

## **BILL ANALYSIS**

Senate Research Center

S.B. 302  
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Business & Commerce  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Windstorm insurance is a statewide issue. This legislation is crucial for our coastal communities and the State of Texas. S.B. 302 creates an increased level of transparency and accountability, greater representation within the organization, and a restructured funding mechanism.

S.B. 302 requires the Texas Department of Insurance to conduct a study of incentives to promote participation in the voluntary market and report the result to the legislature. It also utilizes a single adjuster program to allow professional insurance companies that write the underlying coverage for property and fire coverage to adjust claims on behalf of the Texas Windstorm Insurance Association (TWIA). S.B. 302 restructures the funding mechanism so TWIA will be able to pay claims for a 100-year storm, which is the industry standard. Additionally, it amends the makeup of the TWIA board of directors.

As proposed, S.B. 302 amends current law relating to the operation of the Texas Windstorm Insurance Association and affects surcharges.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 11 (Section 2210.452, Insurance Code) of this bill.

Rulemaking authority previously granted to the commissioner of insurance is modified in SECTION 11 (Section 2210.452, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter A, Chapter 2210, Insurance Code, by adding Section 2210.015, as follows:

Sec. 2210.015. STUDY OF MARKET INCENTIVES; BIENNIAL REPORTING.

(a) Requires the Texas Department of Insurance (TDI), each biennium, to conduct a study of market incentives to promote participation in the voluntary windstorm and hail insurance market in the seacoast territory. Requires that the study address as possible incentives the mandatory or voluntary issuance of windstorm and hail insurance in conjunction with the issuance of a homeowners policy or other residential property insurance policy in the seacoast territory.

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

SECTION 2. Amends Subchapter B-1, Chapter 2210, Insurance Code, by amending Section 2210.071 and adding Sections 2210.0715 and 2210.0716, as follows:

Sec. 2210.071. New heading: PAYMENT OF EXCESS LOSSES. Makes a nonsubstantive change.

Sec. 2210.0715. PAYMENT FROM RESERVES AND TRUST FUND. Makes a nonsubstantive change.

Deletes existing text requiring that losses not paid under Subsection (b) be paid from the proceeds from public securities issued in accordance with this subchapter and Subchapter M (Public Securities Program) and, notwithstanding Subsection (a) (requiring that excess losses and operating expenses resulting from occurrences in a catastrophe area be paid as provided by this Subchapter), may be paid from the proceeds of public securities issued under Section 2210.072(a) (relating to requiring losses not paid by the Texas Windstorm Insurance Association (TWIA) be paid as provided by this section from the proceeds from Class 1 public securities) before an occurrence or series of occurrences that results in insured losses.

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

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

SECTION 3. Amends Sections 2210.072(a), (b), (b-1), (c), and (f), Insurance Code, as follows:

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

(b) Provides that Public securities described by Subsection (a) that are issued before an occurrence or series of occurrences that results in incurred losses may not, in the aggregate, exceed \$500 million, rather than \$1 billion, at any one time, regardless of the calendar year or years in which the outstanding public securities were issued.

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

(1) shall be issued as necessary in a principal amount not to exceed \$500 million, rather than \$1 billion per catastrophe year, in the aggregate, for securities issued during that catastrophe year before the occurrence or series of occurrences that results in incurred losses in that year and securities issued on or after the date of that occurrence or series of occurrences, and regardless of whether for a single occurrence or a series of occurrences; and

(2) subject to the maximum, rather than to the \$1 billion maximum, described by Subdivision (1), may be used, in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in that year, during the following calendar year.

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

(f) Requires that the proceeds, if, under Subsection (e), the proceeds of any outstanding public securities issued during a previous catastrophe year must be depleted, count against the \$500 million, rather than \$1 billion, limit on public securities described by this section in the catastrophe year in which the proceeds must be depleted.

SECTION 4. Amends Subchapter B-1, Chapter 2210, Insurance Code, by adding Section 2210.0725, as follows:

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

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

SECTION 5. Amends Sections 2210.073 and 2210.074, Insurance Code, as follows:

Sec. 2210.073. PAYMENTS FROM CLASS 2 PUBLIC SECURITIES. (a) Requires losses not paid under Sections 2210.0715, 2210.0716, 2210.072 (Payment from Class 1 Public Securities; Financial Instruments), and 2210.0725, rather than Sections 2210.071 and 2210.072, be paid as provided by this section from the proceeds from Class 2 public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence or series of occurrences that results in insured losses. Requires that public securities issued under this section must be paid, rather than repaid, within a period not to exceed 10 years and may be paid sooner if the board of directors elects to do so and the commissioner approves, except that early payment may not result in an increase to any assessment or premium surcharge imposed under this chapter. Makes nonsubstantive and conforming changes.

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

(1) shall, rather than may, be issued as necessary in a principal amount not to exceed \$500 million, rather than \$1 billion, per catastrophe year, in the aggregate, whether for a single occurrence or a series of occurrences; and

(2) subject to the maximum, rather than the \$1 billion maximum, described by Subdivision (1), may be issued, in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in that year, during the following calendar year.

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

Sec. 2210.074. New heading: PAYMENT FROM CLASS 3 PUBLIC SECURITIES. (a) Requires that the losses not paid under Sections 2210.0715, 2210.0716, 2210.072, 2210.0725, and 2210.073, rather than Sections 2210.071, 2210.072, and 2210.073, be paid as provided by this section from the proceeds from Class 3 public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence or series of occurrences that results in insured losses, rather than on or after the date of any occurrence that results in insured losses under this subsection or through reinsurance as described by Section 2210.075. Requires that public securities issued under this section be paid, rather than repaid, within a period not to exceed 10 years and may be paid, rather than repaid, sooner if the board of directors elects to do so and the

commissioner approves, except that early payment may not result in an increase to any assessment or premium surcharge imposed under this chapter.

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

(1) shall, rather than may, be issued as necessary in a principal amount not to exceed \$1 billion, rather than \$500 million, per catastrophe year, in the aggregate, whether for a single occurrence or a series of occurrences; and

(2) may be issued, subject to the maximum, rather than \$500 million maximum, described by Subdivision (1), in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in that year, during the following calendar year.

(c) Requires that the public securities, if the losses are paid with public securities described by this section, be paid, rather than repaid, in the manner prescribed by Subchapter M, rather than be paid in the manner prescribed by Subchapter M through member assessments as provided by this section. Deletes existing text requiring TWIA to notify each member of TWIA of the amount of the member's assessment under this section. Deletes existing text requiring that the proportion of the losses allocable to each insurer under this section be determined in the manner used to determine each insurer's participation in TWIA for the year under Section 2210.052. Deletes existing text prohibiting a member of TWIA from recouping an assessment paid under this subsection through a premium surcharge or tax credit.

SECTION 6. Amends Section 2210.102, Insurance Code, by amending Subsections (a), (b), (c), (d), (e), and (f) and adding Subsections (c-1), (d-1), and (d-2), as follows:

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

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

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

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

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

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

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

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

(d-1) Requires one member to be an engineer who:

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

(2) resides in a second tier coastal county.

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

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

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

SECTION 7. Amends Section 2210.103(c), Insurance Code, to authorize a member of the board of directors to be removed by the governor, rather than the commissioner, with cause stated in writing and posted on TWIA's website. Makes a conforming and nonsubstantive change.

SECTION 8. Amends Subchapter E, Chapter 2210, Insurance Code, by adding Sections 2210.2022 and 2210.211, as follows:

Sec. 2210.2022. INFORMATION REQUIRED FOR CERTAIN APPLICATIONS.

(a) Requires an applicant for new or renewal TWIA coverage to take effect on or after January 1, 2016, to include in the application the information described by Subsection (b) if the applicant has coverage against loss incurred to real or tangible personal property at the fixed location for which TWIA coverage is sought that is provided under a residential property insurance policy, including a residential fire and allied lines insurance policy, a farm and ranch owners insurance policy, a condominium owners policy, or a tenants policy.

(b) Requires the applicant to include in the application the following information for each policy providing coverage described by Subsection (a):

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

(A) the amount of insurance under the policy on the dwelling and contents; or

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

(2) the deductibles applicable for the policy.

Sec. 2210.211. CONFIDENTIAL INFORMATION. (a) Provides that all information collected and used under Section 2210.2022, except as provided by Subsection (b), is confidential information not subject to disclosure under Chapter 552 (Public Information), Government Code.

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

SECTION 9. Amends the heading to Subchapter J, Chapter 2210, Insurance Code, to read as follows:

SUBCHAPTER J. CATASTROPHE RESERVE TRUST FUND; REINSURANCE AND  
ALTERNATIVE RISK FINANCING

SECTION 10. Amends Section 2210.451, Insurance Code, as follows:

Sec. 2210.451. DEFINITION. Provides that, in this subchapter, except to the extent that context clearly requires otherwise, “trust fund” means the catastrophe reserve trust fund.

SECTION 11. Amends Section 2210.452, Insurance Code, by amending Subsections (a), (c), and (d) and adding Subsection (f), as follows:

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

- (1) funding the obligations of the trust fund under Subchapter B-1; and
- (2) purchasing reinsurance or using alternative risk financing mechanisms under Sections 2210.453 and 2210.4531.

Makes a nonsubstantive change.

(c) Requires TWIA, at the end of each calendar year or policy year, to use the net gain from operations of TWIA, including all premium and other revenue of TWIA in excess of incurred losses, operating expenses, deposits to the fund established under Section 2210.4521, public security obligations, and public security administrative expenses, to make payments to the trust fund, to procure reinsurance, or to make payments to the trust fund and procure reinsurance. Makes a nonsubstantive change.

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

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

SECTION 12. Amends Subchapter J, Chapter 2210, Insurance Code, by adding Section 2210.4521, as follows:

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

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

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

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

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

SECTION 13. Amends Section 2210.453, Insurance Code, as follows:

Sec. 2210.453. New heading: REINSURANCE AND ALTERNATIVE RISK FINANCING. (a) Authorizes TWIA to purchase reinsurance or use alternative risk financing mechanisms in an aggregate amount not greater than \$1 billion. Deletes existing text authorizing TWIA to make payments into the trust fund. Makes nonsubstantive changes.

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

(c) Prohibits the attachment point for reinsurance purchased under this section from being less than the aggregate amount of all funding available to TWIA under Subchapter B-1. Deletes existing text requiring the board, not later than June 1 of each year, if TWIA does not purchase reinsurance as authorized by this section, to submit to the commissioner, the legislative oversight board established under Subchapter N (Legislative Oversight Board), the governor, the lieutenant governor, and the speaker of the house of representatives a report containing an actuarial plan for paying losses in the event of a catastrophe with estimated damages of \$2.5 billion or more. Deletes Subdivision (1) requiring that the report required by this subsection document and denominate TWIA's resources available to pay claims, including cash or other highly liquid assets, assessments that TWIA is projected to impose, pre-event and post-event bonding capacity, and private-sector recognized risk-transfer mechanisms, including catastrophe bonds and reinsurance. Deletes Subdivision (2) requiring that the report required by this subsection include an independent, third-party appraisal of the likelihood of an assessment, the maximum potential size of the assessment, and an estimate of the probability that the assessment would not be adequate to meet TWIA's needs. Deletes Subdivision (3) requiring that the report required by this subsection include an analysis of financing alternatives to assessments that includes the costs of borrowing and the consequences that additional purchase of reinsurance, catastrophe bonds, or other private-sector recognized risk-transfer instruments would have in reducing the size or potential of assessments.

(d) Deletes Subdivision (d) prohibiting a person who prepares a report required by Subsection (c) from contracting to provide any other service to TWIA, except for the preparation of similar reports, before the third anniversary of the date the last report prepared by the person under that subsection is submitted.

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

SECTION 14. Amends Subchapter J, Chapter 2210, Insurance Code, by adding Section 2210.4531, as follows:

Sec. 2210.4531. **ADDITIONAL REINSURANCE.** (a) Authorizes TWIA to purchase, in addition to any reinsurance purchased or alternative risk financing mechanism used under Section 2210.453, reinsurance in an amount not greater than the lesser of:

(1) \$800 million; or

(2) an amount such that TWIA's total loss funding is sufficient to fund its probable maximum loss for a catastrophe year with a probability of one in 100.

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

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

SECTION 15. Amends Section 2210.455(b), Insurance Code, as follows:

(b) Requires that the catastrophe plan:

(1) Makes no change to this subdivision; and

(2) include, if TWIA does not purchase reinsurance or use an alternative risk financing mechanism under this subchapter, rather than Section 2210.453, for the period covered by the plan, an actuarial plan for paying losses in the event of a catastrophe with estimated damages equal to or greater than the total amount of potential funding available through assessments and public securities under Subchapter B-1, rather than with estimated damages of \$2.5 billion or more.

SECTION 16. Amends Subchapter L-1, Chapter 2210, Insurance Code, by adding Section 2210.5725, as follows:

Sec. 2210.5725. **ADJUSTMENT OF CLAIMS BY PRIMARY INSURER.** Requires an insurer that has primary coverage on property for loss by fire to adjust all claims made on a TWIA policy covering the same property.

SECTION 17. Amends Section 2210.602, Insurance Code, by adding Subdivisions (2-a), (3-a), and (4-a), as follows:

(2-a) Defines "Class 1 public security trust fund."

(3-a) Defines "Class 2 public security trust fund."

(4-a) Defines "Class 3 public security trust fund."

SECTION 18. Section 2210.609, Insurance Code, as follows:

Sec. 2210.609. **REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY OBLIGATIONS.** (a) Requires the board of directors of the Texas Public Finance Authority (board) and TWIA to enter into an agreement under which TWIA shall provide



for the payment of all public security obligations from available funds collected by TWIA and deposited as required by this subchapter, rather than into the public security obligation revenue fund. Requires TWIA, if TWIA determines that it is unable to pay the public security obligations and public security administrative expenses, if any, with available funds, to pay those obligations and expenses in accordance with Sections 2210.612, 2210.613, and 2210.6135, as applicable, rather than in accordance with Sections 2210.612, 2210.613, and 2210.6136, as applicable.

(b) Deletes existing text requiring the Texas Public Finance Authority (authority) to notify TWIA 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 TWIA, to permit TWIA to assess members of TWIA under Sections 2210.613 and 2210.6135.

(c) Requires TWIA to deposit all revenue collected under Section 2210.612 in the Class 1 public security trust fund, rather than the public security obligation revenue fund, all revenue collected under Section 2210.613, rather than 2210.613(b), in the Class 2 public security trust fund, rather than premium surcharge, trust fund, and all revenue collected under Section 2210.6135, rather than Sections 2210.613(a) and 2210.6135, in the Class 3 public security trust fund, rather than member assessment trust fund. Authorizes the board, if TWIA has not transferred amounts sufficient to pay the public security obligations to the board's designated interest and sinking fund in a timely manner, to direct the Texas Treasury Safekeeping Trust Company to transfer from the Class 1 public security trust fund, the Class 2 public security trust fund, or the Class 3 public security trust fund, rather than from the public security obligation revenue fund, the premium surcharge trust fund, or the member assessment trust fund, to the appropriate account the amount necessary to pay the public security obligation.

(d) Requires TWIA to provide for the payment of the public security obligations and the public security administrative expenses by irrevocably pledging revenues received from premiums, premium surcharges, and amounts on deposit in the Class 1 public security trust fund, the Class 2 public security trust fund, and the Class 3 public security trust fund, together with any public security reserve fund, as provided in the proceedings authorizing the public securities and related credit agreements. Deletes existing text requiring TWIA to provide for the payment of the public security obligations and the public security administrative expenses by irrevocably pledging revenues received from premiums, member assessments, premium surcharges, and amounts on deposit in the public security obligation revenue fund, the premium surcharge trust fund, and the member assessment trust fund, together with any public security reserve fund, as provided in the proceedings authorizing the public securities and related credit agreements.

(e) Requires that an amount owed by the board under a credit agreement be payable from and secured by a pledge of revenues received by TWIA, the Class 1 public security trust fund, the Class 2 public security trust fund, and the Class 3 public security trust fund, to the extent provided in the proceedings authorizing the credit agreement, rather than requires an amount owed by the board under a credit agreement be payable from and secured by a pledge of revenues received by the association or amounts from the public security obligation trust fund, the premium surcharge trust fund, and the member assessment trust fund to the extent provided in the proceedings authorizing the credit agreement.

SECTION 19. Amends Section 2210.610(a), Insurance Code, as follows:

(a) Provides that revenues received from the premium surcharges under Sections 2210.612, 2210.613, and 2210.6135, rather than under Section 2210.613, and member assessments under Sections 2210.613 and 2210.6135, may be applied only as provided by this subchapter.

SECTION 20. Amends Section 2210.611, Insurance Code, as follows:

Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Provides that revenue collected in any calendar year from a premium surcharge under Sections 2210.612, 2210.613, and 2210.6135, rather than Section 2210.613 and member assessments under Sections 2210.613 and 2210.6135, that exceeds the amount of the public security obligations and public security administrative expenses payable in that calendar year and interest earned on the funds, rather than the public security obligation fund, may, in the discretion of TWIA, be:

(1) used to pay public security obligations payable in the subsequent calendar year, offsetting the amount of the premium surcharge, rather than the amount of the premium surcharge and member assessments, as applicable, that would otherwise be required to be levied for the year under this subchapter;

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

SECTION 21. Amends Section 2210.612, Insurance Code, as follows:

Sec. 2210.612. PAYMENT OF CLASS 1 PUBLIC SECURITIES. (a) Requires TWIA to pay Class 1 public securities issued under Section 2210.072 (Payment from Class 1 Public Securities; Financial Instruments) from:

(1) Makes nonsubstantive changes; and

(2) if net premium and other revenue are not sufficient to pay the securities, a catastrophe area premium surcharge collected in accordance with this section.

(b) Requires TWIA and each insurer that provides insurance in a catastrophe area, on approval by the commissioner, to assess, as provided by this section, a premium surcharge to each policyholder of a policy described by Subsection (c). Requires that the premium surcharge be set in an amount sufficient to pay, for the duration of the issued public securities, all debt service not already covered by available funds and all related expenses on the public securities.

(c) Requires that the premium surcharge under this section be assessed on all policyholders of policies that cover insured property that is located in a catastrophe area, including automobiles principally garaged in a catastrophe area. Requires that the premium surcharge be assessed on each Texas windstorm and hail insurance policy and each property and casualty insurance policy, including an automobile insurance policy, issued for automobiles and other property located in the catastrophe area. Provides that 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) Provides that a premium surcharge under this section is a separate charge in addition to the premiums collected and is not subject to premium tax or commissions. Provides that failure by a policyholder to pay the surcharge constitutes failure to pay premium for purposes of policy cancellation.

(e) Makes a nonsubstantive change.

SECTION 22. Amends Section 2210.613, Insurance Code, as follows:

Sec. 2210.613. PAYMENT OF CLASS 2 PUBLIC SECURITIES. (a) Requires TWIA to pay Class 2 public securities issued under Section 2210.073 from:

(1) net premium and other revenue; and

(2) if net premium and other revenue are not sufficient to pay the securities, a catastrophe area premium surcharge collected in accordance with this section.

Deletes existing text requiring TWIA to pay Class 2 public securities issued under Section 2210.073 as provided by this section.

(b) Requires TWIA and each insurer that provides insurance in a catastrophe area, on approval by the commissioner, to assess, as provided by this section, a premium surcharge to each policyholder of a policy described by Subsection (c). Requires the premium surcharge to be set in an amount sufficient to pay, for the duration of the issued public securities, all debt service not already covered by available funds and all related expenses on the public securities. Deletes existing text requiring that thirty percent of the cost of the public securities be paid through member assessments as provided by this section. Deletes existing text requiring TWIA to notify each member of TWIA of the amount of the member's assessment under this section. Deletes existing text requiring that the proportion of the losses allocable to each insurer under this section be determined in the manner used to determine each insurer's participation in TWIA for the year under Section 2210.052. Deletes existing text prohibiting a member of TWIA from recouping an assessment paid under this subsection through a premium surcharge or tax credit. Deletes existing text requiring that seventy percent of the cost of the public securities be paid by a premium surcharge collected under this section in an amount set by the commissioner. Deletes existing text requiring each insurer, TWIA, and the Texas FAIR Plan Association, on approval by the commissioner, to assess, as provided by this section, a premium surcharge to each policyholder of a policy that is in effect on or after the 180th day after the date the commissioner issues notice of the approval of the public securities. Deletes existing text requiring that the premium surcharge be set in an amount sufficient to pay, for the duration of the issued public securities, all debt service not already covered by available funds or member assessments and all related expenses on the public securities. Makes nonsubstantive changes.

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

(d) Makes a conforming change.

SECTION 23. Amends Section 2210.6135, Insurance Code, as follows:

Sec. 2210.6135. PAYMENT OF CLASS 3 PUBLIC SECURITIES. (a) Requires TWIA to pay Class 3 public securities issued under Section 2210.074 from:

(1) net premium and other revenue; and

(2) if net premium and other revenue are not sufficient to pay the securities, a statewide premium surcharge collected in accordance with this section.

(b) Requires TWIA and each insurer that provides insurance in this state, on approval of the commissioner, to assess, as provided by this section, a premium surcharge to each policyholder of a policy described by Subsection (d). Requires that the premium surcharge, except as provided by Subsection (c), 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) Prohibits the amount of the surcharge assessed under Subsection (b) from exceeding one percent of the premium charged for the policyholder's policy described by Subsection (d).

(d) Requires that the premium surcharge under this section be assessed on all policyholders of policies that cover insured property located in this state, including automobiles principally garaged in this state, written under the following lines of insurance:

(1) fire and allied lines;

(2) farm and ranch owners;

(3) residential property insurance; and

(4) private passenger automobile liability and physical damage insurance.

(e) Provides that a premium surcharge under this section is a separate charge in addition to the premiums collected and is not subject to premium tax or commissions. Provides that failure by a policyholder to pay the surcharge constitutes failure to pay premium for purposes of policy cancellation, rather than requires TWI to pay Class 3 public securities issued in Section 2210.074 as provided by this section through member assessments. Deletes existing text requiring TWIA, for the payment of the losses, to assess the members of TWIA a principal amount not to exceed \$500 million per catastrophe year. Deletes existing text requiring TWIA to notify each member of TWIA of the amount of the member's assessment under this section. Deletes existing text requiring that the proportion of the losses allocable to each insurer under this section be determined in the manner used to determine each insurer's participation in TWIA for the year under Section 2210.052. Deletes existing text prohibiting a member of TWIA from recouping an assessment paid under this section through a premium surcharge or tax credit.

SECTION 24. Amends Section 2210.616(a), Insurance Code, as follows:

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

(1) impair the collection of premium surcharges or the deposit of those funds into the Class 1 public security trust fund, Class 2 public security trust fund, or Class 3 public security trust fund, rather than the collection of member assessments and premium surcharges or the deposit of those funds into the members assessment trust fund or premium surcharge trust fund;

(2) Deletes a reference to member assessments;

(3) Makes no change to this subdivision.

SECTION 25. Amends Section 2210.6165, Insurance Code, to delete a reference to a member assessment.

SECTION 26. Repealer: Section 2210.075 (Reinsurance), Insurance Code.

Repealer: Section 2210.102(g) (requiring the commissioner to appoint one person to serve as a nonvoting member of the board of directors of TWIA to advise the board regarding certain issues), Insurance Code.

Repealer: Section 2210.102(h) (requiring that certain person appointed must be from different counties), Insurance Code.

Repealer: Section 2210.602(5-a) (defining “gross premium”), Insurance Code.

Repealer: Section 2210.602(6-b) (defining “member assessment trust fund”), Insurance Code.

Repealer: Section 2210.602(6-c) (defining “premium surcharge trust fund”), Insurance Code.

Repealer: Section 2210.602(10) (defining “public security obligation revenue fund”), Insurance Code.

Repealer: Section 2210.605(c) (providing that public securities issued under Section 2210.6136 (Alternative Sources of Payment) are eligible obligations under Section 404.027 (Liquidity), Government Code), Insurance Code.

Repealer: Section 2210.6136 (Alternative Sources of Payment), Insurance Code.

SECTION 27. (a) Provides that the board of directors of TWIA established under Section 2210.102, Insurance Code, as that section existed before amendment by this Act, is abolished effective November 1, 2015.

(b) Requires the governor to appoint the members of the board of directors of TWIA under Section 2210.102, Insurance Code, as amended by this Act, effective November 1, 2015. Requires the initial directors to draw lots to achieve staggered terms, with three of the directors serving one-year terms, three of the directors serving two-year terms, and three of the directors serving three-year terms.

(c) Provides that the term of a person who is serving as a member of the board of directors immediately before the abolition of that board under Subsection (a) of this section expires on November 1, 2015. Provides that such a person is eligible for appointment by the governor to the new board of directors of TWIA under Section 2210.102, Insurance Code, as amended by this Act.

(d) Requires TWIA, notwithstanding Section 2210.4521, Insurance Code, as added by this Act, or Subsection (e) of this section, beginning on the effective date of this Act and continuing until December 31, 2015, to deposit 30 percent of its earned premium into the trust fund described by that section. Requires TWIA, not later than February 1, 2016, to direct the Texas Treasury Safekeeping Trust Company to deposit all amounts deposited in the trust fund during the 2015 calendar year, and interest earned on those funds, into the catastrophe reserve trust fund as described by that section.

(e) Provides that Section 2210.4521, Insurance Code, as added by this Act, applies to all TWIA premium earned on and after January 1, 2016.

(f) Prohibits amounts collected under Section 2210.4521, Insurance Code, as added by this Act, notwithstanding Subsection (d) of this section and Section 2210.0715, Insurance

Code, as added by this Act, from being used to pay for a covered insured TWIA loss incurred before June 1, 2015.

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

(h) Provides that it is the intent of the legislature that each member of the legislative oversight board appointed under Section 2210.652 (Composition of Board), Insurance Code, and serving on the effective date of this Act continues to serve after the effective date of this Act until a successor is appointed under that section.

SECTION 28. Effective date: upon passage or September 1, 2015.