

By: Middleton, et al.  
(Lozano)

S.B. No. 1217

Substitute the following for S.B. No. 1217:

By: Oliverson

C.S.S.B. No. 1217

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Windstorm Insurance Association.

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

ARTICLE 1. ADMINISTRATION AND OPERATION OF TEXAS WINDSTORM  
INSURANCE ASSOCIATION

SECTION 1.01. Section 2210.014, Insurance Code, is amended  
by adding Subsection (d) to read as follows:

(d) The association is not subject to any insurance premium  
tax or insurance maintenance fee or tax.

SECTION 1.02. Subchapter A, Chapter 2210, Insurance Code,  
is amended by adding Section 2210.016 to read as follows:

Sec. 2210.016. LEGISLATIVE LOBBYING. (a) The association  
may not use any money under its control to attempt to influence the  
passage or defeat of a legislative measure.

(b) An association employee or member of the board of  
directors who violates Subsection (a) is subject to:

(1) immediate termination; and

(2) a fine of \$10,000 to be deposited in the  
catastrophe reserve trust fund.

(c) This section does not prohibit an association employee  
or member of the board of directors from using money under the  
association's control to provide public information or to provide  
information responsive to a request for public information.

SECTION 1.03. Section 2210.102, Insurance Code, is amended

1 by amending Subsections (a), (c), (c-1), (d), and (g) and adding  
2 Subsection (d-1) to read as follows:

3 (a) The board of directors is composed of eleven [~~nine~~]  
4 members appointed by the commissioner in accordance with this  
5 section.

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

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

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

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

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

22 (d) Three members must reside in an area of this state that  
23 is located outside the first tier coastal counties [~~more than 100~~  
24 ~~miles from the Texas coastline~~].

25 (d-1) One of the members appointed under Subsection (d) must  
26 be the public counsel of the office of public insurance counsel or  
27 the counsel's designee.

1 (g) Members appointed to the board of directors under  
2 Subsections (c) and (d), other than a [~~the~~] member appointed under  
3 Subsection (c-1), must represent the general public in the regions  
4 described by those subsections. A person may not be appointed to  
5 represent the general public under Subsection (c) or (d) if the  
6 person or the person's spouse:

7 (1) is employed by or participates in the management  
8 of a business entity or other organization:

9 (A) operating in the property and casualty  
10 insurance industry in this state;

11 (B) receiving money from the association, other  
12 than insurance claim payments; or

13 (C) receiving money from association  
14 policyholders with respect to the policyholders' claims;

15 (2) owns or controls, directly or indirectly, more  
16 than a 10 percent interest in a business entity or other  
17 organization:

18 (A) operating in the property and casualty  
19 insurance industry in this state;

20 (B) receiving money from the association, other  
21 than insurance claim payments; or

22 (C) receiving money from association  
23 policyholders with respect to the policyholders' claims; or

24 (3) uses or receives a substantial amount of tangible  
25 goods, services, or money from the association, other than:

26 (A) insurance claim payments; or

27 (B) compensation or reimbursement authorized by

1 law for the board members' membership, attendance, or expenses.

2 SECTION 1.04. Section 2210.103(a), Insurance Code, is  
3 amended to read as follows:

4 (a) Members of the board of directors serve three-year  
5 staggered terms, with the terms of three or four members expiring on  
6 the third Tuesday of March of each year.

7 SECTION 1.05. Section 2210.105(d), Insurance Code, is  
8 amended to read as follows:

9 (d) Except for an emergency meeting, a meeting of the board  
10 of directors shall be held at a location in a first tier coastal  
11 county or a second tier coastal county as determined by the board of  
12 directors.

13 SECTION 1.06. Subchapter E, Chapter 2210, Insurance Code,  
14 is amended by adding Section 2210.211 to read as follows:

15 Sec. 2210.211. LIMITATIONS ON CERTAIN ADJUSTMENTS. (a) The  
16 association may not automatically adjust the amount of coverage to  
17 be purchased by a policyholder.

18 (b) The association may not adjust premiums, fees, or any  
19 other costs to policyholders for inflation without a vote by the  
20 board of directors.

21 SECTION 1.07. Section 2210.352(a), Insurance Code, is  
22 amended to read as follows:

23 (a) Not later than September [~~August~~] 15 of each year, the  
24 association shall file with the department a proposed manual rate  
25 for all types and classes of risks written by the association.

26 SECTION 1.08. Subchapter J, Chapter 2210, Insurance Code,  
27 is amended by adding Section 2210.4531 to read as follows:

1       Sec. 2210.4531. DETERMINATION OF PROBABLE MAXIMUM LOSS.

2       (a) The association shall file with the department a proposed  
3 probable maximum loss, subject to Section 2210.453.

4       (b) In determining the probable maximum loss, the  
5 association:

6           (1) may not consider the cost of providing loss  
7 adjustments;

8           (2) shall, to the extent possible, contract with any  
9 disinterested third parties necessary to execute any catastrophe  
10 models that were executed in the preceding storm season;

11           (3) shall, if the association is unable to contract  
12 for the execution of a catastrophe model described by Subdivision  
13 (2), contract with any disinterested third party necessary to  
14 execute a catastrophe model that is substantially similar to the  
15 model for which the association is unable to contract under  
16 Subdivision (2);

17           (4) may contract with any disinterested third parties  
18 to execute catastrophe models in addition to the models required  
19 under Subdivisions (2) and (3);

20           (5) shall provide to a disinterested third party  
21 executing a catastrophe model any information necessary to comply  
22 with this subsection;

23           (6) may not use a combination of catastrophe models to  
24 determine the probable maximum loss; and

25           (7) may use only the catastrophe model that produces  
26 the lowest probable maximum loss.

27       (c) The association shall make any information produced in

1 compliance with Subsection (b) publicly available on the  
2 association's Internet website.

3 (d) The association may only use a probable maximum loss  
4 that is approved by the commissioner. The commissioner may reject a  
5 probable maximum loss filed with the department by the association  
6 and set a probable maximum loss at any amount determined by the  
7 commissioner.

8 (e) The amount of loss adjustment expense, as adopted by the  
9 board of directors for a catastrophe year and used for the  
10 association's rate indication for purposes of filing a rate under  
11 this chapter, must be considered above the probable maximum loss.

12 SECTION 1.09. Section 542A.002(b), Insurance Code, is  
13 amended to read as follows:

14 (b) This chapter does not apply to an action against the  
15 Texas Windstorm Insurance Association [~~or to an action relating to~~  
16 ~~or arising from a policy ceded to an insurer by the Texas Windstorm~~  
17 ~~Insurance Association under Subchapter O, Chapter 2210. This~~  
18 ~~chapter applies to an action that relates to or arises from a policy~~  
19 ~~renewed under Section 2210.703].~~

20 SECTION 1.10. The following provisions of the Insurance  
21 Code are repealed:

22 (1) Section 2210.102(f); and

23 (2) Subchapter O, Chapter 2210.

24 SECTION 1.11. (a) The commissioner of insurance shall  
25 appoint two additional members to the board of directors of the  
26 Texas Windstorm Insurance Association as necessary under Sections  
27 2210.102(c) and (c-1), Insurance Code, as amended by this article,

1 not later than December 1, 2023.

2 (b) Notwithstanding Section 2210.103, Insurance Code, as  
3 amended by this article, the initial term of one of the board  
4 members appointed under Subsection (a) of this section expires on  
5 the third Tuesday of March 2026, and the initial term of one of the  
6 board members appointed under Subsection (a) of this section  
7 expires on the third Tuesday of March 2027.

8 (c) Notwithstanding Section 2210.102(d-1), Insurance Code,  
9 as added by this article, a member of the board of directors serving  
10 under Section 2210.102(d), Insurance Code, is not required to be  
11 the public insurance counsel or the public insurance counsel's  
12 designee until the first vacancy under Section 2210.102(d) that  
13 occurs on or after the effective date of this article.

14 SECTION 1.12. This article takes effect immediately if this  
15 Act receives a vote of two-thirds of all the members elected to each  
16 house, as provided by Section 39, Article III, Texas Constitution.  
17 If this Act does not receive the vote necessary for immediate  
18 effect, this article takes effect September 1, 2023.

19 ARTICLE 2. FUNDING OF INSURED LOSSES AND OPERATING EXPENSES OF  
20 TEXAS WINDSTORM INSURANCE ASSOCIATION

21 SECTION 2.01. (a) In this section, "association" means the  
22 Texas Windstorm Insurance Association.

23 (b) The legislature finds that the use of public securities  
24 would not be an efficient or viable long-term method to fund losses  
25 of the association in order for the association to continue to  
26 provide windstorm and hail insurance after a catastrophic event.  
27 Subchapter B-2, Chapter 2210, Insurance Code, as added by this Act,

1 is intended to replace Subchapter B-1, Chapter 2210, Insurance  
2 Code, to provide for funding of excess losses and operating  
3 expenses of the association incurred after December 31, 2023.

4 (c) The legislature finds that:

5 (1) previous experience has shown that the expense to  
6 the association of issuing public securities, and the interest  
7 rates for those securities, would be significant and can impose  
8 significant long-term expense obligations on coastal property and  
9 casualty risks that may be avoided if the legislature provides for  
10 financing or investment from available state money to the  
11 association before or after a catastrophic event;

12 (2) the financing or investment described by  
13 Subdivision (1) of this subsection would be a more efficient way to  
14 provide funding necessary for the association to pay losses after a  
15 catastrophic event; and

16 (3) a loan or other investment from available state  
17 money to the association of not more than \$500 million before a  
18 catastrophic event and not more than \$1 billion after a  
19 catastrophic event would:

20 (A) replace the funding levels currently  
21 provided by issuing public securities;

22 (B) be consistent with sound insurance solvency  
23 standards;

24 (C) provide a more viable method for the  
25 association to have money for losses after a catastrophic event  
26 than the issuance of public securities; and

27 (D) provide a secured investment for the state

1 that would:

2 (i) yield interest income for the state on  
3 state money; and

4 (ii) be adequately secured for repayment  
5 through statewide catastrophe surcharges on certain insurance  
6 policies in this state.

7 (d) The legislature finds that authorizing catastrophe  
8 surcharges is a viable method to assure repayment of loans or  
9 investments of state money after a hurricane and to ensure that the  
10 association can continue to provide windstorm and hail insurance in  
11 the coastal areas of this state after a catastrophic event to  
12 maintain the association's viability for the benefit of the public  
13 and in furtherance of a public purpose.

14 SECTION 2.02. The heading to Subchapter B-1, Chapter 2210,  
15 Insurance Code, is amended to read as follows:

16 SUBCHAPTER B-1. PAYMENT OF LOSSES INCURRED BEFORE JANUARY 1, 2024

17 SECTION 2.03. Subchapter B-1, Chapter 2210, Insurance Code,  
18 is amended by adding Section 2210.070 to read as follows:

19 Sec. 2210.070. APPLICABILITY OF SUBCHAPTER. (a) This  
20 subchapter applies only to the payment of losses and operating  
21 expenses of the association for a catastrophe year that occurs  
22 before January 1, 2024, and results in excess losses and operating  
23 expenses incurred by the association before January 1, 2024.

24 (b) Payment of excess losses and operating expenses of the  
25 association incurred after December 31, 2023, shall be paid as  
26 provided by Subchapter B-2.

27 SECTION 2.04. Section 2210.071(a), Insurance Code, is

1 amended to read as follows:

2 (a) If, in a catastrophe year before January 1, 2024, an  
3 occurrence or series of occurrences in a catastrophe area results  
4 in insured losses and operating expenses of the association in  
5 excess of premium and other revenue of the association, the excess  
6 losses and operating expenses shall be paid as provided by this  
7 subchapter.

8 SECTION 2.05. Section [2210.0715\(b\)](#), Insurance Code, is  
9 amended to read as follows:

10 (b) Proceeds of public securities issued, a financing  
11 arrangement entered into, or assessments made before January 1,  
12 2024, or as a result of any occurrence or series of occurrences in a  
13 catastrophe year that occurs before January 1, 2024, and results in  
14 insured losses before that date may not be included in reserves  
15 available for a subsequent catastrophe year for purposes of this  
16 section or Section 2210.082 unless approved by the commissioner.

17 SECTION 2.06. The heading to Section [2210.075](#), Insurance  
18 Code, is amended to read as follows:

19 Sec. 2210.075. REINSURANCE BY MEMBERS.

20 SECTION 2.07. Subchapter [B-1](#), Chapter [2210](#), Insurance Code,  
21 is amended by adding Section 2210.076 to read as follows:

22 Sec. 2210.076. PAYMENT FROM STATE-FUNDED FINANCING  
23 ARRANGEMENTS. (a) Notwithstanding the provisions of this  
24 subchapter to the contrary, the association may pay losses the  
25 association would otherwise pay as provided by Section [2210.072](#),  
26 [2210.073](#), or [2210.0741](#) by borrowing from, or entering into other  
27 financing arrangements with, this state as provided by Subchapter

1 M-1 and Section 404.0242, Government Code.

2 (b) Subchapter M-2 applies to the financing of losses under  
3 this section to the extent necessary to secure and repay a debt  
4 obligation to the state under a financing arrangement entered into  
5 with this state under this section.

6 (c) A financing arrangement described by Subsection (a) may  
7 also be used for a purpose described by Section 2210.072(d) in the  
8 same manner as a financing arrangement with a market source.

9 SECTION 2.08. Chapter 2210, Insurance Code, is amended by  
10 adding Subchapter B-2 to read as follows:

11 SUBCHAPTER B-2. PAYMENT OF EXCESS LOSSES AND OPERATING EXPENSES

12 Sec. 2210.080. APPLICABILITY OF SUBCHAPTER. (a) This  
13 subchapter applies only to the payment of losses and operating  
14 expenses of the association for a catastrophe year that occurs  
15 after December 31, 2023, and results in excess losses and operating  
16 expenses incurred by the association after December 31, 2023.

17 (b) This section expires September 1, 2025.

18 Sec. 2210.081. PAYMENT OF EXCESS LOSSES. (a) If, in a  
19 catastrophe year, an occurrence or series of occurrences in a  
20 catastrophe area results in insured losses and operating expenses  
21 of the association in excess of premium and other revenue of the  
22 association, the excess losses and operating expenses shall be paid  
23 as provided by this subchapter.

24 (b) The association may not pay insured losses and operating  
25 expenses resulting from an occurrence or series of occurrences in a  
26 catastrophe year with premium and other revenue earned in a  
27 subsequent year.

1       Sec. 2210.082. PAYMENT FROM RESERVES AND TRUST FUND;  
2 STATE-FUNDED FINANCING ARRANGEMENTS. (a) The association shall  
3 pay insured losses and operating expenses resulting from an  
4 occurrence or series of occurrences in a catastrophe year in excess  
5 of premium and other revenue of the association for that  
6 catastrophe year from reserves of the association available before  
7 or accrued during that catastrophe year and amounts in the  
8 catastrophe reserve trust fund available before or accrued during  
9 that catastrophe year.

10       (b) For insured losses and operating expenses for a  
11 catastrophe year not paid under Subsection (a), the association  
12 shall arrange for financing of not more than \$1 billion through one  
13 or more financing arrangements entered into with the state as  
14 provided by Subchapter M-1 and Section 404.0242, Government Code.

15       Sec. 2210.083. PAYMENT FROM MEMBER ASSESSMENTS. (a)  
16 Insured losses and operating expenses for a catastrophe year not  
17 paid under Section 2210.082 shall be paid as provided by this  
18 section from member assessments not to exceed \$1 billion for that  
19 catastrophe year.

20       (b) The board of directors shall notify each association  
21 member of the amount of the member's assessment under this section.  
22 The proportion of the insured losses and operating expenses  
23 allocable to each insurer under this section shall be determined in  
24 the manner used to determine each insurer's participation in the  
25 association for the year under Section [2210.052](#).

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

1       Sec. 2210.084. REINSURANCE BY MEMBERS FOR MEMBER  
2 ASSESSMENTS. (a) Before any occurrence or series of occurrences,  
3 an association member may purchase reinsurance to cover an  
4 assessment for which the member would otherwise be liable under  
5 this subchapter.

6       (b) An association member must notify the board of  
7 directors, in the manner prescribed by the association, whether the  
8 member will be purchasing reinsurance. If the member does not  
9 purchase reinsurance under this section, the member remains liable  
10 for any assessment imposed under this subchapter.

11       SECTION 2.09. Section 2210.452(b), Insurance Code, is  
12 amended to read as follows:

13       (b) All money, including investment income, deposited in  
14 the trust fund constitutes state funds until disbursed as provided  
15 by this chapter and commissioner rules. The comptroller shall hold  
16 the money outside the state treasury on behalf of, and with legal  
17 title in, the department on behalf of the association. The  
18 department shall keep and maintain the trust fund in accordance  
19 with this chapter and commissioner rules. The comptroller, as  
20 custodian of the trust fund, shall administer the trust fund  
21 strictly and solely as provided by this chapter and commissioner  
22 rules. The association may include the amounts held in the  
23 catastrophe reserve trust fund as an admitted asset in the  
24 financial statements of the association.

25       SECTION 2.10. Section 2210.4521(a), Insurance Code, is  
26 amended to read as follows:

27       (a) The comptroller shall invest in accordance with the

1 investment standard described by Section 404.024(j), Government  
2 Code, the portion of the trust fund balance that exceeds the amount  
3 of the sufficient balance determined under Subsection (b). The  
4 comptroller's investment of that portion of the balance is not  
5 subject to any other limitation or other requirement provided by  
6 Section 404.024, Government Code. The Texas Treasury Safekeeping  
7 Trust Company and board of directors may recommend investments to  
8 protect the trust fund and create investment income.

9 SECTION 2.11. Sections 2210.453(d) and (e), Insurance Code,  
10 are amended to read as follows:

11 (d) The association may obtain reinsurance at any level  
12 including excess of loss, quota share, and other forms of  
13 reinsurance to protect the solvency and viability of the  
14 association. The commissioner may consult with the board of  
15 directors regarding methods to protect the solvency and continued  
16 viability of the association, including by protecting the minimum  
17 balance, acquiring reinsurance, or by other means [~~The cost of the~~  
18 ~~reinsurance purchased or alternative financing mechanisms used~~  
19 ~~under this section in excess of the minimum funding level required~~  
20 ~~by Subsection (b) shall be paid by assessments as provided by this~~  
21 ~~subsection. The association, with the approval of the~~  
22 ~~commissioner, shall notify each member of the association of the~~  
23 ~~amount of the member's assessment under this subsection. The~~  
24 ~~proportion of the cost to each insurer under this subsection shall~~  
25 ~~be determined in the manner used to determine each insurer's~~  
26 ~~participation in the association for the year under Section~~  
27 ~~2210.052].~~

1           (e) The commissioner may adopt a method or approve the  
2 association's method of determining the probability of one in 100  
3 for association risks. The commissioner shall provide any adopted  
4 or approved method to the association on or before February 1 of  
5 each year [~~A member of the association may not recoup an assessment~~  
6 ~~paid under Subsection (d) through a premium surcharge or tax~~  
7 ~~credit~~].

8           SECTION 2.12. Section [2210.601](#), Insurance Code, is amended  
9 to read as follows:

10          Sec. 2210.601. FINDINGS [~~PURPOSE~~]. The legislature finds  
11 that for losses incurred before January 1, 2024, authorizing the  
12 association to enter into financing arrangements with this state as  
13 provided by Section 2210.076 [~~issuance of public securities~~] to  
14 provide a method to raise funds to provide windstorm and hail  
15 insurance through the association in certain designated portions of  
16 the state is for the benefit of the public and in furtherance of a  
17 public purpose.

18          SECTION 2.13. Subchapter [M](#), Chapter [2210](#), Insurance Code,  
19 is amended by adding Section 2210.6015 to read as follows:

20          Sec. 2210.6015. APPLICABILITY OF SUBCHAPTER. To provide  
21 for a reasonable transition, the association may issue public  
22 securities under this subchapter or enter into financing  
23 arrangements with this state as provided by Section 2210.076 if the  
24 association needs to provide funds for excess losses and operating  
25 expenses incurred by the association before January 1, 2024, for a  
26 catastrophe year occurring before January 1, 2024. After December  
27 31, 2023, the association may not issue public securities under

1 this subchapter except to fund excess losses and operating expenses  
2 incurred before January 1, 2024.

3 SECTION 2.14. Chapter 2210, Insurance Code, is amended by  
4 adding Subchapters M-1 and M-2 to read as follows:

5 SUBCHAPTER M-1. STATE-FUNDED CATASTROPHE FINANCING ARRANGEMENTS

6 Sec. 2210.631. STATE-FUNDED CATASTROPHE FINANCING  
7 ARRANGEMENTS. The legislature has determined that providing  
8 catastrophe funding to the association by permitting the  
9 association to enter into a financing arrangement with this state  
10 is an acceptable use of state money and provides an efficient method  
11 for the association to pay losses following a catastrophic event.

12 Sec. 2210.632. PROCEEDS OF CATASTROPHE FINANCING  
13 ARRANGEMENT. The proceeds of a catastrophe financing arrangement  
14 with this state entered into under this subchapter before a  
15 catastrophic event shall be deposited in the catastrophe reserve  
16 trust fund.

17 Sec. 2210.633. CATASTROPHE FINANCING ARRANGEMENT  
18 AUTHORIZED; LIMITS. (a) The association may enter into a financing  
19 arrangement with this state as provided by Section 404.0242,  
20 Government Code:

21 (1) before a catastrophic event, for not more than  
22 \$500 million; and

23 (2) after a catastrophic event that depletes the  
24 catastrophe reserve fund, for not more than \$1 billion.

25 (b) The amount available under Subsection (a)(2) is reduced  
26 by the amount of any outstanding pre-event or post-event financing  
27 obtained by the association under this section.

1                   SUBCHAPTER M-2. CATASTROPHE SURCHARGE

2           Sec. 2210.641. DEFINITION.           In this subchapter,  
3 "catastrophic event" means an occurrence or a series of occurrences  
4 that:

5                   (1) occurs in a catastrophe area during a calendar  
6 year; and

7                   (2) results in insured losses and operating expenses  
8 of the association in excess of premium and other revenue of the  
9 association.

10           Sec. 2210.642. APPLICABILITY OF SUBCHAPTER.           (a)  
11 Notwithstanding Section 2210.006, this subchapter applies to an  
12 insurer that is:

13                   (1) an insurer authorized to engage in the business of  
14 insurance in this state that is required to be a member of the  
15 association, including a farm mutual insurance company that is a  
16 fronting insurer as defined by Section 221.001(c);

17                   (2) a farm mutual insurance company that is not a  
18 fronting insurer as defined by Section 221.001(c) only for purposes  
19 of the collection of surcharges authorized by this subchapter;

20                   (3) an unaffiliated eligible surplus lines insurer  
21 writing the lines of business subject to a premium surcharge under  
22 this subchapter;

23                   (4) the association; and

24                   (5) the FAIR Plan Association.

25           (b) A premium surcharge under this subchapter applies to:

26                   (1) a policy written under the following lines of  
27 insurance:

1           (A) fire and allied lines;

2           (B) farm and ranch owners; and

3           (C) residential property insurance; and

4           (2) the property insurance portion of a commercial  
5 multiple peril insurance policy.

6           Sec. 2210.6425. CONSTRUCTION OF SUBCHAPTER. (a) This  
7 subchapter may not be construed to require an insurer to be an  
8 association member if the insurer is not otherwise required to be a  
9 member under Section 2210.052.

10           (b) A farm mutual insurance company that is not a fronting  
11 insurer as defined by Section 221.001(c) is not a member of the  
12 association as a result of the company's collection of surcharges  
13 authorized by this subchapter or for any other reason.

14           Sec. 2210.643. ANNUAL FINANCIAL REPORT BY COMMISSIONER.  
15 The commissioner shall determine the amount available in the  
16 catastrophe reserve trust fund as of December 31 of each year and  
17 provide a written report to the governor, lieutenant governor, and  
18 speaker of the house of representatives that includes:

19           (1) the amount available in the catastrophe reserve  
20 trust fund; and

21           (2) information regarding the current financial  
22 condition of the association.

23           Sec. 2210.6435. CATASTROPHE SURCHARGES. (a) The  
24 commissioner, in consultation with the board of directors, may  
25 order a catastrophe surcharge as provided by this subchapter only  
26 if:

27           (1) before a catastrophic event, the association

1 enters into a financing arrangement with this state under  
2 Subchapter M-1 that is the basis for the surcharge; or

3 (2) after a catastrophic event:

4 (A) the commissioner determines that the  
5 association has depleted its reserves, other money, and the  
6 catastrophe reserve trust fund; and

7 (B) the association enters into a financing  
8 arrangement with this state under Subchapter M-1 that is the basis  
9 for the surcharge.

10 (b) The commissioner, in consultation with the board of  
11 directors, shall set the catastrophe surcharge as a percentage of  
12 premium to be collected by each insurer to which this subchapter  
13 applies.

14 (c) The total amount authorized to be collected under this  
15 section for any catastrophe surcharge may not exceed the amount  
16 needed to repay the debt obligation to the state under the financing  
17 arrangement entered into with this state under Subchapter M-1 that  
18 is the basis for the surcharge.

19 (d) The catastrophe surcharge percentage must be set in an  
20 amount sufficient to repay the debt obligation to the state under  
21 the financing arrangement entered into with this state under  
22 Subchapter M-1 that is the basis for the surcharge. The  
23 commissioner may set the surcharge as a percentage of premium to  
24 collect the needed aggregate amount over a period of time not to  
25 exceed three years.

26 (e) A catastrophe surcharge authorized under this section  
27 shall be assessed by insurers on all policyholders of policies that

1 are subject to this subchapter.

2 (f) A catastrophe surcharge under this subchapter is a  
3 separate charge in addition to the premiums collected and is not  
4 subject to premium tax or commissions.

5 (g) Failure by a policyholder to pay a catastrophe surcharge  
6 constitutes failure to pay premium for purposes of policy  
7 cancellation.

8 (h) A catastrophe surcharge is not refundable if the policy  
9 is canceled or terminated.

10 Sec. 2210.644. CATASTROPHE SURCHARGE PROCEEDS. The  
11 proceeds of a catastrophe surcharge authorized under this  
12 subchapter shall be deposited into the catastrophe reserve trust  
13 fund or an account designated by the comptroller for purposes of  
14 repayment of the association's debt obligation to the state under  
15 the financing arrangement that is the basis for the surcharge.

16 Sec. 2210.6445. DISCLOSURE OF SURCHARGE. Each policy that  
17 is assessed a surcharge under this subchapter shall contain the  
18 following prominent disclosure in the documents attached to the  
19 policy:

20 "A CATASTROPHE SURCHARGE HAS BEEN INCLUDED ON YOUR POLICY.  
21 THIS SURCHARGE WILL BE USED TO REPAY STATE MONEY USED BY THE TEXAS  
22 WINDSTORM INSURANCE ASSOCIATION TO PAY FOR LOSSES AFTER A  
23 CATASTROPHIC EVENT, INCLUDING A HURRICANE. THE SURCHARGE IS NOT  
24 REFUNDABLE IF YOU CANCEL OR TERMINATE THIS POLICY."

25 Sec. 2210.645. EXEMPTION FROM TAXATION. A surcharge  
26 collected under this subchapter is exempt from taxation by this  
27 state or a municipality or other political subdivision of this

1 state.

2 Sec. 2210.6455. LIMITATION OF PERSONAL LIABILITY. The  
3 association members, the insurers required to collect a surcharge  
4 under this subchapter, members of the board of directors,  
5 association employees, the commissioner, and department employees  
6 are not personally liable as a result of exercising the rights and  
7 responsibilities granted under this subchapter.

8 Sec. 2210.646. EXEMPTION FROM SURCHARGE. An insurer may  
9 not collect a surcharge authorized under this subchapter on any  
10 policy issued to this state, an agency of this state, or a political  
11 subdivision of this state.

12 SECTION 2.15. Subchapter C, Chapter 404, Government Code,  
13 is amended by adding Section 404.0242 to read as follows:

14 Sec. 404.0242. INVESTMENT IN WINDSTORM CATASTROPHE  
15 FINANCING ARRANGEMENTS. (a) The comptroller shall invest state  
16 money to provide financing for losses of the Texas Windstorm  
17 Insurance Association in accordance with this section and Chapter  
18 2210, Insurance Code.

19 (b) For purposes of this section, the comptroller may enter  
20 into an appropriate financing arrangement with the Texas Windstorm  
21 Insurance Association to provide the association up to \$500 million  
22 in funding before a catastrophic event and up to \$1 billion in  
23 funding after a catastrophic event to fund the losses of the  
24 association arising from the catastrophic event. Financing  
25 provided under this section must be secured and repaid by  
26 catastrophe surcharges under Subchapter M-2, Chapter 2210,  
27 Insurance Code.

1        (c) If the terms of a financing arrangement entered into  
2 under this section include interest, the interest rate may not  
3 exceed the sum of:

4            (1) the lesser of:

5                    (A) the rate set by the Federal Housing Finance  
6 Agency; or

7                    (B) the federal funds rate as specified by  
8 Section 4A.506(b), Business & Commerce Code; and

9            (2) 2 percent.

10        (d) A debt obligation entered into under this section may  
11 not exceed 36 months to maturity.

12        (e) Notwithstanding any other law, directly or indirectly  
13 through a separately managed account or other investment vehicle,  
14 the comptroller may use up to \$1 billion of the economic  
15 stabilization fund balance to provide financing under this section.

16        (f) The aggregate amount of outstanding pre-event and  
17 post-event financing provided under this section may not exceed \$1  
18 billion.

19        SECTION 2.16. Effective September 1, 2025, the following  
20 provisions of the Insurance Code are repealed:

21            (1) Subchapter B-1, Chapter 2210; and

22            (2) Subchapter M, Chapter 2210.

23        SECTION 2.17. As soon as practicable after the effective  
24 date of this Act and not later than December 1, 2023, the  
25 commissioner of insurance shall adopt rules necessary to implement  
26 Subchapters B-2 and M-2, Insurance Code, as added by this Act.

ARTICLE 3. CONFORMING AMENDMENTS FOR ARTICLE 2

SECTION 3.01. Effective September 1, 2025, Section 2210.0081, Insurance Code, is amended to read as follows:

Sec. 2210.0081. CERTAIN ACTIONS BROUGHT AGAINST ASSOCIATION BY COMMISSIONER. In an action brought by the commissioner against the association under Chapter 441, [+

~~(1) the association's inability to satisfy obligations under Subchapter M related to the issuance of public securities under this chapter constitutes a condition that makes the association's continuation in business hazardous to the public or to the association's policyholders for the purposes of Section 441.052,~~

~~(2)]~~ the time for the association to comply with the requirements of supervision or for the conservator to complete the conservator's duties, as applicable, is limited to three years from the date the commissioner commences the action against the association[, and

~~(3) unless the commissioner takes further action against the association under Chapter 441, as a condition of release from supervision, the association must demonstrate to the satisfaction of the commissioner that the association is able to satisfy obligations under Subchapter M related to the issuance of public securities under this chapter].~~

SECTION 3.02. (a) Section 2210.056(b), Insurance Code, is amended to read as follows:

(b) The association's assets may not be used for or diverted to any purpose other than to:

1           (1) satisfy, in whole or in part, the liability of the  
2 association on claims made on policies written by the association;

3           (2) make investments authorized under applicable law;

4           (3) pay reasonable and necessary administrative  
5 expenses incurred in connection with the operation of the  
6 association and the processing of claims against the association;

7           (4) satisfy, in whole or in part, the obligations of  
8 the association incurred in connection with Subchapters B-1, B-2,  
9 J, ~~and~~ M, and M-2, including reinsurance, public securities, and  
10 financial instruments; or

11           (5) make remittance under the laws of this state to be  
12 used by this state to:

13                   (A) pay claims made on policies written by the  
14 association;

15                   (B) purchase reinsurance covering losses under  
16 those policies; or

17                   (C) prepare for or mitigate the effects of  
18 catastrophic natural events.

19           (b) Effective September 1, 2025, Sections [2210.056](#)(b) and  
20 (c), Insurance Code, are amended to read as follows:

21           (b) The association's assets may not be used for or diverted  
22 to any purpose other than to:

23                   (1) satisfy, in whole or in part, the liability of the  
24 association on claims made on policies written by the association;

25                   (2) make investments authorized under applicable law;

26                   (3) pay reasonable and necessary administrative  
27 expenses incurred in connection with the operation of the

1 association and the processing of claims against the association;

2 (4) satisfy, in whole or in part, the obligations of  
3 the association incurred in connection with Subchapters B-2 [~~B-1~~],  
4 J, and M-2 [~~M~~], including reinsurance[~~, public securities,~~] and  
5 financial instruments; or

6 (5) make remittance under the laws of this state to be  
7 used by this state to:

8 (A) pay claims made on policies written by the  
9 association;

10 (B) purchase reinsurance covering losses under  
11 those policies; or

12 (C) prepare for or mitigate the effects of  
13 catastrophic natural events.

14 (c) On dissolution of the association, all assets of the  
15 association[~~, other than assets pledged for the repayment of public  
16 securities issued under this chapter,~~] revert to this state.

17 SECTION 3.03. (a) Section [2210.1052](#), Insurance Code, is  
18 amended to read as follows:

19 Sec. 2210.1052. EMERGENCY MEETING. If the ultimate loss  
20 estimate for an occurrence or series of occurrences made by the  
21 chief financial officer or chief actuary of the association  
22 indicates member insurers may be subject to an assessment under  
23 Subchapter B-1 or B-2, the board of directors shall call an  
24 emergency meeting to notify the member insurers about the  
25 assessment.

26 (b) Effective September 1, 2025, Section [2210.1052](#),  
27 Insurance Code, is amended to read as follows:

1           Sec. 2210.1052. EMERGENCY MEETING. If the ultimate loss  
2 estimate for an occurrence or series of occurrences made by the  
3 chief financial officer or chief actuary of the association  
4 indicates member insurers may be subject to an assessment under  
5 Subchapter B-2 [~~B-1~~], the board of directors shall call an  
6 emergency meeting to notify the member insurers about the  
7 assessment.

8           SECTION 3.04. Effective September 1, 2025, Section  
9 [2210.355](#)(b), Insurance Code, is amended to read as follows:

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

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

15                   (2) expenses of operation, including acquisition  
16 costs;

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

19                   (4) [~~payment of public security obligations issued~~  
20 ~~under this chapter, including the additional amount of any debt~~  
21 ~~service coverage determined by the association to be required for~~  
22 ~~the issuance of marketable public securities, and~~

23                   [~~5~~] all other relevant factors, within and outside  
24 this state.

25           SECTION 3.05. (a) Section [2210.363](#)(a), Insurance Code, is  
26 amended to read as follows:

27           (a) The association may offer a person insured under this

1 chapter an actuarially justified premium discount on a policy  
2 issued by the association, or an actuarially justified credit  
3 against a surcharge assessed against the person, other than a  
4 surcharge assessed under Subchapter M or M-2, if:

5 (1) the construction, alteration, remodeling,  
6 enlargement, or repair of, or an addition to, insurable property  
7 exceeds applicable building code standards set forth in the plan of  
8 operation; or

9 (2) the person elects to purchase a binding  
10 arbitration endorsement under Section [2210.554](#).

11 (b) Effective September 1, 2025, Section [2210.363\(a\)](#),  
12 Insurance Code, is amended to read as follows:

13 (a) The association may offer a person insured under this  
14 chapter an actuarially justified premium discount on a policy  
15 issued by the association, or an actuarially justified credit  
16 against a surcharge assessed against the person, other than a  
17 surcharge assessed under Subchapter M-2 [~~M~~], if:

18 (1) the construction, alteration, remodeling,  
19 enlargement, or repair of, or an addition to, insurable property  
20 exceeds applicable building code standards set forth in the plan of  
21 operation; or

22 (2) the person elects to purchase a binding  
23 arbitration endorsement under Section [2210.554](#).

24 SECTION 3.06. (a) Sections [2210.452\(a\)](#) and (d), Insurance  
25 Code, are amended to read as follows:

26 (a) The commissioner shall adopt rules under which the  
27 association makes payments to the catastrophe reserve trust fund.

1 Except as otherwise specifically provided by this section, the  
2 trust fund may be used only for purposes directly related to funding  
3 the payment of insured losses, including:

4 (1) funding the obligations of the trust fund under  
5 Subchapters [~~Subchapter~~] B-1 and B-2; and

6 (2) purchasing reinsurance or using alternative risk  
7 financing mechanisms under Section [2210.453](#).

8 (d) The commissioner by rule shall establish the procedure  
9 relating to the disbursement of money from the trust fund to  
10 policyholders and for association administrative expenses directly  
11 related to funding the payment of insured losses in the event of an  
12 occurrence or series of occurrences within a catastrophe area that  
13 results in a disbursement under Subchapter B-1 or B-2.

14 (b) Effective September 1, 2025, Sections [2210.452](#)(a), (c),  
15 and (d), Insurance Code, are amended to read as follows:

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

21 (1) funding the obligations of the trust fund under  
22 Subchapter B-2 [~~B-1~~]; and

23 (2) purchasing reinsurance or using alternative risk  
24 financing mechanisms under Section [2210.453](#).

25 (c) At the end of each calendar year or policy year, the  
26 association shall use the net gain from operations of the  
27 association, including all premium and other revenue of the

1 association in excess of incurred losses and~~[7]~~ operating expenses,  
2 [~~public security obligations, and public security administrative~~  
3 ~~expenses,~~] to make payments to the trust fund, procure reinsurance,  
4 or use alternative risk financing mechanisms, or to make payments  
5 to the trust fund and procure reinsurance or use alternative risk  
6 financing mechanisms.

7 (d) The commissioner by rule shall establish the procedure  
8 relating to the disbursement of money from the trust fund to  
9 policyholders and for association administrative expenses directly  
10 related to funding the payment of insured losses in the event of an  
11 occurrence or series of occurrences within a catastrophe area that  
12 results in a disbursement under Subchapter B-2 [~~B-1~~].

13 SECTION 3.07. (a) Sections 2210.453(b) and (c), Insurance  
14 Code, are amended to read as follows:

15 (b) The association shall maintain total available loss  
16 funding in an amount not less than the probable maximum loss for the  
17 association for a catastrophe year with a probability of one in 100.  
18 If necessary, the required funding level shall be achieved through  
19 the purchase of reinsurance or the use of alternative financing  
20 mechanisms, or both, to operate in addition to or in concert with  
21 the trust fund, public securities, financial instruments,  
22 financing arrangements, and assessments authorized by this  
23 chapter.

24 (c) The attachment point for reinsurance purchased under  
25 this section may not be less than the aggregate amount of all  
26 funding available to the association under Subchapters  
27 [~~Subchapter~~] B-1 and B-2.

1 (b) Effective September 1, 2025, Sections 2210.453(b) and  
2 (c), Insurance Code, are amended to read as follows:

3 (b) The association shall maintain total available loss  
4 funding in an amount not less than the probable maximum loss for the  
5 association for a catastrophe year with a probability of one in 100.  
6 If necessary, the required funding level shall be achieved through  
7 the purchase of reinsurance or the use of alternative financing  
8 mechanisms, or both, to operate in addition to or in concert with  
9 the trust fund, [~~public securities,~~] financial instruments,  
10 financing arrangements, and assessments authorized by this  
11 chapter.

12 (c) The attachment point for reinsurance purchased under  
13 this section may not be less than the aggregate amount of all  
14 funding available to the association under Subchapter B-2 [~~B-1~~].

15 ARTICLE 4. TRANSITION AND SAVING PROVISIONS FOR ARTICLES 2 AND 3

16 SECTION 4.01. Notwithstanding the repeal by this Act of  
17 Subchapters B-1 and M, Chapter 2210, Insurance Code, and other  
18 changes in law made by this Act effective September 1, 2025:

19 (1) the payment of excess losses and operating  
20 expenses of the Texas Windstorm Insurance Association incurred  
21 before January 1, 2024, is governed by the law as it existed on the  
22 effective date of this Act, and that law is continued in effect for  
23 that purpose;

24 (2) the issuance of public securities to pay excess  
25 losses and operating expenses of the Texas Windstorm Insurance  
26 Association incurred before January 1, 2024, the use of the  
27 proceeds of those securities, the repayment or refinancing of those

1 securities, and any other rights, obligations, or limitations with  
2 respect to those securities and proceeds of those securities are  
3 governed by the law as it existed on the effective date of this Act,  
4 and that law is continued in effect for that purpose; and

5 (3) proceeds of any assessments made under Subchapter  
6 B-1, Chapter 2210, Insurance Code, may not be included in reserves  
7 available for a catastrophe year for purposes of Section 2210.082,  
8 Insurance Code, as added by this Act, unless approved by the  
9 commissioner of insurance.

10 ARTICLE 5. EFFECTIVE DATE

11 SECTION 5.01. Except as otherwise provided by this Act,  
12 this Act takes effect September 1, 2023.