

House Bill 1588
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

(c) The legislature finds that:

- (1) previous experience has shown that the expense to the association of issuing public securities, and the interest rates for those securities, would be significant and can impose significant long-term expense obligations on coastal property and casualty risks that may be avoided if the legislature provides for financing or investment from available state money to the association before or after a catastrophic event;
- (2) the financing or investment described by Subdivision (1) of this subsection would be a more efficient way to provide funding necessary for the association to pay losses after a catastrophic event; and
- (3) a loan or other investment from available state money to the association of not more than \$500 million before a catastrophic event and not more than \$1 billion after a

SENATE VERSION (IE)
(All SECTIONS below are from FA1)

No equivalent provision.

No equivalent provision.

CONFERENCE

catastrophic event would:

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

(B) be consistent with sound insurance solvency standards;

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

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

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

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

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

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

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

No equivalent provision.

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

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

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

No equivalent provision.

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

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

No equivalent provision.

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

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

No equivalent provision.

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

Sec. 2210.075. REINSURANCE BY MEMBERS.

No equivalent provision.

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

Sec. 2210.076. PAYMENT FROM STATE-FUNDED FINANCING ARRANGEMENTS. (a) Notwithstanding the provisions of this subchapter to the contrary, the association may pay losses the association would otherwise pay as provided by Section 2210.072, 2210.073, or 2210.0741 by borrowing from, or entering into other financing arrangements

No equivalent provision.

with, this state as provided by Subchapter M-1 and Section 404.0242, Government Code.

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

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

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

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

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

(b) This section expires September 1, 2025.

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

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

Sec. 2210.082. PAYMENT FROM RESERVES AND TRUST FUND; STATE-FUNDED FINANCING ARRANGEMENTS. (a) The association shall pay insured losses and operating expenses resulting from an occurrence or series of occurrences in a catastrophe year in excess of premium and other revenue of the association for that

No equivalent provision.

catastrophe year from reserves of the association available before or accrued during that catastrophe year and amounts in the catastrophe reserve trust fund available before or accrued during that catastrophe year.

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

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

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

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

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

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

SECTION 1.09. Section 2210.452(b), Insurance Code, is

No equivalent provision.

amended to read as follows:

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

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

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

No equivalent provision.

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

(d) The association may obtain reinsurance at any level including excess of loss, quota share, and other forms of reinsurance to protect the solvency and viability of the association. The commissioner may consult with the board of directors regarding methods to protect the solvency and continued viability of the association, including by protecting the minimum balance, acquiring reinsurance, or by other means [~~The cost of the reinsurance purchased or alternative~~

No equivalent provision.

~~financing mechanisms used under this section in excess of the minimum funding level required by Subsection (b) shall be paid by assessments as provided by this subsection. The association, with the approval of the commissioner, shall notify each member of the association of the amount of the member's assessment under this subsection. The proportion of the cost to each insurer under this subsection shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052].~~

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

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

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

No equivalent provision.

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

Sec. 2210.6015. APPLICABILITY OF SUBCHAPTER. To provide for a reasonable transition, the association may issue public securities under this subchapter or enter into financing arrangements with this state as provided by Section 2210.076 if the association needs to provide funds for excess losses and

No equivalent provision.

operating expenses incurred by the association before January 1, 2024, for a catastrophe year occurring before January 1, 2024. After December 31, 2023, the association may not issue public securities under this subchapter except to fund excess losses and operating expenses incurred before January 1, 2024.

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

SUBCHAPTER M-1. STATE-FUNDED CATASTROPHE FINANCING ARRANGEMENTS

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

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

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

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

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

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

SUBCHAPTER M-2. CATASTROPHE SURCHARGE

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

No equivalent provision.

- (1) occurs in a catastrophe area during a calendar year; and
- (2) results in insured losses and operating expenses of the association in excess of premium and other revenue of the association.

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

- (1) an insurer authorized to engage in the business of insurance in this state that is required to be a member of the association, including a farm mutual insurance company that is a fronting insurer as defined by Section 221.001(c);
- (2) a farm mutual insurance company that is not a fronting insurer as defined by Section 221.001(c) only for purposes of the collection of surcharges authorized by this subchapter;
- (3) an unaffiliated eligible surplus lines insurer writing the lines of business subject to a premium surcharge under this subchapter;
- (4) the association; and
- (5) the FAIR Plan Association.

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

- (1) a policy written under the following lines of insurance:
 - (A) fire and allied lines;
 - (B) farm and ranch owners; and
 - (C) residential property insurance; and
- (2) the property insurance portion of a commercial multiple peril insurance policy.

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

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

Sec. 2210.643. ANNUAL FINANCIAL REPORT BY COMMISSIONER. The commissioner shall determine the amount available in the catastrophe reserve trust fund as of December 31 of each year and provide a written report to the

governor, lieutenant governor, and speaker of the house of representatives that includes:

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

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

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

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

(2) after a catastrophic event:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2210.646. EXEMPTION FROM SURCHARGE. An

insurer may not collect a surcharge authorized under this subchapter on any policy issued to this state, an agency of this state, or a political subdivision of this state.

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

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

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

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

(1) the lesser of:

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

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

(2) 2 percent.

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

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

(f) The aggregate amount of outstanding pre-event and post-

No equivalent provision.

event financing provided under this section may not exceed \$1 billion.

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

- (1) Subchapter B-1, Chapter 2210; and
- (2) Subchapter M, Chapter 2210.

No equivalent provision.

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

No equivalent provision.

ARTICLE 2. CONFORMING AMENDMENTS

No equivalent provision.

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

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

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

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

~~[(3) unless the commissioner takes further action against the~~

No equivalent provision.

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

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

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

- (1) satisfy, in whole or in part, the liability of the association on claims made on policies written by the association;
- (2) make investments authorized under applicable law;
- (3) pay reasonable and necessary administrative expenses incurred in connection with the operation of the association and the processing of claims against the association;
- (4) satisfy, in whole or in part, the obligations of the association incurred in connection with Subchapters B-1, B-2, J, ~~and~~ M, and M-2, including reinsurance, public securities, and financial instruments; or
- (5) make remittance under the laws of this state to be used by this state to:
 - (A) pay claims made on policies written by the association;
 - (B) purchase reinsurance covering losses under those policies; or
 - (C) prepare for or mitigate the effects of catastrophic natural events.

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

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

- (1) satisfy, in whole or in part, the liability of the association on claims made on policies written by the association;
- (2) make investments authorized under applicable law;
- (3) pay reasonable and necessary administrative expenses incurred in connection with the operation of the association and the processing of claims against the association;
- (4) satisfy, in whole or in part, the obligations of the

No equivalent provision.

association incurred in connection with Subchapters B-2 [~~B-1~~], J, and M-2 [~~M~~], including reinsurance[~~, public securities,~~] and financial instruments; or

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

- (A) pay claims made on policies written by the association;
- (B) purchase reinsurance covering losses under those policies; or
- (C) prepare for or mitigate the effects of catastrophic natural events.

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

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

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

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

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

No equivalent provision.

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

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

No equivalent provision.

- (1) the past and prospective loss experience within and outside this state of hazards for which insurance is made available through the plan of operation, if any;
- (2) expenses of operation, including acquisition costs;
- (3) a reasonable margin for profit and contingencies; and
- (4) ~~[payment of public security obligations issued under this chapter, including the additional amount of any debt service coverage determined by the association to be required for the issuance of marketable public securities; and~~
- ~~[(5)]~~ all other relevant factors, within and outside this state.

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

No equivalent provision.

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

- (1) the construction, alteration, remodeling, enlargement, or repair of, or an addition to, insurable property exceeds applicable building code standards set forth in the plan of operation; or
- (2) the person elects to purchase a binding arbitration endorsement under Section 2210.554.

(b) Effective September 1, 2025, Section 2210.363(a), Insurance Code, is amended to read as follows:

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

- (1) the construction, alteration, remodeling, enlargement, or repair of, or an addition to, insurable property exceeds applicable building code standards set forth in the plan of operation; or
- (2) the person elects to purchase a binding arbitration endorsement under Section 2210.554.

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

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

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

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

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

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

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

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

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

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

No equivalent provision.

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

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

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

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

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

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

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

No equivalent provision.

ARTICLE 3. TRANSITION AND SAVINGS PROVISIONS

No equivalent provision.

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

No equivalent provision.

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

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

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

No equivalent provision.

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

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

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

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

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

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

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

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

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

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

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

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

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

No equivalent provision.

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

(a) The board shall:

(1) gather information regarding:

(A) how the association's current funding and funding

structure operate;
(B) how the catastrophic risk pools of other states operate;
~~[and]~~
(C) how an investment from the economic stabilization fund could be used to establish a new funding source for the association;
(D) options, in addition to the option provided by Paragraph (C), for eliminating or reducing the association's reliance on the issuance of public securities as a mechanism for funding the association;
(E) methods to increase the association's contributions to the catastrophe reserve trust fund; and
(F) other information that the board considers necessary to prepare the information required by Subsection (c); and
(2) hold public meetings to hear testimony from experts, stakeholders, and other interested parties regarding recommendations and proposals for establishing and implementing sustainable funding and a sustainable funding structure for the association.
(d) This section expires September 1, 2025 [~~2023~~].

ARTICLE 4. EFFECTIVE DATE

No equivalent provision.

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

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