
 15-10 Subchapter N, Chapter 2210, Insurance Code.

15-11 SECTION 36. The following provisions of Chapter 2210,  
 15-12 Insurance Code, are repealed:

- 15-13 (1) Sections 2210.074 and 2210.075;
- 15-14 (2) Subdivisions (4), (5-a), (6-b), (6-c), and (10),  
 15-15 Section 2210.602;
- 15-16 (3) Subsection (c), Section 2210.605; and
- 15-17 (4) Sections 2210.6135 and 2210.6136.

15-18 SECTION 37. (a) The board of directors of the Texas  
 15-19 Windstorm Insurance Association established under Section  
 15-20 2210.102, Insurance Code, as that section existed before amendment  
 15-21 by this Act, is abolished effective November 1, 2013.

15-22 (b) The governor shall appoint the members of the board of  
 15-23 directors of the Texas Residual Insurance Plan under Section  
 15-24 2210.102, Insurance Code, as amended by this Act, effective  
 15-25 November 1, 2013. The initial directors shall draw lots to achieve  
 15-26 staggered terms, with three of the directors serving one-year  
 15-27 terms, three of the directors serving two-year terms, and three of  
 15-28 the directors serving three-year terms.

15-29 (c) The term of a person who is serving as a member of the  
 15-30 board of directors of the Texas Windstorm Insurance Association  
 15-31 immediately before the abolition of that board under Subsection (a)  
 15-32 of this section expires on November 1, 2013. Such a person is  
 15-33 eligible for appointment by the governor to the new board of  
 15-34 directors of the Texas Residual Insurance Plan under Section  
 15-35 2210.102, Insurance Code, as amended by this Act.

15-36 (d) Notwithstanding Section 2210.4521, Insurance Code, as  
 15-37 added by this Act, beginning on the effective date of this Act and  
 15-38 continuing until December 31, 2013, the Texas Residual Insurance  
 15-39 Plan shall deposit 30 percent of its earned premium into the trust  
 15-40 fund described by that section. Not later than February 1, 2014,  
 15-41 the plan shall direct the Texas Treasury Safekeeping Trust Company  
 15-42 to deposit all amounts deposited in the trust fund during the 2013  
 15-43 calendar year, and interest earned on those funds, into the  
 15-44 catastrophe reserve trust fund as described by that section.

15-45 (e) Section 2210.4521, Insurance Code, as added by this Act,  
 15-46 applies to all Texas Residual Insurance Plan premiums earned on and  
 15-47 after January 1, 2014.

15-48 (f) Notwithstanding Subsection (d) of this section and  
 15-49 Section 2210.0715, Insurance Code, as added by this Act, amounts  
 15-50 collected under Section 2210.4521, Insurance Code, as added by this  
 15-51 Act, may not be used to pay for a covered insured association loss  
 15-52 incurred before June 1, 2013.

15-53 (g) Section 2210.5725, Insurance Code, as added by this Act,  
 15-54 applies only to adjustment of a claim made on or after the effective  
 15-55 date of this Act.

15-56 (h) It is the intent of the legislature that each member of  
 15-57 the legislative oversight board appointed under Section 2210.652,  
 15-58 Insurance Code, and serving on the effective date of this Act  
 15-59 continues to serve after the effective date of this Act until a  
 15-60 successor is appointed under that section.

15-61 SECTION 38. This Act takes effect immediately if it  
 15-62 receives a vote of two-thirds of all the members elected to each  
 15-63 house, as provided by Section 39, Article III, Texas Constitution.  
 15-64 If this Act does not receive the vote necessary for immediate  
 15-65 effect, this Act takes effect September 1, 2013.

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