

By: Hunter

H.B. No. 3689

A BILL TO BE ENTITLED

AN ACT

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

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

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, 2025.

(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

1 association before or after a catastrophic event;

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

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

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

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

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

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

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

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

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

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

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

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

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

9 Sec. 2210.070. APPLICABILITY OF SUBCHAPTER. (a) This
10 subchapter applies only to the payment of losses and operating
11 expenses of the association for a catastrophe year that occurs
12 before January 1, 2026, and results in excess losses and operating
13 expenses incurred by the association before January 1, 2026.

14 (b) Payment of excess losses and operating expenses of the
15 association incurred after December 31, 2025, shall be paid as
16 provided by Subchapter B-2.

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

19 (a) If, in a catastrophe year before January 1, 2026, an
20 occurrence or series of occurrences in a catastrophe area results
21 in insured losses and operating expenses of the association in
22 excess of premium and other revenue of the association, the excess
23 losses and operating expenses shall be paid as provided by this
24 subchapter.

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

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

1 arrangement entered into, or assessments made before January 1,
2 2026, or as a result of any occurrence or series of occurrences in a
3 catastrophe year that occurs before January 1, 2026, and results in
4 insured losses before that date may not be included in reserves
5 available for a subsequent catastrophe year for purposes of this
6 section or Section 2210.082 unless approved by the commissioner.

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

9 Sec. 2210.075. REINSURANCE BY MEMBERS.

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

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

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

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

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

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

2 Sec. 2210.080. APPLICABILITY OF SUBCHAPTER. (a) This
3 subchapter applies only to the payment of losses and operating
4 expenses of the association for a catastrophe year that occurs
5 after December 31, 2025, and results in excess losses and operating
6 expenses incurred by the association after December 31, 2025.

7 (b) This section expires September 1, 2027.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 SECTION 1.12. Section [2210.601](#), Insurance Code, is amended
26 to read as follows:

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

1 that for losses incurred before January 1, 2026, authorizing the
2 association to enter into financing arrangements with this state as
3 provided by Section 2210.076 [~~issuance of public securities~~] to
4 provide a method to raise funds to provide windstorm and hail
5 insurance through the association in certain designated portions of
6 the state is for the benefit of the public and in furtherance of a
7 public purpose.

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

10 Sec. 2210.6015. APPLICABILITY OF SUBCHAPTER. To provide
11 for a reasonable transition, the association may issue public
12 securities under this subchapter or enter into financing
13 arrangements with this state as provided by Section 2210.076 if the
14 association needs to provide funds for excess losses and operating
15 expenses incurred by the association before January 1, 2026, for a
16 catastrophe year occurring before January 1, 2026. After December
17 31, 2025, the association may not issue public securities under
18 this subchapter except to fund excess losses and operating expenses
19 incurred before January 1, 2026.

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

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

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

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

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

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

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

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

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

18 SUBCHAPTER M-2. CATASTROPHE SURCHARGE

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

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

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

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

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

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

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

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

13 (4) the association; and

14 (5) the FAIR Plan Association.

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

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

18 (A) fire and allied lines;

19 (B) farm and ranch owners; and

20 (C) residential property insurance; and

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

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

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

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

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

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

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

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

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

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

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

27 Sec. 2210.644. CATASTROPHE SURCHARGE PROCEEDS. The

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

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

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

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

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

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

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

1 not exceed 36 months to maturity.

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

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

9 SECTION 1.16. Effective September 1, 2027, the following
10 provisions of the Insurance Code are repealed:

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

12 (2) Subchapter M, Chapter 2210.

13 SECTION 1.17. As soon as practicable after the effective
14 date of this Act and not later than December 1, 2025, the
15 commissioner of insurance shall adopt rules necessary to implement
16 Subchapters B-2 and M-2, Insurance Code, as added by this Act.

17 ARTICLE 2. CONFORMING AMENDMENTS

18 SECTION 2.01. Effective September 1, 2027, Section
19 2210.0081, Insurance Code, is amended to read as follows:

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

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

1 ~~441.052,~~

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

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

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

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

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

19 (2) make investments authorized under applicable law;

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

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

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

1 used by this state to:

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

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

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

8 (b) Effective September 1, 2027, Sections [2210.056](#)(b) and
9 (c), Insurance Code, are amended to read as follows:

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

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

14 (2) make investments authorized under applicable law;

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

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

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

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

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

(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, 2027, 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.

SECTION 2.04. Effective September 1, 2027, Section 2210.355(b), Insurance Code, is amended to read as follows:

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

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

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

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

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

12 ~~[-5-]~~ all other relevant factors, within and outside
13 this state.

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

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

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

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

27 (b) Effective September 1, 2027, 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

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

3 (b) Effective September 1, 2027, Sections 2210.452(a), (c),
4 and (d), Insurance Code, are amended to read as follows:

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

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

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

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

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

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

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

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

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

17 (b) Effective September 1, 2027, Sections 2210.453(b) and
18 (c), Insurance Code, are amended to read as follows:

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

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

4 ARTICLE 3. TRANSITION AND SAVINGS PROVISIONS

5 SECTION 3.01. Notwithstanding the repeal by this Act of
6 Subchapters ~~B-1~~ and M, Chapter 2210, Insurance Code, and other
7 changes in law made by this Act effective September 1, 2027:

8 (1) the payment of excess losses and operating
9 expenses of the Texas Windstorm Insurance Association incurred
10 before January 1, 2026, is governed by the law as it existed on the
11 effective date of this Act, and that law is continued in effect for
12 that purpose;

13 (2) the issuance of public securities to pay excess
14 losses and operating expenses of the Texas Windstorm Insurance
15 Association incurred before January 1, 2026, the use of the
16 proceeds of those securities, the repayment or refinancing of those
17 securities, and any other rights, obligations, or limitations with
18 respect to those securities and proceeds of those securities are
19 governed by the law as it existed on the effective date of this Act,
20 and that law is continued in effect for that purpose; and

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

26 ARTICLE 4. EFFECTIVE DATE

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

H.B. No. 3689

1 this Act takes effect September 1, 2025.