

By: Taylor of Galveston, et al.
(Bonnen of Galveston)

S.B. No. 900

Substitute the following for S.B. No. 900:

By: Bonnen of Galveston

C.S.S.B. No. 900

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the operation of the Texas Windstorm Insurance
3 Association.

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

5 SECTION 1. Section 2210.003, Insurance Code, is amended by
6 amending Subdivision (1) and adding Subdivision (1-a) to read as
7 follows:

8 (1) "Administrator" means an entity contractually
9 retained to manage the association and administer the plan of
10 operation under Section 2210.062.

11 (1-a) "Association" means the Texas Coastal
12 [Windstorm] Insurance Association.

13 SECTION 2. Section 2210.014, Insurance Code, is amended by
14 amending Subsection (b) and adding Subsection (c) to read as
15 follows:

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

19 (c) An administrator contracted under Section 2210.062, if
20 applicable, is an agent of the association for purposes of managing
21 the association and administering the plan of operation under this
22 chapter.

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

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

9 (b) The department shall include the results of the study
10 conducted under this section in the report submitted under Section
11 [32.022](#).

12 SECTION 4. Subchapter B, Chapter 2210, Insurance Code, is
13 amended by adding Section 2210.062 to read as follows:

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

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

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

27 SECTION 5. Subchapter B-1, Chapter 2210, Insurance Code, is

1 amended by amending Section 2210.071 and adding Section 2210.0715
2 to read as follows:

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

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

15 [~~(c) Losses not paid under Subsection (b) shall be paid from~~
16 ~~the proceeds from public securities issued in accordance with this~~
17 ~~subchapter and Subchapter M and, notwithstanding Subsection (a),~~
18 ~~may be paid from the proceeds of public securities issued under~~
19 ~~Section 2210.072(a) before an occurrence or series of occurrences~~
20 ~~that results in insured losses.~~]

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

23 Sec. 2210.072. PAYMENT FROM CLASS 1 PUBLIC SECURITIES
24 ISSUED BEFORE JUNE 1, 2015 [~~; FINANCIAL INSTRUMENTS~~]. (a) Losses
25 not paid under Section 2210.0715 [~~Section 2210.071(b)~~] shall be
26 paid as provided by this section from the proceeds from Class 1
27 public securities [~~authorized to be~~] issued in accordance with

1 Subchapter M on or before June 1, 2015 [~~before, on, or after the~~
2 ~~date of any occurrence or series of occurrences that results in~~
3 ~~insured losses~~]. Public securities described by [~~issued under~~]
4 this section must be repaid within a period not to exceed 14 years,
5 and may be repaid sooner if the board of directors elects to do so
6 and the commissioner approves.

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

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

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

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

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

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

1 year.]

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

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

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

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

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

27 Sec. 2210.0725. PAYMENT FROM CLASS 1 ASSESSMENTS. (a)

1 Losses in a catastrophe year not paid under Sections 2210.0715 and
2 2210.072 shall be paid as provided by this section from Class 1
3 member assessments not to exceed \$500 million for that catastrophe
4 year.

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

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

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

15 Sec. 2210.073. PAYMENT FROM CLASS 2 PUBLIC SECURITIES. (a)
16 Losses not paid under Sections 2210.0715, [2210.071 and] 2210.072,
17 and 2210.0725 shall be paid as provided by this section from the
18 proceeds from Class 2 public securities authorized to be issued in
19 accordance with Subchapter M on or after the date of any occurrence
20 or series of occurrences that results in insured losses [under this
21 subsection]. Public securities issued under this section must be
22 paid [repaid] within a period not to exceed 10 years[7] and may be
23 paid [repaid] sooner if the board of directors elects to do so and
24 the commissioner approves.

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

26 (1) shall [may] be issued as necessary in a principal
27 amount not to exceed \$250 million [~~\$1 billion~~] per catastrophe

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

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

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

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

14 Sec. 2210.074. PAYMENT THROUGH CLASS 2 ASSESSMENTS [~~3~~
15 ~~PUBLIC SECURITIES~~]. (a) Losses in a catastrophe year not paid
16 under Sections 2210.0715, [~~2210.071~~], 2210.072, 2210.0725, and
17 2210.073 shall be paid as provided by this section from Class 2
18 member assessments not to exceed \$250 million for that catastrophe
19 year.

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

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

1 ~~[proceeds from public securities authorized to be issued in~~
2 ~~accordance with Subchapter M on or after the date of any occurrence~~
3 ~~that results in insured losses under this subsection or through~~
4 ~~reinsurance as described by Section 2210.075. Public securities~~
5 ~~issued under this section must be repaid within a period not to~~
6 ~~exceed 10 years, and may be repaid sooner if the board of directors~~
7 ~~elects to do so and the commissioner approves.~~

8 ~~[(b) Public securities described by Subsection (a):~~

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

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

18 ~~[(c) If the losses are paid with public securities described~~
19 ~~by this section, the public securities shall be repaid in the manner~~
20 ~~prescribed by Subchapter M through member assessments as provided~~
21 ~~by this section. The association shall notify each member of the~~
22 ~~association of the amount of the member's assessment under this~~
23 ~~section. The proportion of the losses allocable to each insurer~~
24 ~~under this section shall be determined in the manner used to~~
25 ~~determine each insurer's participation in the association for the~~
26 ~~year under Section 2210.052. A member of the association may not~~
27 ~~recoup an assessment paid under this subsection through a premium~~

1 ~~surcharge or tax credit]~~.

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

5 Sec. 2210.0741. PAYMENT THROUGH CLASS 3 PUBLIC SECURITIES.

6 (a) Losses not paid under Sections 2210.0715, 2210.072, 2210.0725,
7 2210.073, and 2210.074 shall be paid as provided by this section
8 from proceeds from public securities authorized to be issued in
9 accordance with Subchapter M on or after the date of any occurrence
10 that results in insured losses under this subsection or through
11 reinsurance as described by Section 2210.075. Public securities
12 issued under this section must be paid within a period not to exceed
13 10 years, and may be paid sooner if the board of directors elects to
14 do so and the commissioner approves.

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

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

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

24 (c) If the losses are paid with public securities described
25 by this section, the public securities shall be paid in the manner
26 prescribed by Subchapter M.

27 Sec. 2210.0742. PAYMENT FROM CLASS 3 ASSESSMENTS.

1 (a) Losses in a catastrophe year not paid under Sections
2 2210.0715, 2210.072, 2210.0725, 2210.073, 2210.074, and 2210.0741
3 shall be paid as provided by this section from Class 3 member
4 assessments not to exceed \$250 million for that catastrophe year.

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

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

13 SECTION 11. Section 2210.075, Insurance Code, is amended to
14 read as follows:

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

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

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

26 Sec. 2210.102. COMPOSITION. (a) The board of directors is
27 composed of nine members appointed by the commissioner in

1 accordance with this section.

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

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

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

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

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

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

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

25 (e) All members must have demonstrated experience in
26 insurance, general business, or actuarial principles and the
27 member's area of expertise, if any, sufficient to make the success

1 of the association probable.

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

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

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

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

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

27 (B) the southern portion of the seacoast

1 territory [~~(2) reside in a first tier coastal county~~]; or [~~and~~]

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

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

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

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

18 SECTION 14. The heading to Subchapter J, Chapter 2210,
19 Insurance Code, is amended to read as follows:

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

22 SECTION 15. Section [2210.452](#), Insurance Code, is amended by
23 amending Subsections (a), (c), and (d) and adding Subsection (f) to
24 read as follows:

25 (a) The commissioner shall adopt rules under which the
26 association makes payments to the catastrophe reserve trust fund.
27 Except as otherwise specifically provided by this section, the

1 ~~The~~ trust fund may be used only for purposes directly related to
2 funding the payment of insured losses, including:

3 (1) funding ~~to fund~~ the obligations of the trust
4 fund under Subchapter B-1; and

5 (2) purchasing reinsurance or using alternative risk
6 financing mechanisms under Section 2210.453.

7 (c) At the end of each calendar year or policy year, the
8 association shall use the net gain from operations of the
9 association, including all premium and other revenue of the
10 association in excess of incurred losses, operating expenses,
11 public security obligations, and public security administrative
12 expenses, to make payments to the trust fund, ~~to~~ procure
13 reinsurance, or use alternative risk financing mechanisms, or to
14 make payments to the trust fund and ~~to~~ procure reinsurance or use
15 alternative risk financing mechanisms.

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

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

27 SECTION 16. Section 2210.453, Insurance Code, is amended to

1 read as follows:

2 Sec. 2210.453. REINSURANCE AND ALTERNATIVE RISK FINANCING
3 MECHANISMS. (a) The association shall [~~may~~;
4 ~~[(1) make payments into the trust fund; and~~
5 ~~[(2)] purchase reinsurance or use alternative risk~~
6 financing mechanisms in an amount not less than the probable
7 maximum loss for the association for a catastrophe year with a
8 probability of one in 100.

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

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

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

1 ~~impose, pre-event and post-event bonding capacity, and~~
2 ~~private-sector recognized risk-transfer mechanisms, including~~
3 ~~catastrophe bonds and reinsurance;~~

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

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

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

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

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

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

27 SECTION 18. Section [2210.602](#), Insurance Code, is amended by

1 amending Subdivision (4) and adding Subdivisions (3-a) and (4-a) to
2 read as follows:

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

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

11 (4-a) "Class 3 public security trust fund" means the
12 dedicated trust fund established by the board and held by the Texas
13 Treasury Safekeeping Trust Company into which premium surcharges
14 collected under Section 2210.6131 for the purpose of paying Class 3
15 public securities are deposited.

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

18 Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY
19 OBLIGATIONS. (a) The board and the association shall enter into an
20 agreement under which the association shall provide for the payment
21 of all public security obligations from available funds collected
22 by the association and deposited as required by this subchapter
23 [~~into the public security obligation revenue fund~~]. If the
24 association determines that it is unable to pay the public security
25 obligations and public security administrative expenses, if any,
26 with available funds, the association shall pay those obligations
27 and expenses in accordance with Sections 2210.612, 2210.613, and

1 2210.6131 [~~2210.6135, and 2210.6136~~] as applicable. Class 1, Class
2 2, or Class 3 public securities may be issued on a parity or
3 subordinate lien basis with other Class 1, Class 2, or Class 3
4 public securities, respectively.

5 (b) If any public securities issued under this chapter are
6 outstanding, the authority shall notify the association of the
7 amount of the public security obligations and the estimated amount
8 of public security administrative expenses, if any, each calendar
9 year in a period sufficient, as determined by the association, to
10 permit the association to determine the availability of funds[~~,
11 assess members of the association under Sections 2210.613 and
12 2210.6135,~~] and assess a premium surcharge if necessary.

13 (c) The association shall deposit all revenue collected
14 under Section 2210.612 in the public security obligation revenue
15 fund, all revenue collected under Section 2210.613 [~~2210.613(b)~~] in
16 the Class 2 public security trust fund [~~premium surcharge trust
17 fund~~], and all revenue collected under Section 2210.6131 [~~Sections
18 2210.613(a) and 2210.6135~~] in the Class 3 public security [~~member
19 assessment~~] trust fund. Money deposited in a fund may be invested as
20 permitted by general law. Money in a fund required to be used to pay
21 public security obligations and public security administrative
22 expenses, if any, shall be transferred to the appropriate funds in
23 the manner and at the time specified in the proceedings authorizing
24 the public securities to ensure timely payment of obligations and
25 expenses. This may include the board establishing funds and
26 accounts with the comptroller that the board determines are
27 necessary to administer and repay the public security obligations.

1 If the association has not transferred amounts sufficient to pay
2 the public security obligations to the board's designated interest
3 and sinking fund in a timely manner, the board may direct the Texas
4 Treasury Safekeeping Trust Company to transfer from the public
5 security obligation revenue fund, the Class 2 public security
6 ~~[premium surcharge]~~ trust fund, or the Class 3 public security
7 trust fund ~~[member assessment trust fund]~~ to the appropriate
8 account the amount necessary to pay the public security obligation.

9 (d) The association shall provide for the payment of the
10 public security obligations and the public security administrative
11 expenses by irrevocably pledging revenues received from premiums,
12 ~~[member assessments,~~ premium surcharges, and amounts on deposit in
13 the public security obligation revenue fund, the Class 2 public
14 security ~~[premium surcharge]~~ trust fund, and the Class 3 public
15 security trust fund ~~[member assessment trust fund]~~, together with
16 any public security reserve fund, as provided in the proceedings
17 authorizing the public securities and related credit agreements.

18 (e) An amount owed by the board under a credit agreement
19 shall be payable from and secured by a pledge of revenues received
20 by the association ~~[or amounts]~~ from the public security obligation
21 trust fund, the Class 2 public security ~~[premium surcharge]~~ trust
22 fund, and the Class 3 public security trust fund ~~[member assessment~~
23 ~~trust fund]~~ to the extent provided in the proceedings authorizing
24 the credit agreement.

25 SECTION 20. Section [2210.610](#)(a), Insurance Code, is amended
26 to read as follows:

27 (a) Revenues received from the premium surcharges under

1 Sections [~~Section~~] 2210.613 and 2210.6131 [~~and member assessments~~
2 ~~under Sections 2210.613 and 2210.6135~~] may be applied only as
3 provided by this subchapter.

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

6 Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT
7 EARNINGS. Revenue collected in any calendar year from a premium
8 surcharge under Sections [~~Section~~] 2210.613 and 2210.6131 [~~member~~
9 ~~assessments under Sections 2210.613 and 2210.6135~~] that exceeds the
10 amount of the public security obligations and public security
11 administrative expenses payable in that calendar year and interest
12 earned on the funds [~~public security obligation fund~~] may, in the
13 discretion of the association, be:

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

19 (2) used to redeem or purchase outstanding public
20 securities; or

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

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

24 Sec. 2210.613. PAYMENT OF CLASS 2 PUBLIC SECURITIES. (a)
25 The association shall pay Class 2 public securities issued under
26 Section 2210.073 from:

27 (1) net premium and other revenue; and

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

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

20 ~~[(b) Seventy percent of the cost of the public securities~~
21 ~~shall be paid by a premium surcharge collected under this section in~~
22 ~~an amount set by the commissioner. On approval by the~~
23 ~~commissioner, each insurer, the association, and the Texas FAIR~~
24 ~~Plan Association shall assess, as provided by this section, a~~
25 ~~premium surcharge to each policyholder of a policy that is in effect~~
26 ~~on or after the 180th day after the date the commissioner issues~~
27 ~~notice of the approval of the public securities. The premium~~

1 ~~surcharge must be set in an amount sufficient to pay, for the~~
2 ~~duration of the issued public securities, all debt service not~~
3 ~~already covered by available funds or member assessments and all~~
4 ~~related expenses on the public securities.]~~

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

15 [~~(1) all policies written under the following lines of~~
16 ~~insurance:~~

17 [~~(A) fire and allied lines,~~
18 [~~(B) farm and ranch owners,~~
19 [~~(C) residential property insurance,~~
20 [~~(D) private passenger automobile liability and~~
21 ~~physical damage insurance, and~~

22 [~~(E) commercial automobile liability and~~
23 ~~physical damage insurance, and~~

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

26 (d) A premium surcharge under this section [~~Subsection (b)~~]
27 is a separate charge in addition to the premiums collected and is

1 not subject to premium tax or commissions. Failure by a
2 policyholder to pay the surcharge constitutes failure to pay
3 premium for purposes of policy cancellation.

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

6 Sec. 2210.6131. PAYMENT OF CLASS 3 PUBLIC SECURITIES. (a)
7 The association shall pay Class 3 public securities issued under
8 Section 2210.073 from:

9 (1) net premium and other revenue; and

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

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

20 (c) The premium surcharge under this section shall be
21 assessed on all policyholders of association policies issued under
22 this chapter.

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

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

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

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

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

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

19 SECTION 25. Section 2210.6165, Insurance Code, is amended
20 to read as follows:

21 Sec. 2210.6165. PROPERTY RIGHTS. If public securities
22 issued under this subchapter are outstanding, the rights and
23 interests of the association, a successor to the association, any
24 member of the association, or any member of the Texas FAIR Plan
25 Association, including the right to impose, collect, and receive a
26 premium surcharge [~~or a member assessment~~] authorized under this
27 subchapter, are only contract rights until those revenues are first

1 pledged for the repayment of the association's public security
2 obligations as provided by Section 2210.609.

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

5 (1) Sections 2210.602(5-a), (6), (6-b), and (6-c);

6 (2) Section 2210.605(c); and

7 (3) Sections 2210.6135 and 2210.6136.

8 SECTION 27. (a) The board of directors of the Texas
9 Windstorm Insurance Association established under Section
10 2210.102, Insurance Code, as that section existed before amendment
11 by this Act, is abolished effective October 1, 2015.

12 (b) The commissioner shall appoint the members of the board
13 of directors of the Texas Windstorm Insurance Association under
14 Section 2210.102, Insurance Code, as amended by this Act, effective
15 October 1, 2015. The initial directors shall draw lots to achieve
16 staggered terms, with three of the directors serving one-year
17 terms, three of the directors serving two-year terms, and three of
18 the directors serving three-year terms.

19 (c) The term of a person who is serving as a member of the
20 board of directors of the Texas Windstorm Insurance Association
21 immediately before the abolition of that board under Subsection (a)
22 of this section expires on October 1, 2015. Such a person is
23 eligible for appointment by the commissioner to the new board of
24 directors of the Texas Windstorm Insurance Association under
25 Section 2210.102, Insurance Code, as amended by this Act.

26 (d) It is the intent of the legislature that each member of
27 the legislative oversight board appointed under Section 2210.652,

1 Insurance Code, and serving on the effective date of this Act
2 continues to serve after the effective date of this Act until a
3 successor is appointed under that section.

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