

SENATE AMENDMENTS

2nd Printing

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H.B. No. 1588

A BILL TO BE ENTITLED

AN ACT

1
2 relating to funding of excess losses and operating expenses of the
3 Texas Windstorm Insurance Association; authorizing an assessment;
4 authorizing a surcharge.

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

6 ARTICLE 1. FUNDING OF INSURED LOSSES AND OPERATING EXPENSES OF
7 TEXAS WINDSTORM INSURANCE ASSOCIATION

8 SECTION 1.01. (a) In this section, "association" means the
9 Texas Windstorm Insurance Association.

10 (b) The legislature finds that the use of public securities
11 would not be an efficient or viable long-term method to fund losses
12 of the association in order for the association to continue to
13 provide windstorm and hail insurance after a catastrophic event.
14 Subchapter B-2, Chapter 2210, Insurance Code, as added by this Act,
15 is intended to replace Subchapter B-1, Chapter 2210, Insurance
16 Code, to provide for funding of excess losses and operating
17 expenses of the association incurred after December 31, 2023.

18 (c) The legislature finds that:

19 (1) previous experience has shown that the expense to
20 the association of issuing public securities, and the interest
21 rates for those securities, would be significant and can impose
22 significant long-term expense obligations on coastal property and
23 casualty risks that may be avoided if the legislature provides for
24 financing or investment from available state money to the

1 association before or after a catastrophic event;

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

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

10 (A) replace the funding levels currently
11 provided by issuing public securities;

12 (B) be consistent with sound insurance solvency
13 standards;

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

17 (D) provide a secured investment for the state
18 that would:

19 (i) yield interest income for the state on
20 state money; and

21 (ii) be adequately secured for repayment
22 through statewide catastrophe surcharges on certain insurance
23 policies in this state.

24 (d) The legislature finds that authorizing catastrophe
25 surcharges is a viable method to assure repayment of loans or
26 investments of state money after a hurricane and to ensure that the
27 association can continue to provide windstorm and hail insurance in

1 the coastal areas of this state after a catastrophic event to
2 maintain the association's viability for the benefit of the public
3 and in furtherance of a public purpose.

4 SECTION 1.02. The heading to Subchapter B-1, Chapter 2210,
5 Insurance Code, is amended to read as follows:

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

7 SECTION 1.03. Subchapter B-1, Chapter 2210, Insurance Code,
8 is amended by adding Section 2210.070 to read as follows:

9 Sec. 2210.070. APPLICABILITY OF SUBCHAPTER. (a) This
10 subchapter applies only to the payment of losses and operating
11 expenses of the association for a catastrophe year that occurs
12 before January 1, 2024, and results in excess losses and operating
13 expenses incurred by the association before January 1, 2024.

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

17 SECTION 1.04. Section 2210.071(a), Insurance Code, is
18 amended to read as follows:

19 (a) If, in a catastrophe year before January 1, 2024, an
20 occurrence or series of occurrences in a catastrophe area results
21 in insured losses and operating expenses of the association in
22 excess of premium and other revenue of the association, the excess
23 losses and operating expenses shall be paid as provided by this
24 subchapter.

25 SECTION 1.05. Section 2210.0715(b), Insurance Code, is
26 amended to read as follows:

27 (b) Proceeds of public securities issued, a financing

1 arrangement entered into, or assessments made before January 1,
2 2024, or as a result of any occurrence or series of occurrences in a
3 catastrophe year that occurs before January 1, 2024, and results in
4 insured losses before that date may not be included in reserves
5 available for a subsequent catastrophe year for purposes of this
6 section or Section 2210.082 unless approved by the commissioner.

7 SECTION 1.06. The heading to Section 2210.075, Insurance
8 Code, is amended to read as follows:

9 Sec. 2210.075. REINSURANCE BY MEMBERS.

10 SECTION 1.07. Subchapter B-1, Chapter 2210, Insurance Code,
11 is amended by adding Section 2210.076 to read as follows:

12 Sec. 2210.076. PAYMENT FROM STATE-FUNDED FINANCING
13 ARRANGEMENTS. (a) Notwithstanding the provisions of this
14 subchapter to the contrary, the association may pay losses the
15 association would otherwise pay as provided by Section 2210.072,
16 2210.073, or 2210.0741 by borrowing from, or entering into other
17 financing arrangements with, this state as provided by Subchapter
18 M-1 and Section 404.0242, Government Code.

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

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

26 SECTION 1.08. Chapter 2210, Insurance Code, is amended by
27 adding Subchapter B-2 to read as follows:

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

2 Sec. 2210.080. APPLICABILITY OF SUBCHAPTER. (a) This
3 subchapter applies only to the payment of losses and operating
4 expenses of the association for a catastrophe year that occurs
5 after December 31, 2023, and results in excess losses and operating
6 expenses incurred by the association after December 31, 2023.

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

8 Sec. 2210.081. PAYMENT OF EXCESS LOSSES. (a) If, in a
9 catastrophe year, an occurrence or series of occurrences in a
10 catastrophe area results in insured losses and operating expenses
11 of the association in excess of premium and other revenue of the
12 association, the excess losses and operating expenses shall be paid
13 as provided by this subchapter.

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

18 Sec. 2210.082. PAYMENT FROM RESERVES AND TRUST FUND;
19 STATE-FUNDED FINANCING ARRANGEMENTS. (a) The association shall
20 pay insured losses and operating expenses resulting from an
21 occurrence or series of occurrences in a catastrophe year in excess
22 of premium and other revenue of the association for that
23 catastrophe year from reserves of the association available before
24 or accrued during that catastrophe year and amounts in the
25 catastrophe reserve trust fund available before or accrued during
26 that catastrophe year.

27 (b) For insured losses and operating expenses for a

1 catastrophe year not paid under Subsection (a), the association
2 shall arrange for financing of not more than \$1 billion through one
3 or more financing arrangements entered into with the state as
4 provided by Subchapter M-1 and Section 404.0242, Government Code.

5 Sec. 2210.083. PAYMENT FROM MEMBER ASSESSMENTS. (a)

6 Insured losses and operating expenses for a catastrophe year not
7 paid under Section 2210.082 shall be paid as provided by this
8 section from member assessments not to exceed \$1 billion for that
9 catastrophe year.

10 (b) The board of directors shall notify each association
11 member of the amount of the member's assessment under this section.
12 The proportion of the insured losses and operating expenses
13 allocable to each insurer under this section shall be determined in
14 the manner used to determine each insurer's participation in the
15 association for the year under Section 2210.052.

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

18 Sec. 2210.084. REINSURANCE BY MEMBERS FOR MEMBER
19 ASSESSMENTS. (a) Before any occurrence or series of occurrences,
20 an association member may purchase reinsurance to cover an
21 assessment for which the member would otherwise be liable under
22 this subchapter.

23 (b) An association member must notify the board of
24 directors, in the manner prescribed by the association, whether the
25 member will be purchasing reinsurance. If the member does not
26 purchase reinsurance under this section, the member remains liable
27 for any assessment imposed under this subchapter.

1 SECTION 1.09. Section 2210.452(b), Insurance Code, is
2 amended to read as follows:

3 (b) All money, including investment income, deposited in
4 the trust fund constitutes state funds until disbursed as provided
5 by this chapter and commissioner rules. The comptroller shall hold
6 the money outside the state treasury on behalf of, and with legal
7 title in, the department on behalf of the association. The
8 department shall keep and maintain the trust fund in accordance
9 with this chapter and commissioner rules. The comptroller, as
10 custodian of the trust fund, shall administer the trust fund
11 strictly and solely as provided by this chapter and commissioner
12 rules. The association may include the amounts held in the
13 catastrophe reserve trust fund as an admitted asset in the
14 financial statements of the association.

15 SECTION 1.10. Section 2210.4521(a), Insurance Code, is
16 amended to read as follows:

17 (a) The comptroller shall invest in accordance with the
18 investment standard described by Section 404.024(j), Government
19 Code, the portion of the trust fund balance that exceeds the amount
20 of the sufficient balance determined under Subsection (b). The
21 comptroller's investment of that portion of the balance is not
22 subject to any other limitation or other requirement provided by
23 Section 404.024, Government Code. The Texas Treasury Safekeeping
24 Trust Company and board of directors may recommend investments to
25 protect the trust fund and create investment income.

26 SECTION 1.11. Sections 2210.453(d) and (e), Insurance Code,
27 are amended to read as follows:

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

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

25 SECTION 1.12. Section 2210.601, Insurance Code, is amended
26 to read as follows:

27 Sec. 2210.601. FINDINGS [~~PURPOSE~~]. The legislature finds

1 that for losses incurred before January 1, 2024, authorizing the
2 association to enter into financing arrangements with this state as
3 provided by Section 2210.076 [~~issuance of public securities~~] to
4 provide a method to raise funds to provide windstorm and hail
5 insurance through the association in certain designated portions of
6 the state is for the benefit of the public and in furtherance of a
7 public purpose.

8 SECTION 1.13. Subchapter M, Chapter 2210, Insurance Code,
9 is amended by adding Section 2210.6015 to read as follows:

10 Sec. 2210.6015. APPLICABILITY OF SUBCHAPTER. To provide
11 for a reasonable transition, the association may issue public
12 securities under this subchapter or enter into financing
13 arrangements with this state as provided by Section 2210.076 if the
14 association needs to provide funds for excess losses and operating
15 expenses incurred by the association before January 1, 2024, for a
16 catastrophe year occurring before January 1, 2024. After December
17 31, 2023, the association may not issue public securities under
18 this subchapter except to fund excess losses and operating expenses
19 incurred before January 1, 2024.

20 SECTION 1.14. Chapter 2210, Insurance Code, is amended by
21 adding Subchapters M-1 and M-2 to read as follows:

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

23 Sec. 2210.631. STATE-FUNDED CATASTROPHE FINANCING
24 ARRANGEMENTS. The legislature has determined that providing
25 catastrophe funding to the association by permitting the
26 association to enter into a financing arrangement with this state
27 is an acceptable use of state money and provides an efficient method

1 for the association to pay losses following a catastrophic event.

2 Sec. 2210.632. PROCEEDS OF CATASTROPHE FINANCING
3 ARRANGEMENT. The proceeds of a catastrophe financing arrangement
4 with this state entered into under this subchapter before a
5 catastrophic event shall be deposited in the catastrophe reserve
6 trust fund.

7 Sec. 2210.633. CATASTROPHE FINANCING ARRANGEMENT
8 AUTHORIZED; LIMITS. (a) The association may enter into a financing
9 arrangement with this state as provided by Section 404.0242,
10 Government Code:

11 (1) before a catastrophic event, for not more than
12 \$500 million; and

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

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

18 SUBCHAPTER M-2. CATASTROPHE SURCHARGE

19 Sec. 2210.641. DEFINITION. In this subchapter,
20 "catastrophic event" means an occurrence or a series of occurrences
21 that:

22 (1) occurs in a catastrophe area during a calendar
23 year; and

24 (2) results in insured losses and operating expenses
25 of the association in excess of premium and other revenue of the
26 association.

27 Sec. 2210.642. APPLICABILITY OF SUBCHAPTER. (a)

1 Notwithstanding Section 2210.006, this subchapter applies to an
2 insurer that is:

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

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

10 (3) an unaffiliated eligible surplus lines insurer
11 writing the lines of business subject to a premium surcharge under
12 this subchapter;

13 (4) the association; and

14 (5) the FAIR Plan Association.

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

16 (1) a policy written under the following lines of
17 insurance:

18 (A) fire and allied lines;

19 (B) farm and ranch owners; and

20 (C) residential property insurance; and

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

23 Sec. 2210.6425. CONSTRUCTION OF SUBCHAPTER. (a) This
24 subchapter may not be construed to require an insurer to be an
25 association member if the insurer is not otherwise required to be a
26 member under Section 2210.052.

27 (b) A farm mutual insurance company that is not a fronting

1 insurer as defined by Section 221.001(c) is not a member of the
2 association as a result of the company's collection of surcharges
3 authorized by this subchapter or for any other reason.

4 Sec. 2210.643. ANNUAL FINANCIAL REPORT BY COMMISSIONER.

5 The commissioner shall determine the amount available in the
6 catastrophe reserve trust fund as of December 31 of each year and
7 provide a written report to the governor, lieutenant governor, and
8 speaker of the house of representatives that includes:

9 (1) the amount available in the catastrophe reserve
10 trust fund; and

11 (2) information regarding the current financial
12 condition of the association.

13 Sec. 2210.6435. CATASTROPHE SURCHARGES. (a) The

14 commissioner, in consultation with the board of directors, may
15 order a catastrophe surcharge as provided by this subchapter only
16 if:

17 (1) before a catastrophic event, the association
18 enters into a financing arrangement with this state that is the
19 basis for the surcharge under Subchapter M-1; or

20 (2) after a catastrophic event:

21 (A) the commissioner determines that the
22 association has depleted its reserves, other money, and the
23 catastrophe reserve trust fund; and

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

27 (b) The commissioner, in consultation with the board of

1 directors, shall set the catastrophe surcharge as a percentage of
2 premium to be collected by each insurer to which this subchapter
3 applies.

4 (c) The total amount authorized to be collected under this
5 section for any catastrophe surcharge may not exceed the amount
6 needed to repay the debt obligation to the state under the financing
7 arrangement entered into with this state under Subchapter M-1 that
8 is the basis for the surcharge.

9 (d) The catastrophe surcharge percentage must be set in an
10 amount sufficient to repay the debt obligation to the state under
11 the financing arrangement entered into with this state under
12 Subchapter M-1 that is the basis for the surcharge. The
13 commissioner may set the surcharge as a percentage of premium to
14 collect the needed aggregate amount over a period of time not to
15 exceed three years.

16 (e) A catastrophe surcharge authorized under this section
17 shall be assessed by insurers on all policyholders of policies that
18 are subject to this subchapter.

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

22 (g) Failure by a policyholder to pay a catastrophe surcharge
23 constitutes failure to pay premium for purposes of policy
24 cancellation.

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

27 Sec. 2210.644. CATASTROPHE SURCHARGE PROCEEDS. The

1 proceeds of a catastrophe surcharge authorized under this
2 subchapter shall be deposited into the catastrophe reserve trust
3 fund or an account designated by the comptroller for purposes of
4 repayment of the association's debt obligation to the state under
5 the financing arrangement that is the basis for the surcharge.

6 Sec. 2210.6445. DISCLOSURE OF SURCHARGE. Each policy that
7 is assessed a surcharge under this subchapter shall contain the
8 following prominent disclosure in the documents attached to the
9 policy:

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

15 Sec. 2210.645. EXEMPTION FROM TAXATION. A surcharge
16 collected under this subchapter is exempt from taxation by this
17 state or a municipality or other political subdivision of this
18 state.

19 Sec. 2210.6455. LIMITATION OF PERSONAL LIABILITY. The
20 association members, the insurers required to collect a surcharge
21 under this subchapter, members of the board of directors,
22 association employees, the commissioner, and department employees
23 are not personally liable as a result of exercising the rights and
24 responsibilities granted under this subchapter.

25 Sec. 2210.646. EXEMPTION FROM SURCHARGE. An insurer may
26 not collect a surcharge authorized under this subchapter on any
27 policy issued to this state, an agency of this state, or a political

1 subdivision of this state.

2 SECTION 1.15. Subchapter C, Chapter 404, Government Code,
3 is amended by adding Section 404.0242 to read as follows:

4 Sec. 404.0242. INVESTMENT IN WINDSTORM CATASTROPHE
5 FINANCING ARRANGEMENTS. (a) The comptroller shall invest state
6 money to provide financing for losses of the Texas Windstorm
7 Insurance Association in accordance with this section and Chapter
8 2210, Insurance Code.

9 (b) For purposes of this section, the comptroller may enter
10 into an appropriate financing arrangement with the Texas Windstorm
11 Insurance Association to provide the association up to \$500 million
12 in funding before a catastrophic event and up to \$1 billion in
13 funding after a catastrophic event to fund the losses of the
14 association arising from the catastrophic event. Financing
15 provided under this section must be secured and repaid by
16 catastrophe surcharges under Subchapter M-2, Chapter 2210,
17 Insurance Code.

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

21 (1) the lesser of:

22 (A) the rate set by the Federal Home Loan Bank
23 Board; or

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

26 (2) 2 percent.

27 (d) A debt obligation entered into under this section may

1 not exceed 36 months to maturity.

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

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

9 SECTION 1.16. Effective September 1, 2025, the following
10 provisions of the Insurance Code are repealed:

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

12 (2) Subchapter M, Chapter 2210.

13 SECTION 1.17. As soon as practicable after the effective
14 date of this Act and not later than December 1, 2023, the
15 commissioner of insurance shall adopt rules necessary to implement
16 Subchapters B-2 and M-2, Insurance Code, as added by this Act.

17 ARTICLE 2. CONFORMING AMENDMENTS

18 SECTION 2.01. Effective September 1, 2025, Section
19 2210.0081, Insurance Code, is amended to read as follows:

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

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

1 ~~441.052,~~

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

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

13 SECTION 2.02. (a) Section 2210.056(b), Insurance Code, is
14 amended to read as follows:

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

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

19 (2) make investments authorized under applicable law;

20 (3) pay reasonable and necessary administrative
21 expenses incurred in connection with the operation of the
22 association and the processing of claims against the association;

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

27 (5) make remittance under the laws of this state to be

1 used by this state to:

2 (A) pay claims made on policies written by the
3 association;

4 (B) purchase reinsurance covering losses under
5 those policies; or

6 (C) prepare for or mitigate the effects of
7 catastrophic natural events.

8 (b) Effective September 1, 2025, Sections 2210.056(b) and
9 (c), Insurance Code, are amended to read as follows:

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

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

14 (2) make investments authorized under applicable law;

15 (3) pay reasonable and necessary administrative
16 expenses incurred in connection with the operation of the
17 association and the processing of claims against the association;

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

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

24 (A) pay claims made on policies written by the
25 association;

26 (B) purchase reinsurance covering losses under
27 those policies; or

1 (C) prepare for or mitigate the effects of
2 catastrophic natural events.

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

6 SECTION 2.03. (a) Section 2210.1052, Insurance Code, is
7 amended to read as follows:

8 Sec. 2210.1052. EMERGENCY MEETING. If the ultimate loss
9 estimate for an occurrence or series of occurrences made by the
10 chief financial officer or chief actuary of the association
11 indicates member insurers may be subject to an assessment under
12 Subchapter B-1 or B-2, the board of directors shall call an
13 emergency meeting to notify the member insurers about the
14 assessment.

15 (b) Effective September 1, 2025, Section 2210.1052,
16 Insurance Code, is amended to read as follows:

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

24 SECTION 2.04. Effective September 1, 2025, Section
25 2210.355(b), Insurance Code, is amended to read as follows:

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

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

4 (2) expenses of operation, including acquisition
5 costs;

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

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

12 ~~(5)~~ all other relevant factors, within and outside
13 this state.

14 SECTION 2.05. (a) Section 2210.363(a), Insurance Code, is
15 amended to read as follows:

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

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

25 (2) the person elects to purchase a binding
26 arbitration endorsement under Section 2210.554.

27 (b) Effective September 1, 2025, Section 2210.363(a),

1 Insurance Code, is amended to read as follows:

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

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

11 (2) the person elects to purchase a binding
12 arbitration endorsement under Section 2210.554.

13 SECTION 2.06. (a) Sections 2210.452(a) and (d), Insurance
14 Code, are amended to read as follows:

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

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

22 (2) purchasing reinsurance or using alternative risk
23 financing mechanisms under Section 2210.453.

24 (d) The commissioner by rule shall establish the procedure
25 relating to the disbursement of money from the trust fund to
26 policyholders and for association administrative expenses directly
27 related to funding the payment of insured losses in the event of an

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

3 (b) Effective September 1, 2025, Sections 2210.452(a), (c),
4 and (d), Insurance Code, are amended to read as follows:

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

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

12 (2) purchasing reinsurance or using alternative risk
13 financing mechanisms under Section 2210.453.

14 (c) At the end of each calendar year or policy year, the
15 association shall use the net gain from operations of the
16 association, including all premium and other revenue of the
17 association in excess of incurred losses and [~~7~~] operating expenses,
18 [~~public security obligations, and public security administrative~~
19 ~~expenses,~~] to make payments to the trust fund, procure reinsurance,
20 or use alternative risk financing mechanisms, or to make payments
21 to the trust fund and procure reinsurance or use alternative risk
22 financing mechanisms.

23 (d) The commissioner by rule shall establish the procedure
24 relating to the disbursement of money from the trust fund to
25 policyholders and for association administrative expenses directly
26 related to funding the payment of insured losses in the event of an
27 occurrence or series of occurrences within a catastrophe area that

1 results in a disbursement under Subchapter B-2 [~~B-1~~].

2 SECTION 2.07. (a) Sections 2210.453(b) and (c), Insurance
3 Code, are amended to read as follows:

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

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

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

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

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

4 ARTICLE 3. TRANSITION AND SAVINGS PROVISIONS

5 SECTION 3.01. Notwithstanding the repeal by this Act of
6 Subchapters B-1 and M, Chapter 2210, Insurance Code, and other
7 changes in law made by this Act effective September 1, 2025:

8 (1) the payment of excess losses and operating
9 expenses of the Texas Windstorm Insurance Association incurred
10 before January 1, 2024, is governed by the law as it existed on the
11 effective date of this Act, and that law is continued in effect for
12 that purpose;

13 (2) the issuance of public securities to pay excess
14 losses and operating expenses of the Texas Windstorm Insurance
15 Association incurred before January 1, 2024, the use of the
16 proceeds of those securities, the repayment or refinancing of those
17 securities, and any other rights, obligations, or limitations with
18 respect to those securities and proceeds of those securities are
19 governed by the law as it existed on the effective date of this Act,
20 and that law is continued in effect for that purpose; and

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

26 ARTICLE 4. EFFECTIVE DATE

27 SECTION 4.01. Except as otherwise provided by this Act,

H.B. No. 1588

1 this Act takes effect September 1, 2023.

ADOPTED

MAY 24 2023

Lately Jones
Secretary of the Senate

By: Mayer Middleton

H.B. No. 1588

Substitute the following for H.B. No. 1588 :

By: Mayer Middleton

C.S. H.B. No. 1588

A BILL TO BE ENTITLED

1

AN ACT

2 relating to funding of excess losses and operating expenses of the
3 Texas Windstorm Insurance Association; authorizing an assessment;
4 authorizing a surcharge.

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

6 ARTICLE 1. FUNDING OF INSURED LOSSES AND OPERATING EXPENSES OF

7 TEXAS WINDSTORM INSURANCE ASSOCIATION

8 SECTION 1.01. Section 404.0241, Government Code, is amended
9 by amending Subsections (b-2), (b-4), and (b-5) and adding
10 Subsections (f), (g), and (h) to read as follows:

11 (b-2) A person may not bring a civil action against this
12 state, the Texas Treasury Safekeeping Trust Company, or an
13 employee, independent contractor, or official of this state,
14 including the comptroller, for any claim, including breach of
15 fiduciary duty or violation of any constitutional, statutory, or
16 regulatory requirement, in connection with any action, inaction,
17 decision, divestment, investment, report, or other determination
18 made or taken in connection with this section [~~Subsections (b-1),~~
19 ~~(b-4), and (b-5)]].~~

20 (b-4) The comptroller shall manage the investments
21 described [~~required~~] by Subsections [~~Subsection~~] (b-1) and (g) as
22 [a] separate investment portfolios [~~portfolio~~]. The comptroller
23 shall provide separate accounting and reporting for the investments
24 in each of those portfolios [~~that portfolio~~]. The comptroller

1 shall credit to each ~~that~~ portfolio all payments, distributions,
2 interest, and other earnings on the investments in that portfolio.

3 (b-5) The comptroller has any power necessary to accomplish
4 the purposes of managing and investing the assets of a ~~the~~
5 portfolio described by Subsection (b-4). In managing the assets of
6 that portfolio, through procedures and subject to restrictions the
7 comptroller considers appropriate, the comptroller may acquire,
8 sell, transfer, or otherwise assign the investments as appropriate,
9 taking into consideration the purposes, terms, distribution
10 requirements, and other circumstances of that portfolio then
11 prevailing.

12 (f) Notwithstanding any other law, directly or indirectly
13 through a separately managed account or other investment vehicle,
14 the comptroller may invest an amount not to exceed \$1 billion of the
15 economic stabilization fund balance in accordance with this section
16 and Chapter 2210, Insurance Code.

17 (g) For purposes of Subsection (f), the comptroller may
18 enter into an investment arrangement with the Texas Windstorm
19 Insurance Association to provide the association an amount not to
20 exceed \$1 billion in funding for each catastrophe year in
21 accordance with Subchapter M-1, Chapter 2210, Insurance Code, after
22 a catastrophic event to fund the association's losses and
23 operational expenses arising from the catastrophic event in excess
24 of the association's premium and other revenue, available reserves,
25 the catastrophe reserve trust fund, and member assessments
26 authorized under Section 2210.083.

27 (h) An investment arrangement entered into under Subsection

1 (g):

2 (1) must be secured and repaid by catastrophe
3 surcharges under Subchapter M-2, Chapter 2210, Insurance Code;

4 (2) must include interest at a rate equal to the
5 three-year United States treasury note rate plus at least four
6 percent; and

7 (3) may not exceed 36 months to maturity.

8 SECTION 1.02. Section 2210.0081, Insurance Code, is amended
9 to read as follows:

10 Sec. 2210.0081. CERTAIN ACTIONS BROUGHT AGAINST
11 ASSOCIATION BY COMMISSIONER. In an action brought by the
12 commissioner against the association under Chapter 441:

13 (1) the association's inability to satisfy obligations
14 under Subchapter M or M-1 related to the issuance of public
15 securities under this chapter or an investment arrangement with
16 this state, as applicable, constitutes a condition that makes the
17 association's continuation in business hazardous to the public or
18 to the association's policyholders for the purposes of Section
19 441.052;

20 (2) the time for the association to comply with the
21 requirements of supervision or for the conservator to complete the
22 conservator's duties, as applicable, is limited to three years from
23 the date the commissioner commences the action against the
24 association; and

25 (3) unless the commissioner takes further action
26 against the association under Chapter 441, as a condition of
27 release from supervision, the association must demonstrate to the

1 satisfaction of the commissioner that the association is able to
2 satisfy obligations under Subchapter M or M-1 related to the
3 issuance of public securities under this chapter or an investment
4 arrangement with this state, as applicable.

5 SECTION 1.03. The heading to Subchapter B-1, Chapter 2210,
6 Insurance Code, is amended to read as follows:

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

8 SECTION 1.04. Subchapter B-1, Chapter 2210, Insurance Code,
9 is amended by adding Section 2210.070 to read as follows:

10 Sec. 2210.070. APPLICABILITY OF SUBCHAPTER. (a) This
11 subchapter applies only to the payment of losses and operating
12 expenses of the association for a catastrophe year that occurs
13 before January 1, 2024, and results in excess losses and operating
14 expenses incurred by the association before January 1, 2024.

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

18 SECTION 1.05. Section 2210.071(a), Insurance Code, is
19 amended to read as follows:

20 (a) If, in a catastrophe year before January 1, 2024, an
21 occurrence or series of occurrences in a catastrophe area results
22 in insured losses and operating expenses of the association in
23 excess of premium and other revenue of the association, the excess
24 losses and operating expenses shall be paid as provided by this
25 subchapter.

26 SECTION 1.06. Section 2210.0715(b), Insurance Code, is
27 amended to read as follows:

1 (b) Proceeds of public securities issued, an investment
2 arrangement entered into, or assessments made before January 1,
3 2024, or as a result of any occurrence or series of occurrences in a
4 catastrophe year that occurs before January 1, 2024, and results in
5 insured losses before that date may not be included in reserves
6 available for a subsequent catastrophe year for purposes of this
7 section or Section 2210.082 unless approved by the commissioner.

8 SECTION 1.07. The heading to Section 2210.075, Insurance
9 Code, is amended to read as follows:

10 Sec. 2210.075. REINSURANCE BY MEMBERS.

11 SECTION 1.08. Subchapter B-1, Chapter 2210, Insurance Code,
12 is amended by adding Section 2210.076 to read as follows:

13 Sec. 2210.076. PAYMENT FROM STATE INVESTMENT ARRANGEMENTS.

14 (a) Notwithstanding the provisions of this subchapter to the
15 contrary, the association may pay losses the association would
16 otherwise pay as provided by Section 2210.072, 2210.073, or
17 2210.0741 by entering into one or more investment arrangements with
18 this state as provided by Subchapter M-1 of this chapter and Section
19 404.0241, Government Code.

20 (b) Subchapter M-2 applies to the financing of losses under
21 this section to the extent necessary to secure and repay a debt
22 obligation to the state under an investment arrangement entered
23 into with this state under this section.

24 (c) An investment arrangement described by Subsection (a)
25 may also be used for a purpose described by Section 2210.072(d) in
26 the same manner as a financing arrangement with a market source.

27 SECTION 1.09. Chapter 2210, Insurance Code, is amended by

1 adding Subchapter B-2 to read as follows:

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

3 Sec. 2210.080. APPLICABILITY OF SUBCHAPTER. (a) This
4 subchapter applies only to the payment of losses and operating
5 expenses of the association for a catastrophe year that occurs
6 after December 31, 2023, and results in excess losses and operating
7 expenses incurred by the association after December 31, 2023.

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

9 Sec. 2210.081. PAYMENT OF EXCESS LOSSES. (a) If, in a
10 catastrophe year, an occurrence or series of occurrences in a
11 catastrophe area results in insured losses and operating expenses
12 of the association in excess of premium and other revenue of the
13 association, the excess losses and operating expenses shall be paid
14 as provided by this subchapter.

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

19 Sec. 2210.082. PAYMENT FROM RESERVES AND TRUST FUND. (a)
20 The association shall pay insured losses and operating expenses
21 resulting from an occurrence or series of occurrences in a
22 catastrophe year in excess of premium and other revenue of the
23 association for that catastrophe year from reserves of the
24 association available before or accrued during that catastrophe
25 year and amounts in the catastrophe reserve trust fund available
26 before or accrued during that catastrophe year.

27 (b) Proceeds of public securities issued or assessments

1 made before or as a result of any occurrence or series of
2 occurrences in a catastrophe year that results in insured losses
3 may not be included in reserves available for a subsequent
4 catastrophe year for purposes of this section.

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

10 (b) The board of directors shall notify each association
11 member of the amount of the member's assessment under this section.
12 The proportion of the insured losses and operating expenses
13 allocable to each insurer under this section shall be determined in
14 the manner used to determine each insurer's participation in the
15 association for the year under Section 2210.052.

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

18 Sec. 2210.084. PAYMENT FROM STATE INVESTMENT ARRANGEMENTS.
19 For insured losses and operating expenses for a catastrophe year
20 not paid under Section 2210.082 or 2210.083, the association shall
21 enter into one or more investment arrangements totaling not more
22 than \$1 billion with the state as provided by Subchapter M-1 of this
23 chapter and Section 404.0241, Government Code.

24 Sec. 2210.085. PAYMENT FROM PUBLIC SECURITIES. (a)
25 Insured losses and operating expenses for a catastrophe year not
26 paid under Section 2210.082, 2210.083, or 2210.084 shall be paid
27 from the proceeds from public securities issued in accordance with

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

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

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

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

14 (c) Public securities described by Subsection (a):

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

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

27 (d) If public securities are issued as described by this

1 section, the public securities shall be repaid in the manner
2 prescribed by Subchapter M.

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

10 (f) The proceeds of any outstanding public securities
11 described by Subsection (a) that are issued before an occurrence or
12 series of occurrences, together with the proceeds of any
13 outstanding public securities issued on or before December 31,
14 2023, shall be depleted before the proceeds of any securities
15 issued after an occurrence or series of occurrences may be used.
16 This subsection does not prohibit the association from issuing
17 securities after an occurrence or series of occurrences before the
18 proceeds of outstanding public securities issued during a previous
19 catastrophe year have been depleted.

20 (g) If, under Subsection (f), the proceeds of any
21 outstanding public securities issued during a previous catastrophe
22 year, together with the proceeds of any outstanding public
23 securities issued on or before December 31, 2023, must be depleted,
24 those proceeds shall count against the limit on public securities
25 described by this section in the catastrophe year in which the
26 proceeds must be depleted.

27 Sec. 2210.086. REINSURANCE BY MEMBERS FOR MEMBER

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

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

10 SECTION 1.10. Section 2210.355(b), Insurance Code, is
11 amended to read as follows:

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

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

17 (2) expenses of operation, including acquisition
18 costs;

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

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

24 (5) payment of obligations related to an investment
25 arrangement with this state under Subchapter M-1 of this chapter
26 and Section 404.0241, Government Code, including the additional
27 amount of any related debt service determined by the association to

1 be required for the investment arrangement; and

2 (6) all other relevant factors, within and outside
3 this state.

4 SECTION 1.11. Section 2210.452(b), Insurance Code, is
5 amended to read as follows:

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

18 SECTION 1.12. Section 2210.4521(a), Insurance Code, is
19 amended to read as follows:

20 (a) The comptroller shall invest in accordance with the
21 investment standard described by Section 404.024(j), Government
22 Code, the portion of the trust fund balance that exceeds the amount
23 of the sufficient balance determined under Subsection (b). The
24 comptroller's investment of that portion of the balance is not
25 subject to any other limitation or other requirement provided by
26 Section 404.024, Government Code. The Texas Treasury Safekeeping
27 Trust Company and board of directors may recommend investments to

1 protect the trust fund and create investment income.

2 SECTION 1.13. Section 2210.453, Insurance Code, is amended
3 by adding Subsection (a-1) to read as follows:

4 (a-1) The association may obtain reinsurance at any level
5 including excess of loss, quota share, and other forms of
6 reinsurance to protect the solvency and viability of the
7 association. The commissioner may consult with the board of
8 directors regarding methods to protect the solvency and continued
9 viability of the association, including by protecting the minimum
10 balance, acquiring reinsurance, or by other means.

11 SECTION 1.14. Subchapter J, Chapter 2210, Insurance Code,
12 is amended by adding Section 2210.4531 to read as follows:

13 Sec. 2210.4531. DETERMINATION OF PROBABLE MAXIMUM LOSS.

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

16 (b) In determining the probable maximum loss, the
17 association:

18 (1) shall, to the extent possible, contract with any
19 disinterested third parties necessary to execute any catastrophe
20 models that were executed in the preceding storm season;

21 (2) shall, if the association is unable to contract
22 for the execution of a catastrophe model described by Subdivision
23 (1), contract with any disinterested third party necessary to
24 execute a catastrophe model that is substantially similar to the
25 model for which the association is unable to contract under
26 Subdivision (1);

27 (3) may contract with any disinterested third parties

1 to execute catastrophe models in addition to the models required
2 under Subdivisions (1) and (2);

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

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

8 (6) may use only the catastrophe model that produces
9 the lowest probable maximum loss.

10 (c) The association shall make any information produced in
11 compliance with Subsection (b) publicly available on the
12 association's Internet website.

13 (d) The association may only use a probable maximum loss
14 that is approved by the commissioner. The commissioner may reject a
15 probable maximum loss filed with the department by the association
16 and set a probable maximum loss at any amount determined by the
17 commissioner.

18 SECTION 1.15. Effective January 1, 2024, Section 2210.602,
19 Insurance Code, is amended by amending Subdivision (7) and adding
20 Subdivision (12) to read as follows:

21 (7) "Public security" means a debt instrument or other
22 public security authorized to be issued under Section 2210.085 and
23 issued by the Texas Public Finance Authority, including a
24 commercial paper program authorized before the occurrence of a
25 catastrophic event.

26 (12) "Public security trust fund" means the dedicated
27 trust fund established by the board and held by the Texas Treasury

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

4 SECTION 1.16. Effective January 1, 2024, Section
5 2210.604(a), Insurance Code, is amended to read as follows:

6 (a) In accordance with and subject to the limitations
7 provided by Section 2210.085, at [A~~t~~] the request of the
8 association and with the approval of the commissioner, the Texas
9 Public Finance Authority shall issue [~~Class 1, Class 2, or Class 3~~]
10 public securities. The association shall submit to the
11 commissioner a cost-benefit analysis of various financing methods
12 and funding structures when requesting the issuance of public
13 securities under this subsection.

14 SECTION 1.17. Effective January 1, 2024, Sections
15 2210.608(a) and (c), Insurance Code, are amended to read as
16 follows:

17 (a) Public security proceeds, including investment income,
18 shall be held in trust for the exclusive use and benefit of the
19 association. The association may use the proceeds to:

20 (1) pay incurred claims and operating expenses of the
21 association in accordance with Section 2210.085;

22 (2) purchase reinsurance for the association;

23 (3) pay the costs of issuing the public securities,
24 and public security administrative expenses, if any;

25 (4) provide a public security reserve;

26 (5) pay capitalized interest and principal on the
27 public securities for the period determined necessary by the

1 association;

2 (6) pay private financial agreements entered into by
3 the association as temporary sources of payment of losses and
4 operating expenses of the association; and

5 (7) reimburse the association for any cost described
6 by Subdivisions (1)-(6) paid by the association before issuance of
7 the public securities.

8 (c) Notwithstanding Subsection (a)(2), the proceeds from
9 public securities issued under Section 2210.085 [~~2210.072~~] before
10 an occurrence or series of occurrences that results in incurred
11 losses, including investment income, may not be used to purchase
12 reinsurance for the association.

13 SECTION 1.18. Effective January 1, 2024, Sections
14 2210.609(a), (c), (d), and (e), Insurance Code, are amended to read
15 as follows:

16 (a) The board and the association shall enter into an
17 agreement under which the association shall provide for the payment
18 of all public security obligations from available funds collected
19 by the association and deposited as required by this subchapter. If
20 the association determines that it is unable to pay the public
21 security obligations and public security administrative expenses,
22 if any, with available funds, the association shall pay those
23 obligations and expenses in accordance with Section [~~Sections~~]
24 2210.612 [~~, 2210.613, and 2210.6131 as applicable~~]. Public [~~Class~~
25 ~~1, Class 2, or Class 3 public~~] securities may be issued on a parity
26 or subordinate lien basis with other [~~Class 1, Class 2, or Class 3~~]
27 public securities [~~, respectively~~].

1 (c) The association shall deposit all revenue collected
2 under Section 2210.612 in the [~~Class 1~~] public security trust fund
3 [~~, all revenue collected under Section 2210.613 in the Class 2~~
4 ~~public security trust fund, and all revenue collected under Section~~
5 ~~2210.6131 in the Class 3 public security trust fund~~]. Money
6 deposited in the [a] fund may be invested as permitted by general
7 law. Money in the [a] fund required to be used to pay public
8 security obligations and public security administrative expenses,
9 if any, shall be transferred to the appropriate funds in the manner
10 and at the time specified in the proceedings authorizing the public
11 securities to ensure timely payment of obligations and expenses.
12 This may include the board establishing funds and accounts with the
13 comptroller that the board determines are necessary to administer
14 and repay the public security obligations. If the association has
15 not transferred amounts sufficient to pay the public security
16 obligations to the board's designated interest and sinking fund in
17 a timely manner, the board may direct the Texas Treasury
18 Safekeeping Trust Company to transfer from the [~~Class 1~~] public
19 security trust fund [~~, the Class 2 public security trust fund, or~~
20 ~~the Class 3 public security trust fund~~] to the appropriate account
21 the amount necessary to pay the public security obligation.

22 (d) The association shall provide for the payment of the
23 public security obligations and the public security administrative
24 expenses by irrevocably pledging revenues received from premiums,
25 premium surcharges, and amounts on deposit in the [~~Class 1~~] public
26 security trust fund, [~~the Class 2 public security trust fund, and~~
27 ~~the Class 3 public security trust fund,~~] together with any public

1 security reserve fund, as provided in the proceedings authorizing
2 the public securities and related credit agreements.

3 (e) An amount owed by the board under a credit agreement
4 shall be payable from and secured by a pledge of revenues received
5 by the association from the [~~Class 1~~] public security trust fund [~~7~~
6 ~~the Class 2 public security trust fund, and the Class 3 public~~
7 ~~security trust fund~~] to the extent provided in the proceedings
8 authorizing the credit agreement.

9 SECTION 1.19. Effective January 1, 2024, Section
10 2210.610(a), Insurance Code, is amended to read as follows:

11 (a) Revenues received from the premium surcharges under
12 Section [~~Sections~~] 2210.612 [~~7, 2210.613, and 2210.6131~~] may be
13 applied only as provided by this subchapter.

14 SECTION 1.20. Effective January 1, 2024, Section 2210.611,
15 Insurance Code, is amended to read as follows:

16 Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT
17 EARNINGS. Revenue collected in any calendar year from a premium
18 surcharge under Section [~~Sections~~] 2210.612 [~~7, 2210.613, and~~
19 ~~2210.6131~~] that exceeds the amount of the public security
20 obligations and public security administrative expenses payable in
21 that calendar year and interest earned on the funds may, in the
22 discretion of the association, be:

23 (1) used to pay public security obligations payable in
24 the subsequent calendar year, offsetting the amount of the premium
25 surcharge that would otherwise be required to be levied for the year
26 under this subchapter;

27 (2) used to redeem or purchase outstanding public

1 securities; or

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

3 SECTION 1.21. Effective January 1, 2024, the heading to
4 Section 2210.612, Insurance Code, is amended to read as follows:

5 Sec. 2210.612. PAYMENT OF [~~CLASS 1~~] PUBLIC SECURITIES.

6 SECTION 1.22. Effective January 1, 2024, Sections
7 2210.612(a) and (e), Insurance Code, are amended to read as
8 follows:

9 (a) The association shall pay [~~Class 1~~] public securities
10 issued under Section 2210.085 [~~2210.072~~] from:

11 (1) net premium and other revenue; and

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

15 (e) The association may enter financing arrangements as
16 described by Section 2210.085(e) [~~2210.072(d)~~] as necessary to
17 obtain public securities issued under Section 2210.085 [~~2210.072~~].
18 Nothing in this subsection shall prevent the authorization and
19 creation of one or more programs for the issuance of commercial
20 paper before the date of an occurrence or series of occurrences that
21 results in insured losses under Section 2210.085(a) [~~2210.072(a)~~].

22 SECTION 1.23. Effective January 1, 2024, the heading to
23 Section 2210.6132, Insurance Code, is amended to read as follows:

24 Sec. 2210.6132. CONTINGENT SOURCE OF PAYMENT FOR [~~CLASS 2~~
25 ~~AND CLASS 3~~] PUBLIC SECURITIES.

26 SECTION 1.24. Effective January 1, 2024, Sections
27 2210.6132(a) and (b), Insurance Code, are amended to read as

1 follows:

2 (a) The commissioner may determine, in consultation with
3 the board and the authority, that:

4 (1) the authority is unable to issue [~~Class 2 or Class~~
5 ~~3~~] public securities to be payable under Section 2210.612 [~~2210.613~~
6 ~~or 2210.6131, as applicable~~]; or

7 (2) the issuance of [~~Class 2 or Class 3~~] public
8 securities to be payable under Section 2210.612 [~~2210.613 or~~
9 ~~2210.6131, as applicable~~] is financially unreasonable for the
10 association.

11 (b) If the commissioner makes a determination under
12 Subsection (a), the commissioner shall order the [~~Class 2 or Class~~
13 ~~3~~] public securities[~~, as applicable~~] to be paid by a premium
14 surcharge assessed by each insurer, the association, and the Texas
15 FAIR Plan Association on all policyholders of policies that are in
16 effect on or after the 180th day after the date the commissioner
17 issues the order. The premium surcharge must be set in an amount
18 sufficient to pay all debt service not already covered by available
19 funds and all related expenses on the public securities.

20 SECTION 1.25. Effective January 1, 2024, Section 2210.614,
21 Insurance Code, is amended to read as follows:

22 Sec. 2210.614. REFINANCING PUBLIC SECURITIES. The
23 association may request the board to refinance any public
24 securities issued in accordance with Section 2210.085 [~~Subchapter~~
25 ~~B-1, whether Class 1, Class 2, or Class 3 public securities~~,] with
26 public securities payable from the same sources as the original
27 public securities.

1 SECTION 1.26. Chapter 2210, Insurance Code, is amended by
2 adding Subchapters M-1 and M-2 to read as follows:

3 SUBCHAPTER M-1. STATE CATASTROPHE INVESTMENT ARRANGEMENTS

4 Sec. 2210.631. STATE CATASTROPHE INVESTMENT ARRANGEMENTS.

5 The legislature has determined that providing catastrophe
6 investment arrangements to the association by permitting the
7 association to enter into those arrangements with this state is an
8 acceptable use of state money and provides an efficient method for
9 the association to pay losses following a catastrophic event.

10 Sec. 2210.632. CATASTROPHE INVESTMENT ARRANGEMENT

11 AUTHORIZED; LIMITS. The association may enter into an investment
12 arrangement with this state as provided by Section 404.0241,
13 Government Code, for not more than \$1 billion after a catastrophic
14 event that depletes the catastrophe reserve fund and member
15 assessments imposed under Section 2210.083.

16 SUBCHAPTER M-2. CATASTROPHE SURCHARGE

17 Sec. 2210.641. DEFINITION. In this subchapter,

18 "catastrophic event" means an occurrence or a series of occurrences
19 that:

20 (1) occurs in a catastrophe area during a calendar
21 year; and

22 (2) results in insured losses and operating expenses
23 of the association in excess of premium and other revenue of the
24 association.

25 Sec. 2210.642. APPLICABILITY OF SUBCHAPTER. (a)

26 Notwithstanding Section 2210.006, this subchapter applies to an
27 insurer that is:

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

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

8 (3) an unaffiliated eligible surplus lines insurer
9 writing the lines of business subject to a premium surcharge under
10 this subchapter;

11 (4) the association; and

12 (5) the FAIR Plan Association.

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

14 (1) a policy written under the following lines of
15 insurance:

16 (A) fire and allied lines;

17 (B) farm and ranch owners; and

18 (C) residential property insurance; and

19 (2) the property insurance portion of a commercial
20 multiple peril insurance policy.

21 Sec. 2210.6425. CONSTRUCTION OF SUBCHAPTER. (a) This
22 subchapter may not be construed to require an insurer to be an
23 association member if the insurer is not otherwise required to be a
24 member under Section 2210.052.

25 (b) A farm mutual insurance company that is not a fronting
26 insurer as defined by Section 221.001(c) is not a member of the
27 association as a result of the company's collection of surcharges

1 authorized by this subchapter or for any other reason.

2 Sec. 2210.643. ANNUAL FINANCIAL REPORT BY COMMISSIONER.

3 The commissioner shall determine the amount available in the
4 catastrophe reserve trust fund as of December 31 of each year and
5 provide a written report to the governor, lieutenant governor, and
6 speaker of the house of representatives that includes:

7 (1) the amount available in the catastrophe reserve
8 trust fund; and

9 (2) information regarding the current financial
10 condition of the association.

11 Sec. 2210.6435. CATASTROPHE SURCHARGES. (a) The

12 commissioner, in consultation with the board of directors, may
13 order a catastrophe surcharge effective on the closing date of an
14 investment arrangement with this state and as provided by this
15 subchapter only if, after a catastrophic event:

16 (1) the commissioner determines that the association
17 has depleted its reserves, other money, the catastrophe reserve
18 trust fund, and member assessments in the amount of \$1 billion
19 imposed under Section 2210.083; and

20 (2) the association intends to enter into an
21 investment arrangement with this state under Subchapter M-1 that is
22 the basis for the surcharge.

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

27 (c) The total amount authorized to be collected under this

1 section for any catastrophe surcharge may not exceed the amount
2 needed to satisfy the terms of the investment arrangement entered
3 into with this state under Subchapter M-1 that is the basis for the
4 surcharge.

5 (d) The catastrophe surcharge percentage must be set in an
6 amount sufficient, including a reserve amount, to satisfy the terms
7 of the investment arrangement entered into with this state under
8 Subchapter M-1 that is the basis for the surcharge. The
9 commissioner shall review the catastrophe surcharge percentage
10 semiannually and adjust the percentage as necessary to ensure
11 amounts collected will be sufficient to satisfy the terms of the
12 investment arrangement. The association will provide a semiannual
13 report to the commissioner and comptroller in the form and manner
14 prescribed by the commissioner of the premium assessed and
15 collected and its sufficiency to satisfy the terms of the
16 investment arrangement. The commissioner may set the surcharge as
17 a percentage of premium to collect the needed aggregate amount over
18 a period of time not to exceed three years.

19 (e) A catastrophe surcharge authorized under this section
20 shall be assessed by insurers on all policyholders of policies that
21 are subject to this subchapter.

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

25 (g) Failure by a policyholder to pay a catastrophe surcharge
26 constitutes failure to pay premium for purposes of policy
27 cancellation.

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

3 Sec. 2210.644. CATASTROPHE SURCHARGE PROCEEDS. The
4 proceeds of a catastrophe surcharge authorized under this
5 subchapter shall be deposited into the catastrophe reserve trust
6 fund or an account designated by the comptroller for purposes of
7 satisfying the terms of the investment arrangement that is the
8 basis for the surcharge, and the proceeds shall be paid to this
9 state under the terms of the investment arrangement until the terms
10 are fully satisfied.

11 Sec. 2210.6445. DISCLOSURE OF SURCHARGE. Each policy that
12 is assessed a surcharge under this subchapter shall contain the
13 following prominent disclosure in the documents attached to the
14 policy:

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

20 Sec. 2210.645. EXEMPTION FROM TAXATION. A surcharge
21 collected under this subchapter is exempt from taxation by this
22 state or a municipality or other political subdivision of this
23 state.

24 Sec. 2210.6455. LIMITATION OF PERSONAL LIABILITY. The
25 association members, the insurers required to collect a surcharge
26 under this subchapter, members of the board of directors,
27 association employees, the commissioner, and department employees

1 are not personally liable as a result of exercising the rights and
2 responsibilities granted under this subchapter.

3 Sec. 2210.646. EXEMPTION FROM SURCHARGE. An insurer may
4 not collect a surcharge authorized under this subchapter on any
5 policy issued to this state, an agency of this state, or a political
6 subdivision of this state.

7 SECTION 1.27. (a) Effective January 1, 2024, the following
8 provisions of the Insurance Code are repealed:

- 9 (1) Sections 2210.602(2), (2-a), (3), (3-a), (4), and
10 (4-a);
11 (2) Section 2210.613; and
12 (3) Section 2210.6131.

13 (b) Effective September 1, 2025, Subchapter B-1, Chapter
14 2210, Insurance Code, is repealed.

15 SECTION 1.28. As soon as practicable after the effective
16 date of this Act and not later than December 1, 2023, the
17 commissioner of insurance shall adopt rules necessary to implement
18 Subchapter M, Insurance Code, as amended by this Act, and
19 Subchapters B-2 and M-2, Insurance Code, as added by this Act.

20 ARTICLE 2. CONFORMING AMENDMENTS

21 SECTION 2.01. (a) Section 2210.056(b), Insurance Code, is
22 amended to read as follows:

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

- 25 (1) satisfy, in whole or in part, the liability of the
26 association on claims made on policies written by the association;
27 (2) make investments authorized under applicable law;

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

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

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

10 (A) pay claims made on policies written by the
11 association;

12 (B) purchase reinsurance covering losses under
13 those policies; or

14 (C) prepare for or mitigate the effects of
15 catastrophic natural events.

16 (b) Effective September 1, 2025, Section 2210.056(b),
17 Insurance Code, is amended to read as follows:

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

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

22 (2) make investments authorized under applicable law;

23 (3) pay reasonable and necessary administrative
24 expenses incurred in connection with the operation of the
25 association and the processing of claims against the association;

26 (4) satisfy, in whole or in part, the obligations of
27 the association incurred in connection with Subchapters B-2 [~~B-1~~],

1 J, [~~and~~] M, and M-2, including reinsurance, public securities, and
2 financial instruments; or

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

5 (A) pay claims made on policies written by the
6 association;

7 (B) purchase reinsurance covering losses under
8 those policies; or

9 (C) prepare for or mitigate the effects of
10 catastrophic natural events.

11 SECTION 2.02. (a) Section 2210.1052, Insurance Code, is
12 amended to read as follows:

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

20 (b) Effective September 1, 2025, Section 2210.1052,
21 Insurance Code, is amended to read as follows:

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

1 assessment.

2 SECTION 2.03. Section 2210.363(a), Insurance Code, is
3 amended to read as follows:

4 (a) The association may offer a person insured under this
5 chapter an actuarially justified premium discount on a policy
6 issued by the association, or an actuarially justified credit
7 against a surcharge assessed against the person, other than a
8 surcharge assessed under Subchapter M or M-2, if:

9 (1) the construction, alteration, remodeling,
10 enlargement, or repair of, or an addition to, insurable property
11 exceeds applicable building code standards set forth in the plan of
12 operation; or

13 (2) the person elects to purchase a binding
14 arbitration endorsement under Section 2210.554.

15 SECTION 2.04. (a) Sections 2210.452(a) and (d), Insurance
16 Code, are amended to read as follows:

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

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

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

26 (d) The commissioner by rule shall establish the procedure
27 relating to the disbursement of money from the trust fund to

1 policyholders and for association administrative expenses directly
2 related to funding the payment of insured losses in the event of an
3 occurrence or series of occurrences within a catastrophe area that
4 results in a disbursement under Subchapter B-1 or B-2.

5 (b) Effective September 1, 2025, Sections 2210.452(a) and
6 (d), Insurance Code, are amended to read as follows:

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

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

14 (2) purchasing reinsurance or using alternative risk
15 financing mechanisms under Section 2210.453.

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

22 SECTION 2.05. (a) Sections 2210.453(b) and (c), Insurance
23 Code, are amended to read as follows:

24 (b) The association shall maintain total available loss
25 funding in an amount not less than the probable maximum loss for the
26 association for a catastrophe year with a probability of one in 100.
27 If necessary, the required funding level shall be achieved through

1 the purchase of reinsurance or the use of alternative financing
2 mechanisms, or both, to operate in addition to or in concert with
3 the trust fund, public securities, financial instruments,
4 investment arrangements, and assessments authorized by this
5 chapter.

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

10 (b) Effective September 1, 2025, Section 2210.453(c),
11 Insurance Code, is amended to read as follows:

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 3. TRANSITION AND SAVINGS PROVISIONS

16 SECTION 3.01. Notwithstanding the amendment by this Act of
17 Subchapter M, Chapter 2210, Insurance Code, the repeal by this Act
18 of Subchapter B-1, Chapter 2210, Insurance Code, and other changes
19 in law made by this Act effective September 1, 2025:

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

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

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

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

11 ARTICLE 4. EFFECTIVE DATE

12 SECTION 4.01. Except as otherwise provided by this Act,
13 this Act takes effect September 1, 2023.

ADOPTED

MAY 23 2023

FLOOR AMENDMENT NO. 1

Latey Law Secretary of the Senate BY: *Mayer Middleton*

1 Amend C.S.H.B. No. 1588 (senate committee printing) by
2 striking all below the enacting clause and substituting the
3 following:

4 SECTION 1. Subchapter J, Chapter 2210, Insurance Code, is
5 amended by adding Section 2210.4531 to read as follows:

6 Sec. 2210.4531. DETERMINATION OF PROBABLE MAXIMUM LOSS. (a)
7 The association shall file with the department a proposed probable
8 maximum loss, subject to Section 2210.453.

9 (b) In determining the probable maximum loss, the
10 association:

11 (1) may not consider the cost of providing loss
12 adjustments;

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

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

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

1 (5) shall provide to a disinterested third party
2 executing a catastrophe model any information necessary to comply
3 with this subsection;

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

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

8 (c) The association shall make any information produced in
9 compliance with Subsection (b) publicly available on the
10 association's Internet website.

11 (d) The association may only use a probable maximum loss
12 that is approved by the commissioner. The commissioner may reject
13 a probable maximum loss filed with the department by the
14 association and set a probable maximum loss at any amount
15 determined by the commissioner.

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

20 SECTION 2. Sections 2210.655(a) and (d), Insurance Code, are
21 amended to read as follows:

22 (a) The board shall:

23 (1) gather information regarding:

24 (A) how the association's current funding and
25 funding structure operate;

26 (B) how the catastrophic risk pools of other
27 states operate; [~~and~~]

1 (C) how an investment from the economic
2 stabilization fund could be used to establish a new funding source
3 for the association;

4 (D) options, in addition to the option provided by
5 Paragraph (C), for eliminating or reducing the association's
6 reliance on the issuance of public securities as a mechanism for
7 funding the association;

8 (E) methods to increase the association's
9 contributions to the catastrophe reserve trust fund; and

10 (F) other information that the board considers
11 necessary to prepare the information required by Subsection (c);
12 and

13 (2) hold public meetings to hear testimony from
14 experts, stakeholders, and other interested parties regarding
15 recommendations and proposals for establishing and implementing
16 sustainable funding and a sustainable funding structure for the
17 association.

18 (d) This section expires September 1, 2025 [~~2023~~].

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 25, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1588 by Oliverson (Relating to funding of excess losses and operating expenses of the Texas Windstorm Insurance Association; authorizing an assessment; authorizing a surcharge.), **As Passed 2nd House**

The fiscal implications of the bill cannot be determined because the timing and amounts of any excess losses and amounts loaned from the Economic Stabilization Fund are unknown.

The bill would amend the Insurance Code relating to the payment of excess losses of the Texas Windstorm Insurance Association (TWIA) and allow the Comptroller of Public Accounts (CPA) to enter into an investment arrangement with TWIA to provide up to \$1 billion of the Economic Stabilization Fund balance to fund TWIA's excess losses and operational expenses after a catastrophic event. Additionally, this bill requires TWIA to calculate a probable maximum loss. The bill would be effective immediately if it receives a vote of two-thirds of all members elected to each house; otherwise, the bill would be effective September 1, 2023.

The bill would modify the manner in which excess losses of TWIA are paid. Under current law, excess losses are paid for by the issuance of public securities and by member assessments. The bill would require that excess losses be paid by member assessments not to exceed \$1 billion per catastrophe year; money received from state investment arrangements not to exceed \$1 billion; and the issuance of public securities not to exceed, in aggregate, \$1 billion at any one time. TWIA members could not recoup an assessment through a premium surcharge or tax credit. According to the CPA, the fiscal impact on the state cannot be estimated as the timing and amounts of any excess losses and infrastructure grants are unknown.

Based on the analysis of the Trusteed Programs within the Office of the Governor and the Department of Insurance, any duties and responsibilities associated with implementing the provisions of the bill could be accomplished by the agencies utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 300 Trusteed Programs Within the Office of the Governor, 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: JMc, AAL, LBI, SZ, GDZ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 18, 2023

TO: Honorable Charles Schwertner, Chair, Senate Committee on Business & Commerce

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1588 by Oliverson (relating to funding of excess losses and operating expenses of the Texas Windstorm Insurance Association; authorizing an assessment; authorizing a surcharge.), **Committee Report 2nd House, Substituted**

The fiscal implications of the bill cannot be determined because the timing and amounts of any excess losses and amounts loaned from the Economic Stabilization Fund are unknown.

The bill would amend the Insurance Code relating to the payment of excess losses of the Texas Windstorm Insurance Association (TWIA) and allow the Comptroller of Public Accounts (CPA) to enter into an investment arrangement with TWIA to provide up to \$1 billion of the Economic Stabilization Fund balance to fund TWIA's excess losses and operational expenses after a catastrophic event. The bill would take effect September 1, 2023.

The bill would modify the manner in which excess losses of TWIA are paid. Under current law, excess losses are paid for by the issuance of public securities and by member assessments. The bill would require that excess losses be paid by member assessments not to exceed \$1 billion per catastrophe year; money received from state investment arrangements not to exceed \$1 billion; and the issuance of public securities not to exceed, in aggregate, \$1 billion at any one time. TWIA members could not recoup an assessment through a premium surcharge or tax credit. According to the CPA, the fiscal impact on the state cannot be estimated as the timing and amounts of any excess losses and infrastructure grants are unknown.

Based on the analysis of the Trusteed Programs within the Office of the Governor and the Department of Insurance, any duties and responsibilities associated with implementing the provisions of the bill could be accomplished by the agencies utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 300 Trusteed Programs Within the Office of the Governor, 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: JMc, SZ, GDZ, LBI, AAL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 8, 2023

TO: Honorable Charles Schwertner, Chair, Senate Committee on Business & Commerce

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1588 by Oliverson (Relating to funding of excess losses and operating expenses of the Texas Windstorm Insurance Association; authorizing an assessment; authorizing a surcharge.), **As Engrossed**

The fiscal implications of the bill cannot be determined because the timing and amounts of any excess losses and infrastructure grants are unknown.

The bill would amend the Insurance Code relating to the payment of excess losses of the Texas Windstorm Insurance Association (TWIA). The bill would take effect September 1, 2023.

Based on the analysis of the Trusteed Programs within the Office of the Governor and the Department of Insurance, any duties and responsibilities associated with implementing the provisions of the bill could be accomplished by the agencies utilizing existing resources.

The bill would modify the manner in which excess losses of TWIA are paid. Under current law, excess losses are paid for by the issuance of public securities and by member assessments. The bill would require that excess losses be paid by member assessments not to exceed \$1 billion per catastrophe year. According to the Comptroller of Public Accounts, fiscal impact on the state cannot be estimated as the timing and amounts of any excess losses and infrastructure grants are unknown.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 300 Trusteed Programs Within the Office of the Governor, 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: JMc, SZ, AAL, LBI, GDZ

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 19, 2023

TO: Honorable Tom Oliverson, Chair, House Committee on Insurance

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1588 by Oliverson (relating to funding of excess losses and operating expenses of the Texas Windstorm Insurance Association; authorizing an assessment; authorizing a surcharge.), **Committee Report 1st House, Substituted**

The fiscal implications of the bill cannot be determined because the timing and amounts of any excess losses and infrastructure grants are unknown.

This bill would amend the Insurance Code relating to the payment of excess losses of the Texas Windstorm Insurance Association (TWIA). The bill would take effect September 1, 2023.

Based on the analysis of the Truusted Programs within the Office of the Governor and the Department of Insurance, any duties and responsibilities associated with implementing the provisions of the bill could be accomplished by the agencies utilizing existing resources.

The bill would modify the manner in which excess losses of TWIA are paid. Under current law, excess losses are paid for by the issuance of public securities and by member assessments. The bill would require that excess losses be paid by member assessments not to exceed \$1 billion per catastrophe year. According to the Comptroller of Public Accounts, fiscal impact on the state cannot be estimated as the timing and amounts of any excess losses and infrastructure grants are unknown.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 300 Truusted Programs Within the Office of the Governor, 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: JMc, AAL, LBl, GDZ

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 11, 2023

TO: Honorable Tom Oliverson, Chair, House Committee on Insurance

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1588 by Oliverson (Relating to funding of excess losses and operating expenses of the Texas Windstorm Insurance Association; authorizing an assessment, a surcharge, and an infrastructure grant.), **As Introduced**

The fiscal implications of the bill cannot be determined because the timing and amounts of any excess losses and infrastructure grants are unknown.

This bill would amend the Insurance Code relating to the payment of excess losses of the Texas Windstorm Insurance Association (TWIA). The bill would take effect September 1, 2023.

Based on the analysis of the Truusted Programs within the Office of the Governor and the Department of Insurance, any duties and responsibilities associated with implementing the provisions of the bill could be accomplished by the agencies utilizing existing resources.

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Local Government Impact

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Source Agencies: 300 Truusted Programs Within the Office of the Governor, 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: JMc, AAL, GDZ, LBI