

1-1 By: Taylor of Galveston, et al. S.B. No. 900
 1-2 (In the Senate - Filed March 3, 2015; March 9, 2015, read
 1-3 first time and referred to Committee on Business and Commerce;
 1-4 April 20, 2015, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 7, Nays 2; April 20, 2015,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12		X		
1-13		X		
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 900 By: Taylor of Galveston

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the operation of the Texas Windstorm Insurance
 1-22 Association and the renaming of the Texas Windstorm Insurance
 1-23 Association as the Texas Coastal Insurance Association.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. The heading to Chapter 2210, Insurance Code, is
 1-26 amended to read as follows:

1-27 CHAPTER 2210. TEXAS COASTAL [~~WINDSTORM~~] INSURANCE ASSOCIATION

1-28 SECTION 2. Section 2210.001, Insurance Code, is amended to
 1-29 read as follows:

1-30 Sec. 2210.001. PURPOSE. The primary purpose of the Texas
 1-31 Coastal [~~Windstorm~~] Insurance Association is the provision of an
 1-32 adequate market for windstorm and hail insurance in the seacoast
 1-33 territory of this state. The legislature finds that the provision
 1-34 of adequate windstorm and hail insurance is necessary to the
 1-35 economic welfare of this state, and without that insurance, the
 1-36 orderly growth and development of this state would be severely
 1-37 impeded. This chapter provides a method by which adequate
 1-38 windstorm and hail insurance may be obtained in certain designated
 1-39 portions of the seacoast territory of this state. The association
 1-40 is intended to serve as a residual insurer of last resort for
 1-41 windstorm and hail insurance in the seacoast territory. The
 1-42 association shall:

1-43 (1) function in such a manner as to not be a direct
 1-44 competitor in the private market; and

1-45 (2) provide windstorm and hail insurance coverage to
 1-46 those who are unable to obtain that coverage in the private market.

1-47 SECTION 3. Section 2210.002, Insurance Code, is amended by
 1-48 amending Subsection (a) and adding Subsection (a-1) to read as
 1-49 follows:

1-50 (a) This chapter may be cited as the Texas Coastal
 1-51 [~~Windstorm~~] Insurance Association Act.

1-52 (a-1) A reference in this chapter or other law to the Texas
 1-53 Windstorm Insurance Association means the Texas Coastal Insurance
 1-54 Association.

1-55 SECTION 4. Section 2210.003, Insurance Code, is amended by
 1-56 amending Subdivision (1) and adding Subdivision (1-a) to read as
 1-57 follows:

1-58 (1) "Administrator" means an entity contractually
 1-59 retained to manage the association and administer the plan of
 1-60 operation under Section 2210.062.

2-1 (1-a) "Association" means the Texas Coastal
 2-2 [~~Windstorm~~] Insurance Association.

2-3 SECTION 5. Section 2210.014, Insurance Code, is amended by
 2-4 amending Subsection (b) and adding Subsection (c) to read as
 2-5 follows:

2-6 (b) Chapter 542 does not apply to [~~the processing and~~
 2-7 ~~settlement of claims by~~] the association or to an agent or
 2-8 representative of the association.

2-9 (c) An administrator contracted under Section 2210.062, if
 2-10 applicable, is an agent of the association for purposes of managing
 2-11 the association and administering the plan of operation under this
 2-12 chapter.

2-13 SECTION 6. Subchapter A, Chapter 2210, Insurance Code, is
 2-14 amended by adding Section 2210.015 to read as follows:

2-15 Sec. 2210.015. STUDY OF MARKET INCENTIVES; BIENNIAL
 2-16 REPORTING. (a) Each biennium, the department shall conduct a
 2-17 study of market incentives to promote participation in the
 2-18 voluntary windstorm and hail insurance market in the seacoast
 2-19 territory of this state. The study must address as possible
 2-20 incentives the mandatory or voluntary issuance of windstorm and
 2-21 hail insurance in conjunction with the issuance of a homeowners
 2-22 policy in the seacoast territory.

2-23 (b) The department shall include the results of the study
 2-24 conducted under this section in the report submitted under Section
 2-25 32.022.

2-26 SECTION 7. Subchapter B, Chapter 2210, Insurance Code, is
 2-27 amended by adding Section 2210.062 to read as follows:

2-28 Sec. 2210.062. ADMINISTRATION BY CONTRACTED ADMINISTRATOR
 2-29 AUTHORIZED. (a) Notwithstanding any other law, if determined by
 2-30 the commissioner to be in the best interest of the policyholders and
 2-31 the public, the commissioner may contract with an administrator to
 2-32 manage the association and administer the plan of operation.

2-33 (b) The commissioner shall adopt rules as necessary to
 2-34 implement this section if the commissioner determines management of
 2-35 the association and administration of the plan of operation by an
 2-36 administrator is in the best interest of the policyholders and the
 2-37 public.

2-38 (c) The administrator must hold either a managing general
 2-39 agent license issued under Chapter 4053 or a third-party
 2-40 administrator certificate of authority issued under Chapter 4151.

2-41 SECTION 8. Subchapter B-1, Chapter 2210, Insurance Code, is
 2-42 amended by amending Section 2210.071 and adding Sections 2210.0715
 2-43 and 2210.0716 to read as follows:

2-44 Sec. 2210.071. PAYMENT OF EXCESS LOSSES [~~, PAYMENT FROM~~
 2-45 RESERVES AND TRUST FUND]. [~~(a)~~] If, in a catastrophe year, an
 2-46 occurrence or series of occurrences in a catastrophe area results
 2-47 in insured losses and operating expenses of the association in
 2-48 excess of premium and other revenue of the association, the excess
 2-49 losses and operating expenses shall be paid as provided by this
 2-50 subchapter.

2-51 Sec. 2210.0715. PAYMENT FROM RESERVES AND TRUST FUND. [~~(b)~~]
 2-52 The association shall pay losses in excess of premium and other
 2-53 revenue of the association from available reserves of the
 2-54 association and available amounts in the catastrophe reserve trust
 2-55 fund.

2-56 Sec. 2210.0716. PAYMENT FROM CLASS 1 ASSESSMENTS.

2-57 (a) Losses in a catastrophe year not paid under Section 2210.0715
 2-58 shall be paid as provided by this section from Class 1 member
 2-59 assessments not to exceed \$500 million for that catastrophe year.

2-60 (b) The association, with the approval of the commissioner,
 2-61 shall notify each member of the amount of the member's assessment
 2-62 under this section. The proportion of the losses allocable to each
 2-63 insurer under this section shall be determined in the manner used to
 2-64 determine each insurer's participation in the association for the
 2-65 year under Section 2210.052.

2-66 (c) A member of the association may not recoup an assessment
 2-67 paid under this section through a premium surcharge or tax credit.

2-68 [~~(c) Losses not paid under Subsection (b) shall be paid from~~
 2-69 ~~the proceeds from public securities issued in accordance with this~~

3-1 ~~subchapter and Subchapter M and, notwithstanding Subsection (a),~~
 3-2 ~~may be paid from the proceeds of public securities issued under~~
 3-3 ~~Section 2210.072(a) before an occurrence or series of occurrences~~
 3-4 ~~that results in insured losses.]~~

3-5 SECTION 9. Sections 2210.072(a), (b), (b-1), (c), and (f),
 3-6 Insurance Code, are amended to read as follows:

3-7 (a) Losses not paid under Sections 2210.0715 and 2210.0716
 3-8 [~~Section 2210.071(b)~~] shall be paid as provided by this section
 3-9 from the proceeds from Class 1 public securities authorized to be
 3-10 issued in accordance with Subchapter M before, on, or after the date
 3-11 of any occurrence or series of occurrences that results in insured
 3-12 losses. Public securities issued under this section must be paid
 3-13 [~~repaid~~] within a period not to exceed 10 [~~14~~] years[~~7~~] and may be
 3-14 paid [~~repaid~~] sooner if the board of directors elects to do so and
 3-15 the commissioner approves.

3-16 (b) Public securities described by Subsection (a) that are
 3-17 issued before an occurrence or series of occurrences that results
 3-18 in incurred losses:

3-19 (1) may be issued on the request of the board of
 3-20 directors with the approval of the commissioner; and

3-21 (2) may not, in the aggregate, exceed \$500 million [~~\$1~~
 3-22 ~~billion~~] at any one time, regardless of the calendar year or years
 3-23 in which the outstanding public securities were issued.

3-24 (b-1) Public securities described by Subsection (a):

3-25 (1) shall be issued as necessary in a principal amount
 3-26 not to exceed \$500 million [~~\$1 billion~~] per catastrophe year, in the
 3-27 aggregate, for securities issued during that catastrophe year
 3-28 before the occurrence or series of occurrences that results in
 3-29 incurred losses in that year and securities issued on or after the
 3-30 date of that occurrence or series of occurrences, and regardless of
 3-31 whether for a single occurrence or a series of occurrences; and

3-32 (2) subject to the [~~\$1 billion~~] maximum described by
 3-33 Subdivision (1), may be issued, in one or more issuances or
 3-34 tranches, during the calendar year in which the occurrence or
 3-35 series of occurrences occurs or, if the public securities cannot
 3-36 reasonably be issued in that year, during the following calendar
 3-37 year.

3-38 (c) If public securities are issued as described by this
 3-39 section, the public securities shall be paid [~~repaid~~] in the manner
 3-40 prescribed by Subchapter M [~~from association premium revenue~~].

3-41 (f) If, under Subsection (e), the proceeds of any
 3-42 outstanding public securities issued during a previous catastrophe
 3-43 year must be depleted, those proceeds shall count against the \$500
 3-44 million [~~\$1 billion~~] limit on public securities described by this
 3-45 section in the catastrophe year in which the proceeds must be
 3-46 depleted.

3-47 SECTION 10. Subchapter B-1, Chapter 2210, Insurance Code,
 3-48 is amended by adding Section 2210.0725 to read as follows:

3-49 Sec. 2210.0725. PAYMENT FROM CLASS 2 ASSESSMENTS.

3-50 (a) Losses in a catastrophe year not paid under Sections
 3-51 2210.0715, 2210.0716, and 2210.072 shall be paid as provided by
 3-52 this section from Class 2 member assessments not to exceed \$500
 3-53 million for that catastrophe year.

3-54 (b) The association, with the approval of the commissioner,
 3-55 shall notify each member of the amount of the member's assessment
 3-56 under this section. The proportion of the losses allocable to each
 3-57 insurer under this section shall be determined in the manner used to
 3-58 determine each insurer's participation in the association for the
 3-59 year under Section 2210.052.

3-60 (c) A member of the association may not recoup an assessment
 3-61 paid under this section through a premium surcharge or tax credit.

3-62 SECTION 11. Section 2210.073, Insurance Code, is amended to
 3-63 read as follows:

3-64 Sec. 2210.073. PAYMENT FROM CLASS 2 PUBLIC SECURITIES.

3-65 (a) Losses not paid under Sections 2210.0715, 2210.0716,
 3-66 [2210.071 and] 2210.072, and 2210.0725 shall be paid as provided by
 3-67 this section from the proceeds from Class 2 public securities
 3-68 authorized to be issued in accordance with Subchapter M on or after
 3-69 the date of any occurrence or series of occurrences that results in

4-1 insured losses [~~under this subsection~~]. Public securities issued
 4-2 under this section must be paid [~~repaid~~] within a period not to
 4-3 exceed 10 years[~~7~~] and may be paid [~~repaid~~] sooner if the board of
 4-4 directors elects to do so and the commissioner approves.

4-5 (b) Public securities described by Subsection (a):

4-6 (1) shall [~~may~~] be issued as necessary in a principal
 4-7 amount not to exceed \$500 million [~~\$1 billion~~] per catastrophe
 4-8 year, in the aggregate, whether for a single occurrence or a series
 4-9 of occurrences; and

4-10 (2) subject to the [~~\$1 billion~~] maximum described by
 4-11 Subdivision (1), may be issued, in one or more issuances or
 4-12 tranches, during the calendar year in which the occurrence or
 4-13 series of occurrences occurs or, if the public securities cannot
 4-14 reasonably be issued in that year, during the following calendar
 4-15 year.

4-16 (c) If the losses are paid with public securities described
 4-17 by this section, the public securities shall be paid [~~repaid~~] in the
 4-18 manner prescribed by Subchapter M.

4-19 SECTION 12. Section 2210.075, Insurance Code, is amended to
 4-20 read as follows:

4-21 Sec. 2210.075. REINSURANCE. (a) Before any occurrence or
 4-22 series of occurrences, an insurer may elect to purchase reinsurance
 4-23 to cover an assessment for which the insurer would otherwise be
 4-24 liable under this subchapter [~~Section 2210.074(e)~~].

4-25 (b) An insurer must notify the board of directors, in the
 4-26 manner prescribed by the association whether the insurer will be
 4-27 purchasing reinsurance. If the insurer does not elect to purchase
 4-28 reinsurance under this section, the insurer remains liable for any
 4-29 assessment imposed under this subchapter [~~Section 2210.074(e)~~].

4-30 SECTION 13. Section 2210.102, Insurance Code, is amended to
 4-31 read as follows:

4-32 Sec. 2210.102. COMPOSITION. (a) The board of directors is
 4-33 composed of nine members appointed by the commissioner in
 4-34 accordance with this section.

4-35 (b) Three [~~Four~~] members must be representatives of the
 4-36 insurance industry who actively write and renew windstorm and hail
 4-37 insurance in the first tier coastal counties.

4-38 (c) Three [~~Four~~] members must, as of the date of the
 4-39 appointment, reside in the first tier coastal counties. Each of
 4-40 the following regions must be represented by a member residing in
 4-41 the region and [~~At least one of the members~~] appointed under this
 4-42 subsection:

4-43 (1) the region consisting of Cameron, Kenedy, Kleberg,
 4-44 and Willacy Counties;

4-45 (2) the region consisting of Aransas, Calhoun, Nueces,
 4-46 Refugio, and San Patricio Counties; and

4-47 (3) the region consisting of Brazoria, Chambers,
 4-48 Galveston, Jefferson, and Matagorda Counties and any part of Harris
 4-49 County designated as a catastrophe area under Section 2210.005.

4-50 (c-1) One of the members appointed under Subsection (c) must
 4-51 be a property and casualty agent who is licensed under this code and
 4-52 is not a captive agent.

4-53 (d) One member must be a representative of an area of this
 4-54 state that is not located in the seacoast territory [~~with~~
 4-55 ~~demonstrated expertise in insurance and actuarial principles~~].

4-56 (d-1) One member must be an engineer who:

4-57 (1) is knowledgeable of, and has professional
 4-58 expertise in, wind-related design and construction practices in
 4-59 coastal areas that are subject to high winds and hurricanes; and

4-60 (2) resides in a second tier coastal county.

4-61 (d-2) One member must be a representative of the financial
 4-62 industry who resides in a second tier coastal county.

4-63 (e) All members must have demonstrated experience in
 4-64 insurance, general business, or actuarial principles and the
 4-65 member's area of expertise, if any, sufficient to make the success
 4-66 of the association probable.

4-67 (f) Insurers who are members of the association shall
 4-68 nominate, from among those members, persons to fill any vacancy in
 4-69 the three [~~four~~] board of director seats reserved for

5-1 representatives of the insurance industry. The board of directors
 5-2 shall solicit nominations from the members and submit the
 5-3 nominations to the commissioner. The nominee slate submitted to
 5-4 the commissioner under this subsection must include at least three
 5-5 more names than the number of vacancies. The commissioner may
 5-6 ~~[shall]~~ appoint replacement insurance industry representatives
 5-7 from the nominee slate.

5-8 (g) In addition to the nine members appointed under
 5-9 Subsection (a), the [The] commissioner shall appoint three
 5-10 individuals [one person] to serve as [a] nonvoting ex officio
 5-11 members [member] of the board to advise the board [regarding issues
 5-12 relating to the inspection process. The commissioner may give
 5-13 preference in an appointment under this subsection to a person who
 5-14 is a qualified inspector under Section 2210.254]. Each [The]
 5-15 nonvoting member appointed under this section must:

5-16 (1) hold an elective office of this state or a
 5-17 political subdivision of this state; and

5-18 (2) reside in and represent one of the following
 5-19 areas:

5-20 (A) the northern portion of the seacoast
 5-21 territory [be an engineer licensed by, and in good standing with,
 5-22 the Texas Board of Professional Engineers];

5-23 (B) the southern portion of the seacoast
 5-24 territory [-(2) reside in a first tier coastal county]; or [and]

5-25 (C) an area of this state that is not located in
 5-26 the seacoast territory [-(3) be knowledgeable of, and have
 5-27 professional expertise in, wind-related design and construction
 5-28 practices in coastal areas that are subject to high winds and
 5-29 hurricanes].

5-30 (h) The persons appointed under Subsection (g) [-(c)] must
 5-31 each reside in a [be from] different area described by Subsection
 5-32 (g)(2) and in different counties.

5-33 SECTION 14. Section 2210.103(c), Insurance Code, is amended
 5-34 to read as follows:

5-35 (c) A member of the board of directors may be removed by the
 5-36 commissioner with cause stated in writing and posted on the
 5-37 association's website. The commissioner shall appoint a
 5-38 replacement in accordance with [the manner provided by] Section
 5-39 2210.102 for a member who leaves or is removed from the board of
 5-40 directors.

5-41 SECTION 15. The heading to Subchapter J, Chapter 2210,
 5-42 Insurance Code, is amended to read as follows:

5-43 SUBCHAPTER J. CATASTROPHE RESERVE TRUST FUND; ~~[AND]~~ REINSURANCE
 5-44 ~~AND ALTERNATIVE RISK FINANCING [PROGRAM]~~

5-45 SECTION 16. Section 2210.452, Insurance Code, is amended by
 5-46 amending Subsections (a), (c), and (d) and adding Subsection (f) to
 5-47 read as follows:

5-48 (a) The commissioner shall adopt rules under which the
 5-49 association makes payments to the catastrophe reserve trust fund.
 5-50 Except as otherwise specifically provided by this section, the
 5-51 [The] trust fund may be used only for purposes directly related to
 5-52 funding the payment of insured losses, including:

5-53 (1) funding [to fund] the obligations of the trust
 5-54 fund under Subchapter B-1; and

5-55 (2) purchasing reinsurance or using alternative risk
 5-56 financing mechanisms under Section 2210.453.

5-57 (c) At the end of each calendar year or policy year, the
 5-58 association shall use the net gain from operations of the
 5-59 association, including all premium and other revenue of the
 5-60 association in excess of incurred losses, operating expenses,
 5-61 public security obligations, and public security administrative
 5-62 expenses, to make payments to the trust fund, ~~[to]~~ procure
 5-63 reinsurance, or use alternative risk financing mechanisms, or to
 5-64 make payments to the trust fund and ~~[to]~~ procure reinsurance or use
 5-65 alternative risk financing mechanisms.

5-66 (d) The commissioner by rule shall establish the procedure
 5-67 relating to the disbursement of money from the trust fund to
 5-68 policyholders and for association administrative expenses directly
 5-69 related to funding the payment of insured losses in the event of an

6-1 occurrence or series of occurrences within a catastrophe area that
6-2 results in a disbursement under Subchapter B-1.

6-3 (f) The commissioner by rule shall establish the procedure
6-4 relating to the disbursement of money from the trust fund to pay for
6-5 operating expenses, including reinsurance or alternative risk
6-6 financing mechanisms under Section 2210.453, if the association
6-7 does not have sufficient premium and other revenue.

6-8 SECTION 17. Section 2210.453, Insurance Code, is amended to
6-9 read as follows:

6-10 Sec. 2210.453. REINSURANCE AND ALTERNATIVE RISK FINANCING
6-11 MECHANISMS. (a) The association shall ~~may:~~
6-12 ~~[(1) make payments into the trust fund; and~~
6-13 ~~[(2)] purchase reinsurance or use alternative risk~~
6-14 financing mechanisms in an amount equal to the probable maximum
6-15 loss for the association for a catastrophe year with a probability
6-16 of one in 100.

6-17 (b) Any ~~[The association may purchase]~~ reinsurance
6-18 purchased or alternative risk financing mechanism used under this
6-19 section operates ~~[that operates]~~ in addition to ~~[or in concert with~~
6-20 ~~the trust fund,]~~ public securities, other approved financial
6-21 instruments, and assessments authorized by this chapter.

6-22 (c) The attachment point for reinsurance purchased under
6-23 this section may not be less than the aggregate amount of all
6-24 funding available to the association under Subchapter B-1. ~~[If the~~
6-25 ~~association does not purchase reinsurance as authorized by this~~
6-26 ~~section, the board, not later than June 1 of each year, shall submit~~
6-27 ~~to the commissioner, the legislative oversight board established~~
6-28 ~~under Subchapter N, the governor, the lieutenant governor, and the~~
6-29 ~~speaker of the house of representatives a report containing an~~
6-30 ~~actuarial plan for paying losses in the event of a catastrophe with~~
6-31 ~~estimated damages of \$2.5 billion or more. The report required by~~
6-32 ~~this subsection must:~~

6-33 ~~[(1) document and denominate the association's~~
6-34 ~~resources available to pay claims, including cash or other highly~~
6-35 ~~liquid assets, assessments that the association is projected to~~
6-36 ~~impose, pre-event and post-event bonding capacity, and~~
6-37 ~~private-sector recognized risk-transfer mechanisms, including~~
6-38 ~~catastrophe bonds and reinsurance;~~

6-39 ~~[(2) include an independent, third-party appraisal of~~
6-40 ~~the likelihood of an assessment, the maximum potential size of the~~
6-41 ~~assessment, and an estimate of the probability that the assessment~~
6-42 ~~would not be adequate to meet the association's needs; and~~

6-43 ~~[(3) include an analysis of financing alternatives to~~
6-44 ~~assessments that includes the costs of borrowing and the~~
6-45 ~~consequences that additional purchase of reinsurance, catastrophe~~
6-46 ~~bonds, or other private-sector recognized risk-transfer~~
6-47 ~~instruments would have in reducing the size or potential of~~
6-48 ~~assessments.~~

6-49 ~~[(d) A person who prepares a report required by Subsection~~
6-50 ~~(c) may not contract to provide any other service to the~~
6-51 ~~association, except for the preparation of similar reports, before~~
6-52 ~~the third anniversary of the date the last report prepared by the~~
6-53 ~~person under that subsection is submitted.~~

6-54 ~~[(e) The report submitted under this section is for~~
6-55 ~~informational purposes only and does not bind the association to a~~
6-56 ~~particular course of action.]~~

6-57 SECTION 18. Section 2210.602, Insurance Code, is amended by
6-58 adding Subdivisions (2-a) and (3-a) to read as follows:

6-59 (2-a) "Class 1 public security trust fund" means the
6-60 dedicated trust fund established by the board and held by the Texas
6-61 Treasury Safekeeping Trust Company into which premium surcharges
6-62 collected under Section 2210.612 for the purpose of paying Class 1
6-63 public securities are deposited.

6-64 (3-a) "Class 2 public security trust fund" means the
6-65 dedicated trust fund established by the board and held by the Texas
6-66 Treasury Safekeeping Trust Company into which premium surcharges
6-67 collected under Section 2210.613 for the purpose of paying Class 2
6-68 public securities are deposited.

6-69 SECTION 19. Section 2210.604(a), Insurance Code, is amended

7-1 to read as follows:

7-2 (a) At the request of the association and with the approval
7-3 of the commissioner, the Texas Public Finance Authority shall issue
7-4 Class 1 or~~[]~~ Class 2~~[, or Class 3]~~ public securities. The
7-5 association shall submit to the commissioner a cost-benefit
7-6 analysis of various financing methods and funding structures when
7-7 requesting the issuance of public securities under this subsection.

7-8 SECTION 20. Section 2210.609, Insurance Code, is amended to
7-9 read as follows:

7-10 Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY
7-11 OBLIGATIONS. (a) The board and the association shall enter into
7-12 an agreement under which the association shall provide for the
7-13 payment of all public security obligations from available funds
7-14 collected by the association and deposited as required by this
7-15 subchapter ~~[into the public security obligation revenue fund]~~. If
7-16 the association determines that it is unable to pay the public
7-17 security obligations and public security administrative expenses,
7-18 if any, with available funds, the association shall pay those
7-19 obligations and expenses in accordance with Sections 2210.612
7-20 and~~[]~~ 2210.613, ~~[2210.6135, and 2210.6136]~~ as applicable. Class
7-21 1 or~~[]~~ Class 2~~[, or Class 3]~~ public securities may be issued on a
7-22 parity or subordinate lien basis with other Class 1 or~~[]~~ Class 2~~[~~
7-23 ~~or Class 3]~~ public securities, respectively.

7-24 (b) If any public securities issued under this chapter are
7-25 outstanding, the authority shall notify the association of the
7-26 amount of the public security obligations and the estimated amount
7-27 of public security administrative expenses, if any, each calendar
7-28 year in a period sufficient, as determined by the association, to
7-29 permit the association to determine the availability of funds~~[~~
7-30 ~~assess members of the association under Sections 2210.613 and~~
7-31 ~~2210.6135,~~] and assess a premium surcharge if necessary.

7-32 (c) The association shall deposit all revenue collected
7-33 under Section 2210.612 in the Class 1 public security trust fund and
7-34 ~~[public security obligation revenue fund,~~] all revenue collected
7-35 under Section 2210.613 ~~[2210.613(b)]~~ in the Class 2 public security
7-36 trust fund ~~[premium surcharge trust fund, and all revenue collected~~
7-37 ~~under Sections 2210.613(a) and 2210.6135 in the member assessment~~
7-38 ~~trust fund]~~. Money deposited in a fund may be invested as
7-39 permitted by general law. Money in a fund required to be used to
7-40 pay public security obligations and public security administrative
7-41 expenses, if any, shall be transferred to the appropriate funds in
7-42 the manner and at the time specified in the proceedings authorizing
7-43 the public securities to ensure timely payment of obligations and
7-44 expenses. This may include the board establishing funds and
7-45 accounts with the comptroller that the board determines are
7-46 necessary to administer and repay the public security
7-47 obligations. If the association has not transferred amounts
7-48 sufficient to pay the public security obligations to the board's
7-49 designated interest and sinking fund in a timely manner, the board
7-50 may direct the Texas Treasury Safekeeping Trust Company to transfer
7-51 from the Class 1 public security trust fund ~~[public security~~
7-52 ~~obligation revenue fund, the premium surcharge trust fund,~~] or the
7-53 Class 2 public security trust fund ~~[member assessment trust fund]~~
7-54 to the appropriate account the amount necessary to pay the public
7-55 security obligation.

7-56 (d) The association shall provide for the payment of the
7-57 public security obligations and the public security administrative
7-58 expenses by irrevocably pledging revenues received from premiums,
7-59 ~~[member assessments,~~] premium surcharges, and amounts on deposit in
7-60 the Class 1 public security trust fund ~~[public security obligation~~
7-61 ~~revenue fund, the premium surcharge trust fund,~~] and the Class 2
7-62 public security trust fund ~~[member assessment trust fund]~~, together
7-63 with any public security reserve fund, as provided in the
7-64 proceedings authorizing the public securities and related credit
7-65 agreements.

7-66 (e) An amount owed by the board under a credit agreement
7-67 shall be payable from and secured by a pledge of revenues received
7-68 by the association ~~[or amounts from the public security obligation~~
7-69 ~~trust fund]~~, the Class 1 public security trust fund ~~[premium~~

8-1 ~~surcharge trust fund~~], and the Class 2 public security trust fund
 8-2 [~~member assessment trust fund~~] to the extent provided in the
 8-3 proceedings authorizing the credit agreement.

8-4 SECTION 21. Section 2210.610(a), Insurance Code, is amended
 8-5 to read as follows:

8-6 (a) Revenues received from the premium surcharges under
 8-7 Sections 2210.612 and [Section] 2210.613 [~~and member assessments~~
 8-8 ~~under Sections 2210.613 and 2210.6135~~] may be applied only as
 8-9 provided by this subchapter.

8-10 SECTION 22. Section 2210.611, Insurance Code, is amended to
 8-11 read as follows:

8-12 Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT
 8-13 EARNINGS. Revenue collected in any calendar year from a premium
 8-14 surcharge under Sections 2210.612 and [Section] 2210.613 [~~and~~
 8-15 ~~member assessments under Sections 2210.613 and 2210.6135~~] that
 8-16 exceeds the amount of the public security obligations and public
 8-17 security administrative expenses payable in that calendar year and
 8-18 interest earned on the funds [~~public security obligation fund~~] may,
 8-19 in the discretion of the association, be:

8-20 (1) used to pay public security obligations payable in
 8-21 the subsequent calendar year, offsetting the amount of the premium
 8-22 surcharge [~~and member assessments, as applicable,~~] that would
 8-23 otherwise be required to be levied for the year under this
 8-24 subchapter;

8-25 (2) used to redeem or purchase outstanding public
 8-26 securities; or

8-27 (3) deposited in the catastrophe reserve trust fund.

8-28 SECTION 23. Section 2210.612, Insurance Code, is amended to
 8-29 read as follows:

8-30 Sec. 2210.612. PAYMENT OF CLASS 1 PUBLIC SECURITIES.

8-31 (a) The association shall pay Class 1 public securities issued
 8-32 under Section 2210.072 from:

8-33 (1) [its] net premium and other revenue; and

8-34 (2) if net premium and other revenue are not
 8-35 sufficient to pay the securities, a catastrophe area premium
 8-36 surcharge collected in accordance with this section.

8-37 (b) On approval by the commissioner, the association shall
 8-38 assess, as provided by this section, a premium surcharge to each
 8-39 policyholder of a policy described by Subsection (c). The premium
 8-40 surcharge must be set in an amount sufficient to pay, for the
 8-41 duration of the issued public securities, all debt service not
 8-42 already covered by available funds and all related expenses on the
 8-43 public securities.

8-44 (c) The premium surcharge under this section shall be
 8-45 assessed on all policyholders of association policies issued under
 8-46 this chapter.

8-47 (d) A premium surcharge under this section is a separate
 8-48 charge in addition to the premiums collected and is not subject to
 8-49 premium tax or commissions. Failure by a policyholder to pay the
 8-50 surcharge constitutes failure to pay premium for purposes of policy
 8-51 cancellation.

8-52 (e) ~~(b)~~ The association may enter financing arrangements
 8-53 as described by Section 2210.072(d) as necessary to obtain public
 8-54 securities issued under Section 2210.072. Nothing in this
 8-55 subsection shall prevent the authorization and creation of one or
 8-56 more programs for the issuance of commercial paper before the date
 8-57 of an occurrence or series of occurrences that results in insured
 8-58 losses under Section 2210.072(a).

8-59 SECTION 24. Section 2210.613, Insurance Code, is amended to
 8-60 read as follows:

8-61 Sec. 2210.613. PAYMENT OF CLASS 2 PUBLIC SECURITIES.

8-62 (a) The association shall pay Class 2 public securities issued
 8-63 under Section 2210.073 from:

8-64 (1) net premium and other revenue; and

8-65 (2) if net premium and other revenue are not
 8-66 sufficient to pay the securities, a catastrophe area premium
 8-67 surcharge collected in accordance with this section.

8-68 (b) On approval by the commissioner, the association shall
 8-69 assess, as provided by this section, a premium surcharge to each

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

9-15 ~~[(b) Seventy percent of the cost of the public securities~~
9-16 ~~shall be paid by a premium surcharge collected under this section in~~
9-17 ~~an amount set by the commissioner. On approval by the~~
9-18 ~~commissioner, each insurer, the association, and the Texas FAIR~~
9-19 ~~Plan Association shall assess, as provided by this section, a~~
9-20 ~~premium surcharge to each policyholder of a policy that is in effect~~
9-21 ~~on or after the 180th day after the date the commissioner issues~~
9-22 ~~notice of the approval of the public securities. The premium~~
9-23 ~~surchARGE must be set in an amount sufficient to pay, for the~~
9-24 ~~duration of the issued public securities, all debt service not~~
9-25 ~~already covered by available funds or member assessments and all~~
9-26 ~~related expenses on the public securities.]~~

9-27 ~~(c) The premium surcharge under this section [Subsection~~
9-28 ~~(b)] shall be assessed on all policyholders of association policies~~
9-29 ~~issued under this chapter [that cover insured property that is~~
9-30 ~~located in a catastrophe area, including automobiles principally~~
9-31 ~~garaged in a catastrophe area. The premium surcharge shall be~~
9-32 ~~assessed on each Texas windstorm and hail insurance policy and each~~
9-33 ~~property and casualty insurance policy, including an automobile~~
9-34 ~~insurance policy, issued for automobiles and other property located~~
9-35 ~~in the catastrophe area. A premium surcharge under Subsection (b)~~
9-36 ~~applies to:~~

9-37 ~~[(1) all policies written under the following lines of~~
9-38 ~~insurance:~~

- 9-39 ~~[(A) fire and allied lines;~~
- 9-40 ~~[(B) farm and ranch owners;~~
- 9-41 ~~[(C) residential property insurance;~~
- 9-42 ~~[(D) private passenger automobile liability and~~
9-43 ~~physical damage insurance; and~~
- 9-44 ~~[(E) commercial automobile liability and~~
9-45 ~~physical damage insurance; and~~

9-46 ~~[(2) the property insurance portion of a commercial~~
9-47 ~~multiple peril insurance policy].~~

9-48 ~~(d) A premium surcharge under this section [Subsection (b)]~~
9-49 ~~is a separate charge in addition to the premiums collected and is~~
9-50 ~~not subject to premium tax or commissions. Failure by a~~
9-51 ~~policyholder to pay the surcharge constitutes failure to pay~~
9-52 ~~premium for purposes of policy cancellation.~~

9-53 SECTION 25. Section 2210.614, Insurance Code, is amended to
9-54 read as follows:

9-55 Sec. 2210.614. REFINANCING PUBLIC SECURITIES. The
9-56 association may request the board to refinance any public
9-57 securities issued in accordance with Subchapter B-1, whether Class
9-58 1 or [7] Class 2 [7, ~~or Class 3~~] public securities, with public
9-59 securities payable from the same sources as the original public
9-60 securities.

9-61 SECTION 26. Section 2210.616(a), Insurance Code, is amended
9-62 to read as follows:

9-63 (a) The state pledges for the benefit and protection of
9-64 financing parties, the board, and the association that the state
9-65 will not take or permit any action that would:

- 9-66 (1) ~~impair the collection of [member assessments and]~~
9-67 ~~premium surcharges or the deposit of those funds into the Class 1~~
9-68 ~~public security [member assessment] trust fund or Class 2 public~~
9-69 ~~security [premium surcharge] trust fund;~~

10-1 (2) reduce, alter, or impair the [~~member assessments~~
10-2 ~~or~~] premium surcharges to be imposed, collected, and remitted to
10-3 financing parties until the principal, interest, and premium, and
10-4 any other charges incurred and contracts to be performed in
10-5 connection with the related public securities, have been paid and
10-6 performed in full; or

10-7 (3) in any way impair the rights and remedies of the
10-8 public security owners until the public securities are fully
10-9 discharged.

10-10 SECTION 27. Section 2210.6165, Insurance Code, is amended
10-11 to read as follows:

10-12 Sec. 2210.6165. PROPERTY RIGHTS. If public securities
10-13 issued under this subchapter are outstanding, the rights and
10-14 interests of the association, a successor to the association, any
10-15 member of the association, or any member of the Texas FAIR Plan
10-16 Association, including the right to impose, collect, and receive a
10-17 premium surcharge [~~or a member assessment~~] authorized under this
10-18 subchapter, are only contract rights until those revenues are first
10-19 pledged for the repayment of the association's public security
10-20 obligations as provided by Section 2210.609.

10-21 SECTION 28. The following provisions of Chapter 2210,
10-22 Insurance Code, are repealed:

- 10-23 (1) Section 2210.074;
- 10-24 (2) Sections 2210.602(4), (5-a), (6), (6-b), (6-c),
10-25 and (10);
- 10-26 (3) Section 2210.605(c); and
- 10-27 (4) Sections 2210.6135 and 2210.6136.

10-28 SECTION 29. (a) The board of directors of the Texas
10-29 Windstorm Insurance Association established under Section
10-30 2210.102, Insurance Code, as that section existed before amendment
10-31 by this Act, is abolished effective October 1, 2015.

10-32 (b) The commissioner of insurance shall appoint the members
10-33 of the board of directors of the Texas Coastal Insurance
10-34 Association under Section 2210.102, Insurance Code, as amended by
10-35 this Act, effective October 1, 2015. The initial directors shall
10-36 draw lots to achieve staggered terms, with three of the directors
10-37 serving one-year terms, three of the directors serving two-year
10-38 terms, and three of the directors serving three-year terms.

10-39 (c) The term of a person who is serving as a member of the
10-40 board of directors of the Texas Windstorm Insurance Association
10-41 immediately before the abolition of that board under Subsection (a)
10-42 of this section expires on October 1, 2015. Such a person is
10-43 eligible for appointment by the commissioner of insurance to the
10-44 new board of directors of the Texas Coastal Insurance Association
10-45 under Section 2210.102, Insurance Code, as amended by this Act.

10-46 (d) Subchapter M, Chapter 2210, Insurance Code, as it
10-47 existed before the effective date of this Act, is applicable to bond
10-48 obligations incurred under Chapter 2210, Insurance Code, before the
10-49 effective date of this Act, and that law is continued in effect for
10-50 that purpose.

10-51 (e) It is the intent of the legislature that each member of
10-52 the legislative oversight board appointed under Section 2210.652,
10-53 Insurance Code, and serving on the effective date of this Act
10-54 continues to serve after the effective date of this Act until a
10-55 successor is appointed under that section.

10-56 SECTION 30. This Act takes effect immediately if it
10-57 receives a vote of two-thirds of all the members elected to each
10-58 house, as provided by Section 39, Article III, Texas Constitution.
10-59 If this Act does not receive the vote necessary for immediate
10-60 effect, this Act takes effect September 1, 2015.

10-61 * * * * *