

## **BILL ANALYSIS**

Senate Research Center

S.B. 2571  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, the Texas Windstorm Insurance Association (TWIA) is statutorily required to maintain minimum funding equivalent to a probable maximum loss (PML) associated with a loss that has a one percent likelihood of occurring. Under current law, TWIA has only two statutorily ensured sources of funding: \$1 billion in member carrier assessments and \$1 billion in policyholder backed public securities. As TWIA's exposure and policy count increases due to the private market contracting along the coast, the TWIA board of directors has substantially increased the PML from prior years. The recently adopted PML by the board of directors is \$6.227 billion. With no available funds in the Catastrophe Reserve Trust Fund (CRTF) due to losses incurred with Hurricane Beryl and only \$2 billion in statutorily ensured funding from member assessments and policyholder public securities, TWIA will have to rely on \$4.227 billion in reinsurance, causing the association to be 68 percent reliant on reinsurance. Reinsurance is a cost borne by policyholders and limits the ability of TWIA to deposit funds into the CRTF, the first line of defense to pay out claims. The overreliance on reinsurance and lack of dynamic funding is unsustainable and will lead to the insolvency of TWIA.

S.B. 2571 seeks to reform TWIA's funding sources by creating a dynamic, statutorily ensured source of funding. Specifically, the bill aggregates the assessment layers and public securities layers of TWIA's funding structure, moving assessments below public securities. S.B. 2571 removes reference to a dollar value of both assessments and public securities and, instead, ties the amount of those sources of funding to a percentage of the PML. Under the bill, both of the statutorily ensured sources of funding, assessments and public securities, are each 33 percent of the dollar value of the PML. This ensures that as TWIA's exposure and policy count increases or decreases, so do the assessment and public securities layers of TWIA's funding. With a total of 66 percent of TWIA's funding being guaranteed through assessments or public securities, reinsurance would never make up more than 34 percent of the PML. With a dramatic cut in the amount of reinsurance purchased by TWIA, there will be more funds available to deposit into the CRTF, further reducing reliance on reinsurance and moving TWIA further away from both assessments and public securities. Because reinsurance is paid for whether or not TWIA draws on it, this represents a significant cost savings. Both assessments and public securities are only paid for if TWIA utilizes them, making TWIA's funding much more sustainable.

As proposed, S.B. 2571 amends current law relating to funding of excess losses and operating expenses of the Texas Windstorm Insurance Association and authorizes an assessment.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1.17 of this bill.

Rulemaking authority previously granted to the commissioner of insurance is modified in SECTION 2.03 (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. 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 1.02. 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 the Texas Windstorm Insurance Association (TWIA) for a catastrophe year that occurs before January 1, 2026, and results in excess losses and operating expenses incurred by the association 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 1.03. Amends Section 2210.071(a), Insurance Code, to require that the 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.

SECTION 1.04. Amends Section 2210.0715(b), Insurance Code, as follows:

(b) Prohibits proceeds of public securities issued 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 1.05. 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.** (a) Provides that this subchapter applies only to the payment of losses and operating expenses of the association for a catastrophe year that occurs after December 31, 2025, and results in excess losses and operating expenses incurred by the association after December 31, 2025.

(b) Provides that this section expires January 1, 2026.

Sec. 2210.081. **PAYMENT OF EXCESS LOSSES.** (a) Requires that the 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 the association, 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 with premium and other revenue earned in a subsequent year.

Sec. 2210.082. **PAYMENT FROM RESERVES AND TRUST FUND.** (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) Prohibits proceeds of public securities issued or assessments made before or as a result of any occurrence or series of occurrences in a catastrophe year that

results in insured losses from being included in reserves available for a subsequent catastrophe year for purposes of this section.

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 33 percent of the probable maximum loss for the association for that catastrophe year.

(b) Requires TWIA 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 the association 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. PAYMENT FROM CLASS 1 PUBLIC SECURITIES; FINANCIAL INSTRUMENTS. (a) Requires that losses not paid under Section 2210.083 be paid as provided by this section from the proceeds from public securities issued in accordance with Subchapter M (Public Securities Program) before, on, or after the date of any occurrence or series of occurrences that results in insured losses. Requires that public securities described by this section be paid within a period not to exceed 14 years, and be paid sooner if the board of directors determines TWIA has the ability to do so and the commissioner approves.

(b) Provides that public securities described by Subsection (a) that are issued before an occurrence or series of occurrences that results in incurred losses are authorized to be issued on the request of the board of directors of TWIA (board of directors) with the approval of the commissioner and prohibited from, in the aggregate, exceeding 33 percent of the probable maximum loss for TWIA at any one time, regardless of the calendar year or years in which the outstanding public securities were issued.

(b-1) Provides that public securities described by Subsection (a):

(1) are required to be issued as necessary in a principal amount not to exceed 33 percent of the probable maximum loss for TWIA per catastrophe year, in the aggregate, for securities issued during that catastrophe year before the occurrence or series of occurrences that results in incurred losses in that year and securities issued on or after the date of that occurrence or series of occurrences, and regardless of whether for a single occurrence or a series of occurrences; and

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

(c) Requires that the public securities, if public securities are issued as described by this section, be repaid in the manner prescribed by Subchapter M.

(d) Authorizes TWIA to borrow from, or enter into other financing arrangements with, any market source, under which the market source makes interest-bearing loans or other financial instruments to TWIA to enable TWIA to pay losses under this section or to obtain public securities under this section. Provides that, for purposes of this subsection, financial instruments includes commercial paper.

(e) Requires that the proceeds of any outstanding public securities described by Subsection (a) that are issued before an occurrence or series of occurrences, together with the proceeds of any outstanding public securities issued on or before June 1, 2025, be depleted before the proceeds of any securities issued after an occurrence or series of occurrences are authorized to be used. Provides that this subsection does not prohibit the association from issuing securities after an occurrence or series of occurrences before the proceeds of outstanding public securities issued during a previous catastrophe year have been depleted.

(f) Requires that the proceeds, if, under Subsection (e), the proceeds of any outstanding public securities issued during a previous catastrophe year, together with the proceeds of any outstanding public securities issued on or before June 1, 2025, are required to be depleted, count against the limit on public securities described by this section in the catastrophe year in which the proceeds are required to be depleted.

**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 1.06.** Repealer, effective September 1, 2026: Subchapter B-1 (Payment of Losses), Insurance Code.

**SECTION 1.17.** 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 Subchapter B-2, Insurance Code, as added by this Act.

## **ARTICLE 2. CONFORMING CHANGES**

**SECTION 2.01.** (a) Amends Section 2210.056(b), Insurance Code, to prohibit TWIA's assets from being used for or diverted to any purpose other than certain purposes, including satisfy, in whole or in part, the obligations of the association incurred in connection with Subchapters B-1, B-2, J, and M, including reinsurance, public securities, and financial instruments.

(b) Amends Section 2210.056(b), Insurance Code, effective September 1, 2026, to prohibit TWIA's assets from being used for or diverted to any purpose other than certain purposes, including satisfy, in whole or in part, the obligations of the association incurred in connection with Subchapters B-2, J, and M, rather than B-1, J, and M, including reinsurance, public securities, and financial instruments.

**SECTION 2.02.** (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 the association 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, 2026, as follows:

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 the association indicates member insurers may be subject to an assessment under

Subchapter B-2, rather than B-1, to call an emergency meeting to notify the member insurers about the assessment.

SECTION 2.03. Amends Sections 2210.452(a) and (d), Insurance Code, as follows:

(a) Requires the commissioner to adopt rules under which TWIA makes payments to the catastrophe reserve trust fund. Provides that, except as otherwise specifically provided by Section 2210.452 (Establishment and Use of Trust Fund), the 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 TWIA 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) and (d), Insurance Code, effective September 1, 2026, as follows:

(a) Requires the commissioner to adopt rules under which TWIA makes payments to the catastrophe reserve trust fund. Provides that, except as otherwise specifically provided by this section, the 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 B-1.

(d) Requires the commissioner by rule to establish the procedure relating to the disbursement of money from the trust fund to policyholders and for TWIA 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 B-1.

SECTION 2.04. (a) Amends Section 2210.453(c), Insurance Code, to prohibit the attachment point for reinsurance purchased under this section from being less than the aggregate amount of all funding available to the association under Subchapters B-1 and B-2. Makes a nonsubstantive change.

(b) Amends Section 2210.453(c), Insurance Code, effective September 1, 2026, to prohibit the attachment point for reinsurance purchased under this section from being less than the aggregate amount of all funding available to the association under Subchapter B-2, rather than B-1.

SECTION 2.05. Provides that Section 2210.602 (Definitions), Insurance Code, effective January 1, 2026, is repealed and replaced with Section 2210.602, as follows:

Sec. 2210.602. DEFINITIONS. Defines "authority," "board," "catastrophic event," "Class 1 public securities," "Class 1 public security trust fund," "credit agreement," "public security," "public security administrative expenses," "public security obligations," and "public security resolution."

SECTION 2.06. Amends Section 2210.604(a), Insurance Code, effective January 1, 2026, to require the Texas Public Finance Authority (authority), at the request of TWIA and with the approval of the commissioner, to issue Class 1, rather than Class 1, Class 2, or Class 3, public securities.

SECTION 2.07. Amends Section 2210.608(c), Insurance Code, effective January 1, 2026, as follows:

(c) Prohibits the proceeds from public securities issued under Section 2210.084, rather than Section 2210.072 (Payment from Class 1 Public Securities; Financial Instruments), before an occurrence or series of occurrences that results in incurred losses, including investment income, notwithstanding Subsection (a)(2) (relating to authorizing TWIA to use the proceeds to purchase reinsurance for TWIA), from being used to purchase reinsurance for TWIA.

SECTION 2.08. Amends Section 2210.609, Insurance Code, effective January 1, 2026, as follows:

Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY OBLIGATIONS. (a) Requires TWIA, if TWIA determines that it is unable to pay the public security obligations and public security administrative expenses, if any, with available funds, to pay those obligations and expenses in accordance with Section 2210.612, rather than Sections 2210.612, 2210.613, and 2210.6131, as applicable. Authorizes Class 1, rather than Class 1, Class 2, or Class 3, public securities to be issued on a parity or subordinate lien basis with other Class 1 public securities. Makes conforming and nonsubstantive changes.

(b) Makes no changes to this subsection.

(c) Deletes existing text requiring TWIA to deposit all revenue collected under Section 2210.613 in the Class 2 public security trust fund, and all revenue collected under Section 2210.6131 in the Class 3 public security trust fund. Deletes existing text authorizing the board of directors, if TWIA has not transferred amounts sufficient to pay the public security obligations to the board's designated interest and sinking fund in a timely manner, to direct the Texas Treasury Safekeeping Trust Company to transfer from the Class 2 public security trust fund, or the Class 3 public security trust fund to the appropriate account the amount necessary to pay the public security obligation.

(d) Deletes existing text requiring TWIA to provide for the payment of the public security obligations and the public security administrative expenses by irrevocably pledging revenues received from premiums, premium surcharges, and amounts on deposit in the Class 2 public security trust fund, and the Class 3 public security trust fund together with any public security reserve fund, as provided in the proceedings authorizing the public securities and related credit agreements.

(e) Deletes existing text requiring that an amount owed by the board under a credit agreement be payable from and secured by a pledge of revenues received by TWIA from the Class 2 public security trust fund, and the Class 3 public security trust fund to the extent provided in the proceedings authorizing the credit agreement.

SECTION 2.09. Amends Section 2210.610(a), Insurance Code, effective January 1, 2026, to provide that revenues received from the premium surcharges under Section 2210.612, rather than Sections 2210.612, 2210.613, and 2210.6131, are authorized to be applied only as provided by this subchapter.

SECTION 2.10. Amends Section 2210.611, Insurance Code, effective January 1, 2026, as follows:

Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Authorizes revenue collected in any calendar year from a premium surcharge under Section 2210.612, rather than Sections 2210.612, 2210.613, and 2210.6131, that exceeds the amount of the public security obligations and public security administrative expenses payable in that calendar year and interest earned on the funds, in the discretion of TWIA, to be used for certain purposes.

SECTION 2.11. Amends Sections 2210.612(a) and (e), Insurance Code, effective January 1, 2026, as follows:

(a) Requires TWIA to pay Class 1 public securities issued under Section 2210.084, rather than Section 2210.072, from certain monies.

(e) Authorizes TWIA to enter financing agreements as described by Section 2210.084(d), rather than Section 2210.072(d) (relating to authorizing TWIA to borrow from or enter into other financing arrangements), as necessary to obtain public securities issued under Section 2210.084, rather than Section 2210.072. Requires that nothing in this subsection prevent the authorization and creation of one or more programs for the issuance of commercial paper before the date of an occurrence or series of occurrences that results in insured losses under Section 2210.084(a), rather than Section 2210.072 (a) (relating to requiring that losses paid be paid from the proceeds from Class 1 public securities).

SECTION 2.12. Amends Section 2210.6132, Insurance Code, effective January 1, 2026, as follows:

Sec. 2210.6132. New heading: CONTINGENT SOURCE OF PAYMENT FOR CLASS 1 PUBLIC SECURITIES. (a) Authorizes the commissioner to determine, in consultation with the board of directors and the authority, that:

(1) the authority is unable to issue Class 1 public securities to be payable under Section 2210.612, rather than the authority is unable to issue Class 2 or Class 3 public securities to be payable under Section 2210.613 or 2210.6131, as applicable; or

(2) makes conforming changes to this subdivision.

(b) Makes conforming changes to this subsection.

(c) Makes no changes to this subsection.

SECTION 2.13. (a) Amends Section 2210.614, Insurance Code, effective January 1, 2026, as follows:

Sec. 2210.614. REFINANCING PUBLIC SECURITIES. Authorizes TWIA to request the board to refinance any public securities issued in accordance with Subchapters B-1 and B-2, rather than Subchapter B-1, whether Class 1, rather than Class 1, Class 2, or Class 3, public securities, with public securities payable from the same sources as the original public securities.

(b) Amends Section 2210.614, Insurance Code, effective September 1, 2026, as follows:

Sec. 2210.614. REFINANCING PUBLIC SECURITIES. Authorizes TWIA to request the board to refinance any public securities issued in accordance with Subchapter B-2, rather than Subchapter B-1, whether Class 1 public securities, with public securities payable from the same sources as the original public securities. Makes a conforming change.

SECTION 2.14. Repealers, effective January 1, 2026: Sections 2210.613 (Payment from Class 2 Public Securities) and 2210.6131 (Payment from Class 3 Public Securities), Insurance Code.

### ARTICLE 3. TRANSITION AND SAVINGS PROVISIONS

SECTION 3.01. Provides that, notwithstanding the repeal by this Act of Subchapter B-1, Chapter 2210, Insurance Code, and other changes in law made by this Act effective September 1, 2026:

(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.