

BILL ANALYSIS

C.S.S.B. 900
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Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that the Texas Windstorm Insurance Association (TWIA), which serves as the insurer of last resort for wind and hail insurance for certain coastal counties, has undergone significant legislative reform since its inception, including recent funding reforms to reduce unknown financial liability for member insurers as an incentive to increase the number of voluntary policies issued among private carriers along the coast and the establishment of a policyholder claims process to ensure legitimate claims are paid fairly and on time. Despite these reforms, the parties contend that issues relating to TWIA's administrative functions, operations, governance, and financial structure persist. C.S.S.B. 900 seeks to address these issues.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTION 4 and 15 of this bill.

ANALYSIS

C.S.S.B. 900 amends the Insurance Code to make changes relating to the operation of the Texas Windstorm Insurance Association (TWIA).

Applicability of Certain Other Law

C.S.S.B. 900 clarifies that statutory provisions relating to processing and settlement of claims do not apply to TWIA or to an agent or representative of TWIA. The bill specifies that an administrator contracted under the bill's provisions, if applicable, is an agent of TWIA for purposes of managing TWIA and administering the plan of operation under the Texas Windstorm Insurance Association Act.

Study of Market Incentives

C.S.S.B. 900 requires the Texas Department of Insurance (TDI) to biennially conduct a study of market incentives to promote participation in the voluntary windstorm and hail insurance market in the seacoast territory of Texas. The bill requires the study to address as possible incentives the mandatory or voluntary issuance of windstorm and hail insurance in conjunction with the issuance of a homeowners policy in the seacoast territory. The bill requires TDI to include the results of the market incentives study in TDI's biennial report to the legislature.

Administration of Association

C.S.S.B. 900 authorizes the commissioner of insurance to contract with an administrator to manage TWIA and administer the plan of operation, if determined by the commissioner to be in the best interest of the policyholders and the public. The bill requires the commissioner to adopt rules as necessary to implement administration of TWIA by a contracted administrator if the commissioner determines management of TWIA and administration of the plan of operation by an administrator is in the best interest of the policyholders and the public. The bill requires the administrator to hold either a managing general agent license or a third-party administrator certificate of authority.

Association Board of Directors

C.S.S.B. 900 decreases from four to three the number of TWIA board members required to be insurance industry representatives and adds a condition that such board members actively write and renew windstorm and hail insurance in the first tier coastal counties. The bill removes the requirement that replacement insurance industry representatives be appointed by the commissioner of insurance from the nominee slate submitted by member insurers in the event of a vacancy in the board seats reserved for such representatives and instead authorizes the commissioner to appoint replacement insurance representatives from the nominee slate.

C.S.S.B. 900 decreases from four to three the number of board members who must reside in the first tier coastal counties. The bill removes a requirement for these members to be from different counties and instead establishes three regions, consisting of specific first tier coastal counties, that must each be represented by a board member residing in that region.

C.S.S.B. 900 removes the condition that the board member who represents an area of Texas not located in the seacoast territory have demonstrated expertise in insurance and actuarial principles. The bill requires three members to represent an area of Texas that is located more than 200 miles from the Texas coastline.

C.S.S.B. 900 removes a requirement to appoint a nonvoting member to advise the board regarding the inspection process. The bill instead requires the commissioner to appoint three individuals to serve as nonvoting ex officio members of the board to advise the board and requires each such member to hold an elective office of the state or a political subdivision of the state. The bill requires the nonvoting ex officio members to reside in different counties and requires one member to reside in and represent the northern portion of the seacoast territory, one member to reside in and represent the southern portion of the seacoast territory, and one member to reside in and represent an area of Texas not located in the seacoast territory.

C.S.S.B. 900, effective October 1, 2015, abolishes the Texas Windstorm Insurance Association board of directors established under the law existing before the bill's provisions and requires the commissioner to appoint the new board of directors. The bill 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. The bill establishes that the term of a person serving as a board member immediately before the abolition of the board expires on October 1, 2015, and that such a person is eligible for appointment by the commissioner to TWIA's new board.

Payment of Losses

C.S.S.B. 900 adds Class 1, Class 2, and Class 3 member assessments to the prescribed sequence for paying TWIA's losses in excess of premium and other TWIA revenue. The bill adds the assessments to the sequence so that the assessments are made after the use of available TWIA reserves and the issuance of Class 1, Class 2, and Class 3 public securities, respectively.

C.S.S.B. 900 limits the payment of excess TWIA losses not paid from available TWIA reserves and available amounts in the catastrophe reserve trust fund (CRTF) from Class 1 public securities to Class 1 public securities issued in accordance with the public securities program on or before June 1, 2015. The bill removes provisions governing the issuance of Class 1 public securities and use of the proceeds from any outstanding Class 1 public securities.

C.S.S.B. 900 requires excess TWIA losses in a catastrophe year not paid from available TWIA reserves, available amounts in the CRTF, and Class 1 public securities to be paid from Class 1 member assessments capped at \$500 million for that catastrophe year. The bill requires TWIA, with the approval of the commissioner, to notify each member of the amount of the member's assessment. The bill requires the proportion of the losses allocable to each insurer to be determined in the manner used to determine each insurer's participation in TWIA for the year. The bill prohibits a TWIA member from recouping a Class 1 member assessment through a premium surcharge or tax credit.

C.S.S.B. 900 replaces an authorization to issue Class 2 public securities as necessary for payment of TWIA's excess losses not paid from available TWIA reserves, available amounts in the CRTF, and Class 1 public securities with a requirement to issue Class 2 public securities as necessary for payment of TWIA's excess losses not paid from available TWIA reserves, available amounts in the CRTF, Class 1 public securities, and Class 1 member assessments. The bill lowers the cap on the aggregate amount of Class 2 public securities issued per catastrophe year from \$1 billion to \$250 million.

C.S.S.B. 900 requires excess TWIA losses in a catastrophe year not paid from available TWIA reserves, available amounts in the CRTF, Class 1 public securities, Class 1 member assessments, and Class 2 public securities to be paid from Class 2 member assessments capped at \$250 million for that catastrophe year. The bill requires TWIA, with the approval of the commissioner, to notify each member of the amount of the member's assessment. The bill requires the proportion of the losses allocable to each insurer to be determined in the manner used to determine each insurer's participation in TWIA for the year. The bill prohibits a TWIA member from recouping a Class 2 member assessment through a premium surcharge or tax credit.

C.S.S.B. 900 requires excess TWIA losses in a catastrophe year not paid from available TWIA reserves, available amounts in the CRTF, Class 1 public securities, Class 1 member assessments, Class 2 public securities, Class 2 member assessments, and Class 3 public securities to be paid from Class 3 member assessments capped at \$250 million for that catastrophe year. The bill requires TWIA, with the approval of the commissioner, to notify each member of the amount of the member's assessment. The bill requires the proportion of the losses allocable to each insurer to be determined in the manner used to determine each insurer's participation in TWIA. The bill prohibits a TWIA member from recouping a Class 3 member assessment through a premium surcharge or tax credit.

Public Securities Program

C.S.S.B. 900 removes statutory provisions requiring TWIA to pay Class 2 public securities through a specified combination of member assessments and premium surcharges. The bill instead requires TWIA to pay Class 2 public securities from net premium and other revenue and from a catastrophe area premium surcharge if net premium and other revenue are not sufficient to pay the securities. The bill requires TWIA, on approval by the commissioner, to assess the premium surcharge to each policyholder of a TWIA policy. The bill requires the premium surcharge to be set in an amount sufficient to pay, for the duration of the issued Class 2 public securities, all debt service not already covered by available funds and all related expenses on the public securities. The bill applies provisions relating to the applicability and nature of a premium surcharge assessed under existing law for the payment of Class 2 public securities to a premium surcharge assessed under the bill's provisions for the payment of Class 2 public securities.

C.S.S.B. 900 repeals statutory provisions governing the payment of Class 3 public securities. The bill instead requires TWIA to pay certain Class 3 public securities from net premium and other revenue and from a catastrophe premium surcharge if net premium and other revenue are not sufficient to pay the securities. The bill requires TWIA, on approval from the commissioner, to assess the premium surcharge to each policyholder of a TWIA policy. The bill requires the premium surcharge to be set in an amount sufficient to pay, for the duration of the issued Class 3 public securities, all debt service not already covered by available funds and all related expenses on the public securities. The bill requires the premium surcharge to be assessed on all policyholders of TWIA policies. The bill specifies that such a premium surcharge is a separate charge in addition to the premiums collected and is not subject to premium tax or commission. The bill establishes that failure by a policyholder to pay the surcharge constitutes failure to pay premium for purposes of policy cancellation.

C.S.S.B. 900 repeals statutory provisions relating to the authorization for the commissioner to cause the issuance of Class 2 public securities as an alternative source of payment for TWIA's excess losses on a finding that all or any portion of the total principal amount of Class 1 public securities authorized to be issued cannot be issued.

C.S.S.B. 900 removes the requirement that TWIA deposit member assessments and premium surcharges collected for the payment of public securities into the premium surcharge trust fund, or member assessment trust fund, as applicable. The bill instead requires TWIA to deposit all revenue collected for the payment of Class 2 and Class 3 public securities in the Class 2 public security trust fund and the Class 3 public security trust fund, respectively. The bill specifies that the Class 2 and Class 3 public security trust funds are dedicated trust funds established by the board of directors of the Texas Public Finance Authority and held by the Texas Treasury Safekeeping Trust Company into which the premium surcharges collected for the purpose of paying Class 2 or Class 3 public securities are deposited. The bill clarifies that revenue collected in any calendar year from a premium surcharge assessed for the payment of Class 2 and Class 3 public securities that exceeds the amount of the public security obligations and public security administrative expenses payable in that calendar year and interest earned on the public security trust funds is authorized to be used for certain purposes at TWIA's discretion.

Catastrophe Reserve Trust Fund, Reinsurance, and Alternative Risk Financing

C.S.S.B. 900 establishes that, except as otherwise specifically provided, use of the CRTF is limited to purposes directly related to funding the payment of insured losses, including, among other purposes, purchasing reinsurance or using alternative risk financing mechanisms. The bill includes use of alternative risk financing mechanisms among the purposes for which TWIA may use the net gain from operations. The bill clarifies that the commissioner is required to establish by rule the procedure relating to the disbursement of money from the CRTF for TWIA's administrative expenses directly related to funding the payment of insured losses. The bill requires the commissioner by rule to establish the procedure relating to the disbursement of money from the CRTF to pay for operating expenses, including reinsurance or alternative risk financing mechanisms, if TWIA does not have sufficient premium and other revenue.

C.S.S.B. 900 replaces TWIA's authority to purchase reinsurance with a requirement that TWIA purchase reinsurance or use alternative risk financing mechanisms in an amount not less than the probable maximum loss for TWIA for a catastrophe year with a probability of one in 100. The bill prohibits the attachment point for such reinsurance from being less than the aggregate amount of all funding available to TWIA for payment of losses. The bill removes statutory provisions requiring TWIA's board of directors to submit an annual report containing an actuarial plan for paying losses in the event of a catastrophe with estimated damages of \$2.5 billion or more if TWIA does not purchase reinsurance.

Liability Limits

C.S.S.B. 900 caps the maximum liability limits for coverage on certain single insurable property at \$1,500,000.

General Provisions

C.S.S.B. 900 redefines "association" to mean the Texas Coastal Insurance Association.

Repealers

C.S.S.B. 900 repeals the following provisions of the Insurance Code:

- Sections 2210.602 (5-a), (6), (6-b), and (6-c)
- Section 2210.605(c)
- Section 2210.6135
- Section 2210.6136

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 900 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. The heading to Chapter 2210, Insurance Code, is amended to read as follows:

CHAPTER 2210. TEXAS COASTAL
[~~WINDSTORM~~] INSURANCE
ASSOCIATION

SECTION 2. Section 2210.001, Insurance Code, is amended to read as follows:

Sec. 2210.001. PURPOSE. The primary purpose of the Texas Coastal [~~Windstorm~~] Insurance Association is the provision of an adequate market for windstorm and hail insurance in the seacoast territory of this state. The legislature finds that the provision of adequate windstorm and hail insurance is necessary to the economic welfare of this state, and without that insurance, the orderly growth and development of this state would be severely impeded. This chapter provides a method by which adequate windstorm and hail insurance may be obtained in certain designated portions of the seacoast territory

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

No equivalent provision.

of this state. The association is intended to serve as a residual insurer of last resort for windstorm and hail insurance in the seacoast territory. The association shall:

- (1) function in such a manner as to not be a direct competitor in the private market; and
- (2) provide windstorm and hail insurance coverage to those who are unable to obtain that coverage in the private market.

SECTION 3. Section 2210.002, Insurance Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) This chapter may be cited as the Texas Coastal ~~[Windstorm]~~ Insurance Association Act.

(a-1) A reference in this chapter or other law to the Texas Windstorm Insurance Association means the Texas Coastal Insurance Association.

SECTION 4. Section 2210.003, Insurance Code, is amended.

SECTION 5. Section 2210.014, Insurance Code, is amended.

SECTION 6. Subchapter A, Chapter 2210, Insurance Code, is amended.

SECTION 7. Subchapter B, Chapter 2210, Insurance Code, is amended.

SECTION 8. Subchapter B-1, Chapter 2210, Insurance Code, is amended by amending Section 2210.071 and adding Sections 2210.0715, 2210.07151, and 2210.0716 to read as follows:

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

Sec. 2210.0715. PAYMENT FROM RESERVES AND TRUST FUND. [(b)] The association shall pay losses in excess of premium and other revenue of the association from available reserves of the

No equivalent provision.

SECTION 1. Same as engrossed version.

SECTION 2. Same as engrossed version.

SECTION 3. Same as engrossed version.

SECTION 4. Same as engrossed version.

SECTION 5. Subchapter B-1, Chapter 2210, Insurance Code, is amended by amending Section 2210.071 and adding Section 2210.0715 to read as follows:

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

Sec. 2210.0715. PAYMENT FROM RESERVES AND TRUST FUND. [(b)] The association shall pay losses in excess of premium and other revenue of the association from available reserves of the

association and available amounts in the catastrophe reserve trust fund.

Sec. 2210.07151. PAYMENT FROM CLASS 1-A PUBLIC SECURITIES; FINANCIAL INSTRUMENTS. (a) Losses not paid under Section 2210.0715 shall be paid as provided by this section from the proceeds from Class 1-A 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. Public securities issued under this section must be paid 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.

(b) Public securities described by Subsection (a) that are issued before an occurrence or series of occurrences that results in incurred losses:

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

(2) may not, in the aggregate, exceed \$250 million at any one time, regardless of the calendar year or years in which the outstanding public securities were issued.

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

(1) shall be issued as necessary in a principal amount not to exceed \$250 million 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 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) If public securities are issued as described by this section, the public securities shall be paid in the manner prescribed by Subchapter M.

(d) The association may borrow from, or

association and available amounts in the catastrophe reserve trust fund.

No equivalent provision.

enter into other financing arrangements with, any market source, under which the market source makes interest-bearing loans or other financial instruments to the association to enable the association to pay losses under this section or to obtain public securities under this section. For purposes of this subsection, financial instruments includes commercial paper.

(e) The proceeds of any outstanding public securities described by Subsection (a) that are issued before an occurrence or series of occurrences shall be depleted before the proceeds of any securities issued after an occurrence or series of occurrences may be used. This subsection does not prohibit the association from issuing securities after an occurrence or series of occurrences before the proceeds of outstanding public securities issued during a previous catastrophe year have been depleted.

(f) If, under Subsection (e), the proceeds of any outstanding public securities issued during a previous catastrophe year must be depleted, those proceeds shall count against the limit on public securities described by this section in the catastrophe year in which the proceeds must be depleted.

Sec. 2210.0716. PAYMENT FROM CLASS 1 ASSESSMENTS. (a) Losses in a catastrophe year not paid under Sections 2210.0715 and 2210.07151 shall be paid as provided by this section from Class 1 member assessments not to exceed \$500 million for that catastrophe year.

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

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

~~[(e) Losses not paid under Subsection (b) shall be paid from the proceeds from public securities issued in accordance with this subchapter and Subchapter M and, notwithstanding Subsection (a), may be paid from the proceeds of public securities issued~~

(See SECTION 7 below.)

~~[(e) Losses not paid under Subsection (b) shall be paid from the proceeds from public securities issued in accordance with this subchapter and Subchapter M and, notwithstanding Subsection (a), may be paid from the proceeds of public securities issued~~

~~under Section 2210.072(a) before an occurrence or series of occurrences that results in insured losses.]~~

SECTION 9. The heading to Section 2210.072, Insurance Code, is amended to read as follows:

Sec. 2210.072. PAYMENT FROM CLASS 1-B [+] PUBLIC SECURITIES; FINANCIAL INSTRUMENTS.

SECTION 10. Sections 2210.072(a), (b), (b-1), (c), and (f), Insurance Code, are amended to read as follows:

(a) Losses not paid under Sections 2210.0715, 2210.07151, and 2210.0716 [Section 2210.071(b)] shall be paid as provided by this section from the proceeds from Class 1-B [+] 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. Public securities issued under this section must be paid [repaid] within a period not to exceed 10 [14] years[;] and may be paid [repaid] sooner if the board of directors elects to do so and the commissioner approves.

(b) Public securities described by Subsection (a) that are issued before an occurrence or series of occurrences that results in incurred losses:

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

(2) may not, in the aggregate, exceed \$250 million [\$1 billion] at any one time, regardless of the calendar year or years in which the outstanding public securities were issued.

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

(1) shall be issued as necessary in a principal amount not to exceed \$250 million [\$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 [\$1 billion] maximum

~~under Section 2210.072(a) before an occurrence or series of occurrences that results in insured losses.]~~

SECTION 6. Section 2210.072, Insurance Code, is amended to read as follows:

Sec. 2210.072. PAYMENT FROM CLASS 1 PUBLIC SECURITIES ISSUED BEFORE JUNE 1, 2015[; FINANCIAL INSTRUMENTS].

(a) Losses not paid under Section 2210.0715 [Section 2210.071(b)] shall be paid as provided by this section from the proceeds from Class 1 public securities [authorized to be] issued in accordance with Subchapter M on or before June 1, 2015 [before, on, or after the date of any occurrence or series of occurrences that results in insured losses]. Public securities described by [issued under] this section must be repaid within a period not to exceed 14 years, and may be repaid sooner if the board of directors elects to do so and the commissioner approves.

[(b) Public securities described by Subsection (a) that are issued before an occurrence or series of occurrences that results in incurred losses:

[(1) may be issued on the request of the board of directors with the approval of the commissioner; and

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

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

[(1) shall be issued as necessary in a principal amount not to exceed \$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 \$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) If public securities are issued as described by this section, the public securities shall be paid [repaid] in the manner prescribed by Subchapter M [from association premium revenue].

(f) If, under Subsection (e), the proceeds of any outstanding public securities issued during a previous catastrophe year must be depleted, those proceeds shall count against the [\$1 billion] limit on public securities described by this section in the catastrophe year in which the proceeds must be depleted.

(See Sec. 2210.0716 in SECTION 8 above.)

~~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) Public [If public] securities [are] issued as described by this section[, the public securities] shall be repaid in the manner prescribed by Subchapter M from association premium revenue.~~

(d) The association may borrow from, or enter into other financing arrangements with, any market source, under which the market source makes interest-bearing loans or other financial instruments to the association to enable the association to pay losses under this section or to obtain public securities under this section. For purposes of this subsection, financial instruments includes commercial paper.

~~[(e) The proceeds of any outstanding public securities described by Subsection (a) that are issued before an occurrence or series of occurrences shall be depleted before the proceeds of any securities issued after an occurrence or series of occurrences may be used. This subsection does not prohibit the association from issuing securities after an occurrence or series of occurrences before the proceeds of outstanding public securities issued during a previous catastrophe year have been depleted.]~~

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

SECTION 7. Subchapter B-1, Chapter 2210, Insurance Code, is amended by adding Section 2210.0725 to read as follows:

Sec. 2210.0725. PAYMENT FROM CLASS 1 ASSESSMENTS. (a) Losses in a catastrophe year not paid under Sections 2210.0715 and 2210.072 shall be paid as provided by this section from Class 1 member assessments not to exceed \$500 million for that catastrophe year.

(b) The association, with the approval of

the commissioner, shall notify each member of the amount of the member's assessment under this section. The proportion of the losses allocable to each insurer under this section shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052.

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

No equivalent provision.

SECTION 11. Subchapter B-1, Chapter 2210, Insurance Code, is amended by adding Section 2210.0725 to read as follows:

Sec. 2210.0725. PAYMENT FROM CLASS 2 ASSESSMENTS. (a) Losses in a catastrophe year not paid under Sections 2210.0715, 2210.07151, 2210.0716, and 2210.072 shall be paid as provided by this section from Class 2 member assessments not to exceed \$500 million for that catastrophe year.

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

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

SECTION 12. Section 2210.073, Insurance Code, is amended to read as follows:

Sec. 2210.073. PAYMENT FROM CLASS 2 PUBLIC SECURITIES. (a) Losses not paid under Sections 2210.0715, 2210.07151, 2210.0716, ~~[2210.071 and]~~ 2210.072, and 2210.0725 shall 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 ~~[under this subsection]~~. Public securities issued under this section must be paid ~~[repaid]~~ within a period not to exceed 10 years~~[-]~~ and may be paid ~~[repaid]~~ sooner if the board of directors elects to do so and the commissioner approves.

SECTION 8. Section 2210.073, Insurance Code, is amended to read as follows:

Sec. 2210.073. PAYMENT FROM CLASS 2 PUBLIC SECURITIES. (a) Losses not paid under Sections 2210.0715, [2210.071 and] ~~and~~ 2210.072, and 2210.0725 shall 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 ~~[under this subsection]~~. Public securities issued under this section must be paid ~~[repaid]~~ within a period not to exceed 10 years~~[-]~~ and may be paid ~~[repaid]~~ sooner if the board of directors elects to do so and the commissioner approves.

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

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

(2) subject to 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) If the losses are paid with public securities described by this section, the public securities shall be paid ~~repaid~~ in the manner prescribed by Subchapter M.

No equivalent provision.

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

(1) shall ~~may~~ be issued as necessary in a principal amount not to exceed \$250 million ~~[\$1 billion]~~ per catastrophe year, in the aggregate, whether for a single occurrence or a series of occurrences; and

(2) subject to 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) If the losses are paid with public securities described by this section, the public securities shall be paid ~~repaid~~ in the manner prescribed by Subchapter M.

SECTION 9. Section 2210.074, Insurance Code, is amended to read as follows:

Sec. 2210.074. PAYMENT THROUGH CLASS 2 ASSESSMENTS ~~[3 PUBLIC SECURITIES]~~. (a) Losses in a catastrophe year not paid under Sections 2210.0715, [2210.071,] 2210.072, 2210.0725, and 2210.073 shall be paid as provided by this section from Class 2 member assessments not to exceed \$250 million for that catastrophe year.

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

(c) A member of the association may not recoup an assessment paid under this section through a premium surcharge or tax credit [proceeds from public securities authorized to be issued in accordance with Subchapter M 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. Public securities issued under this section must be repaid within a period not to exceed 10 years, and may be repaid sooner if the board of directors elects to do so and the commissioner approves.

~~[(b) Public securities described by~~

Subsection (a):

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

~~[(2) subject to the \$500 million 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) If the losses are paid with public securities described by this section, the public securities shall be repaid in the manner prescribed by Subchapter M through member assessments as provided by this section. The association shall notify each member of the association of the amount of the member's assessment under this section. The proportion of the losses allocable to each insurer under this section shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052. A member of the association may not recoup an assessment paid under this subsection through a premium surcharge or tax credit].~~

No equivalent provision.

SECTION 10. Subchapter B-1, Chapter 2210, Insurance Code, is amended by adding Sections 2210.0741 and 2210.0742 to read as follows:

Sec. 2210.0741. PAYMENT THROUGH CLASS 3 PUBLIC SECURITIES. (a) Losses not paid under Sections 2210.0715, 2210.072, 2210.0725, 2210.073, and 2210.074 shall be paid as provided by this section from proceeds from public securities authorized to be issued in accordance with Subchapter M 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. Public securities issued under this section must be paid 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.

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

(1) may be issued as necessary in a principal amount not to exceed \$250 million

per catastrophe year, in the aggregate, whether for a single occurrence or a series of occurrences; and

(2) subject to the 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) If the losses are paid with public securities described by this section, the public securities shall be paid in the manner prescribed by Subchapter M.

Sec. 2210.0742. PAYMENT FROM CLASS 3 ASSESSMENTS. (a) Losses in a catastrophe year not paid under Sections 2210.0715, 2210.072, 2210.0725, 2210.073, 2210.074, and 2210.0741 shall be paid as provided by this section from Class 3 member assessments not to exceed \$250 million for that catastrophe year.

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

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

SECTION 13. Section 2210.075, Insurance Code, is amended.

SECTION 14. Section 2210.102, Insurance Code, is amended to read as follows:

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

(b) Three [~~Four~~] members must be representatives of the insurance industry who do not reside in the seacoast territory.

(c) Three [~~Four~~] members must, as of the date of the appointment, reside in the first tier coastal counties. Each of the following regions must be represented by a member residing in the region and [~~At least one of~~

SECTION 11. Same as engrossed version.

SECTION 12. Section 2210.102, Insurance Code, is amended to read as follows:

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

(b) Three [~~Four~~] members must be representatives of the insurance industry who actively write and renew windstorm and hail insurance in the first tier coastal counties.

(c) Three [~~Four~~] members must, as of the date of the appointment, reside in the first tier coastal counties. Each of the following regions must be represented by a member residing in the region and [~~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) One of the members appointed under Subsection (c) must be a property and casualty agent who is licensed under this code and is not a captive agent.

(d) One member must reside in a second tier coastal county [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) Two members must represent and reside in an area located more than 100 miles from the Texas coastline.

(e) All members must 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 the association probable.

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

(g) In addition to the nine members appointed under Subsection (a), the [The] commissioner shall appoint three individuals [~~one person~~] to serve as [~~a~~] nonvoting ex officio members [~~member~~] of the board to advise the board [~~regarding issues relating to the inspection process. The commissioner may give preference in an appointment under this subsection to a person who is a~~

~~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) One of the members appointed under Subsection (c) must be a property and casualty agent who is licensed under this code and is not a captive agent.

(d) Three members [~~One member~~] must represent [~~be a representative of~~] an area of this state that is [~~not~~] located more than 200 miles from the Texas coastline [~~in the seacoast territory with demonstrated expertise in insurance and actuarial principles~~].

(e) All members must 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 the association probable.

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

(g) In addition to the nine members appointed under Subsection (a), the [The] commissioner shall appoint three individuals [~~one person~~] to serve as [~~a~~] nonvoting ex officio members [~~member~~] of the board to advise the board [~~regarding issues relating to the inspection process. The commissioner may give preference in an appointment under this subsection to a person who is a~~

~~qualified inspector under Section 2210.254].~~
Each ~~[The]~~ nonvoting member appointed under this section must:

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

(2) reside in and represent one of the following areas:

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

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

(C) an area of this state that is not located in the seacoast territory ~~[(3) be knowledgeable of, and have professional expertise in, wind-related design and construction practices in coastal areas that are subject to high winds and hurricanes].~~

(h) The persons appointed under Subsection (g) ~~[(e)]~~ must each reside in a [be from] different area described by Subsection (g)(2) and in different counties.

SECTION 15. Section 2210.103(c), Insurance Code, is amended.

SECTION 16. Section 2210.355(b), Insurance Code, is amended to read as follows:

(b) In adopting rates under this chapter, the following must be considered:

(1) the past and prospective loss experience within and outside this state of hazards for which insurance is made available through the plan of operation, if any;

(2) expenses of operation, including acquisition costs;

(3) a reasonable margin for profit and contingencies;

(4) payment of public security obligations for Class 1-A or Class 1-B ~~[H]~~ public securities issued under this chapter, including the additional amount of any debt service coverage determined by the association to be required for the issuance of marketable public securities; and

(5) all other relevant factors, within and outside this state.

SECTION 17. The heading to Subchapter J, Chapter 2210, Insurance Code, is amended.

SECTION 18. Section 2210.452, Insurance

~~qualified inspector under Section 2210.254].~~
Each ~~[The]~~ nonvoting member appointed under this section must:

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

(2) reside in and represent one of the following areas:

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

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

(C) an area of this state that is not located in the seacoast territory ~~[(3) be knowledgeable of, and have professional expertise in, wind-related design and construction practices in coastal areas that are subject to high winds and hurricanes].~~

(h) The persons appointed under Subsection (g) ~~[(e)]~~ must each reside in a [be from] different area described by Subsection (g)(2) and in different counties.

SECTION 13. Same as engrossed version.

No equivalent provision.

SECTION 14. Same as engrossed version.

SECTION 15. Same as engrossed version.

Code, is amended.

SECTION 19. Section 2210.453, Insurance Code, is amended to read as follows:

Sec. 2210.453. REINSURANCE AND ALTERNATIVE RISK FINANCING MECHANISMS. (a) The association shall ~~may:~~

~~[(1) make payments into the trust fund; and~~
~~[(2)] purchase reinsurance or use alternative risk financing mechanisms in an amount equal to the probable maximum loss for the association for a catastrophe year with a probability of one in 100.~~

(b) Any [The association may purchase] reinsurance purchased or alternative risk financing mechanism used under this section operates [that operates] in addition to [or in concert with the trust fund,] public securities, other approved financial instruments, and assessments authorized by this chapter.

(c) The attachment point for reinsurance purchased under this section may not be less than the aggregate amount of all funding available to the association under Subchapter B-1. [If the association does not purchase reinsurance as authorized by this section, the board, not later than June 1 of each year, shall submit to the commissioner, the legislative oversight board established under Subchapter N, 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. The report required by this subsection must:

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

~~[(2) 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 the association's needs; and~~

~~[(3) include an analysis of financing~~

SECTION 16. Section 2210.453, Insurance Code, is amended to read as follows:

Sec. 2210.453. REINSURANCE AND ALTERNATIVE RISK FINANCING MECHANISMS. (a) The association shall ~~may:~~

~~[(1) make payments into the trust fund; and~~
~~[(2)] purchase reinsurance or use alternative risk financing mechanisms in an amount not less than the probable maximum loss for the association for a catastrophe year with a probability of one in 100.~~

(b) Any [The association may purchase] reinsurance purchased or alternative risk financing mechanism used under this section operates [that operates] in addition to [or in concert with the trust fund,] public securities, other approved financial instruments, and assessments authorized by this chapter.

(c) The attachment point for reinsurance purchased under this section may not be less than the aggregate amount of all funding available to the association under Subchapter B-1. [If the association does not purchase reinsurance as authorized by this section, the board, not later than June 1 of each year, shall submit to the commissioner, the legislative oversight board established under Subchapter N, 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. The report required by this subsection must:

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

~~[(2) 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 the association's needs; and~~

~~[(3) 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) A person who prepares a report required by Subsection (c) may not contract to provide any other service to the association, 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) The report submitted under this section is for informational purposes only and does not bind the association to a particular course of action.]~~

No equivalent provision.

SECTION 20. Section 2210.602, Insurance Code, is amended by adding Subdivisions (1-c), (2-a), (2-b), and (3-a) and amending Subdivision (2) to read as follows:

(1-c) "Class 1-A public securities" means public securities authorized to be issued by Section 2210.07151, including a commercial paper program authorized before the occurrence of a catastrophic event.

(2) "Class 1-B [†] public securities" means public securities authorized to be issued by Section 2210.072, including a commercial paper program authorized before the occurrence of a catastrophic event.

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

(2-b) "Class 1-B public security trust fund" means the dedicated trust fund established by the board and held by the Texas Treasury Safekeeping Trust Company into which premium surcharges collected under Section 2210.612 for the purpose of paying Class 1-B public securities are deposited.

~~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) A person who prepares a report required by Subsection (c) may not contract to provide any other service to the association, 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) The report submitted under this section is for informational purposes only and does not bind the association to a particular course of action.]~~

SECTION 17. Section 2210.501, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding Section 2210.502, maximum liability limits for coverage described by Subsection (b)(1) or (3) may not exceed \$1,500,000.

SECTION 18. Section 2210.602, Insurance Code, is amended by amending Subdivision (4) and adding Subdivisions (3-a) and (4-a) to read as follows:

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

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

(4) "Class 3 public securities" means public securities authorized to be issued on or after the occurrence of a catastrophic event by Section 2210.0741 [2210.074].

(4-a) "Class 3 public security trust fund" means the dedicated trust fund established by the board and held by the Texas Treasury Safekeeping Trust Company into which premium surcharges collected under Section 2210.6131 for the purpose of paying Class 3 public securities are deposited.

SECTION 21. Section 2210.604(a), Insurance Code, is amended to read as follows:

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

No equivalent provision.

SECTION 22. Section 2210.608(c), Insurance Code, is amended to read as follows:

(c) Notwithstanding Subsection (a)(2), the proceeds from public securities issued under Section 2210.07151 or 2210.072 before an occurrence or series of occurrences that results in incurred losses, including investment income, may not be used to purchase reinsurance for the association.

No equivalent provision.

SECTION 23. Section 2210.609, Insurance Code, is amended to read as follows:

Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY OBLIGATIONS. (a) The board and the association shall enter into an agreement under which the association shall provide for the payment of all public security obligations from available funds collected by the association and deposited as required by this subchapter ~~[into the public security~~

SECTION 19. Section 2210.609, Insurance Code, is amended to read as follows:

Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY OBLIGATIONS. (a) The board and the association shall enter into an agreement under which the association shall provide for the payment of all public security obligations from available funds collected by the association and deposited as required by this subchapter ~~[into the public security~~

~~obligation revenue fund~~]. If the association determines that it is unable to pay the public security obligations and public security administrative expenses, if any, with available funds, the association shall pay those obligations and expenses in accordance with Sections 2210.612 ~~and~~ 2210.613, ~~[2210.6135, and 2210.6136]~~ as applicable. ~~Class 1-A, Class 1-B, or [4,]~~ ~~Class 2~~, ~~or Class 3~~ public securities may be issued on a parity or subordinate lien basis with other ~~Class 1-A, Class 1-B, or [4,]~~ ~~Class 2~~, ~~or Class 3~~ public securities, respectively.

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

(c) The association shall deposit all revenue collected under Section 2210.612 in the ~~Class 1-A public security trust fund or Class 1-B public security trust fund, as applicable, and [public security obligation revenue fund,]~~ all revenue collected under Section 2210.613 ~~[2210.613(b)]~~ in the ~~Class 2 public security trust fund [premium surcharge trust fund, and all revenue collected under Sections 2210.613(a) and 2210.6135 in the member assessment trust fund]~~. Money deposited in a fund may be invested as permitted by general law. Money in a fund required to be used to pay public security obligations and public security administrative expenses, if any, shall be transferred to the appropriate funds in the manner and at the time specified in the proceedings authorizing the public securities to ensure timely payment of obligations and expenses. This may include the board establishing funds and accounts with the comptroller that the board determines are necessary to administer and repay the public security obligations. If the association has not transferred amounts sufficient to pay the public security obligations to the board's designated interest and sinking fund in a timely manner, the

~~obligation revenue fund~~]. If the association determines that it is unable to pay the public security obligations and public security administrative expenses, if any, with available funds, the association shall pay those obligations and expenses in accordance with Sections 2210.612, 2210.613, ~~and 2210.6131~~ ~~[2210.6135, and 2210.6136]~~ as applicable. ~~Class 1, Class 2, or Class 3~~ public securities may be issued on a parity or subordinate lien basis with other ~~Class 1, Class 2, or Class 3~~ public securities, respectively.

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

(c) The association shall deposit all revenue collected under Section 2210.612 in the ~~public security obligation revenue fund, all revenue collected under Section 2210.613 [2210.613(b)] in the Class 2 public security trust fund [premium surcharge trust fund], and all revenue collected under Section 2210.6131 [Sections 2210.613(a) and 2210.6135] in the Class 3 public security [member assessment] trust fund.~~ Money deposited in a fund may be invested as permitted by general law. Money in a fund required to be used to pay public security obligations and public security administrative expenses, if any, shall be transferred to the appropriate funds in the manner and at the time specified in the proceedings authorizing the public securities to ensure timely payment of obligations and expenses. This may include the board establishing funds and accounts with the comptroller that the board determines are necessary to administer and repay the public security obligations. If the association has not transferred amounts sufficient to pay the public security obligations to the board's designated interest and sinking fund in a timely manner, the board may direct the Texas Treasury Safekeeping Trust Company

board may direct the Texas Treasury Safekeeping Trust Company to transfer from the Class 1-A public security trust fund, the Class 1-B public security trust fund, [public security obligation revenue fund, the premium surcharge trust fund,] or the Class 2 public security trust fund [member assessment trust fund] to the appropriate account the amount necessary to pay the public security obligation.

(d) The association shall provide for the payment of the public security obligations and the public security administrative expenses by irrevocably pledging revenues received from premiums, [~~member assessments,~~] premium surcharges, and amounts on deposit in the Class 1-A public security trust fund, the Class 1-B public security trust fund, [public security obligation revenue fund, the premium surcharge trust fund,] and the Class 2 public security trust fund [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) An amount owed by the board under a credit agreement shall be payable from and secured by a pledge of revenues received by the association [~~or amounts from the public security obligation trust fund,~~] the Class 1-A public security trust fund, the Class 1-B public security trust fund [premium surcharge trust fund], and the Class 2 public security trust fund [member assessment trust fund] to the extent provided in the proceedings authorizing the credit agreement.

SECTION 24. Section 2210.610(a), Insurance Code, is amended to read as follows:

(a) Revenues received from the premium surcharges under Sections 2210.612 and [Section] 2210.613 [and—member assessments under Sections 2210.613 and 2210.6135] may be applied only as provided by this subchapter.

SECTION 25. Section 2210.611, Insurance Code, is amended to read as follows:

Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Revenue collected in any calendar year from a premium surcharge

to transfer from the public security obligation revenue fund, the Class 2 public security [premium surcharge] trust fund, or the Class 3 public security trust fund [member assessment trust fund] to the appropriate account the amount necessary to pay the public security obligation.

(d) The association shall provide for the payment of the public security obligations and the public security administrative expenses by irrevocably pledging revenues received from premiums, [~~member assessments,~~] premium surcharges, and amounts on deposit in the public security obligation revenue fund, the Class 2 public security [premium surcharge] trust fund, and the Class 3 public security trust fund [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) An amount owed by the board under a credit agreement shall be payable from and secured by a pledge of revenues received by the association [~~or amounts]~~ from the public security obligation trust fund, the Class 2 public security [premium surcharge] trust fund, and the Class 3 public security trust fund [member assessment trust fund] to the extent provided in the proceedings authorizing the credit agreement.

SECTION 20. Section 2210.610(a), Insurance Code, is amended to read as follows:

(a) Revenues received from the premium surcharges under Sections [~~Section] 2210.613 and 2210.6131 [and—member assessments under Sections 2210.613 and 2210.6135]~~ may be applied only as provided by this subchapter.

SECTION 21. Section 2210.611, Insurance Code, is amended to read as follows:

Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Revenue collected in any calendar year from a premium surcharge

under Sections 2210.612 and ~~[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 ~~[public security obligation fund]~~ may, in the discretion of the association, be:

- (1) used to pay public security obligations payable in the subsequent calendar year, offsetting 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) used to redeem or purchase outstanding public securities; or
- (3) deposited in the catastrophe reserve trust fund.

SECTION 26. Section 2210.612, Insurance Code, is amended to read as follows:

Sec. 2210.612. PAYMENT OF CLASS 1-A AND CLASS 1-B ~~[‡]~~ PUBLIC SECURITIES. (a) The association shall pay Class 1-A and Class 1-B ~~[‡]~~ public securities ~~[issued under Section 2210.072]~~ from:

- (1) [its] 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.
- (b) On approval by the commissioner, the association shall assess, as provided by this section, a premium surcharge to each policyholder of a policy described by Subsection (c). The premium surcharge must be set in an amount sufficient to pay, for the duration of the issued public securities, all debt service not already covered by available funds and all related expenses on the public securities.
- (c) The premium surcharge under this section shall be assessed on all policyholders of association policies issued under this chapter.
- (d) A premium surcharge under this section is a separate charge in addition to the premiums collected and is not subject to premium tax or commissions. Failure by a policyholder to pay the surcharge constitutes failure to pay premium for purposes of

under Sections ~~[Section]~~ 2210.613 and 2210.6131 ~~[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 ~~[public security obligation fund]~~ may, in the discretion of the association, be:

- (1) used to pay public security obligations payable in the subsequent calendar year, offsetting 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) used to redeem or purchase outstanding public securities; or
- (3) deposited in the catastrophe reserve trust fund.

No equivalent provision.

policy cancellation.

(e) ~~(b)~~ The association may enter financing arrangements as described by Section 2210.07151(d) or 2210.072(d) as necessary to obtain public securities issued under Section 2210.07151 or 2210.072, as applicable. Nothing in this subsection shall prevent the authorization and creation of one or more programs for the issuance of commercial paper before the date of an occurrence or series of occurrences that results in insured losses under Section 2210.07151(a) or 2210.072(a).

SECTION 27. Section 2210.613, Insurance Code, is amended.

SECTION 28. Section 2210.614, Insurance Code, is amended to read as follows:

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

No equivalent provision.

SECTION 22. Same as engrossed version.

No equivalent provision.

SECTION 23. Subchapter M, Chapter 2210, Insurance Code, is amended by adding Section 2210.6131 to read as follows:

Sec. 2210.6131. PAYMENT OF CLASS 3 PUBLIC SECURITIES. (a) The association shall pay Class 3 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.

(b) On approval by the commissioner, the association shall assess, as provided by this section, a premium surcharge to each policyholder of a policy described by Subsection (c). The premium surcharge must be set in an amount sufficient to pay, for the duration of the issued public securities, all debt service not already covered by available funds and all related expenses on the public securities.

(c) The premium surcharge under this section shall be assessed on all policyholders of association policies issued

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

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

(1) impair the collection of ~~[member assessments and]~~ premium surcharges or the deposit of those funds into the Class 1-A public security trust fund, Class 1-B public security [member assessment] trust fund, or Class 2 public security [premium surcharge] trust fund;

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

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

SECTION 30. Section 2210.6165, Insurance Code, is amended.

SECTION 31. The following provisions of Chapter 2210, Insurance Code, are repealed:

- (1) Section 2210.074;
- (2) Sections 2210.602(4), (5-a), (6), (6-b), (6-c), and (10);
- (3) Section 2210.605(c); and
- (4) Sections 2210.6135 and 2210.6136.

SECTION 32. (a) The board of directors of the Texas Windstorm Insurance Association established under Section 2210.102, Insurance Code, as that section existed before amendment by this Act, is abolished effective October 1, 2015.

(b) The commissioner of insurance shall appoint the members of the board of directors of the Texas Coastal Insurance

under this chapter.

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

SECTION 24. Section 2210.616(a), Insurance Code, is amended to read as follows:

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

(1) impair the collection of ~~[member assessments and]~~ premium surcharges or the deposit of those funds into the applicable [member assessment trust fund or premium surcharge] trust fund;

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

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

SECTION 25. Same as engrossed version.

SECTION 26. The following provisions of the Insurance Code are repealed:

- (1) Sections 2210.602(5-a), (6), (6-b), and (6-c);
- (2) Section 2210.605(c); and
- (3) Sections 2210.6135 and 2210.6136.

SECTION 27. (a) The board of directors of the Texas Windstorm Insurance Association established under Section 2210.102, Insurance Code, as that section existed before amendment by this Act, is abolished effective October 1, 2015.

(b) The commissioner shall appoint the members of the board of directors of the Texas Windstorm Insurance Association

Association under Section 2210.102, Insurance Code, as amended by this Act, effective October 1, 2015. The initial directors shall 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) The term of a person who is serving as a member of the board of directors of the Texas Windstorm Insurance Association immediately before the abolition of that board under Subsection (a) of this section expires on October 1, 2015. Such a person is eligible for appointment by the commissioner of insurance to the new board of directors of the Texas **Coastal** Insurance Association under Section 2210.102, Insurance Code, as amended by this Act.

(d) Subchapter M, Chapter 2210, Insurance Code, as it existed before the effective date of this Act, is applicable to bond obligations incurred under Chapter 2210, Insurance Code, before the effective date of this Act, and that law is continued in effect for that purpose.

(e) It is the intent of the legislature that each member of the legislative oversight board appointed under Section 2210.652, 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 33. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

under Section 2210.102, Insurance Code, as amended by this Act, effective October 1, 2015. The initial directors shall 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) The term of a person who is serving as a member of the board of directors of the Texas Windstorm Insurance Association immediately before the abolition of that board under Subsection (a) of this section expires on October 1, 2015. Such a person is eligible for appointment by the commissioner to the new board of directors of the Texas **Windstorm** Insurance Association under Section 2210.102, Insurance Code, as amended by this Act.

(d) It is the intent of the legislature that each member of the legislative oversight board appointed under Section 2210.652, 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. Same as engrossed version.