

By: Hinojosa

S.B. No. 302

A BILL TO BE ENTITLED

AN ACT

relating to the operation of the Texas Windstorm Insurance Association; affecting surcharges.

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

SECTION 1. Subchapter A, Chapter 2210, Insurance Code, is amended by adding Section 2210.015 to read as follows:

Sec. 2210.015. STUDY OF MARKET INCENTIVES; BIENNIAL REPORTING. (a) Each biennium, the department shall conduct a study of market incentives to promote participation in the voluntary windstorm and hail insurance market in the seacoast territory. The study must address as possible incentives the mandatory or voluntary issuance of windstorm and hail insurance in conjunction with the issuance of a homeowners policy or other residential property insurance policy in the seacoast territory.

(b) The department shall include the results of the study conducted under this section in the report submitted under Section [32.022](#).

SECTION 2. Subchapter B-1, Chapter 2210, Insurance Code, is amended by amending Section [2210.071](#) and adding Sections 2210.0715 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

1 excess of premium and other revenue of the association, the excess  
2 losses and operating expenses shall be paid as provided by this  
3 subchapter.

4 Sec. 2210.0715. PAYMENT FROM RESERVES AND TRUST FUND.

5 ~~[(b)]~~ The association shall pay losses in excess of premium and  
6 other revenue of the association from available reserves of the  
7 association and available amounts in the catastrophe reserve trust  
8 fund.

9 ~~[(c) Losses not paid under Subsection (b) shall be paid from~~  
10 ~~the proceeds from public securities issued in accordance with this~~  
11 ~~subchapter and Subchapter M and, notwithstanding Subsection (a),~~  
12 ~~may be paid from the proceeds of public securities issued under~~  
13 ~~Section 2210.072(a) before an occurrence or series of occurrences~~  
14 ~~that results in insured losses.]~~

15 Sec. 2210.0716. PAYMENT FROM CLASS 1 ASSESSMENTS.

16 (a) Losses in a catastrophe year not paid under Section 2210.0715  
17 shall be paid as provided by this section from Class 1 member  
18 assessments not to exceed \$500 million for that catastrophe year.

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

25 SECTION 3. Sections 2210.072(a), (b), (b-1), (c), and (f),  
26 Insurance Code, are amended to read as follows:

27 (a) Losses not paid under Sections 2210.0715 and 2210.0716

1 [~~Section 2210.071(b)~~] shall be paid as provided by this section  
2 from the proceeds from Class 1 public securities authorized to be  
3 issued in accordance with Subchapter M before, on, or after the date  
4 of any occurrence or series of occurrences that results in insured  
5 losses. Public securities issued under this section must be paid  
6 [~~repaid~~] within a period not to exceed 10 [~~14~~] years [~~7~~] and may be  
7 paid [~~repaid~~] sooner if the board of directors elects to do so and  
8 the commissioner approves, except that early payment may not result  
9 in an increase to any assessment or premium surcharge imposed under  
10 this chapter.

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

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

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

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

20 (1) shall be issued as necessary in a principal amount  
21 not to exceed \$500 million [~~\$1 billion~~] per catastrophe year, in the  
22 aggregate, for securities issued during that catastrophe year  
23 before the occurrence or series of occurrences that results in  
24 incurred losses in that year and securities issued on or after the  
25 date of that occurrence or series of occurrences, and regardless of  
26 whether for a single occurrence or a series of occurrences; and

27 (2) subject to the [~~\$1 billion~~] maximum described by

1 Subdivision (1), may be issued, in one or more issuances or  
2 tranches, during the calendar year in which the occurrence or  
3 series of occurrences occurs or, if the public securities cannot  
4 reasonably be issued in that year, during the following calendar  
5 year.

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

9 (f) If, under Subsection (e), the proceeds of any  
10 outstanding public securities issued during a previous catastrophe  
11 year must be depleted, those proceeds shall count against the \$500  
12 million [~~\$1 billion~~] limit on public securities described by this  
13 section in the catastrophe year in which the proceeds must be  
14 depleted.

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

17 Sec. 2210.0725. PAYMENT FROM CLASS 2 ASSESSMENTS.

18 (a) Losses in a catastrophe year not paid under Sections  
19 2210.0715, 2210.0716, and 2210.072 shall be paid as provided by  
20 this section from Class 2 member assessments not to exceed \$500  
21 million for that catastrophe year.

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

1 SECTION 5. Sections 2210.073 and 2210.074, Insurance Code,  
2 are amended to read as follows:

3 Sec. 2210.073. PAYMENT FROM CLASS 2 PUBLIC SECURITIES.

4 (a) Losses not paid under Sections 2210.0715, 2210.0716,  
5 [~~2210.071~~ and] 2210.072, and 2210.0725 shall be paid as provided by  
6 this section from the proceeds from Class 2 public securities  
7 authorized to be issued in accordance with Subchapter M on or after  
8 the date of any occurrence or series of occurrences that results in  
9 insured losses [~~under this subsection~~]. Public securities issued  
10 under this section must be paid [~~repaid~~] within a period not to  
11 exceed 10 years[~~7~~] and may be paid [~~repaid~~] sooner if the board of  
12 directors elects to do so and the commissioner approves, except  
13 that early payment may not result in an increase to any assessment  
14 or premium surcharge imposed under this chapter.

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

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

20 (2) subject to the [~~\$1 billion~~] maximum described by  
21 Subdivision (1), may be issued, in one or more issuances or  
22 tranches, during the calendar year in which the occurrence or  
23 series of occurrences occurs or, if the public securities cannot  
24 reasonably be issued in that year, during the following calendar  
25 year.

26 (c) If the losses are paid with public securities described  
27 by this section, the public securities shall be paid [~~repaid~~] in the

1 manner prescribed by Subchapter M.

2           Sec. 2210.074. PAYMENT FROM [~~THROUGH~~] CLASS 3 PUBLIC  
 3 SECURITIES. (a) Losses not paid under Sections 2210.0715,  
 4 2210.0716, [~~2210.0717,~~] 2210.072, 2210.0725, and 2210.073 shall be  
 5 paid as provided by this section from the proceeds from Class 3  
 6 public securities authorized to be issued in accordance with  
 7 Subchapter M on or after the date of any occurrence or series of  
 8 occurrences that results in insured losses [~~under this subsection~~  
 9 ~~or through reinsurance as described by Section 2210.075~~]. Public  
 10 securities issued under this section must be paid [~~repaid~~] within a  
 11 period not to exceed 10 years[~~7~~] and may be paid [~~repaid~~] sooner if  
 12 the board of directors elects to do so and the commissioner  
 13 approves, except that early payment may not result in an increase to  
 14 any assessment or premium surcharge imposed under this chapter.

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

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

20           (2) subject to the [~~\$500 million~~] maximum described by  
 21 Subdivision (1), may be issued, in one or more issuances or  
 22 tranches, during the calendar year in which the occurrence or  
 23 series of occurrences occurs or, if the public securities cannot  
 24 reasonably be issued in that year, during the following calendar  
 25 year.

26           (c) If the losses are paid with public securities described  
 27 by this section, the public securities shall be paid [~~repaid~~] in the

1 manner prescribed by Subchapter M [~~through member assessments as~~  
2 ~~provided by this section. The association shall notify each member~~  
3 ~~of the association of the amount of the member's assessment under~~  
4 ~~this section. The proportion of the losses allocable to each~~  
5 ~~insurer under this section shall be determined in the manner used to~~  
6 ~~determine each insurer's participation in the association for the~~  
7 ~~year under Section 2210.052. A member of the association may not~~  
8 ~~recoup an assessment paid under this subsection through a premium~~  
9 ~~surcharge or tax credit].~~

10 SECTION 6. Section 2210.102, Insurance Code, is amended by  
11 amending Subsections (a), (b), (c), (d), (e), and (f) and adding  
12 Subsections (c-1), (d-1), and (d-2) to read as follows:

13 (a) The board of directors is composed of nine members  
14 appointed by the governor [~~commissioner~~] in accordance with this  
15 section.

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

19 (c) Three [~~Four~~] members must, as of the date of the  
20 appointment, reside in the first tier coastal counties. Each of  
21 the following regions must be represented by a member residing in  
22 the region and [~~At least one of the members~~] appointed under this  
23 subsection:

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

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

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

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

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

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

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

14           (2) resides in a second tier coastal county.

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

17           (e) All members must have demonstrated experience in  
18 insurance, general business, or actuarial principles and the  
19 member's area of expertise, if any, sufficient to make the success  
20 of the association probable.

21           (f) Insurers who are members of the association shall  
22 nominate, from among those members, persons to fill any vacancy in  
23 the three [~~four~~] board of director seats reserved for  
24 representatives of the insurance industry. The board of directors  
25 shall solicit nominations from the members and submit the  
26 nominations to the governor [~~commissioner~~]. The nominee slate  
27 submitted to the governor [~~commissioner~~] under this subsection must



1 include at least three more names than the number of vacancies. The  
2 governor may [~~commissioner shall~~] appoint replacement insurance  
3 industry representatives from the nominee slate.

4 SECTION 7. Section 2210.103(c), Insurance Code, is amended  
5 to read as follows:

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

12 SECTION 8. Subchapter E, Chapter 2210, Insurance Code, is  
13 amended by adding Sections 2210.2022 and 2210.211 to read as  
14 follows:

15 Sec. 2210.2022. INFORMATION REQUIRED FOR CERTAIN  
16 APPLICATIONS. (a) An applicant for new or renewal association  
17 coverage to take effect on or after January 1, 2016, must include in  
18 the application the information described by Subsection (b) if the  
19 applicant has coverage against loss incurred to real or tangible  
20 personal property at the fixed location for which association  
21 coverage is sought that is provided under a residential property  
22 insurance policy, including a residential fire and allied lines  
23 insurance policy, a farm and ranch owners insurance policy, a  
24 condominium owners policy, or a tenants policy.

25 (b) The applicant must include in the application the  
26 following information for each policy providing coverage described  
27 by Subsection (a):

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

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

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

9           (2) the deductibles applicable for the policy.

10          Sec. 2210.211. CONFIDENTIAL INFORMATION. (a) Except as  
11 provided by Subsection (b), all information collected and used  
12 under Section 2210.2022 is confidential information not subject to  
13 disclosure under Chapter 552, Government Code.

14          (b) Information described by Subsection (a) may be used for  
15 the purposes and in the manner described by this chapter.

16          SECTION 9. The heading to Subchapter J, Chapter 2210,  
17 Insurance Code, is amended to read as follows:

18          SUBCHAPTER J. CATASTROPHE RESERVE TRUST FUND; ~~[AND]~~ REINSURANCE  
19                 AND ALTERNATIVE RISK FINANCING ~~[PROGRAM]~~

20          SECTION 10. Section 2210.451, Insurance Code, is amended to  
21 read as follows:

22          Sec. 2210.451. DEFINITION. Except to the extent that  
23 context clearly requires otherwise, in ~~[In]~~ this subchapter, "trust  
24 fund" means the catastrophe reserve trust fund.

25          SECTION 11. Section 2210.452, Insurance Code, is amended by  
26 amending Subsections (a), (c), and (d) and adding Subsection (f) to  
27 read as follows:

1 (a) The commissioner shall adopt rules under which the  
2 association makes payments to the catastrophe reserve trust fund.  
3 Except as otherwise specifically provided by this section, the  
4 [The] trust fund may be used only for purposes directly related to  
5 funding the payment of insured losses, including:

6 (1) funding [to fund] the obligations of the trust  
7 fund under Subchapter B-1; and

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

10 (c) At the end of each calendar year or policy year, the  
11 association shall use the net gain from operations of the  
12 association, including all premium and other revenue of the  
13 association in excess of incurred losses, operating expenses,  
14 deposits to the fund established under Section 2210.4521, public  
15 security obligations, and public security administrative expenses,  
16 to make payments to the trust fund, to procure reinsurance, or to  
17 make payments to the trust fund and [to] procure reinsurance.

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

24 (f) The commissioner by rule shall establish the procedure  
25 relating to the disbursement of money from the trust fund to pay for  
26 operating expenses, including reinsurance or alternative risk  
27 financing mechanisms under Sections 2210.453 and 2210.4531, if the

1 association does not have sufficient premium and other revenue.

2 SECTION 12. Subchapter J, Chapter 2210, Insurance Code, is  
3 amended by adding Section 2210.4521 to read as follows:

4 Sec. 2210.4521. DEDICATED DISTRIBUTIONS TO CATASTROPHE  
5 RESERVE TRUST FUND. (a) Notwithstanding any other provision in  
6 this chapter, as provided for in the plan of operation, the  
7 association shall deposit monthly in a fund, separate from the  
8 catastrophe reserve trust fund established under Section 2210.452,  
9 an amount sufficient to accumulate on an annual calendar year basis  
10 an amount equal to 30 percent of the association's earned premium  
11 for the preceding calendar year.

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

15 (c) Not later than February 1 of each year the association  
16 shall direct the Texas Treasury Safekeeping Trust Company to  
17 deposit all amounts deposited in the fund described by Subsection  
18 (a) during the preceding calendar year, and interest earned on  
19 those amounts, into the catastrophe reserve trust fund.

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

24 (e) Money deposited under this section may be invested by  
25 the Texas Treasury Safekeeping Trust Company as permitted by  
26 general law.

27 SECTION 13. Section 2210.453, Insurance Code, is amended to

1 read as follows:

2           Sec. 2210.453. REINSURANCE AND ALTERNATIVE RISK FINANCING.

3 (a) The association may~~+~~

4           ~~[(1) make payments into the trust fund; and~~

5           ~~[(2)] purchase reinsurance~~ or use alternative risk  
6 financing mechanisms in an aggregate amount not greater than \$1  
7 billion.

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

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

24           ~~[(1) document and denominate the association's~~  
25 ~~resources available to pay claims, including cash or other highly~~  
26 ~~liquid assets, assessments that the association is projected to~~  
27 ~~impose, pre-event and post-event bonding capacity, and~~

1 ~~private-sector recognized risk-transfer mechanisms, including~~  
2 ~~catastrophe bonds and reinsurance;~~

3 ~~[(2) include an independent, third-party appraisal of~~  
4 ~~the likelihood of an assessment, the maximum potential size of the~~  
5 ~~assessment, and an estimate of the probability that the assessment~~  
6 ~~would not be adequate to meet the association's needs; and~~

7 ~~[(3) include an analysis of financing alternatives to~~  
8 ~~assessments that includes the costs of borrowing and the~~  
9 ~~consequences that additional purchase of reinsurance, catastrophe~~  
10 ~~bonds, or other private-sector recognized risk-transfer~~  
11 ~~instruments would have in reducing the size or potential of~~  
12 ~~assessments.~~

13 ~~[(d) A person who prepares a report required by Subsection~~  
14 ~~(c) may not contract to provide any other service to the~~  
15 ~~association, except for the preparation of similar reports, before~~  
16 ~~the third anniversary of the date the last report prepared by the~~  
17 ~~person under that subsection is submitted.~~

18 ~~[(e) The report submitted under this section is for~~  
19 ~~informational purposes only and does not bind the association to a~~  
20 ~~particular course of action.]~~

21 SECTION 14. Subchapter J, Chapter 2210, Insurance Code, is  
22 amended by adding Section 2210.4531 to read as follows:

23 Sec. 2210.4531. ADDITIONAL REINSURANCE. (a) The  
24 association may purchase, in addition to any reinsurance purchased  
25 or alternative risk financing mechanism used under Section  
26 2210.453, reinsurance in an amount not greater than the lesser of:

27 (1) \$800 million; or

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

4           (b) The attachment point for reinsurance purchased under  
5 this section may not be less than the aggregate amount of all  
6 funding available to the association under Subchapter B-1 and  
7 Section 2210.453.

8           (c) The association shall assess member insurers the cost of  
9 reinsurance purchased under this section. The proportion of the  
10 reinsurance cost allocable to each insurer under this section shall  
11 be determined in the manner used to determine each insurer's  
12 participation in the association for the year under Section  
13 2210.052.

14           SECTION 15. Section 2210.455(b), Insurance Code, is amended  
15 to read as follows:

16           (b) The catastrophe plan must:

17                   (1) describe the manner in which the association will,  
18 during the period covered by the plan, evaluate losses and process  
19 claims after the following windstorms affecting an area of maximum  
20 exposure to the association:

21                           (A) a windstorm with a four percent chance of  
22 occurring during the period covered by the plan;

23                           (B) a windstorm with a two percent chance of  
24 occurring during the period covered by the plan; and

25                           (C) a windstorm with a one percent chance of  
26 occurring during the period covered by the plan; and

27                   (2) include, if the association does not purchase

1 reinsurance or use an alternative risk financing mechanism under  
2 this subchapter [~~Section 2210.453~~] for the period covered by the  
3 plan, an actuarial plan for paying losses in the event of a  
4 catastrophe with estimated damages equal to or greater than the  
5 total amount of potential funding available through assessments and  
6 public securities under Subchapter B-1 [~~of \$2.5 billion or more~~].

7 SECTION 16. Subchapter L-1, Chapter 2210, Insurance Code,  
8 is amended by adding Section 2210.5725 to read as follows:

9 Sec. 2210.5725. ADJUSTMENT OF CLAIMS BY PRIMARY INSURER.  
10 An insurer that has primary coverage on property for loss by fire  
11 must adjust all claims made on an association policy covering the  
12 same property.

13 SECTION 17. Section 2210.602, Insurance Code, is amended by  
14 adding Subdivisions (2-a), (3-a), and (4-a) to read as follows:

15 (2-a) "Class 1 public security trust fund" means the  
16 dedicated trust fund established by the board and held by the Texas  
17 Treasury Safekeeping Trust Company into which premium surcharges  
18 collected under Section 2210.612 for the purpose of repaying Class  
19 1 public securities are deposited.

20 (3-a) "Class 2 public security trust fund" means the  
21 dedicated trust fund established by the board and held by the Texas  
22 Treasury Safekeeping Trust Company into which premium surcharges  
23 collected under Section 2210.613 for the purpose of repaying Class  
24 2 public securities are deposited.

25 (4-a) "Class 3 public security trust fund" means the  
26 dedicated trust fund established by the board and held by the Texas  
27 Treasury Safekeeping Trust Company into which premium surcharges



1 collected under Section 2210.6135 for the purpose of repaying Class  
2 3 public securities are deposited.

3 SECTION 18. Section 2210.609, Insurance Code, is amended to  
4 read as follows:

5 Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY  
6 OBLIGATIONS. (a) The board and the association shall enter into  
7 an agreement under which the association shall provide for the  
8 payment of all public security obligations from available funds  
9 collected by the association and deposited as required by this  
10 subchapter [~~into the public security obligation revenue fund~~]. If  
11 the association determines that it is unable to pay the public  
12 security obligations and public security administrative expenses,  
13 if any, with available funds, the association shall pay those  
14 obligations and expenses in accordance with Sections 2210.612,  
15 2210.613, and 2210.6135, [~~and 2210.6136~~] as applicable. Class 1,  
16 Class 2, or Class 3 public securities may be issued on a parity or  
17 subordinate lien basis with other Class 1, Class 2, or Class 3  
18 public securities, respectively.

19 (b) If any public securities issued under this chapter are  
20 outstanding, the authority shall notify the association of the  
21 amount of the public security obligations and the estimated amount  
22 of public security administrative expenses, if any, each calendar  
23 year in a period sufficient, as determined by the association, to  
24 permit the association to determine the availability of funds[~~7~~  
25 ~~assess members of the association under Sections 2210.613 and~~  
26 ~~2210.6135,~~] and assess a premium surcharge if necessary.

27 (c) The association shall deposit all revenue collected

1 under Section [2210.612](#) in the Class 1 public security trust fund  
2 [~~public security obligation revenue fund~~], all revenue collected  
3 under Section [2210.613](#) [~~2210.613(b)~~] in the Class 2 public security  
4 [~~premium surcharge~~] trust fund, and all revenue collected under  
5 Section [~~Sections 2210.613(a) and~~] [2210.6135](#) in the Class 3 public  
6 security [~~member assessment~~] trust fund. Money deposited in a fund  
7 may be invested as permitted by general law. Money in a fund  
8 required to be used to pay public security obligations and public  
9 security administrative expenses, if any, shall be transferred to  
10 the appropriate funds in the manner and at the time specified in the  
11 proceedings authorizing the public securities to ensure timely  
12 payment of obligations and expenses. This may include the board  
13 establishing funds and accounts with the comptroller that the board  
14 determines are necessary to administer and repay the public  
15 security obligations. If the association has not transferred  
16 amounts sufficient to pay the public security obligations to the  
17 board's designated interest and sinking fund in a timely manner,  
18 the board may direct the Texas Treasury Safekeeping Trust Company  
19 to transfer from the Class 1 public security [~~public security~~  
20 ~~obligation revenue fund, the premium surcharge~~] trust fund, [~~or~~]  
21 the Class 2 public security trust fund, or the Class 3 public  
22 security [~~member assessment~~] trust fund to the appropriate account  
23 the amount necessary to pay the public security obligation.

24 (d) The association shall provide for the payment of the  
25 public security obligations and the public security administrative  
26 expenses by irrevocably pledging revenues received from premiums,  
27 [~~member assessments,~~] premium surcharges, and amounts on deposit in

1 the Class 1 public security [~~public security obligation revenue~~  
 2 ~~fund, the premium surcharge]~~ trust fund, [~~and]~~ the Class 2 public  
 3 security trust fund, and the Class 3 public security [~~member~~  
 4 ~~assessment]~~ trust fund, together with any public security reserve  
 5 fund, as provided in the proceedings authorizing the public  
 6 securities and related credit agreements.

7 (e) An amount owed by the board under a credit agreement  
 8 shall be payable from and secured by a pledge of revenues received  
 9 by the association [~~or amounts from the public security obligation~~  
 10 ~~trust fund]~~, the Class 1 public security [~~premium surcharge]~~ trust  
 11 fund, [~~and]~~ the Class 2 public security [~~member assessment]~~ trust  
 12 fund, and the Class 3 public security trust fund, to the extent  
 13 provided in the proceedings authorizing the credit agreement.

14 SECTION 19. Section [2210.610\(a\)](#), Insurance Code, is amended  
 15 to read as follows:

16 (a) Revenues received from the premium surcharges under  
 17 Sections [2210.612](#), [~~Section~~] [2210.613](#), and [~~member assessments~~  
 18 ~~under Sections [2210.613](#) and~~] [2210.6135](#) may be applied only as  
 19 provided by this subchapter.

20 SECTION 20. Section [2210.611](#), Insurance Code, is amended to  
 21 read as follows:

22 Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT  
 23 EARNINGS. Revenue collected in any calendar year from a premium  
 24 surcharge under Sections [2210.612](#), [~~Section~~] [2210.613](#), and [~~member~~  
 25 ~~assessments under Sections [2210.613](#) and~~] [2210.6135](#) that exceeds the  
 26 amount of the public security obligations and public security  
 27 administrative expenses payable in that calendar year and interest

1 earned on the funds [~~public security obligation fund~~] may, in the  
2 discretion of the association, be:

3 (1) used to pay public security obligations payable in  
4 the subsequent calendar year, offsetting the amount of the premium  
5 surcharge [~~and member assessments, as applicable,~~] that would  
6 otherwise be required to be levied for the year under this  
7 subchapter;

8 (2) used to redeem or purchase outstanding public  
9 securities; or

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

11 SECTION 21. Section 2210.612, Insurance Code, is amended to  
12 read as follows:

13 Sec. 2210.612. PAYMENT OF CLASS 1 PUBLIC SECURITIES.

14 (a) The association shall pay Class 1 public securities issued  
15 under Section 2210.072 from:

16 (1) [its] net premium and other revenue; and

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

20 (b) On approval by the commissioner, the association and  
21 each insurer that provides insurance in a catastrophe area shall  
22 assess, as provided by this section, a premium surcharge to each  
23 policyholder of a policy described by Subsection (c). The premium  
24 surcharge must be set in an amount sufficient to pay, for the  
25 duration of the issued public securities, all debt service not  
26 already covered by available funds and all related expenses on the  
27 public securities.

1        (c) The premium surcharge under this section shall be  
2 assessed on all policyholders of policies that cover insured  
3 property that is located in a catastrophe area, including  
4 automobiles principally garaged in a catastrophe area. The premium  
5 surcharge shall be assessed on each Texas windstorm and hail  
6 insurance policy and each property and casualty insurance policy,  
7 including an automobile insurance policy, issued for automobiles  
8 and other property located in the catastrophe area. The premium  
9 surcharge applies to:

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

- 12                    (A) fire and allied lines;
- 13                    (B) farm and ranch owners;
- 14                    (C) residential property insurance;
- 15                    (D) private passenger automobile liability and  
16 physical damage insurance; and

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

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

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

26        (e) [~~b~~] The association may enter financing arrangements  
27 as described by Section 2210.072(d) as necessary to obtain public

1 securities issued under Section 2210.072. Nothing in this  
2 subsection shall prevent the authorization and creation of one or  
3 more programs for the issuance of commercial paper before the date  
4 of an occurrence or series of occurrences that results in insured  
5 losses under Section 2210.072(a).

6 SECTION 22. Section 2210.613, Insurance Code, is amended to  
7 read as follows:

8 Sec. 2210.613. PAYMENT OF CLASS 2 PUBLIC SECURITIES.

9 (a) The association shall pay Class 2 public securities issued  
10 under Section 2210.073 from:

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

15 (b) On approval by the commissioner, the association and  
16 each insurer that provides insurance in a catastrophe area shall  
17 assess, as provided by this section, a premium surcharge to each  
18 policyholder of a policy described by Subsection (c). The premium  
19 surcharge must be set in an amount sufficient to pay, for the  
20 duration of the issued public securities, all debt service not  
21 already covered by available funds and all related expenses on the  
22 public securities ~~[as provided by this section. Thirty percent of~~  
23 ~~the cost of the public securities shall be paid through member~~  
24 ~~assessments as provided by this section. The association shall~~  
25 ~~notify each member of the association of the amount of the member's~~  
26 ~~assessment under this section. The proportion of the losses~~  
27 ~~allocable to each insurer under this section shall be determined in~~

1 ~~the manner used to determine each insurer's participation in the~~  
2 ~~association for the year under Section 2210.052. A member of the~~  
3 ~~association may not recoup an assessment paid under this subsection~~  
4 ~~through a premium surcharge or tax credit].~~

5 ~~[(b) Seventy percent of the cost of the public securities~~  
6 ~~shall be paid by a premium surcharge collected under this section in~~  
7 ~~an amount set by the commissioner. On approval by the commissioner,~~  
8 ~~each insurer, the association, and the Texas FAIR Plan Association~~  
9 ~~shall assess, as provided by this section, a premium surcharge to~~  
10 ~~each policyholder of a policy that is in effect on or after the~~  
11 ~~180th day after the date the commissioner issues notice of the~~  
12 ~~approval of the public securities. The premium surcharge must be~~  
13 ~~set in an amount sufficient to pay, for the duration of the issued~~  
14 ~~public securities, all debt service not already covered by~~  
15 ~~available funds or member assessments and all related expenses on~~  
16 ~~the public securities.]~~

17 (c) The premium surcharge under this section [~~Subsection~~  
18 ~~(b)~~] shall be assessed on all policyholders of policies that cover  
19 insured property that is located in a catastrophe area, including  
20 automobiles principally garaged in a catastrophe area. The premium  
21 surcharge shall be assessed on each Texas windstorm and hail  
22 insurance policy and each property and casualty insurance policy,  
23 including an automobile insurance policy, issued for automobiles  
24 and other property located in the catastrophe area. The [A] premium  
25 surcharge [~~under Subsection (b)~~] applies to:

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

- 1 (A) fire and allied lines;
- 2 (B) farm and ranch owners;
- 3 (C) residential property insurance;
- 4 (D) private passenger automobile liability and
- 5 physical damage insurance; and
- 6 (E) commercial automobile liability and physical
- 7 damage insurance; and

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

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

15 SECTION 23. Section [2210.6135](#), Insurance Code, is amended  
16 to read as follows:

17 Sec. 2210.6135. PAYMENT OF CLASS 3 PUBLIC SECURITIES.

18 (a) The association shall pay Class 3 public securities issued  
19 under Section [2210.074](#) from:

- 20 (1) net premium and other revenue; and
- 21 (2) if net premium and other revenue are not  
22 sufficient to pay the securities, a statewide premium surcharge  
23 collected in accordance with this section.

24 (b) On approval of the commissioner, the association and  
25 each insurer that provides insurance in this state shall assess, as  
26 provided by this section, a premium surcharge to each policyholder  
27 of a policy described by Subsection (d). Except as provided by



1 Subsection (c), the premium surcharge must be set in an amount  
2 sufficient to pay, for the duration of the issued public  
3 securities, all debt service not already covered by available funds  
4 and all related expenses on the public securities.

5 (c) The amount of the surcharge assessed under Subsection  
6 (b) may not exceed one percent of the premium charged for the  
7 policyholder's policy described by Subsection (d).

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

- 13 (1) fire and allied lines;
- 14 (2) farm and ranch owners;
- 15 (3) residential property insurance; and
- 16 (4) private passenger automobile liability and  
17 physical damage insurance.

18 (e) A premium surcharge under this section is a separate  
19 charge in addition to the premiums collected and is not subject to  
20 premium tax or commissions. Failure by a policyholder to pay the  
21 surcharge constitutes failure to pay premium for purposes of policy  
22 cancellation [as provided by this section through member  
23 assessments]. [The association, for the payment of the losses,  
24 shall assess the members of the association a principal amount not  
25 to exceed \$500 million per catastrophe year. The association shall  
26 notify each member of the association of the amount of the member's  
27 assessment under this section.

1           ~~[(b) The proportion of the losses allocable to each insurer~~  
2 ~~under this section shall be determined in the manner used to~~  
3 ~~determine each insurer's participation in the association for the~~  
4 ~~year under Section 2210.052.~~

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

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

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

13                   (1) impair the collection of [~~member assessments and~~  
14 premium surcharges or the deposit of those funds into the Class 1  
15 public security [~~member assessment~~] trust fund, Class 2 public  
16 security [~~or premium surcharge~~] trust fund, or Class 3 public  
17 security trust fund;

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

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

27           SECTION 25. Section 2210.6165, Insurance Code, is amended

1 to read as follows:

2           Sec. 2210.6165. PROPERTY RIGHTS. If public securities  
3 issued under this subchapter are outstanding, the rights and  
4 interests of the association, a successor to the association, any  
5 member of the association, or any member of the Texas FAIR Plan  
6 Association, including the right to impose, collect, and receive a  
7 premium surcharge [~~or a member assessment~~] authorized under this  
8 subchapter, are only contract rights until those revenues are first  
9 pledged for the repayment of the association's public security  
10 obligations as provided by Section 2210.609.

11           SECTION 26. The following provisions of Chapter 2210,  
12 Insurance Code, are repealed:

- 13           (1) Section 2210.075;  
14           (2) Sections 2210.102(g) and (h);  
15           (3) Sections 2210.602(5-a), (6-b), (6-c), and (10);  
16           (4) Section 2210.605(c); and  
17           (5) Section 2210.6136.

18           SECTION 27. (a) The board of directors of the Texas  
19 Windstorm Insurance Association established under Section  
20 2210.102, Insurance Code, as that section existed before amendment  
21 by this Act, is abolished effective November 1, 2015.

22           (b) The governor shall appoint the members of the board of  
23 directors of the Texas Windstorm Insurance Association under  
24 Section 2210.102, Insurance Code, as amended by this Act, effective  
25 November 1, 2015. The initial directors shall draw lots to achieve  
26 staggered terms, with three of the directors serving one-year  
27 terms, three of the directors serving two-year terms, and three of

1 the directors serving three-year terms.

2 (c) The term of a person who is serving as a member of the  
3 board of directors of the Texas Windstorm Insurance Association  
4 immediately before the abolition of that board under Subsection (a)  
5 of this section expires on November 1, 2015. Such a person is  
6 eligible for appointment by the governor to the new board of  
7 directors of the Texas Windstorm Insurance Association under  
8 Section 2210.102, Insurance Code, as amended by this Act.

9 (d) Notwithstanding Section 2210.4521, Insurance Code, as  
10 added by this Act, or Subsection (e) of this section, beginning on  
11 the effective date of this Act and continuing until December 31,  
12 2015, the Texas Windstorm Insurance Association shall deposit 30  
13 percent of its earned premium into the trust fund described by that  
14 section. Not later than February 1, 2016, the association shall  
15 direct the Texas Treasury Safekeeping Trust Company to deposit all  
16 amounts deposited in the trust fund during the 2015 calendar year,  
17 and interest earned on those funds, into the catastrophe reserve  
18 trust fund as described by that section.

19 (e) Section 2210.4521, Insurance Code, as added by this Act,  
20 applies to all Texas Windstorm Insurance Association premium earned  
21 on and after January 1, 2016.

22 (f) Notwithstanding Subsection (d) of this section and  
23 Section 2210.0715, Insurance Code, as added by this Act, amounts  
24 collected under Section 2210.4521, Insurance Code, as added by this  
25 Act, may not be used to pay for a covered insured association loss  
26 incurred before June 1, 2015.

27 (g) Section 2210.5725, Insurance Code, as added by this Act,

1 applies only to adjustment of a claim made on or after the effective  
2 date of this Act.

3 (h) It is the intent of the legislature that each member of  
4 the legislative oversight board appointed under Section 2210.652,  
5 Insurance Code, and serving on the effective date of this Act  
6 continues to serve after the effective date of this Act until a  
7 successor is appointed under that section.

8 SECTION 28. This Act takes effect immediately if it  
9 receives a vote of two-thirds of all the members elected to each  
10 house, as provided by Section 39, Article III, Texas Constitution.  
11 If this Act does not receive the vote necessary for immediate  
12 effect, this Act takes effect September 1, 2015.