

1-1 By: Hunter, et al. H.B. No. 3689
1-2 (Senate Sponsor - Kolkhorst, et al.)
1-3 (In the Senate - Received from the House May 5, 2025;
1-4 May 5, 2025, read first time and referred to Committee on Business
1-5 & Commerce; May 23, 2025, reported adversely, with favorable
1-6 Committee Substitute by the following vote: Yeas 11, Nays 0;
1-7 May 23, 2025, sent to printer.)

1-8 COMMITTEE VOTE

1-9		Yea	Nay	Absent	PNV
1-10	Schwertner	X			
1-11	King	X			
1-12	Blanco	X			
1-13	Campbell	X			
1-14	Creighton	X			
1-15	Johnson	X			
1-16	Kolkhorst	X			
1-17	Menéndez	X			
1-18	Middleton	X			
1-19	Nichols	X			
1-20	Zaffirini	X			

1-21 COMMITTEE SUBSTITUTE FOR H.B. No. 3689 By: King

1-22 A BILL TO BE ENTITLED
1-23 AN ACT

1-24 relating to funding of excess losses and operating expenses of the
1-25 Texas Windstorm Insurance Association; authorizing an assessment;
1-26 authorizing a surcharge.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 ARTICLE 1. FUNDING OF INSURED LOSSES AND OPERATING EXPENSES OF
1-29 TEXAS WINDSTORM INSURANCE ASSOCIATION

1-30 SECTION 1.01. (a) In this section, "association" means the
1-31 Texas Windstorm Insurance Association.

1-32 (b) The legislature finds that the use of public securities
1-33 would not be an efficient or viable long-term method to fund losses
1-34 of the association in order for the association to continue to
1-35 provide windstorm and hail insurance after a catastrophic event.
1-36 Subchapter B-2, Chapter 2210, Insurance Code, as added by this Act,
1-37 is intended to replace Subchapter B-1, Chapter 2210, Insurance
1-38 Code, to provide for funding of excess losses and operating
1-39 expenses of the association incurred after December 31, 2025.

1-40 (c) The legislature finds that:

1-41 (1) previous experience has shown that the expense to
1-42 the association of issuing public securities, and the interest
1-43 rates for those securities, would be significant and can impose
1-44 significant long-term expense obligations on coastal property and
1-45 casualty risks that may be avoided if the legislature provides for
1-46 financing or investment from available state money to the
1-47 association before or after a catastrophic event;

1-48 (2) the financing or investment described by
1-49 Subdivision (1) of this subsection would be a more efficient way to
1-50 provide funding necessary for the association to pay losses after a
1-51 catastrophic event; and

1-52 (3) a financing arrangement or other investment from
1-53 available state money to the association of not more than \$500
1-54 million before a catastrophic event and not more than \$1 billion
1-55 after a catastrophic event would:

1-56 (A) replace the funding levels currently
1-57 provided by issuing public securities;

1-58 (B) be consistent with sound insurance solvency
1-59 standards;

1-60 (C) provide a more viable method for the

association to have money for losses after a catastrophic event than the issuance of public securities; and

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

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

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

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

SECTION 1.02. Section 2210.003, Insurance Code, is amended by adding Subdivisions (3-c), (3-d), and (3-e) to read as follows:

(3-c) "Financing arrangement" means an arrangement entered into by the association for the financing of payments for the uses authorized by Section 2210.634. The term includes an arrangement between the association and this state under Section 404.0242, Government Code.

(3-d) "Financing arrangement administrative expense" means an expense incurred to administer a financing arrangement issued under this chapter, including:

(A) a fee for credit enhancement;
(B) a payment to a paying agent, trustee, or attorney; or

(C) an expense relating to another professional service necessary to carry out a financing arrangement.

(3-e) "Financing arrangement obligation" means the principal of and any premium and interest on a financing arrangement issued under this chapter.

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

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

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

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

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

SECTION 1.05. Section 2210.071, Insurance Code, is amended to read as follows:

Sec. 2210.071. PAYMENT OF EXCESS LOSSES. (a) 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 the association in excess of premium and other revenue of the association, the excess losses and operating expenses shall be paid as provided by this subchapter.

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

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

(b) Proceeds of public securities issued, a financing arrangement entered into, or assessments made before January 1, 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 may not be included in reserves available for a subsequent catastrophe year for purposes of this section or Section 2210.082 unless approved by the commissioner.

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

Sec. 2210.075. REINSURANCE BY MEMBERS.

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

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

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

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

SECTION 1.09. Chapter 2210, Insurance Code, is amended by adding Subchapter B-2 to read as follows:

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

Sec. 2210.080. APPLICABILITY OF SUBCHAPTER. 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.

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

(b) The association may not pay insured losses and operating expenses resulting from an occurrence or series of occurrences in a catastrophe year in excess of premium and other revenue of the association 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) The association shall pay insured losses and operating expenses resulting from an occurrence or series of occurrences in a catastrophe year in excess of premium and other revenue of the association for that catastrophe year from reserves of the association available before or accrued during that catastrophe year and amounts in the catastrophe reserve trust fund available before or accrued during that catastrophe year.

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

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

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

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

Sec. 2210.084. REINSURANCE BY MEMBERS FOR MEMBER ASSESSMENTS. (a) Before any occurrence or series of occurrences,

an association member may purchase reinsurance to cover an assessment for which the member would otherwise be liable under this subchapter.

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

SECTION 1.10. 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 1.11. Section 2210.4521, Insurance Code, is amended by amending Subsection (a) and adding Subsection (a-1) 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).

(a-1) 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 comptroller and board of directors may recommend investments to protect the trust fund and create investment income.

SECTION 1.12. Sections 2210.453(d) and (e), Insurance Code, are amended to read as follows:

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

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

SECTION 1.13. Section 2210.601, Insurance Code, is amended to read as follows:

Sec. 2210.601. FINDINGS ~~[PURPOSE]~~. The legislature finds that for losses incurred before January 1, 2026, authorizing the association to enter into financing arrangements with this state as provided by Section 2210.076 ~~[issuance of public securities]~~ to provide a method to raise funds to provide windstorm and hail insurance through the association in certain designated portions of the state is for the benefit of the public and in furtherance of a

public purpose.

SECTION 1.14. Subchapter M, Chapter 2210, Insurance Code, is amended by adding Section 2210.6015 to read as follows:

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

SECTION 1.15. Chapter 2210, Insurance Code, is amended by adding Subchapters M-1 and M-2 to read as follows:

SUBCHAPTER M-1. STATE-FUNDED FINANCING ARRANGEMENTS

Sec. 2210.631. DEFINITION. In this subchapter, "catastrophic event" has the meaning assigned by Section 2210.602.

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

Sec. 2210.632. FINANCING ARRANGEMENT AUTHORIZED; LIMITS. (a) The association may 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) The amount available under Subsection (a)(2) is reduced by the amount of any outstanding pre-event or post-event financing obtained by the association under this section.

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

(b) The association and the comptroller may 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 to:

(1) pay the costs related to the issuance of the financing arrangement;

(2) provide for a debt service reserve fund; or

(3) capitalize interest for a period equal to the lesser of:

(A) a period determined necessary by the association; or

(B) six months.

Sec. 2210.633. ADDITIONAL COVENANTS. With respect to a financing arrangement entered into under Section 2210.632, the association may:

(1) make additional covenants with respect to the financing arrangement and the designated income and receipts of the association pledged to the payment of the financing arrangement; and

(2) 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. The proceeds of a financing arrangement with this state entered into under Section 2210.632 before a catastrophic event shall be deposited into a separate account located in the catastrophe reserve trust fund.

Sec. 2210.634. USE OF PROCEEDS. (a) The proceeds of a financing arrangement, including investment income, shall be held

in trust for the exclusive use and benefit of the association. The association may use the proceeds to:

(1) pay incurred claims and operating expenses of the association;

(2) pay the costs of issuing a financing arrangement and any financing arrangement administrative expenses;

(3) provide for debt service reserve funds;

(4) pay capitalized interest and principal on a financing arrangement for a period determined necessary by the association;

(5) pay private financial arrangements entered into by the association as temporary sources of payment of losses and operating expenses of the association; and

(6) reimburse the association for any cost described by this subsection paid to the association before issuance of the financing arrangement.

(b) The association may 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. If all outstanding financing arrangement obligations or financing arrangement administrative expenses are satisfied, the excess proceeds shall be transferred to the catastrophe reserve trust fund.

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

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

Sec. 2210.635. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. With respect to a financing arrangement entered into under Section 2210.632, the association may 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 to:

(1) pay financing arrangement obligations payable in the subsequent calendar year, offsetting the amount of a premium surcharge that would otherwise be required to be levied for the year under this chapter;

(2) pay outstanding financing arrangement obligations; or

(3) deposit additional money into the catastrophe reserve trust fund.

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

(b) 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) Each financing arrangement entered into under Section 2210.632 must state that:

(1) 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

(2) 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. The state pledges for the benefit and protection of financing parties that the state will not take or permit any action that would:

(1) impair the collection of premium surcharges or the deposit of that money into the applicable fund;

(2) reduce, alter, or impair the premium surcharges to be imposed, collected, and remitted to financing parties until the principal, interest, and premium and any other charges incurred and contracts to be performed in connection with the related financing arrangement obligations have been paid and performed in full; or

(3) in any way impair the rights and remedies of the parties to a financing arrangement entered into under Section 2210.632 before the financing arrangement is fully discharged.

Sec. 2210.6365. RIGHTS WITH RESPECT TO FINANCING ARRANGEMENT. If amounts due under a financing arrangement entered into under Section 2210.632 are outstanding, the rights and interests of the association, a successor to the association, any member of the association, 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 the association's financing arrangement obligations as provided by this subchapter and Subchapter M-2.

Sec. 2210.637. ENFORCEMENT. A writ of mandamus and any other legal and equitable remedies are available to a party at interest to require the association or another party to fulfill an agreement and to perform functions and duties under:

(1) this subchapter;

(2) the Texas Constitution; or

(3) a relevant financing arrangement.

Sec. 2210.6375. NO PERSONAL LIABILITY. Notwithstanding any other provision of this subchapter, the members of the association, the members of the association board of directors, association employees, the comptroller and comptroller employees, the commissioner, and department 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. In this subchapter, "catastrophic event" means an occurrence or a series of occurrences that:

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

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

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

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

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

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

(4) the association; and

(5) the FAIR Plan Association.

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

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

8-1 (A) fire and allied lines;
 8-2 (B) farm and ranch owners; and
 8-3 (C) residential property insurance; and
 8-4 (2) the property insurance portion of a commercial
 8-5 multiple peril insurance policy.

8-6 Sec. 2210.6425. CONSTRUCTION OF SUBCHAPTER. (a) This
 8-7 subchapter may not be construed to require an insurer to be an
 8-8 association member if the insurer is not otherwise required to be a
 8-9 member under Section 2210.052.

8-10 (b) A farm mutual insurance company that is not a fronting
 8-11 insurer as defined by Section 221.001(c) is not a member of the
 8-12 association as a result of the company's collection of surcharges
 8-13 authorized by this subchapter or for any other reason.

8-14 Sec. 2210.643. ANNUAL FINANCIAL REPORT BY COMMISSIONER.
 8-15 The commissioner shall determine the amount available in the
 8-16 catastrophe reserve trust fund as of December 31 of each year and
 8-17 provide a written report to the governor, lieutenant governor, and
 8-18 speaker of the house of representatives that includes:

8-19 (1) the amount available in the catastrophe reserve
 8-20 trust fund; and

8-21 (2) information regarding the current financial
 8-22 condition of the association.

8-23 Sec. 2210.6435. CATASTROPHE SURCHARGES. (a) The
 8-24 commissioner, in consultation with the board of directors and the
 8-25 comptroller, may order a catastrophe surcharge as provided by this
 8-26 subchapter only if:

8-27 (1) before a catastrophic event, the association
 8-28 enters into a financing arrangement with this state that is the
 8-29 basis for the surcharge under Subchapter M-1; or

8-30 (2) after a catastrophic event:
 8-31 (A) the commissioner determines that the
 8-32 association has depleted its reserves, other money, and the
 8-33 catastrophe reserve trust fund; and

8-34 (B) the association enters into a financing
 8-35 arrangement with this state that is the basis for the surcharge
 8-36 under Subchapter M-1.

8-37 (b) The commissioner, in consultation with the board of
 8-38 directors and the comptroller, shall set the catastrophe surcharge
 8-39 as a percentage of premium to be collected by each insurer to which
 8-40 this subchapter applies.

8-41 (c) The total amount authorized to be collected under this
 8-42 section for any catastrophe surcharge may not exceed the amount
 8-43 needed to repay the financing arrangement obligation and
 8-44 administrative expenses to the state under the financing
 8-45 arrangement entered into with this state under Subchapter M-1 that
 8-46 is the basis for the surcharge.

8-47 (d) The catastrophe surcharge percentage must be set in an
 8-48 amount sufficient to repay the financing arrangement obligation and
 8-49 administrative expenses to the state under the financing
 8-50 arrangement entered into with this state under Subchapter M-1 that
 8-51 is the basis for the surcharge. The commissioner may set the
 8-52 surcharge as a percentage of premium to collect the needed
 8-53 aggregate amount over a period of time not to exceed three years.

8-54 (e) A catastrophe surcharge authorized under this section
 8-55 shall be assessed by insurers on all policyholders of policies that
 8-56 are subject to this subchapter.

8-57 (f) A catastrophe surcharge under this subchapter is a
 8-58 separate charge in addition to the premiums collected and is not
 8-59 subject to premium tax or commissions.

8-60 (g) Failure by a policyholder to pay a catastrophe surcharge
 8-61 constitutes failure to pay premium for purposes of policy
 8-62 cancellation.

8-63 (h) A catastrophe surcharge is not refundable if the policy
 8-64 is canceled or terminated.

8-65 Sec. 2210.644. CATASTROPHE SURCHARGE PROCEEDS. The
 8-66 proceeds of a catastrophe surcharge authorized under this
 8-67 subchapter shall be deposited into an account designated by the
 8-68 comptroller for purposes of repayment of the association's
 8-69 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. Each policy that is assessed a surcharge under this subchapter shall contain the following prominent disclosure in the documents attached to the policy:

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

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

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

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

SECTION 1.16. 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 certain economic stabilization fund balances to provide a financing arrangement for losses of the Texas Windstorm Insurance Association 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 of this code. For the purpose of investing the assets of the economic stabilization fund under this section, the comptroller may 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) 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. For purposes of this chapter and subchapter, the term "financing arrangement" includes all outstanding principal, interest, and related financing and administrative expenses in issuing a financing arrangement.

(c) The interest rate charged in connection with a financing arrangement entered into under this section shall be calculated as the sum of:

(1) the current market rate of a United States Treasury Security of comparable maturity, as determined by the comptroller; and

(2) two percent.

(d) A financing arrangement entered into under this section may not exceed 36 months to maturity and may include a contractual coverage amount of at least 1.10 but not greater than 1.25.

(e) Notwithstanding any other law, directly or indirectly through a separately managed account or other investment vehicle, the comptroller may invest up to \$1 billion of the economic

10-1 stabilization fund balance per catastrophe year to provide
 10-2 financing under this section.

10-3 (f) The aggregate amount of outstanding pre-event and
 10-4 post-event financing provided under this section may not exceed \$2
 10-5 billion.

10-6 (g) A person may not bring a civil action against this
 10-7 state, the Texas Treasury Safekeeping Trust Company, or an
 10-8 employee, independent contractor, or official of this state,
 10-9 including the comptroller, for any claim, including breach of
 10-10 fiduciary duty or violation of any constitutional, statutory, or
 10-11 regulatory requirement, in connection with any action, inaction,
 10-12 decision, divestment, investment, report, or other determination
 10-13 made or taken in connection with this section. A person who brings
 10-14 an action described by this subsection is liable to the defendant
 10-15 for the defendant's costs and attorney's fees resulting from the
 10-16 action.

10-17 (h) The comptroller shall manage the investments required
 10-18 by this section as a separate investment portfolio. The comptroller
 10-19 shall provide separate accounting and reporting for the investments
 10-20 in that portfolio. The comptroller shall credit to that portfolio
 10-21 all payments, distributions, interest, and other earnings on the
 10-22 investments in that portfolio. The comptroller has any power
 10-23 necessary to accomplish the purposes of managing and investing the
 10-24 assets of this separate investment portfolio. In managing the
 10-25 assets of that portfolio, through procedures and subject to
 10-26 restrictions the comptroller considers appropriate, the
 10-27 comptroller may acquire, sell, transfer, or otherwise assign the
 10-28 investments as appropriate, taking into consideration the
 10-29 purposes, terms, distribution requirements, and other
 10-30 circumstances of that portfolio then prevailing.

10-31 SECTION 1.17. Effective September 1, 2027, the following
 10-32 provisions of the Insurance Code are repealed:

10-33 (1) Subchapter B-1, Chapter 2210; and

10-34 (2) Subchapter M, Chapter 2210.

10-35 SECTION 1.18. As soon as practicable after the effective
 10-36 date of this Act and not later than December 1, 2025, the
 10-37 commissioner of insurance shall adopt rules necessary to implement
 10-38 Subchapters B-2, M-1, and M-2, Chapter 2210, Insurance Code, as
 10-39 added by this Act.

10-40 ARTICLE 2. CONFORMING AMENDMENTS

10-41 SECTION 2.01. (a) Section 2210.0081, Insurance Code, is
 10-42 amended to read as follows:

10-43 Sec. 2210.0081. CERTAIN ACTIONS BROUGHT AGAINST
 10-44 ASSOCIATION BY COMMISSIONER. In an action brought by the
 10-45 commissioner against the association under Chapter 441:

10-46 (1) the association's inability to satisfy obligations
 10-47 under Subchapter M, M-1, or M-2 related to a financing arrangement
 10-48 entered into or the issuance of public securities under this
 10-49 chapter constitutes a condition that makes the association's
 10-50 continuation in business hazardous to the public or to the
 10-51 association's policyholders for the purposes of Section 441.052;

10-52 (2) the time for the association to comply with the
 10-53 requirements of supervision or for the conservator to complete the
 10-54 conservator's duties, as applicable, is limited to three years from
 10-55 the date the commissioner commences the action against the
 10-56 association; and

10-57 (3) unless the commissioner takes further action
 10-58 against the association under Chapter 441, as a condition of
 10-59 release from supervision, the association must demonstrate to the
 10-60 satisfaction of the commissioner that the association is able to
 10-61 satisfy obligations under Subchapter M, M-1, or M-2 related to a
 10-62 financing arrangement entered into or the issuance of public
 10-63 securities under this chapter.

10-64 (b) Effective September 1, 2027, Section 2210.0081,
 10-65 Insurance Code, is amended to read as follows:

10-66 Sec. 2210.0081. CERTAIN ACTIONS BROUGHT AGAINST
 10-67 ASSOCIATION BY COMMISSIONER. In an action brought by the
 10-68 commissioner against the association under Chapter 441:

10-69 (1) the association's inability to satisfy obligations

under Subchapter M-1 or M-2 [M] related to a financing arrangement entered into ~~[the issuance of public securities]~~ under this chapter constitutes a condition that makes the association's continuation in business hazardous to the public or to the association's policyholders for the purposes of Section 441.052;

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

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

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

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

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

(2) make investments authorized under applicable law;

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

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

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

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

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

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

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

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

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

(2) make investments authorized under applicable law;

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

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

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

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

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

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

(c) On dissolution of the association, all assets of the association, other than assets pledged for the repayment of financial arrangements entered into ~~[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. (a) 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) the past and prospective loss experience within and outside this state of hazards for which insurance is made available through the plan of operation, if any;

(2) expenses of operation, including acquisition costs;

(3) a reasonable margin for profit and contingencies;

(4) 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 or determined by the association to be required for the issuance of marketable public securities; and

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

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

(2) expenses of operation, including acquisition costs;

(3) a reasonable margin for profit and contingencies;

(4) payment of financing arrangement [~~public security~~] obligations issued under this chapter, including the additional amount of any debt service included in a financing arrangement [~~coverage determined by the association to be required for the issuance of marketable public securities~~]; and

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

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

(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, M-1, or M-2, if:

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

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

(b) Effective September 1, 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-1 or M-2 [~~M~~], if:

(1) the construction, alteration, remodeling,

enlargement, or repair of, or an addition to, insurable property exceeds applicable building code standards set forth in the plan of operation; or

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

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

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

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

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

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

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

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

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

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

(c) At the end of each calendar year or policy year, the association shall use the net gain from operations of the association, including all premium and other revenue of the association in excess of incurred losses, operating expenses, financing arrangement obligations, and financing arrangement administrative 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) The commissioner by rule shall establish the procedure relating to the disbursement of money from the trust fund to policyholders and for association administrative expenses directly related to funding the payment of insured losses in the event of an occurrence or series of occurrences within a catastrophe area that results in a disbursement under Subchapter B-2 [B-1].

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

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

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

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

(b) The association shall maintain total available loss funding in an amount not less than the probable maximum loss for the association for a catastrophe year with a probability of one in 100.

If necessary, the required funding level shall be achieved through the purchase of reinsurance or the use of alternative financing mechanisms, or both, to operate in addition to or in concert with the trust fund, ~~[public securities]~~ financial instruments, financing arrangements, and assessments authorized by this chapter.

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

ARTICLE 3. TRANSITION AND SAVINGS PROVISIONS

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

(1) the payment of excess losses and operating expenses of the Texas Windstorm Insurance Association 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 the Texas Windstorm Insurance Association 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, may not be included in reserves available for a catastrophe year for purposes of Section 2210.082, Insurance Code, as added by this Act, unless approved by the commissioner of insurance.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.01. Except as otherwise provided by this Act, this Act takes effect September 1, 2025.

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