

1-1 By: Middleton, et al. S.B. No. 1217
 1-2 (In the Senate - Filed February 27, 2023; March 9, 2023,
 1-3 read first time and referred to Committee on Business & Commerce;
 1-4 May 1, 2023, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 10, Nays 1; May 1, 2023,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
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		X		
1-19	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 1217 By: Middleton

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to the Texas Windstorm Insurance Association.
 1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-25 SECTION 1. Section 2210.014, Insurance Code, is amended by
 1-26 adding Subsection (d) to read as follows:
 1-27 (d) The association is not subject to any insurance premium
 1-28 tax or insurance maintenance fee or tax.
 1-29 SECTION 2. Subchapter A, Chapter 2210, Insurance Code, is
 1-30 amended by adding Section 2210.016 to read as follows:
 1-31 Sec. 2210.016. LEGISLATIVE LOBBYING. (a) The association
 1-32 may not use any money under its control to attempt to influence the
 1-33 passage or defeat of a legislative measure.
 1-34 (b) An association employee or member of the board of
 1-35 directors who violates Subsection (a) is subject to:
 1-36 (1) immediate termination; and
 1-37 (2) a fine of \$10,000 to be deposited in the
 1-38 catastrophe reserve trust fund.
 1-39 (c) This section does not prohibit an association employee
 1-40 or member of the board of directors from using money under the
 1-41 association's control to provide public information or to provide
 1-42 information responsive to a request for public information.
 1-43 SECTION 3. Subchapter B, Chapter 2210, Insurance Code, is
 1-44 amended by adding Section 2210.063 to read as follows:
 1-45 Sec. 2210.063. LOCATION OF ASSOCIATION HEADQUARTERS. The
 1-46 headquarters of the association must be located in a first tier
 1-47 coastal county or a second tier coastal county.
 1-48 SECTION 4. Section 2210.102, Insurance Code, is amended by
 1-49 amending Subsections (a), (c), (c-1), (d), and (g) and adding
 1-50 Subsection (d-1) to read as follows:
 1-51 (a) The board of directors is composed of eleven [~~nine~~]
 1-52 members appointed by the commissioner in accordance with this
 1-53 section.
 1-54 (c) Five [~~Three~~] members must, as of the date of the
 1-55 appointment, reside in the first tier coastal counties. Each of
 1-56 the following regions must, to the extent possible, be represented
 1-57 by a member residing in the region and appointed under this
 1-58 subsection:
 1-59 (1) the region consisting of Cameron, Kenedy, Kleberg,
 1-60 and Willacy Counties;

2-1 (2) the region consisting of Aransas, Calhoun, Nueces,
2-2 Refugio, and San Patricio Counties; and

2-3 (3) the region consisting of Brazoria, Chambers,
2-4 Galveston, Jefferson, and Matagorda Counties and any part of Harris
2-5 County designated as a catastrophe area under Section 2210.005.

2-6 (c-1) Two [~~One~~] of the members appointed under Subsection
2-7 (c) must be [~~a~~] property and casualty agents [~~agent~~] who are [~~is~~]
2-8 licensed under this code and are [~~is~~] not [~~a~~] captive agents
2-9 [~~agent~~].

2-10 (d) Three members must reside in an area of this state that
2-11 is located outside the first tier coastal counties [~~more than 100~~
2-12 ~~miles from the Texas coastline~~].

2-13 (d-1) One of the members appointed under Subsection (d) must
2-14 be the public counsel of the office of public insurance counsel or
2-15 the counsel's designee.

2-16 (g) Members appointed to the board of directors under
2-17 Subsections (c) and (d), other than a [~~the~~] member appointed under
2-18 Subsection (c-1), must represent the general public in the regions
2-19 described by those subsections. A person may not be appointed to
2-20 represent the general public under Subsection (c) or (d) if the
2-21 person or the person's spouse:

2-22 (1) is employed by or participates in the management
2-23 of a business entity or other organization:

2-24 (A) operating in the property and casualty
2-25 insurance industry in this state;

2-26 (B) receiving money from the association, other
2-27 than insurance claim payments; or

2-28 (C) receiving money from association
2-29 policyholders with respect to the policyholders' claims;

2-30 (2) owns or controls, directly or indirectly, more
2-31 than a 10 percent interest in a business entity or other
2-32 organization:

2-33 (A) operating in the property and casualty
2-34 insurance industry in this state;

2-35 (B) receiving money from the association, other
2-36 than insurance claim payments; or

2-37 (C) receiving money from association
2-38 policyholders with respect to the policyholders' claims; or

2-39 (3) uses or receives a substantial amount of tangible
2-40 goods, services, or money from the association, other than:

2-41 (A) insurance claim payments; or

2-42 (B) compensation or reimbursement authorized by
2-43 law for the board members' membership, attendance, or expenses.

2-44 SECTION 5. Section 2210.103(a), Insurance Code, is amended
2-45 to read as follows:

2-46 (a) Members of the board of directors serve three-year
2-47 staggered terms, with the terms of three or four members expiring on
2-48 the third Tuesday of March of each year.

2-49 SECTION 6. Section 2210.105(d), Insurance Code, is amended
2-50 to read as follows:

2-51 (d) Except for an emergency meeting, a meeting of the board
2-52 of directors shall be held at a location in a first tier coastal
2-53 county or a second tier coastal county as determined by the board of
2-54 directors.

2-55 SECTION 7. Subchapter E, Chapter 2210, Insurance Code, is
2-56 amended by adding Section 2210.211 to read as follows:

2-57 Sec. 2210.211. LIMITATIONS ON CERTAIN ADJUSTMENTS. (a) The
2-58 association may not automatically adjust the amount of coverage to
2-59 be purchased by a policyholder.

2-60 (b) The association may not require the use of any one
2-61 replacement cost calculator.

2-62 (c) The association may not adjust premiums, fees, or any
2-63 other costs to policyholders for inflation without a vote by the
2-64 board of directors.

2-65 SECTION 8. Section 2210.352(a), Insurance Code, is amended
2-66 to read as follows:

2-67 (a) Not later than September [~~August~~] 15 of each year, the
2-68 association shall file with the department a proposed manual rate
2-69 for all types and classes of risks written by the association.

3-1 SECTION 9. Subchapter J, Chapter 2210, Insurance Code, is
3-2 amended by adding Section 2210.4531 to read as follows:

3-3 Sec. 2210.4531. DETERMINATION OF PROBABLE MAXIMUM LOSS.

3-4 (a) The association shall file with the department a proposed
3-5 probable maximum loss, subject to Section 2210.453.

3-6 (b) In determining the probable maximum loss, the
3-7 association:

3-8 (1) may not consider the cost of providing loss
3-9 adjustments;

3-10 (2) shall, to the extent possible, contract with any
3-11 disinterested third parties necessary to execute any catastrophe
3-12 models that were executed in the preceding storm season;

3-13 (3) shall, if the association is unable to contract
3-14 for the execution of a catastrophe model described by Subdivision
3-15 (2), contract with any disinterested third party necessary to
3-16 execute a catastrophe model that is substantially similar to the
3-17 model for which the association is unable to contract under
3-18 Subdivision (2);

3-19 (4) may contract with any disinterested third parties
3-20 to execute catastrophe models in addition to the models required
3-21 under Subdivisions (2) and (3);

3-22 (5) shall provide to a disinterested third party
3-23 executing a catastrophe model any information necessary to comply
3-24 with this subsection;

3-25 (6) may not use a combination of catastrophe models to
3-26 determine the probable maximum loss; and

3-27 (7) may use only the catastrophe model that produces
3-28 the lowest probable maximum loss.

3-29 (c) The association shall make any information produced in
3-30 compliance with Subsection (b) publicly available on the
3-31 association's Internet website.

3-32 (d) The association may only use a probable maximum loss
3-33 that is approved by the commissioner. The commissioner may reject a
3-34 probable maximum loss filed with the department by the association
3-35 and set a probable maximum loss at any amount determined by the
3-36 commissioner.

3-37 (e) The amount of loss adjustment expense, as adopted by the
3-38 board of directors for a catastrophe year and used for the
3-39 association's rate indication for purposes of filing a rate under
3-40 this chapter, must be considered above the probable maximum loss.

3-41 SECTION 10. Section 2210.102(f), Insurance Code, is
3-42 repealed.

3-43 SECTION 11. Section 2210.063, Insurance Code, as added by
3-44 this Act, applies to the Texas Windstorm Insurance Association
3-45 beginning on January 1, 2025.

3-46 SECTION 12. (a) The commissioner of insurance shall appoint
3-47 two additional members to the board of directors of the Texas
3-48 Windstorm Insurance Association as necessary under Sections
3-49 2210.102(c) and (c-1), Insurance Code, as amended by this Act, not
3-50 later than December 1, 2023.

3-51 (b) Notwithstanding Section 2210.103, Insurance Code, as
3-52 amended by this Act, the initial term of one of the board members
3-53 appointed under Subsection (a) of this section expires on the third
3-54 Tuesday of March 2026, and the initial term of one of the board
3-55 members appointed under Subsection (a) of this section expires on
3-56 the third Tuesday of March 2027.

3-57 (c) Notwithstanding Section 2210.102(d-1), Insurance Code,
3-58 as added by this Act, a member of the board of directors serving
3-59 under Section 2210.102(d), Insurance Code, is not required to be
3-60 the public insurance counsel or the public insurance counsel's
3-61 designee until the first vacancy under Section 2210.102(d) that
3-62 occurs on or after the effective date of this Act.

3-63 SECTION 13. This Act takes effect immediately if it
3-64 receives a vote of two-thirds of all the members elected to each
3-65 house, as provided by Section 39, Article III, Texas Constitution.
3-66 If this Act does not receive the vote necessary for immediate
3-67 effect, this Act takes effect September 1, 2023.

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