

BILL ANALYSIS

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C.S.H.B. 3689
By: Hunter et al. (Kolkhorst)
Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Windstorm Insurance Association (TWIA) has traditionally funded excess losses and operating expenses through public securities, a method that has proven costly and inefficient due to high interest and issuance expenses. H.B. 3689 seeks to reduce TWIA's long-term financial burdens, ensure timely repayment of state financing arrangements, and enhance the association's capacity to cover losses following disasters by replacing public securities with state-funded financing and introducing catastrophe surcharges. In addition, the bill authorizes TWIA to pay losses it would otherwise pay through public securities by entering into catastrophe financing arrangements with the state.

The bill amends Insurance Code and Government Code to authorize the use of up to \$1.0 billion from the Economic Stabilization Fund to be used for the payment of excess losses of the TWIA and that would be repaid through the order of catastrophe surcharge on all policy holders of property insurance policies.

C.S.H.B. 3689 amends current law relating to funding of excess losses and operating expenses of the Texas Windstorm Insurance Association, authorizes an assessment, and authorizes a surcharge.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1.18 of this bill.

Rulemaking authority previously granted to the commissioner of insurance is modified in SECTION 2.06 (Section 2210.452, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

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

SECTION 1.01. (a) Defines "association."

(b) Provides that the legislature finds that the use of public securities would not be an efficient or viable long-term method to fund losses of the Texas Windstorm Insurance Association (TWIA) in order for TWIA to continue to provide windstorm and hail insurance after a catastrophic event. Provides that Subchapter B-2, Chapter 2210 (Texas Windstorm Insurance Association), 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 TWIA incurred after December 31, 2025.

(c) Provides that the legislature finds that:

(1) previous experience has shown that the expense to TWIA 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 TWIA 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 TWIA to pay losses after a catastrophic event; and

(3) a financing arrangement or other investment from available state money to TWIA of not more than \$500 million before a catastrophic event and not more than \$1 billion after a catastrophic event would replace the funding levels currently provided by issuing public securities, be consistent with sound insurance solvency standards, provide a more viable method for TWIA to have money for losses after a catastrophic event than the issuance of public securities, and provide a secured investment for the state that would yield interest income for the state on state money and be adequately secured for repayment through statewide catastrophe surcharges on certain insurance policies in this state.

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

SECTION 1.02. Amends Section 2210.003, Insurance Code, by adding Subdivisions (3-c), (3-d), and (3-e) to define "financing arrangement," "financing arrangement administrative expense," and "financing arrangement obligation."

SECTION 1.03. Amends the heading to Subchapter B-1, Chapter 2210, Insurance Code, to read as follows:

SUBCHAPTER B-1. PAYMENT OF LOSSES INCURRED BEFORE JANUARY 1, 2026

SECTION 1.04. Amends Subchapter B-1, Chapter 2210, Insurance Code, by adding Section 2210.070, as follows:

Sec. 2210.070. APPLICABILITY OF SUBCHAPTER. (a) Provides that this subchapter applies only to the payment of losses and operating expenses of TWIA for a catastrophe year that occurs before January 1, 2026, and results in excess losses and operating expenses incurred by TWIA before January 1, 2026.

(b) Requires that payment of excess losses and operating expenses of TWIA incurred after December 31, 2025, be paid as provided by Subchapter B-2.

SECTION 1.05. Amends Section 2210.071, Insurance Code, as follows:

Sec. 2210.071. PAYMENT OF EXCESS LOSSES. (a) Requires that excess losses and operating expenses, if, in a catastrophe year before January 1, 2026, an occurrence or series of occurrences in a catastrophe area results in insured losses and operating expenses of TWIA in excess of premium and other revenue of TWIA, be paid as provided by this subchapter.

(b) Prohibits TWIA from paying 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 TWIA for that catastrophe year with premium and other revenue earned in a subsequent year.

SECTION 1.06. Amends Section 2210.0715(b), Insurance Code, as follows:

(b) Prohibits proceeds of public securities issued, a financing arrangement entered into, or assessments made before January 1, 2026, or as a result of any occurrence or series of

occurrences in a catastrophe year that occurs before January 1, 2026, and results in insured losses before that date from being included in reserves available for a subsequent catastrophe year for purposes of this section or Section 2210.082 unless approved by the commissioner of insurance (commissioner).

SECTION 1.07. Amends the heading to Section 2210.075, Insurance Code, to read as follows:

Sec. 2210.075. REINSURANCE BY MEMBERS.

SECTION 1.08. Amends Subchapter B-1, Chapter 2210, Insurance Code, by adding Section 2210.076, as follows:

Sec. 2210.076. PAYMENT FROM STATE-FUNDED FINANCING ARRANGEMENTS. (a) Authorizes TWIA, notwithstanding the provisions of this subchapter to the contrary, to pay losses TWIA would otherwise pay as provided by certain sections of the Insurance Code by entering into financing arrangements with this state as provided by Subchapter M-1 and Section 404.0242, Government Code.

(b) Provides that Subchapter M-2 applies to the financing of losses under this section to the extent necessary to secure and repay a financing agreement to the state that is entered into under Subchapter M-1.

(c) Authorizes TWIA to enter into a financing arrangement that includes interest-bearing loans or other financial instruments with any market source to enable TWIA to pay losses secured by a financing arrangement with this state under Subchapter M-1.

SECTION 1.09. Amends Chapter 2210, Insurance Code, by adding Subchapter B-2, as follows:

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

Sec. 2210.080. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter applies only to the payment of losses and operating expenses of TWIA for a catastrophe year that occurs after December 31, 2025, and results in excess losses and operating expenses incurred by TWIA after December 31, 2025.

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

(b) Prohibits TWIA from paying 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 TWIA for that 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) Requires TWIA to 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 TWIA for that catastrophe year from reserves of TWIA 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) Requires TWIA, for insured losses and operating expenses for a catastrophe year not paid under Subsection (a), to 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) Requires that insured losses and operating expenses for a catastrophe year not paid under Section 2210.082 be paid as provided by this section from member assessments not to exceed \$1 billion for that catastrophe year.

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

(c) Prohibits a TWIA member from recouping an assessment paid under this section through a premium surcharge or tax credit.

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

(b) Requires a TWIA member to notify the board of directors, in the manner prescribed by TWIA, whether the member will be purchasing reinsurance. Provides that, if the member does not purchase reinsurance under this section, the member remains liable for any assessment imposed under this subchapter.

SECTION 1.10. Amends Section 2210.452(b), Insurance Code, as follows:

(b) Requires the Comptroller of Public Accounts of the State of Texas (comptroller) to hold the money outside the state treasury on behalf of, and with legal title in, the department on behalf of TWIA. Authorizes TWIA to include the amounts held in the catastrophe reserve trust fund as an admitted asset in the financial statements of TWIA.

SECTION 1.11. Amends Section 2210.4521, Insurance Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Makes no changes to this section.

(a-1) Creates this subsection from existing text. Authorizes the comptroller and the board of directors to recommend investments to protect the trust fund and create investment income.

SECTION 1.12. Amends Sections 2210.453(d) and (e), Insurance Code, as follows:

(d) Authorizes TWIA to obtain reinsurance at any level including excess of loss, quota share, and other forms of reinsurance to protect the solvency and viability of TWIA. Authorizes the commissioner to consult with the board of directors regarding methods to protect the solvency and continued viability of TWIA, including by protecting the minimum balance, acquiring reinsurance, or by other means.

Deletes existing text requiring that the cost of the reinsurance purchased or alternative financing mechanisms used under Section 2210.453 (Funding Levels; Reinsurance and Alternative Risk Financing Mechanisms; Reinsurance from Certain Insurer or Broker Prohibited) in excess of the minimum funding level required by Subsection (b) (relating to requiring TWIA to maintain total available loss funding in a certain amount) be paid by assessments as provided by this subsection. Deletes existing text requiring TWIA, with approval of the commissioner, to notify each member of TWIA of the amount of the member's assessment under this subsection. Deletes existing text requiring that the proportion of the cost to each insurer under this subsection be determined in the manner used to determine each insurer's participation in TWIA for the year under Section 2210.052 (Establishment and Use of Trust Fund).

(e) Authorizes the commissioner to adopt a method or approve TWIA's method of determining the probability of one in 100 for TWIA risks. Requires the commissioner to provide any adopted or approved method to TWIA on or before February 1 of each year. Deletes existing text prohibiting a member of TWIA from recouping an assessment paid under Subsection (d) through a premium surcharge or tax credit.

SECTION 1.13. Amends Section 2210.601, Insurance Code, as follows:

Sec. 2210.601. New heading: FINDINGS. Provides that the legislature finds that for losses incurred before January 1, 2026, authorizing TWIA to enter into a financing agreements with this state as provided by Section 2210.076, rather than authorizing the issuance of public securities, to provide a method to raise funds to provide windstorm and hail insurance through TWIA in certain designated portions of the state is for the benefit of the public and furtherance of a public purpose.

SECTION 1.14. Amends Subchapter M, Chapter 2210, Insurance Code, by adding Section 2210.6015, as follows:

Sec. 2210.6015. APPLICABILITY OF SUBCHAPTER. Authorizes TWIA, to provide for a reasonable transition, to issue public securities under Subchapter M (Public Securities Program) or enter into financing arrangements with this state as provided by Section 2210.076 if TWIA needs to provide funds for excess losses and operating expenses incurred by TWIA before January 1, 2026, for a catastrophe year occurring before January 1, 2026. Prohibits TWIA, after December 31, 2025, from issuing public securities under this subchapter except to fund excess losses and operating expenses incurred before January 1, 2026.

SECTION 1.15. Amends Chapter 2210, Insurance Code, by adding Subchapters M-1 and M-2, as follows:

SUBCHAPTER M-1. STATE-FUNDED FINANCING ARRANGEMENTS

Sec. 2210.631. DEFINITION. Defines "catastrophic event."

Sec. 2210.6315. STATE-FUNDED FINANCING ARRANGEMENTS. Provides that the legislature has determined that providing catastrophe funding to TWIA by permitting TWIA to enter into a financing arrangement with this state is an acceptable use of state money and provides an efficient method for TWIA to pay losses following a catastrophic event.

Sec. 2210.632. FINANCING ARRANGEMENT AUTHORIZED; LIMITS. (a) Authorizes TWIA to enter into a financing arrangement with this state as provided by Section 404.0242, Government Code, and in accordance with this subchapter:

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

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

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

Sec. 2210.6325. REQUEST TO ENTER INTO FINANCING ARRANGEMENT. (a) Authorizes TWIA to submit a request to the comptroller to enter into a financing arrangement as authorized by Section 404.0242, Government Code. Requires that the request include TWIA's requested maximum principal amount and maximum term of the arrangement.

(b) Authorizes TWIA and the comptroller to agree to increase the maximum principal amount stated in a request submitted under Subsection (a) on a showing that a greater principal amount is needed for certain purposes.

Sec. 2210.633. **ADDITIONAL COVENANTS.** Authorizes TWIA, with respect to a financing arrangement entered into under Section 2210.632, to make additional covenants with respect to the financing arrangement and the designated income and receipts of TWIA pledged to the payment of the financing arrangement and provide for the flow of money and the establishment, maintenance, investment, and administration of funds and accounts with respect to the financing arrangement.

Sec. 2210.6335. **DEPOSIT OF PROCEEDS.** Requires that the proceeds of a financing arrangement with this state entered into under Section 2210.632 before a catastrophic event be deposited into a separate account located in the catastrophe reserve trust fund.

Sec. 2210.634. **USE OF PROCEEDS.** (a) Requires that the proceeds of a financing arrangement, including investment income, be held in trust for the exclusive use and benefit of TWIA. Authorizes TWIA to use the proceeds for certain purposes.

(b) Authorizes TWIA to use excess proceeds of a financing arrangement entered into under Section 2210.632 remaining after the purposes for which the financing arrangement was entered into are satisfied to repay any financing arrangement obligations or financing arrangement administrative expenses. Requires that the excess proceeds, if all outstanding financing arrangement obligations or financing arrangement administrative expenses are satisfied, be transferred to the catastrophe reserve trust fund.

Sec. 2210.6345. **REPAYMENT OF FINANCING ARRANGEMENT OBLIGATION.** (a) Requires the comptroller and TWIA, with respect to a financing arrangement entered into under Section 2210.632, to enter into a separate agreement under which TWIA is required to provide for the payment of all financing arrangement obligations and financing arrangement administrative expenses from money collected by TWIA and deposited in the manner provided by this subchapter.

(b) Requires the comptroller, if a financing arrangement entered into under Section 2210.632 is outstanding, to notify TWIA of the amount of outstanding financing arrangement obligations and estimated financing arrangement administrative expenses each calendar year in a period sufficient, as determined by TWIA, to permit TWIA to assess a premium surcharge as necessary to meet the obligations and expenses.

Sec. 2210.635. **EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS.** Authorizes TWIA, with respect to a financing arrangement entered into under Section 2210.632, to use revenue collected in a calendar year from a premium surcharge, including earned interest, that exceeds the amount of the financing arrangement obligations and financing arrangement administrative expenses payable during that calendar year for certain purposes.

Sec. 2210.6355. **SOURCE OF PAYMENT; STATE DEBT NOT CREATED.** (a) Provides that a financing arrangement entered into under Section 2210.632 is payable solely from revenue as provided by this subchapter.

(b) Provides that a financing arrangement entered into under Section 2210.632 is not a debt of this state or any state agency or political subdivision of this state and does not constitute a pledge of the faith and credit of this state or any state agency or political subdivision of this state.

(c) Requires that each financing arrangement entered into under Section 2210.632 state that, except as otherwise provided by this subchapter, neither this state nor a state agency, political corporation, or political subdivision of this state is

obligated to pay the principal of or interest on the financing arrangement and neither the faith and credit nor the taxing power of this state or a state agency, political corporation, or political subdivision of this state is pledged to the payment of the principal of or interest on the financing arrangement.

Sec. 2210.636. STATE NOT TO IMPAIR FINANCING ARRANGEMENT OBLIGATION. Provides that the state pledges for the benefit and protection of financing parties that the state will not take or permit certain actions.

Sec. 2210.6365. RIGHTS WITH RESPECT TO FINANCING ARRANGEMENT. Provides that, if amounts due under a financing arrangement entered into under Section 2210.632 are outstanding, the rights and interests of TWIA, a successor to TWIA, any member of TWIA, or any member of the Texas FAIR Plan Association, including the right to impose, collect, and receive a premium surcharge authorized under this subchapter, are only contract rights until those revenues are first pledged for the repayment of TWIA's financing arrangement obligations as provided by this subchapter and Subchapter M-2.

Sec. 2210.637. ENFORCEMENT. Provides that a writ of mandamus and any other legal and equitable remedies are available to a party at interest to require TWIA or another party to fulfill an agreement and to perform functions and duties under this subchapter, the Texas Constitution, or a relevant financing arrangement.

Sec. 2210.6375. NO PERSONAL LIABILITY. Provides that, notwithstanding any other provision of this subchapter, the members of TWIA, the members of the TWIA board of directors, TWIA employees, the comptroller and comptroller employees, the commissioner, and the Texas Department of Insurance (TDI) employees are not liable as a result of exercising the rights and responsibilities granted under this subchapter, including by entering into a financing arrangement under Section 2210.632.

SUBCHAPTER M-2. CATASTROPHE SURCHARGE

Sec. 2210.641. DEFINITION. Defines "catastrophic event."

Sec. 2210.642. APPLICABILITY OF SUBCHAPTER. (a) Provides that, notwithstanding Section 2210.006, this subchapter applies to certain insurers.

(b) Provides that a premium surcharge applies to certain insurance policies.

Sec. 2210.6425. CONSTRUCTION OF SUBCHAPTER. (a) Prohibits this subchapter from being construed to require an insurer to be a TWIA member if the insurer is not otherwise required to be a member under Section 2210.052.

(b) Provides that a farm mutual insurance company that is not a fronting insurer as defined by Section 221.001(c) is not a member of TWIA 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. Requires the commissioner to 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 the amount available in the catastrophe reserve trust fund and information regarding the current financial condition of TWIA.

Sec. 2210.6435. CATASTROPHE SURCHARGES. (a) Provides that the commissioner, in consultation with the board of directors and the comptroller, is authorized to order a catastrophe surcharge as provided by this subchapter only in certain circumstances.

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

(c) Prohibits the total amount authorized to be collected under this section for any catastrophe surcharge from exceeding the amount needed to repay the financing arrangement obligation and administrative expenses to the state under the financing arrangement entered into with this state under Subchapter M-1 that is the basis for the surcharge.

(d) Requires that the catastrophe surcharge percentage be set in an amount sufficient to repay the financing arrangement obligation and administrative expenses to the state under the financing arrangement entered into with this state under Subchapter M-1 that is the basis for the surcharge. Authorizes the commissioner to 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) Requires that a catastrophe surcharge authorized under this section be assessed by insurers on all policyholders of policies that are subject to this subchapter.

(f) Provides that 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) Provides that failure by a policyholder to pay a catastrophe surcharge constitutes failure to pay premium for purposes of policy cancellation.

(h) Provides that a catastrophe surcharge is not refundable if the policy is canceled or terminated.

Sec. 2210.644. CATASTROPHE SURCHARGE PROCEEDS. Requires that the proceeds of a catastrophe surcharge authorized under this subchapter be deposited into an account designated by the comptroller for purposes of repayment of TWIA's financing arrangement obligation and administrative expenses to the state under the financing arrangement entered into with this state under Subchapter M-1 that is the basis for the surcharge.

Sec. 2210.6445. DISCLOSURE OF SURCHARGE. Requires that each policy that is assessed a surcharge under this subchapter to contain a prominent disclosure in the documents attached to the policy. Sets forth the required language of the disclosure.

Sec. 2210.645. EXEMPTION FROM TAXATION. Provides that 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. Provides that TWIA members, the insurers required to collect a surcharge under this subchapter, members of the board of directors, TWIA employees, the commissioner, and TDI employees are not personally liable as a result of exercising the rights and responsibilities granted under this subchapter.

Sec. 2210.646. EXEMPTION FROM SURCHARGE. Prohibits an insurer from collecting 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 1.16. Amends Subchapter C, Chapter 404, Government Code, by adding Section 404.0242, as follows:

Sec. 404.0242. INVESTMENT IN WINDSTORM CATASTROPHE FINANCING ARRANGEMENTS. (a) Requires the comptroller to invest certain economic stabilization

fund balances to provide a financing arrangement for losses of TWIA in accordance with this section and Chapter 2210, Insurance Code, provided that, at the time of investment, the economic stabilization fund balances are above the sufficient balance determined under Section 316.092 (Determination of Threshold for Constitutional Transfer to State Highway Fund) of the Government Code. Authorizes the comptroller, for the purpose of investing the assets of the economic stabilization fund under this section, to acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor exercising reasonable care, skill, and caution would acquire, exchange, sell, supervise, manage, or retain in light of the purposes, terms, distribution requirements, and other circumstances then prevailing for the economic stabilization fund, taking into consideration the investment of all the assets of the fund rather than a single investment.

(b) Authorizes the comptroller, for purposes of this section, to enter into an appropriate financing arrangement with TWIA to provide TWIA 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 TWIA arising from the catastrophic event. Requires that financing provided under this section be secured and repaid by catastrophe surcharges under Subchapter M-2, Chapter 2210, Insurance Code. Defines "financing arrangement."

(c) Requires that the interest rate charged in connection with a financing arrangement entered into under this section be calculated as the sum of the current market rate of a United States Treasury Security of comparable maturity, as determined by the comptroller, and two percent.

(d) Provides that a financing arrangement entered into under this section is prohibited from exceeding 36 months to maturity and is authorized to include a contractual coverage amount of at least 1.10 but not greater than 1.25.

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

(f) Prohibits the aggregate amount of outstanding pre-event and post-event financing provided under this section from exceeding \$2 billion.

(g) Prohibits a person from bringing a civil action against this state, the Texas Treasury Safekeeping Trust Company, or an employee, independent contractor, or official of this state, including the comptroller, for any claim, including breach of fiduciary duty or violation of any constitutional, statutory, or regulatory requirement, in connection with any action, inaction, decision, divestment, investment, report, or other determination made or taken in connection with this section. Provides that a person who brings an action described by this subsection is liable to the defendant for the defendant's costs and attorney's fees resulting from the action.

(h) Requires the comptroller to manage the investments required by this section as a separate investment portfolio. Requires the comptroller to provide separate accounting and reporting for the investments in that portfolio. Requires the comptroller to credit to that portfolio all payments, distributions, interest, and other earnings on the investments in that portfolio. Provides that the comptroller has any power necessary to accomplish the purposes of managing and investing the assets of this separate investment portfolio. Authorizes the comptroller, in managing the assets of that portfolio, through procedures and subject to restrictions the comptroller considers appropriate, to acquire, sell, transfer, or otherwise assign the investments as appropriate, taking into consideration the purposes, terms, distribution requirements, and other circumstances of that portfolio then prevailing.

SECTION 1.17. Repealers, effective September 1, 2027: Subchapter B-1 (Payment of Losses) and Subchapter M (Public Securities Program), Insurance Code.

SECTION 1.18. Requires the commissioner, as soon as practicable after the effective date of this Act and not later than December 1, 2025, to adopt rules necessary to implement Subchapters B-2, M-1, and M-2, Chapter 2210, Insurance Code, as added by this Act.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. (a) Amends Section 2210.0081, Insurance Code, as follows:

Sec. 2210.0081. CERTAIN ACTIONS BROUGHT AGAINST ASSOCIATION BY COMMISSIONER. Provides that, in an action brought by the commissioner against TWIA under Chapter 441 (Supervision and Conservatorship):

(1) TWIA's inability to satisfy obligations under Subchapter M, M-1, or M-2 related to a financing arrangement entered into or the issuance of public securities under this chapter constitutes a condition to make TWIA's continuation in business hazardous to the public or to TWIA's policyholders for the purposes of Section 441.052 (Circumstances Constituting Insurer Exceeding Powers);

(2) makes no changes to this subdivision; and

(3) unless the commissioner takes further action against TWIA under Chapter 441, as a condition of release from supervision, TWIA is required to demonstrate to the satisfaction of the commissioner that TWIA is able to satisfy obligations under Subchapter M, M-1, or M-2 related to a financing arrangement entered into or the issuance of public securities under this chapter.

(b) Amends Section 2210.0081, Insurance Code, effective September 1, 2027, as follows:

Sec. 2210.0081. CERTAIN ACTIONS BROUGHT AGAINST ASSOCIATION BY COMMISSIONER. Provides that, in an action brought by the commissioner against TWIA under Chapter 441 (Supervision and Conservatorship):

(1) TWIA's inability to satisfy obligations under Subchapter M-1 or M-2 related to a financing arrangement entered into, rather than Subchapter M related to the issuance of public securities, under this chapter constitutes a condition to make TWIA's continuation in business hazardous to the public or to TWIA's policyholders for the purposes of Section 441.052;

(2) makes no changes to this subdivision; and

(3) unless the commissioner takes further action against TWIA under Chapter 441, as a condition of release from supervision, TWIA is required to demonstrate to the satisfaction of the commissioner that TWIA is able to satisfy obligations under Subchapter M-1 or M-2 related to a financing arrangement entered into, rather than under Subchapter M related to the issuance of public securities, under this chapter.

SECTION 2.02. (a) Amends Section 2210.056(b), Insurance Code, as follows:

(b) Prohibits TWIA's assets from being used for or diverted to any purpose other than certain purposes, including satisfying, in whole or in part, the obligations of TWIA incurred in connection with Subchapters B-1, B-2, J (Catastrophe Reserve Trust Fund), M, M-1, and M-2, including reinsurance, financing arrangements, public securities, and financial instruments. Makes a nonsubstantive change.

(b) Amends Sections 2210.056(b) and (c), Insurance Code, effective September 1, 2027, as follows:

(b) Prohibits TWIA's assets from being used for or diverted to any purpose other than to satisfy, in whole or in part, the obligations of TWIA incurred in connection with Subchapters B-2, J, M-1, and M-2, rather than Subchapters B-1, J, and M, including reinsurance and financial instruments, rather than including reinsurance, public securities, and financial instruments.

(c) Provides that, on dissolution of TWIA, all assets of TWIA, other than assets pledged for the repayment of financial arrangements entered into, rather than the repayment of public securities issued, under this chapter, revert to this state.

SECTION 2.03. (a) Amends Section 2210.1052, Insurance Code, as follows:

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

(b) Amends Section 2210.1052, Insurance Code, effective September 1, 2027, as follows:

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

SECTION 2.04. (a) Amends Section 2210.355(b), Insurance Code, as follows:

(b) Requires that, in adopting rates under this chapter, the payment of financing arrangement obligations or public security obligations issued under this chapter, including the additional amount of any debt service coverage included in a financing arrangement determined by TWIA to be required for the issuance of marketable public securities, be considered.

(b) Amends Section 2210.355(b), Insurance Code, effective September 1, 2027, as follows:

(b) Requires that, in adopting rates under this chapter, the payment of financing arrangement obligations issued under this chapter, including the additional amount of any debt service coverage included in a financing arrangement, rather than payment of public securities obligations issued under this chapter, including the additional amount of any debt service coverage determined by TWIA to be required for the issuance of marketable public securities, be considered.

SECTION 2.05. (a) Amends Section 2210.363(a), Insurance Code, as follows:

(a) Authorizes TWIA to offer a person insured under this chapter an actuarially justified premium discount on a policy issued by TWIA, or an actuarially justified credit against a surcharge assessed against the person, other than a surcharge assessed under Subchapter M, M-1, or M-2 in certain circumstances.

(b) Amends Section 2210.363(a), Insurance Code, effective September 1, 2027, as follows:

(a) Authorizes TWIA to offer a person insured under this chapter an actuarially justified premium discount on a policy issued by TWIA, or an actuarially justified credit against a surcharge assessed against the person, other than a surcharge

assessed under Subchapter M-1 or M-2, rather than Subchapter M, in certain circumstances.

SECTION 2.06. (a) Amends Sections 2210.452(a) and (d), Insurance Code, as follows:

(a) Provides that, except as otherwise provided by Section 2210.452 (Establishment and Use of Trust Fund), the catastrophe reserve trust fund (trust fund) is authorized to be used only for certain purposes directly related to funding the payment of insured losses, including funding the obligations of the trust fund under Subchapters B-1 and B-2. Makes a nonsubstantive change.

(d) Requires the commissioner by rule to 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) Amends Sections 2210.452(a), (c), and (d), Insurance Code, effective September 1, 2025, as follows:

(a) Provides that, except as otherwise provided by Section 2210.452, the catastrophe reserve trust fund (trust fund) is authorized to be used only for certain purposes directly related to funding the payment of insured losses, including funding the obligations of the trust fund under Subchapter B-2, rather than Subchapter B-1.

(c) Requires TWIA, at the end of each calendar year or policy year, to use the net gain from operations of TWIA, including all premium and other revenue of TWIA in excess of incurred losses, operating expenses, financing arrangement obligations, and financing arrangement administrative expenses to make payments to the trust fund, procure reinsurance, or use alternative risk financing mechanisms.

Deletes existing text requiring TWIA, at the end of each calendar year or policy year, to use the net gain from operations of TWIA, including all premium and other revenue of TWIA in excess of incurred losses, 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.

(d) Requires the commissioner by rule to 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, rather than Subchapter B-1.

SECTION 2.07. (a) Amends Sections 2210.453(b) and (c), Insurance Code, as follows:

(b) Requires that the required total available loss funding level, if necessary, 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) Makes conforming changes to this subsection.

(b) Amends Sections 2210.453(b) and (c), Insurance Code, effective September 1, 2027, as follows:

- (b) Requires that the required total available loss funding level, if necessary, 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, financial instruments, financing arrangements, and assessments, rather than the trust fund, public securities, financial instruments, and assessments, authorized by this chapter.
- (c) Makes a conforming change to this subsection.

ARTICLE 3. TRANSITION AND SAVINGS PROVISIONS

SECTION 3. Provides that, 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, 2027:

- (1) the payment of excess losses and operating expenses of TWIA incurred before January 1, 2026, 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 TWIA incurred before January 1, 2026, 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, are prohibited from being 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.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.01. Effective date, except as otherwise provided by this Act: September 1, 2025.