

By: Taylor of Galveston, et al.

S.B. No. 900

A BILL TO BE ENTITLED

AN ACT

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.

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

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 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

1 competitor in the private market; and

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

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

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

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

12 SECTION 4. Section 2210.003, Insurance Code, is amended by
13 amending Subdivision (1) and adding Subdivision (1-a) to read as
14 follows:

15 (1) "Administrator" means an entity contractually
16 retained to manage the association and administer the plan of
17 operation under Section 2210.062.

18 (1-a) "Association" means the Texas Coastal
19 ~~[Windstorm]~~ Insurance Association.

20 SECTION 5. Section 2210.014, Insurance Code, is amended by
21 amending Subsection (b) and adding Subsection (c) to read as
22 follows:

23 (b) Chapter 542 does not apply to ~~[the processing and~~
24 ~~settlement of claims by]~~ the association or to an agent or
25 representative of the association.

26 (c) An administrator contracted under Section 2210.062, if
27 applicable, is an agent of the association for purposes of managing

1 the association and administering the plan of operation under this
2 chapter.

3 SECTION 6. Subchapter A, Chapter 2210, Insurance Code, is
4 amended by adding Section 2210.015 to read as follows:

5 Sec. 2210.015. STUDY OF MARKET INCENTIVES; BIENNIAL
6 REPORTING. (a) Each biennium, the department shall conduct a
7 study of market incentives to promote participation in the
8 voluntary windstorm and hail insurance market in the seacoast
9 territory of this state. The study must address as possible
10 incentives the mandatory or voluntary issuance of windstorm and
11 hail insurance in conjunction with the issuance of a homeowners
12 policy in the seacoast territory.

13 (b) The department shall include the results of the study
14 conducted under this section in the report submitted under Section
15 32.022.

16 SECTION 7. Subchapter B, Chapter 2210, Insurance Code, is
17 amended by adding Section 2210.062 to read as follows:

18 Sec. 2210.062. ADMINISTRATION BY CONTRACTED ADMINISTRATOR
19 AUTHORIZED. (a) Notwithstanding any other law, if determined by
20 the commissioner to be in the best interest of the policyholders and
21 the public, the commissioner may contract with an administrator to
22 manage the association and administer the plan of operation.

23 (b) The commissioner shall adopt rules as necessary to
24 implement this section if the commissioner determines management of
25 the association and administration of the plan of operation by an
26 administrator is in the best interest of the policyholders and the
27 public.

1 (c) The administrator must hold either a managing general
2 agent license issued under Chapter 4053 or a third-party
3 administrator certificate of authority issued under Chapter 4151.

4 SECTION 8. Subchapter B-1, Chapter 2210, Insurance Code, is
5 amended by amending Section 2210.071 and adding Sections 2210.0715,
6 2210.07151, and 2210.0716 to read as follows:

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

14 Sec. 2210.0715. PAYMENT FROM RESERVES AND TRUST FUND.
15 [~~(b)~~] The association shall pay losses in excess of premium and
16 other revenue of the association from available reserves of the
17 association and available amounts in the catastrophe reserve trust
18 fund.

19 Sec. 2210.07151. PAYMENT FROM CLASS 1-A PUBLIC SECURITIES;
20 FINANCIAL INSTRUMENTS. (a) Losses not paid under Section
21 2210.0715 shall be paid as provided by this section from the
22 proceeds from Class 1-A public securities authorized to be issued
23 in accordance with Subchapter M before, on, or after the date of any
24 occurrence or series of occurrences that results in insured losses.
25 Public securities issued under this section must be paid within a
26 period not to exceed 10 years and may be paid sooner if the board of
27 directors elects to do so and the commissioner approves.

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

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

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

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

10 (1) shall be issued as necessary in a principal amount
11 not to exceed \$250 million per catastrophe year, in the aggregate,
12 for securities issued during that catastrophe year before the
13 occurrence or series of occurrences that results in incurred losses
14 in that year and securities issued on or after the date of that
15 occurrence or series of occurrences, and regardless of whether for
16 a single occurrence or a series of occurrences; and

17 (2) subject to the maximum described by Subdivision
18 (1), may be issued, in one or more issuances or tranches, during the
19 calendar year in which the occurrence or series of occurrences
20 occurs or, if the public securities cannot reasonably be issued in
21 that year, during the following calendar year.

22 (c) If public securities are issued as described by this
23 section, the public securities shall be paid in the manner
24 prescribed by Subchapter M.

25 (d) The association may borrow from, or enter into other
26 financing arrangements with, any market source, under which the
27 market source makes interest-bearing loans or other financial

1 instruments to the association to enable the association to pay
2 losses under this section or to obtain public securities under this
3 section. For purposes of this subsection, financial instruments
4 includes commercial paper.

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

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

18 Sec. 2210.0716. PAYMENT FROM CLASS 1 ASSESSMENTS.

19 (a) Losses in a catastrophe year not paid under Sections 2210.0715
20 and 2210.07151 shall be paid as provided by this section from Class
21 1 member assessments not to exceed \$500 million for that
22 catastrophe year.

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

1 year under Section 2210.052.

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

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

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

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

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

16 (a) Losses not paid under Sections 2210.0715, 2210.07151,
17 and 2210.0716 [~~Section 2210.071(b)~~] shall be paid as provided by
18 this section from the proceeds from Class 1-B [~~1~~] public securities
19 authorized to be issued in accordance with Subchapter M before, on,
20 or after the date of any occurrence or series of occurrences that
21 results in insured losses. Public securities issued under this
22 section must be paid [~~repaid~~] within a period not to exceed 10 [~~14~~]
23 years [~~7~~] and may be paid [~~repaid~~] sooner if the board of directors
24 elects to do so and the commissioner approves.

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

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

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

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

7 (1) shall be issued as necessary in a principal amount
8 not to exceed \$250 million [~~\$1 billion~~] per catastrophe year, in the
9 aggregate, for securities issued during that catastrophe year
10 before the occurrence or series of occurrences that results in
11 incurred losses in that year and securities issued on or after the
12 date of that occurrence or series of occurrences, and regardless of
13 whether for a single occurrence or a series of occurrences; and

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

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

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

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

3 Sec. 2210.0725. PAYMENT FROM CLASS 2 ASSESSMENTS.

4 (a) Losses in a catastrophe year not paid under Sections
5 2210.0715, 2210.07151, 2210.0716, and 2210.072 shall be paid as
6 provided by this section from Class 2 member assessments not to
7 exceed \$500 million for that catastrophe year.

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

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

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

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

19 (a) Losses not paid under Sections 2210.0715, 2210.07151,
20 2210.0716, [~~2210.071 and~~] 2210.072, and 2210.0725 shall be paid as
21 provided by this section from the proceeds from Class 2 public
22 securities authorized to be issued in accordance with Subchapter M
23 on or after the date of any occurrence or series of occurrences that
24 results in insured losses [~~under this subsection~~]. Public
25 securities issued under this section must be paid [~~repaid~~] within a
26 period not to exceed 10 years[7] and may be paid [~~repaid~~] sooner if
27 the board of directors elects to do so and the commissioner

1 approves.

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

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

7 (2) subject to the [~~\$1 billion~~] maximum described by
8 Subdivision (1), may be issued, in one or more issuances or
9 tranches, during the calendar year in which the occurrence or
10 series of occurrences occurs or, if the public securities cannot
11 reasonably be issued in that year, during the following calendar
12 year.

13 (c) If the losses are paid with public securities described
14 by this section, the public securities shall be paid [~~repaid~~] in the
15 manner prescribed by Subchapter M.

16 SECTION 13. Section [2210.075](#), Insurance Code, is amended to
17 read as follows:

18 Sec. 2210.075. REINSURANCE. (a) Before any occurrence or
19 series of occurrences, an insurer may elect to purchase reinsurance
20 to cover an assessment for which the insurer would otherwise be
21 liable under this subchapter [~~Section [2210.074\(c\)](#)~~].

22 (b) An insurer must notify the board of directors, in the
23 manner prescribed by the association whether the insurer will be
24 purchasing reinsurance. If the insurer does not elect to purchase
25 reinsurance under this section, the insurer remains liable for any
26 assessment imposed under this subchapter [~~Section [2210.074\(c\)](#)~~].

27 SECTION 14. Section [2210.102](#), Insurance Code, is amended to

1 read as follows:

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

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

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

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

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

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

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

22 (d) One member must reside in a second tier coastal county
23 [~~be a representative of an area of this state that is not located in~~
24 ~~the seacoast territory with demonstrated expertise in insurance and~~
25 ~~actuarial principles~~].

26 (d-1) Two members must represent and reside in an area
27 located more than 100 miles from the Texas coastline.

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

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

15 (g) In addition to the nine members appointed under
16 Subsection (a), the [~~The~~] commissioner shall appoint three
17 individuals [~~one person~~] to serve as [~~a~~] nonvoting ex officio
18 members [~~member~~] of the board to advise the board [~~regarding issues~~
19 ~~relating to the inspection process.~~ ~~The commissioner may give~~
20 ~~preference in an appointment under this subsection to a person who~~
21 ~~is a qualified inspector under Section 2210.254~~]. Each [~~The~~]
22 nonvoting member appointed under this section must:

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

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

27 (A) the northern portion of the seacoast

1 territory [~~be an engineer licensed by, and in good standing with,~~
2 ~~the Texas Board of Professional Engineers~~];

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

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

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

13 SECTION 15. Section [2210.103\(c\)](#), Insurance Code, is amended
14 to read as follows:

15 (c) A member of the board of directors may be removed by the
16 commissioner with cause stated in writing and posted on the
17 association's website. The commissioner shall appoint a
18 replacement in accordance with [~~the manner provided by~~] Section
19 [2210.102](#) for a member who leaves or is removed from the board of
20 directors.

21 SECTION 16. Section [2210.355\(b\)](#), Insurance Code, is amended
22 to read as follows:

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

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

1 (2) expenses of operation, including acquisition
2 costs;

3 (3) a reasonable margin for profit and contingencies;

4 (4) payment of public security obligations for Class
5 1-A or Class 1-B [~~4~~] public securities issued under this chapter,
6 including the additional amount of any debt service coverage
7 determined by the association to be required for the issuance of
8 marketable public securities; and

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

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

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

15 SECTION 18. Section 2210.452, Insurance Code, is amended by
16 amending Subsections (a), (c), and (d) and adding Subsection (f) to
17 read as follows:

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

23 (1) funding [~~to fund~~] the obligations of the trust
24 fund under Subchapter B-1; and

25 (2) purchasing reinsurance or using alternative risk
26 financing mechanisms under Section 2210.453.

27 (c) At the end of each calendar year or policy year, the

1 association shall use the net gain from operations of the
2 association, including all premium and other revenue of the
3 association in excess of incurred losses, operating expenses,
4 public security obligations, and public security administrative
5 expenses, to make payments to the trust fund, [~~to~~] procure
6 reinsurance, or use alternative risk financing mechanisms, or to
7 make payments to the trust fund and [~~to~~] procure reinsurance or use
8 alternative risk financing mechanisms.

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

15 (f) The commissioner by rule shall establish the procedure
16 relating to the disbursement of money from the trust fund to pay for
17 operating expenses, including reinsurance or alternative risk
18 financing mechanisms under Section 2210.453, if the association
19 does not have sufficient premium and other revenue.

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

22 Sec. 2210.453. REINSURANCE AND ALTERNATIVE RISK FINANCING
23 MECHANISMS. (a) The association shall [~~may:~~
24 [~~(1) make payments into the trust fund, and~~
25 [~~(2)~~] purchase reinsurance or use alternative risk
26 financing mechanisms in an amount equal to the probable maximum
27 loss for the association for a catastrophe year with a probability

1 of one in 100.

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

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

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

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

1 ~~[(3) include an analysis of financing alternatives to~~
2 ~~assessments that includes the costs of borrowing and the~~
3 ~~consequences that additional purchase of reinsurance, catastrophe~~
4 ~~bonds, or other private-sector recognized risk-transfer~~
5 ~~instruments would have in reducing the size or potential of~~
6 ~~assessments.~~

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

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

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

18 (1-c) "Class 1-A public securities" means public
19 securities authorized to be issued by Section 2210.07151, including
20 a commercial paper program authorized before the occurrence of a
21 catastrophic event.

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

26 (2-a) "Class 1-A public security trust fund" means the
27 dedicated trust fund established by the board and held by the Texas

1 Treasury Safekeeping Trust Company into which premium surcharges
2 collected under Section 2210.612 for the purpose of paying Class
3 1-A public securities are deposited.

4 (2-b) "Class 1-B public security trust fund" means the
5 dedicated trust fund established by the board and held by the Texas
6 Treasury Safekeeping Trust Company into which premium surcharges
7 collected under Section 2210.612 for the purpose of paying Class
8 1-B public securities are deposited.

9 (3-a) "Class 2 public security trust fund" means the
10 dedicated trust fund established by the board and held by the Texas
11 Treasury Safekeeping Trust Company into which premium surcharges
12 collected under Section 2210.613 for the purpose of paying Class 2
13 public securities are deposited.

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

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

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

25 (c) Notwithstanding Subsection (a)(2), the proceeds from
26 public securities issued under Section 2210.07151 or 2210.072
27 before an occurrence or series of occurrences that results in

1 incurred losses, including investment income, may not be used to
2 purchase reinsurance for the association.

3 SECTION 23. 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 and [~~7~~] 2210.613, [~~2210.6135, and 2210.6136~~] as applicable. Class
16 1-A, Class 1-B, or [~~17~~] Class 2 [~~, or Class 3~~] public securities may
17 be issued on a parity or subordinate lien basis with other Class
18 1-A, Class 1-B, or [~~17~~] Class 2 [~~, or Class 3~~] public securities,
19 respectively.

20 (b) If any public securities issued under this chapter are
21 outstanding, the authority shall notify the association of the
22 amount of the public security obligations and the estimated amount
23 of public security administrative expenses, if any, each calendar
24 year in a period sufficient, as determined by the association, to
25 permit the association to determine the availability of funds [~~7~~
26 ~~assess members of the association under Sections 2210.613 and~~
27 ~~2210.6135,~~] and assess a premium surcharge if necessary.

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

26 (d) The association shall provide for the payment of the
27 public security obligations and the public security administrative

1 expenses by irrevocably pledging revenues received from premiums,
 2 [~~member assessments,~~] premium surcharges, and amounts on deposit in
 3 the Class 1-A public security trust fund, the Class 1-B public
 4 security trust fund, [~~public security obligation revenue fund, the~~
 5 ~~premium surcharge trust fund,~~] and the Class 2 public security
 6 trust fund [~~member assessment trust fund~~], together with any public
 7 security reserve fund, as provided in the proceedings authorizing
 8 the public securities and related credit agreements.

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

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

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

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

25 Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT
 26 EARNINGS. Revenue collected in any calendar year from a premium
 27 surcharge under Sections 2210.612 and [~~Section~~] 2210.613 [~~and~~

1 ~~member assessments under Sections 2210.613 and 2210.6135]~~ that
2 exceeds the amount of the public security obligations and public
3 security administrative expenses payable in that calendar year and
4 interest earned on the funds [~~public security obligation fund~~] may,
5 in the discretion of the association, be:

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

11 (2) used to redeem or purchase outstanding public
12 securities; or

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

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

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

19 (1) [its] net premium and other revenue; and
20 (2) if net premium and other revenue are not
21 sufficient to pay the securities, a catastrophe area premium
22 surcharge collected in accordance with this section.

23 (b) On approval by the commissioner, the association shall
24 assess, as provided by this section, a premium surcharge to each
25 policyholder of a policy described by Subsection (c). The premium
26 surcharge must be set in an amount sufficient to pay, for the
27 duration of the issued public securities, all debt service not

1 already covered by available funds and all related expenses on the
2 public securities.

3 (c) The premium surcharge under this section shall be
4 assessed on all policyholders of association policies issued under
5 this chapter.

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

11 (e) [~~(b)~~] The association may enter financing arrangements
12 as described by Section 2210.07151(d) or 2210.072(d) as necessary
13 to obtain public securities issued under Section 2210.07151 or
14 2210.072, as applicable. Nothing in this subsection shall prevent
15 the authorization and creation of one or more programs for the
16 issuance of commercial paper before the date of an occurrence or
17 series of occurrences that results in insured losses under Section
18 2210.07151(a) or 2210.072(a).

19 SECTION 27. Section 2210.613, Insurance Code, is amended to
20 read as follows:

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

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

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

1 (b) On approval by the commissioner, the association shall
2 assess, as provided by this section, a premium surcharge to each
3 policyholder of a policy described by Subsection (c). The premium
4 surcharge must be set in an amount sufficient to pay, for the
5 duration of the issued public securities, all debt service not
6 already covered by available funds and all related expenses on the
7 public securities [~~as provided by this section. Thirty percent of~~
8 ~~the cost of the public securities shall be paid through member~~
9 ~~assessments as provided by this section. The association shall~~
10 ~~notify each member of the association of the amount of the member's~~
11 ~~assessment under this section. The proportion of the losses~~
12 ~~allocable to each insurer under this section shall be determined in~~
13 ~~the manner used to determine each insurer's participation in the~~
14 ~~association for the year under Section 2210.052. A member of the~~
15 ~~association may not recoup an assessment paid under this subsection~~
16 ~~through a premium surcharge or tax credit].~~

17 [~~(b) Seventy percent of the cost of the public securities~~
18 ~~shall be paid by a premium surcharge collected under this section in~~
19 ~~an amount set by the commissioner. On approval by the commissioner,~~
20 ~~each insurer, the association, and the Texas FAIR Plan Association~~
21 ~~shall assess, as provided by this section, a premium surcharge to~~
22 ~~each policyholder of a policy that is in effect on or after the~~
23 ~~180th day after the date the commissioner issues notice of the~~
24 ~~approval of the public securities. The premium surcharge must be~~
25 ~~set in an amount sufficient to pay, for the duration of the issued~~
26 ~~public securities, all debt service not already covered by~~
27 ~~available funds or member assessments and all related expenses on~~

1 ~~the public securities.]~~

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

12 [~~(1) all policies written under the following lines of~~
13 ~~insurance:~~

14 [~~(A) fire and allied lines,~~

15 [~~(B) farm and ranch owners,~~

16 [~~(C) residential property insurance,~~

17 [~~(D) private passenger automobile liability and~~
18 ~~physical damage insurance, and~~

19 [~~(E) commercial automobile liability and~~
20 ~~physical damage insurance, and~~

21 [~~(2) the property insurance portion of a commercial~~
22 ~~multiple peril insurance policy].~~

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

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

3 Sec. 2210.614. REFINANCING PUBLIC SECURITIES. The
4 association may request the board to refinance any public
5 securities issued in accordance with Subchapter B-1, whether Class
6 1-A, Class 1-B, or [1,] Class 2 [~~, or Class 3~~] public securities,
7 with public securities payable from the same sources as the
8 original public securities.

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

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

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

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

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

1 SECTION 30. Section 2210.6165, Insurance Code, is amended
2 to read as follows:

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

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

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

19 SECTION 32. (a) The board of directors of the Texas
20 Windstorm Insurance Association established under Section
21 2210.102, Insurance Code, as that section existed before amendment
22 by this Act, is abolished effective October 1, 2015.

23 (b) The commissioner of insurance shall appoint the members
24 of the board of directors of the Texas Coastal Insurance
25 Association under Section 2210.102, Insurance Code, as amended by
26 this Act, effective October 1, 2015. The initial directors shall
27 draw lots to achieve staggered terms, with three of the directors

1 serving one-year terms, three of the directors serving two-year
2 terms, and three of the directors serving three-year terms.

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

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

15 (e) It is the intent of the legislature that each member of
16 the legislative oversight board appointed under Section [2210.652](#),
17 Insurance Code, and serving on the effective date of this Act
18 continues to serve after the effective date of this Act until a
19 successor is appointed under that section.

20 SECTION 33. This Act takes effect immediately if it
21 receives a vote of two-thirds of all the members elected to each
22 house, as provided by Section [39](#), Article III, Texas Constitution.
23 If this Act does not receive the vote necessary for immediate
24 effect, this Act takes effect September 1, 2015.