

BILL ANALYSIS

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S.B. 900
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Established in 1971, the Texas Windstorm Insurance Association (TWIA) has served as the insurer of last resort for wind and hail insurance for Tier 1 counties, including 14 coastal counties and part of Harris County. Today, TWIA provides coverage to over 200,000 policyholders, including residential, commercial, governmental and independent school districts.

Since its inception, TWIA has undergone significant legislative reform. In 2009, the Texas Legislature adopted 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 Texas coast. During the 1st Called Session in 2011, the Texas Legislature established a policyholder claims process to ensure legitimate claims are paid fairly and on time.

S.B. 900 outsources administrative functions to a third-party; changes the name of the Texas Windstorm Insurance Association to the Texas Coastal Insurance Association; amends the board makeup to reflect greater industry expertise and geographic representation; privatizes policy issuance and claims handling; and requires TWIA to maintain an actuarially sound financial structure.

As proposed, S.B. 900 amends current law relating to the operation of the Texas Windstorm Insurance Association and the renaming of the Texas Windstorm Insurance Association as the Texas Coastal Insurance Association.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the commissioner of insurance is modified in SECTION 17 (Section 2210.452, Insurance Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 17 (2210.452, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Chapter 2210, Insurance Code, to read as follows:

CHAPTER 2210. TEXAS COASTAL INSURANCE ASSOCIATION

SECTION 2. Amends 2210.001, Insurance Code, to change a reference to the Texas Windstorm Insurance Association (TWIA) to the Texas Coastal Insurance Association (TCIA).

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

(a) Provides that this chapter may be cited as the Texas Coastal Insurance Association Act, rather than the Texas Windstorm Insurance Association Act.

(a-1) Provides that a reference in this chapter or other law to TWIA means TCIA.

SECTION 4. Amends Section 2210.003, Insurance Code, by amending Subdivision (1) and adding Subdivisions (1-a) and (9-a), to define "administrator," and "primary insurer" and redefine "association."

SECTION 5. Amends Section 2210.014, Insurance Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Provides that Chapter 542 (Processing and Settlement of Claims) does not apply to TCIA or to an agent or representative of TCIA.

Deletes existing text providing that Chapter 542 does not apply to the processing and settlement of claims by TCIA.

(c) Provides that a primary insurer, adjuster, agent or representative of the primary insurer, or the administrator contracted under Sections 2210.062 and 2210.063, is an agent of TCIA for purposes of administering and issuing TCIA policies and adjusting and processing TCIA claims under this chapter.

SECTION 6. Amends Subchapter A, Chapter 2210, Insurance Code, by adding Section 2110.015, 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 of this state. 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 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 7. Amends Subchapter B, Chapter 2210, Insurance Code, by adding Sections 2210.062, 2210.063, 2210.064, 2210.065, 2210.066, and 2210.067, as follows:

Sec. 2210.062. ADMINISTRATION BY CONTRACTED ADMINISTRATOR. (a) Requires the commissioner of insurance (commissioner), notwithstanding any other law, to contract with an administrator to manage TCIA and administer the plan of operation beginning December 1, 2015. Prohibits the administrator from exercising any power under the contract before December 1, 2015.

(b) Requires the administrator to hold either a managing general agent license issued under Chapter 4053 (Managing General Agents) or a third-party administrator certificate of authority issued under Chapter 4151 (Third-Party Administrators).

(c) Prohibits the term of the administrator's contract from exceeding five years. Authorizes the contract to be renewed for additional terms not to exceed five years for each term.

(d) Requires the commissioner, in establishing the compensation paid to the administrator under the contract, to consider the cost of operations of TCIA and make every reasonable effort to ensure that the cost of operations of TCIA under the contract does not exceed average historical costs.

Sec. 2210.063. CONTRACTS BETWEEN ADMINISTRATOR AND PRIMARY INSURERS. (a) Requires the administrator, notwithstanding any other law, to contract with each primary insurer to administer and issue TCIA policies and adjust and process claims under TCIA policies beginning January 1, 2016. Prohibits a primary insurer from exercising any power under the contract before January 1, 2016.

(b) Requires the administrator, in establishing the compensation paid to each primary insurer under the contract, to consider the cost of operations of TCIA and make every reasonable effort to ensure that the cost of operations of TCIA under the contract does not exceed average historical costs.

Sec. 2210.064. PROPRIETARY INFORMATION. (a) Provides that any information, analyses, programs, or data acquired or created by the administrator under a contract under this chapter are property of TDI.

(b) Provides that information, analyses, programs, or data described by Subsection (a) are confidential and exempt from public disclosure under Chapter 552 (Public Information), Government Code.

Sec. 2210.065. OFFICE. (a) Requires the administrator to maintain an office in Austin, Texas.

(b) Authorizes the commissioner to arrange to lease office space of TDI to the administrator.

Sec. 2210.066. AUDIT. (a) Provides that the administrator is subject to audit by the commissioner. Requires the administrator to pay the costs incurred by the commissioner in performing an audit under this section in an amount the commissioner finds reasonable.

(b) Provides that work papers, as defined by Section 401.020(a) (defining "work papers"), from an audit are confidential and not subject to disclosure under Chapter 552, Government Code.

Sec. 2210.067. ANNUAL REPORT OF ADMINISTRATOR. (a) Requires the administrator, not later than March 1 of each year, to submit a report regarding the administrator's duties under this chapter to:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives;
- (4) the senate committee on business and commerce or the successor of that committee with jurisdiction over insurance;
- (5) the house committee on insurance or the successor of that committee with jurisdiction over insurance; and
- (6) the legislative oversight board established under Subchapter N.

(b) Requires that the report be made in accordance with the terms of the administrator's contract with TDI.

SECTION 8. 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. Creates this section from existing text.

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 the administrator, 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 TCIA for the year under Section 2210.052.

(c) Prohibits a member of TCIA from recouping an assessment paid under this section through a premium surcharge or tax credit.

Deletes existing Section 2210.071(c) requiring losses not paid under Subsection (b) to be paid from the proceeds from public securities issued in accordance with this subchapter and Subchapter M (Public Securities Program). Deletes existing text authorizing losses not paid under Subsection (b), notwithstanding Subsection (a), to 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. 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 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 within a period not to exceed 10 years, rather than 14 years, and may be paid sooner if the board of directors of TCIA (board of directors) elects to do so and the commissioner approves.

Makes nonsubstantive changes.

(b) Prohibits the public securities described in Subsection (a) that are issued before an occurrence or series of occurrences that results in incurred losses from, in the aggregate, exceeding \$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) Requires that the public securities described in Subsection (a) be issued as necessary in a principal amount not to exceed \$500 million, rather than \$1 billion per catastrophe year, in the aggregate, and makes a conforming change.

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

Deletes existing text requiring that the public securities be paid from TCIA premium revenue.

(f) Requires that the proceeds, if, under Subsection (e) (requiring that the proceeds of any outstanding public securities described by Subsection (a) that are issued before an occurrence or series of occurrences be depleted before the proceeds of any securities issued after an occurrence or series of occurrences may be used), the proceeds of any outstanding public securities issued during a previous catastrophe year are required to be depleted, to count against the \$500 million limit, rather than \$1 billion limit, on public securities described by this section in the catastrophe year in which the proceeds are required to be depleted.

SECTION 10. 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 (Payment From Class 1 Public Securities; Financial Instruments) be paid as provided by this section from Class 2 member assessments not to exceed \$500 million for that catastrophe year.

(b) Requires the administrator, 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 TCIA for the year under Section 2210.052 (Member Participation in Association).

(c) Prohibits a member of TCIA from recouping an assessment paid under this section through a premium surcharge or tax credit.

SECTION 11. Amends Section 2210.073, Insurance Code, as follows:

Sec. 2210.073. PAYMENT FROM CLASS 2 PUBLIC SECURITIES. (a) Requires losses not paid under Sections 2210.0715, 2210.0716, 2210.072, and 2210.0725, rather than Sections 2210.071 (Payment of Excess Losses; Payment From Reserves and Trust Fund) 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 to be paid, rather than repaid, within a period not to exceed 10 years. Authorizes public securities issued under this section to be paid, rather than repaid, sooner if the board of directors elects to do so and the commissioner approves.

(b) Requires that public securities described by Subsection (a) 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. Authorizes public securities described by Subsection (a), subject to the maximum, rather than the \$1 billion maximum, described by Subdivision (1) (relating to a principal amount not to exceed \$500 million), to 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 be paid, rather than repaid, in the manner prescribed by Subchapter M if the losses are paid with public securities described by this section.

SECTION 12. Amends Section 2210.102, Insurance Code, as follows:

Sec. 2210.102. COMPOSITION. (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 first tier coastal counties.

(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:

(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 (Designation as Catastrophe Area; Revocation of Designation).

Deletes existing text providing that at least one of the members appointed under this subsection must be a property and casualty agent who is licensed under this code and is not a captive agent.

(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 to be a representative of an area of this state that is not located in the seacoast territory, rather than 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 TCIA probable.

(f) Requires insurers who are members of TCIA to nominate, from among those members, persons to fill any vacancy in the three, rather than 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.

(g) Requires the governor, in addition to the nine members appointed under Subsection (a), to appoint three individuals to serve as nonvoting ex officio members of the board to advise the board. Requires each nonvoting member appointed under this section to:

(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;

(B) the southern portion of the seacoast territory; or

(C) an area of this state that is not located in the seacoast territory.

Deletes existing text requiring the commissioner to appoint one person to serve as a nonvoting member of the board to advise the board regarding issued relating to the inspection process. Deletes existing text authorizing the commissioner to give preference in an appointment under this subsection to a person who is a qualified inspector under Section 2210.254 (Qualified Inspectors). Deletes existing text requiring the nonvoting member appointed under this section to be an engineer licensed by, and in good standing with, the Texas Board of Professional Engineers, reside in a first tier coastal county, and 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) Requires the persons appointed under Subsection (g), rather than Subsection (c), to each reside in a different area described by Subsection (g)(2) and in different counties, rather than to be from different counties.

SECTION 13. Amends Section 2110.103(c), Insurance Code, as follows:

(c) Authorizes 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 TCIA's website. Requires the governor, rather than the commissioner, to appoint a replacement in accordance with, rather than in the manner provided by, Section 2210.102 for a member who leaves or is removed from the board of directors.

SECTION 14. Amends Chapter 2210, Insurance Code, by adding Subchapter D-1, as follows:

SUBCHAPTER D-1. PRIMARY INSURER

Sec. 2210.175. ADMINISTRATION AND ISSUANCE OF ASSOCIATION POLICIES AND ADJUSTMENT AND PROCESSING OF CLAIMS BY PRIMARY INSURER. (a) Requires a primary insurer that has primary coverage on property for loss by fire to administer and issue an association policy providing windstorm and hail insurance coverage for the same property and adjust and process all claims made on the TCIA policy in accordance with this chapter, the plan of operation, and the contract entered into under Section 2210.063.

(b) Provides that an insurer acting under this chapter is an agent of TCIA for purposes of Sections 2210.014 (Applicability of Certain Other Law) and 2210.572 (Exclusive Remedies and Limitation on Award).

(c) Provides that an insurer acting in accordance with this section is not liable for any amount payable under the terms of the TCIA policy.

SECTION 15. 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. Requires that an application for TCIA coverage, including an application for new or renewal coverage on or after January 1, 2016, include information on any policy covering the property for perils other than windstorm and hail, including:

(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 on the dwelling and contents provided by the policy; 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, except as provided by Subsection (b), all information, data, and databases collected and used under Section 2210.2022 are confidential information not subject to disclosure under Chapter 552, Government Code.

(b) Authorizes information described by Subsection (a) to be used for the purposes and in the manner described by this chapter and Chapter 2211.

SECTION 16. 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 17. 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 TCIA 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 funding the obligations of the trust fund under Subchapter B-1 (Payment of Losses), and purchasing reinsurance or using alternative risk financing mechanisms under Section 2210.453.

Makes nonsubstantive changes.

(c) Requires TCIA, at the end of each calendar year or policy year, to use the net gain from operations of the association, including all premium and other revenue of TCIA in excess of incurred losses, operating expenses, public security obligations, and public security administrative expenses, to make payments to the trust fund, procure reinsurance, or use alternative risk financing mechanisms, or to make payments to the trust fund and procure reinsurance or use alternative risk financing mechanism.

(d) Requires the commissioner by rule to establish the procedure relating to the disbursement of money from the trust fund to policyholders and for TCIA 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 Section 2210.453, if TCIA does not have sufficient premium and other revenue.

SECTION 18. Amends Section 2210.453, Insurance Code, as follows:

Sec. 2210.453. New heading: REINSURANCE AND ALTERNATIVE RISK FINANCING MECHANISMS. (a) Requires TCIA to purchase reinsurance or use alternative risk financing mechanisms in an amount equal to the probable maximum loss for TCIA for a catastrophe year with a probability of one in 100.

Deletes existing text authorizing TCIA to make payments into the trust fund, and purchase reinsurance.

(b) Provides that any reinsurance purchased or alternative risk financing mechanism used under this section operates in addition to public securities, other approved financial instruments, and assessments authorized by this chapter.

Deletes existing text authorizing TCIA to 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 the association under Subchapter B-1.

Deletes existing text requiring the board, if TCIA does not purchase reinsurance as authorized by this section, not later than June 1 of each year, 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 existing text requiring that the report required by this subsection contain certain information.

Deletes existing Subsection (d) prohibiting a person who prepares a report required by Subsection (c) from contracting to provide any other service to TCIA, 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.

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

SECTION 19. Amends Section 2210.602, Insurance Code, by adding Subdivisions (2-a) and (3-a) to define "Class 1 public security trust fund" and "Class 2 public security trust fund."

SECTION 20. Amends Section 2210.604(a), Insurance Code, to require the Texas Public Finance Authority (TPFA) to issue Class 1 or Class 2 public securities, rather than Class 1, Class 2, or Class 3 public securities.

SECTION 21. Amends 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 TCIA to enter into an agreement under which TCIA is required to provide for the payment of all public security obligations from available funds collected by TCIA and deposited as required by this subchapter, rather than deposited into the public security obligation revenue fund. Requires TCIA, if TCIA 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 and 2210.613, rather than Sections 2210.6135 (Payment of Class 3 Public Securities), and 2210.6136 (Alternative Sources of Payment), as applicable. Authorizes Class 1 or Class 2, rather than Class 1, Class 2, or Class 3, public securities to be issued on a parity or subordinate lien basis with other Class 1 or Class 2, rather than Class 1, Class 2, or Class 3, public securities, respectively.

(b) Requires TPFA, if any public securities issued under this chapter are outstanding, to notify TCIA 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 TCIA, to permit TCIA to determine the availability of funds and assess a premium surcharge if necessary, rather than determine the availability of funds, assess members of TCIA under Sections 2210.613 and 2210.6135, and assess a premium surcharge if necessary.

(c) Requires TCIA 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 Section 2210.613(b) (relating to a premium surcharge charged to each policyholder of a policy that is in effect on or after the 180th day after the date the commissioner issued notice of the approval of the public securities), in the Class 2 public security trust fund, rather than the premium surcharge trust fund, and all revenue collected under Sections 2210.613(a) and 2210.6135 in the member assessment trust fund. Authorizes the board, if TCIA 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 or the Class 2 public security trust fund, rather than to transfer 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 TCIA 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 deposits in the Class 1 public security trust fund, and the Class 2 public security trust fund, rather than 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 TCIA, the Class 1 public security trust fund, and the Class 2 public security trust fund, rather than by TCIA 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 22. Amends Section 2210.610(a), Insurance Code, as follows:

(a) Authorizes revenues received from the premium surcharges under Sections 2210.612 and 2210.613 to be applied only as provided by this subchapter.

Deletes existing text authorizing revenues received from the premium surcharges under Section 2210.613 and member assessments under Sections 2210.613 and 2210.6135 to be applied only as provided by this subchapter.

SECTION 23. Amends Section 2210.611, Insurance Code, as follows:

Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Authorizes revenue collected in any calendar year from a premium surcharge under Sections 2210.612 and 2210.613, rather than premium surcharge under 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 on the public security obligation fund, in the discretion of TCIA, to 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 24. Amends Section 2210.612, Insurance Code, as follows:

Sec. 2210.612. PAYMENT OF CLASS 1 PUBLIC SECURITIES. (a) Requires TCIA to pay Class 1 public securities issued under Section 2210.072 from net premium and other revenue, and 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) Provides that, on approval by the commissioner, TCIA shall 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 association policies issued under this chapter.

(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) Redesignates Subsection (b) as Subsection (e). Creates this subsection from existing text, and makes no further change to this subsection.

SECTION 25. Amends 2210.613, Insurance Code, as follows:

Sec. 2210.613. PAYMENT OF CLASS 2 PUBLIC SECURITIES. (a) Requires TCIA to pay Class 2 public securities issued under Section 2210.073 from net premium and other revenue, and 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, on approval by the commissioner, TCIA and each insurer that provides insurance in a catastrophe area 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.

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 TCIA to notify each member of the association 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 the association for the year under Section 2210.052. Deletes existing text prohibiting a member of the association 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, the association, and the Texas FAIR Plan Association (TFPA) 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 issued notice of the approval of the public securities on approval by the commissioner. 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.

(c) Requires that the premium surcharge under this section, rather than under Subsection (b), 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. Provides that the premium surcharge applies to all policies written under certain enumerated lines of insurance.

Deletes existing text providing that a premium surcharge under Subsection (b) applies to all policies written under certain enumerated lines of insurance.

(d) Changes a reference to Subsection (b) to this section.

SECTION 26. Amends Section 2210.614, Insurance Code, to authorize TCIA to request the board of directors of TPFPA (board) to refinance any public securities issued in accordance with Subchapter B-1, whether Class 1 or Class 2 public securities, rather than Class 1, Class 2, or Class 3 public securities, with public securities payable from the same sources as the original public securities.

SECTION 27. 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 TCIA that the state will not take or permit any action that would:

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

(2) reduce, alter, or impair the premium surcharges, rather than 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) Makes no change to this subdivision.

SECTION 28. Amends Section 2210.6165, Insurance Code, to provide that, if public securities issued under this subchapter are outstanding, the rights and interests of the association, a successor to the association, any member of the association, or any member of TFPFA, including the right to impose, collect, and receive a premium surcharge, rather than a premium surcharge or a member assessment, authorized under this subchapter, are only contract rights until those revenues are first pledged for the repayment of TCIA's public security obligations as provided by Section 2210.609 (Repayment of Association's Public Security Obligations).

SECTION 29. Repealer: Section 2210.074 (Payment Through Class 3 Public Securities), Insurance Code.

Repealers: Sections 2210.602(4) (defining "Class 3 public securities"), (5-a) (defining "gross premium"), (6-b) (defining "member assessment trust fund"), (6-c) (defining "premium surcharge trust fund"), and (10) (defining "public security obligation revenue fund"), Insurance Code;

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

Repealer: Section 2210.6135 (Payment of Class 3 Public Securities), Insurance Code.

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

SECTION 30. (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 October 1, 2015.

(b) Requires the governor to appoint the members of the board of directors of TCIA under Section 2210.102 (Composition), Insurance Code, as amended by this Act, effective October 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 of TWIA immediately before the abolition of that board under Subsection (a) of this section expires on October 1, 2015. Provides that such a person is eligible for appointment by the governor to the new board of directors of the TCIA under Section 2210.102, Insurance Code, as amended by this Act.

(d) Provides that Section 2210.175, Insurance Code, as added by this Act, applies only to administering or issuing a policy or adjusting or processing a claim under a policy issued on or after January 1, 2016.

(e) Provides that 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.

(f) 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 31. Effective date: upon passage or September 1, 2015.