

SENATE AMENDMENTS
2nd Printing

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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, Insurance Code, is amended
18 to read as follows:

19 Sec. 2210.071. PAYMENT OF EXCESS LOSSES. (a) If, in a
20 catastrophe year before January 1, 2026, an occurrence or series of
21 occurrences in a catastrophe area results in insured losses and
22 operating expenses of the association in excess of premium and
23 other revenue of the association, the excess losses and operating
24 expenses shall be paid as provided by this subchapter.

25 (b) The association may not pay insured losses and operating
26 expenses resulting from an occurrence or series of occurrences in a
27 catastrophe year in excess of premium and other revenue of the

1 association for that catastrophe year with premium and other
2 revenue earned in a subsequent year.

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

5 (b) Proceeds of public securities issued, a financing
6 arrangement entered into, or assessments made before January 1,
7 2026, or as a result of any occurrence or series of occurrences in a
8 catastrophe year that occurs before January 1, 2026, and results in
9 insured losses before that date may not be included in reserves
10 available for a subsequent catastrophe year for purposes of this
11 section or Section 2210.082 unless approved by the commissioner.

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

14 Sec. 2210.075. REINSURANCE BY MEMBERS.

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

17 Sec. 2210.076. PAYMENT FROM STATE-FUNDED FINANCING
18 ARRANGEMENTS. (a) Notwithstanding the provisions of this
19 subchapter to the contrary, the association may pay losses the
20 association would otherwise pay as provided by Section 2210.072,
21 2210.073, or 2210.0741 by borrowing from, or entering into other
22 financing arrangements with, this state as provided by Subchapter
23 M-1 and Section 404.0242, Government Code.

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

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

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

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

7 Sec. 2210.080. APPLICABILITY OF SUBCHAPTER. (a) This
8 subchapter applies only to the payment of losses and operating
9 expenses of the association for a catastrophe year that occurs
10 after December 31, 2025, and results in excess losses and operating
11 expenses incurred by the association after December 31, 2025.

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

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

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

24 Sec. 2210.082. PAYMENT FROM RESERVES AND TRUST FUND;
25 STATE-FUNDED FINANCING ARRANGEMENTS. (a) The association shall
26 pay insured losses and operating expenses resulting from an
27 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 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

1 this subchapter.

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

7 SECTION 1.09. Section 2210.452(b), Insurance Code, is
8 amended to read as follows:

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

21 SECTION 1.10. Section 2210.4521, Insurance Code, is amended
22 by amending Subsection (a) and adding Subsection (a-1) to read as
23 follows:

24 (a) The comptroller shall invest in accordance with the
25 investment standard described by Section 404.024(j), Government
26 Code, the portion of the trust fund balance that exceeds the amount
27 of the sufficient balance determined under Subsection (b).

1 (a-1) The comptroller's investment of that portion of the
2 balance is not subject to any other limitation or other requirement
3 provided by Section 404.024, Government Code. The comptroller and
4 board of directors may recommend investments to protect the trust
5 fund and create investment income.

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

8 (d) The association may obtain reinsurance at any level
9 including excess of loss, quota share, and other forms of
10 reinsurance to protect the solvency and viability of the
11 association. The commissioner may consult with the board of
12 directors regarding methods to protect the solvency and continued
13 viability of the association, including by protecting the minimum
14 balance, acquiring reinsurance, or by other means ~~[The cost of the~~
15 ~~reinsurance purchased or alternative financing mechanisms used~~
16 ~~under this section in excess of the minimum funding level required~~
17 ~~by Subsection (b) shall be paid by assessments as provided by this~~
18 ~~subsection. The association, with the approval of the~~
19 ~~commissioner, shall notify each member of the association of the~~
20 ~~amount of the member's assessment under this subsection. The~~
21 ~~proportion of the cost to each insurer under this subsection shall~~
22 ~~be determined in the manner used to determine each insurer's~~
23 ~~participation in the association for the year under Section~~
24 ~~2210.052].~~

25 (e) The commissioner may adopt a method or approve the
26 association's method of determining the probability of one in 100
27 for association risks. The commissioner shall provide any adopted

1 or approved method to the association on or before February 1 of
2 each year [~~A member of the association may not recoup an assessment~~
3 ~~paid under Subsection (d) through a premium surcharge or tax~~
4 ~~credit~~].

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

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

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

17 Sec. 2210.6015. APPLICABILITY OF SUBCHAPTER. To provide
18 for a reasonable transition, the association may issue public
19 securities under this subchapter or enter into financing
20 arrangements with this state as provided by Section 2210.076 if the
21 association needs to provide funds for excess losses and operating
22 expenses incurred by the association before January 1, 2026, for a
23 catastrophe year occurring before January 1, 2026. After December
24 31, 2025, the association may not issue public securities under
25 this subchapter except to fund excess losses and operating expenses
26 incurred before January 1, 2026.

27 SECTION 1.14. Chapter 2210, Insurance Code, is amended by

adding Subchapters M-1 and M-2 to read as follows:

SUBCHAPTER M-1. STATE-FUNDED CATASTROPHE FINANCING ARRANGEMENTS

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

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

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

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

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

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

SUBCHAPTER M-2. CATASTROPHE SURCHARGE

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

1 that:

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

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

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

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

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

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

20 (4) the association; and

21 (5) the FAIR Plan Association.

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

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

25 (A) fire and allied lines;

26 (B) farm and ranch owners; and

27 (C) residential property insurance; and

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

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

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

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

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

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

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

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

27 (2) after a catastrophic event:

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

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

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

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

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

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

26 (f) A catastrophe surcharge under this subchapter is a
27 separate charge in addition to the premiums collected and is not

1 subject to premium tax or commissions.

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

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

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

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

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

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

26 Sec. 2210.6455. LIMITATION OF PERSONAL LIABILITY. The
27 association members, the insurers required to collect a surcharge

1 under this subchapter, members of the board of directors,
2 association employees, the commissioner, and department employees
3 are not personally liable as a result of exercising the rights and
4 responsibilities granted under this subchapter.

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

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

11 Sec. 404.0242. INVESTMENT IN WINDSTORM CATASTROPHE
12 FINANCING ARRANGEMENTS. (a) The comptroller shall invest certain
13 economic stabilization fund balances to provide a financing
14 arrangement for losses of the Texas Windstorm Insurance Association
15 in accordance with this section and Chapter 2210, Insurance Code.
16 For the purpose of investing the assets of the economic
17 stabilization fund under this section, the comptroller may acquire,
18 exchange, sell, supervise, manage, or retain any kind of investment
19 that a prudent investor exercising reasonable care, skill, and
20 caution would acquire, exchange, sell, supervise, manage, or retain
21 in light of the purposes, terms, distribution requirements, and
22 other circumstances then prevailing for the economic stabilization
23 fund, taking into consideration the investment of all the assets of
24 the fund rather than a single investment.

25 (b) For purposes of this section, the comptroller may enter
26 into an appropriate financing arrangement or debt obligation with
27 the Texas Windstorm Insurance Association to provide the

1 association up to \$500 million in funding before a catastrophic
2 event and up to \$1 billion in funding after a catastrophic event to
3 fund the losses of the association arising from the catastrophic
4 event. Financing provided under this section must be secured and
5 repaid by catastrophe surcharges under Subchapter M-2, Chapter
6 2210, Insurance Code. For purposes of this chapter and subchapter,
7 the terms "debt obligation" and "financing arrangement" include all
8 outstanding principal, interest, and related financing and
9 administrative expenses in issuing a debt obligation or financing
10 arrangement.

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

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

17 (2) 2 percent.

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

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

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

post-event financing provided under this section may not exceed \$2 billion.

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

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

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

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

(2) Subchapter M, Chapter 2210.

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

ARTICLE 2. CONFORMING AMENDMENTS

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

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

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

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

~~[(3) unless the commissioner takes further action against the association under Chapter 441, as a condition of~~

1 ~~release from supervision, the association must demonstrate to the~~
2 ~~satisfaction of the commissioner that the association is able to~~
3 ~~satisfy obligations under Subchapter M related to the issuance of~~
4 ~~public securities under this chapter].~~

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

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

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

11 (2) make investments authorized under applicable law;

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

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

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

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

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

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

27 (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, and M-2 [~~M~~], including reinsurance~~[, public securities,]~~ and financial instruments; or

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

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

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

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

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

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

Sec. 2210.1052. EMERGENCY MEETING. If the ultimate loss

1 estimate for an occurrence or series of occurrences made by the
2 chief financial officer or chief actuary of the association
3 indicates member insurers may be subject to an assessment under
4 Subchapter B-1 or B-2, the board of directors shall call an
5 emergency meeting to notify the member insurers about the
6 assessment.

7 (b) Effective September 1, 2027, Section 2210.1052,
8 Insurance Code, is amended to read as follows:

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

16 SECTION 2.04. Effective September 1, 2027, Section
17 2210.355(b), Insurance Code, is amended to read as follows:

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

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

23 (2) expenses of operation, including acquisition
24 costs;

25 (3) a reasonable margin for profit and contingencies;
26 and

27 (4) [~~payment of public security obligations issued~~]

~~under this chapter, including the additional amount of any debt service coverage determined by the association to be required for the issuance of marketable public securities, and~~

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

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

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

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

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

(b) Effective September 1, 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

1 exceeds applicable building code standards set forth in the plan of
2 operation; or

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

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

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

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

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

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

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

24 (a) The commissioner shall adopt rules under which the
25 association makes payments to the catastrophe reserve trust fund.
26 Except as otherwise specifically provided by this section, the
27 trust fund may be used only for purposes directly related to funding

1 the payment of insured losses, including:

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

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

6 (c) At the end of each calendar year or policy year, the
7 association shall use the net gain from operations of the
8 association, including all premium and other revenue of the
9 association in excess of incurred losses and [~~7~~] operating expenses,
10 [~~public security obligations, and public security administrative~~
11 ~~expenses,~~] to make payments to the trust fund, procure reinsurance,
12 or use alternative risk financing mechanisms, or to make payments
13 to the trust fund and procure reinsurance or use alternative risk
14 financing mechanisms.

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

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

23 (b) The association shall maintain total available loss
24 funding in an amount not less than the probable maximum loss for the
25 association for a catastrophe year with a probability of one in 100.
26 If necessary, the required funding level shall be achieved through
27 the purchase of reinsurance or the use of alternative financing

1 mechanisms, or both, to operate in addition to or in concert with
2 the trust fund, public securities, financial instruments,
3 financing arrangements, and assessments authorized by this
4 chapter.

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

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

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

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

23 ARTICLE 3. TRANSITION AND SAVINGS PROVISIONS

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

27 (1) the payment of excess losses and operating

1 expenses of the Texas Windstorm Insurance Association incurred
2 before January 1, 2026, is governed by the law as it existed on the
3 effective date of this Act, and that law is continued in effect for
4 that purpose;

5 (2) the issuance of public securities to pay excess
6 losses and operating expenses of the Texas Windstorm Insurance
7 Association incurred before January 1, 2026, the use of the
8 proceeds of those securities, the repayment or refinancing of those
9 securities, and any other rights, obligations, or limitations with
10 respect to those securities and proceeds of those securities are
11 governed by the law as it existed on the effective date of this Act,
12 and that law is continued in effect for that purpose; and

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

18 ARTICLE 4. EFFECTIVE DATE

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

ADOPTED

MAY 26 2023

Latey Law
Secretary of the Senate

By: *Gov. K. Abbott*

H.B. No. 3689

Substitute the following for H.B. No. 3689:

By: *Phil King*

C.S.H.B. No. 3689

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

18 (c) The legislature finds that:

19 (1) previous experience has shown that the expense to
20 the association of issuing public securities, and the interest
21 rates for those securities, would be significant and can impose
22 significant long-term expense obligations on coastal property and
23 casualty risks that may be avoided if the legislature provides for
24 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 financing arrangement or other investment from

7 available state money to the association of not more than \$500

8 million before a catastrophic event and not more than \$1 billion

9 after a 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 financing

26 arrangements or investments of state money after a hurricane and to

27 ensure that the association can continue to provide windstorm and

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

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

6 (3-c) "Financing arrangement" means an arrangement
7 entered into by the association for the financing of payments for
8 the uses authorized by Section 2210.634. The term includes an
9 arrangement between the association and this state under Section
10 404.0242, Government Code.

11 (3-d) "Financing arrangement administrative expense"
12 means an expense incurred to administer a financing arrangement
13 issued under this chapter, including:

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

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

19 (3-e) "Financing arrangement obligation" means the
20 principal of and any premium and interest on a financing
21 arrangement issued under this chapter.

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

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

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

27 Sec. 2210.070. APPLICABILITY OF SUBCHAPTER. (a) This

1 subchapter applies only to the payment of losses and operating
2 expenses of the association for a catastrophe year that occurs
3 before January 1, 2026, and results in excess losses and operating
4 expenses incurred by the association before January 1, 2026.

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

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

10 Sec. 2210.071. PAYMENT OF EXCESS LOSSES. (a) If, in a
11 catastrophe year before January 1, 2026, an occurrence or series of
12 occurrences in a catastrophe area results in insured losses and
13 operating expenses of the association in excess of premium and
14 other revenue of the association, the excess losses and operating
15 expenses shall be paid as provided by this subchapter.

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

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

23 (b) Proceeds of public securities issued, a financing
24 arrangement entered into, or assessments made before January 1,
25 2026, or as a result of any occurrence or series of occurrences in a
26 catastrophe year that occurs before January 1, 2026, and results in
27 insured losses before that date may not be included in reserves

1 available for a subsequent catastrophe year for purposes of this
2 section or Section 2210.082 unless approved by the commissioner.

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

5 Sec. 2210.075. REINSURANCE BY MEMBERS.

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

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

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

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

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

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

26 Sec. 2210.080. APPLICABILITY OF SUBCHAPTER. This
27 subchapter applies only to the payment of losses and operating

1 expenses of the association for a catastrophe year that occurs
2 after December 31, 2025, and results in excess losses and operating
3 expenses incurred by the association after December 31, 2025.

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

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

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

24 (b) For insured losses and operating expenses for a
25 catastrophe year not paid under Subsection (a), the association
26 shall arrange for financing of not more than \$1 billion through one
27 or more financing arrangements entered into with the state as

1 provided by Subchapter M-1 of this code and Section 404.0242,
2 Government Code.

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

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

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

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

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

26 SECTION 1.10. Section 2210.452(b), Insurance Code, is
27 amended to read as follows:

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

13 SECTION 1.11. Section 2210.4521, Insurance Code, is amended
14 by amending Subsection (a) and adding Subsection (a-1) to read as
15 follows:

16 (a) The comptroller shall invest in accordance with the
17 investment standard described by Section 404.024(j), Government
18 Code, the portion of the trust fund balance that exceeds the amount
19 of the sufficient balance determined under Subsection (b).

20 (a-1) The comptroller's investment of that portion of the
21 balance is not subject to any other limitation or other requirement
22 provided by Section 404.024, Government Code. The comptroller and
23 board of directors may recommend investments to protect the trust
24 fund and create investment income.

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

27 (d) The association may obtain reinsurance at any level

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

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

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

26 Sec. 2210.601. FINDINGS ~~[PURPOSE]~~. The legislature finds
27 that for losses incurred before January 1, 2026, authorizing the

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

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

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

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

21 SUBCHAPTER M-1. STATE-FUNDED FINANCING ARRANGEMENTS

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

24 Sec. 2210.6315. STATE-FUNDED FINANCING ARRANGEMENTS. The
25 legislature has determined that providing catastrophe funding to
26 the association by permitting the association to enter into a
27 financing arrangement with this state is an acceptable use of state

1 money and provides an efficient method for the association to pay
2 losses following a catastrophic event.

3 Sec. 2210.632. FINANCING ARRANGEMENT AUTHORIZED; LIMITS.

4 (a) The association may enter into a financing arrangement with
5 this state as provided by Section 404.0242, Government Code, and in
6 accordance with this subchapter:

7 (1) before a catastrophic event, for not more than
8 \$500 million; and

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

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

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

20 (b) The association and the comptroller may agree to
21 increase the maximum principal amount stated in a request submitted
22 under Subsection (a) on a showing that a greater principal amount is
23 needed to:

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

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

27 (3) capitalize interest for a period equal to the

1 lesser of:

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

4 (B) six months.

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

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

12 (2) provide for the flow of money and the
13 establishment, maintenance, investment, and administration of
14 funds and accounts with respect to the financing arrangement.

15 Sec. 2210.6335. DEPOSIT OF PROCEEDS. The proceeds of a
16 financing arrangement with this state entered into under Section
17 2210.632 before a catastrophic event shall be deposited into a
18 separate account located in the catastrophe reserve trust fund.

19 Sec. 2210.634. USE OF PROCEEDS. (a) The proceeds of a
20 financing arrangement, including investment income, shall be held
21 in trust for the exclusive use and benefit of the association. The
22 association may use the proceeds to:

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

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

27 (3) provide for debt service reserve funds;

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

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

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

10 (b) The association may use excess proceeds of a financing
11 arrangement entered into under Section 2210.632 remaining after the
12 purposes for which the financing arrangement was entered into are
13 satisfied to repay any financing arrangement obligations or
14 financing arrangement administrative expenses. If all outstanding
15 financing arrangement obligations or financing arrangement
16 administrative expenses are satisfied, the excess proceeds shall be
17 transferred to the catastrophe reserve trust fund.

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

26 (b) If a financing arrangement entered into under Section
27 2210.632 is outstanding, the comptroller shall notify the

1 association of the amount of outstanding financing arrangement
2 obligations and estimated financing arrangement administrative
3 expenses each calendar year in a period sufficient, as determined
4 by the association, to permit the association to assess a premium
5 surcharge as necessary to meet the obligations and expenses.

6 Sec. 2210.635. EXCESS REVENUE COLLECTIONS AND INVESTMENT
7 EARNINGS. With respect to a financing arrangement entered into
8 under Section 2210.632, the association may use revenue collected
9 in a calendar year from a premium surcharge, including earned
10 interest, that exceeds the amount of the financing arrangement
11 obligations and financing arrangement administrative expenses
12 payable during that calendar year to:

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

17 (2) pay outstanding financing arrangement
18 obligations; or

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

21 Sec. 2210.6355. SOURCE OF PAYMENT; STATE DEBT NOT CREATED.

22 (a) A financing arrangement entered into under Section 2210.632 is
23 payable solely from revenue as provided by this subchapter.

24 (b) A financing arrangement entered into under Section
25 2210.632 is not a debt of this state or any state agency or
26 political subdivision of this state and does not constitute a
27 pledge of the faith and credit of this state or any state agency or

1 political subdivision of this state.

2 (c) Each financing arrangement entered into under Section
3 2210.632 must state that:

4 (1) except as otherwise provided by this subchapter,
5 neither this state nor a state agency, political corporation, or
6 political subdivision of this state is obligated to pay the
7 principal of or interest on the financing arrangement; and

8 (2) neither the faith and credit nor the taxing power
9 of this state or a state agency, political corporation, or
10 political subdivision of this state is pledged to the payment of the
11 principal of or interest on the financing arrangement.

12 Sec. 2210.636. STATE NOT TO IMPAIR FINANCING ARRANGEMENT
13 OBLIGATION. The state pledges for the benefit and protection of
14 financing parties that the state will not take or permit any action
15 that would:

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

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

23 (3) in any way impair the rights and remedies of the
24 parties to a financing arrangement entered into under Section
25 2210.632 before the financing arrangement is fully discharged.

26 Sec. 2210.6365. RIGHTS WITH RESPECT TO FINANCING
27 ARRANGEMENT. If amounts due under a financing arrangement entered

1 into under Section 2210.632 are outstanding, the rights and
2 interests of the association, a successor to the association, any
3 member of the association, or any member of the Texas FAIR Plan
4 Association, including the right to impose, collect, and receive a
5 premium surcharge authorized under this subchapter, are only
6 contract rights until those revenues are first pledged for the
7 repayment of the association's financing arrangement obligations
8 as provided by this subchapter and Subchapter M-2.

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

13 (1) this subchapter;

14 (2) the Texas Constitution; or

15 (3) a relevant financing arrangement.

16 Sec. 2210.6375. NO PERSONAL LIABILITY. Notwithstanding any
17 other provision of this subchapter, the members of the association,
18 the members of the association board of directors, association
19 employees, the comptroller and comptroller employees, the
20 commissioner, and department employees are not liable as a result
21 of exercising the rights and responsibilities granted under this
22 subchapter, including by entering into a financing arrangement
23 under Section 2210.632.

24 SUBCHAPTER M-2. CATASTROPHE SURCHARGE

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

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

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

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

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

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

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

19 (4) the association; and

20 (5) the FAIR Plan Association.

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

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

24  (A) fire and allied lines;

25 (B) farm and ranch owners; and

26 (C) residential property insurance; and

27 (2) the property insurance portion of a commercial

1 multiple peril insurance policy.

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

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

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

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

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

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

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

26 (2) after a catastrophic event:

27 (A) the commissioner determines that the

1 association has depleted its reserves, other money, and the
2 catastrophe reserve trust fund; and

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

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

10 (c) The total amount authorized to be collected under this
11 section for any catastrophe surcharge may not exceed the amount
12 needed to repay the financing arrangement obligation and
13 administrative expenses to the state under the financing
14 arrangement entered into with this state under Subchapter M-1 that
15 is the basis for the surcharge.

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

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

26 (f) A catastrophe surcharge under this subchapter is a
27 separate charge in addition to the premiums collected and is not

1 subject to premium tax or commissions.

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

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

7 Sec. 2210.644. CATASTROPHE SURCHARGE PROCEEDS. The
8 proceeds of a catastrophe surcharge authorized under this
9 subchapter shall be deposited into an account designated by the
10 comptroller for purposes of repayment of the association's
11 financing arrangement obligation and administrative expenses to
12 the state under the financing arrangement entered into with this
13 state under Subchapter M-1 that is the basis for the surcharge.

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

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

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

27 Sec. 2210.6455. LIMITATION OF PERSONAL LIABILITY. The

1 association members, the insurers required to collect a surcharge
2 under this subchapter, members of the board of directors,
3 association employees, the commissioner, and department employees
4 are not personally liable as a result of exercising the rights and
5 responsibilities granted under this subchapter.

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

10 SECTION 1.16. Subchapter C, Chapter 404, Government Code,
11 is amended by adding Section 404.0242 to read as follows:

12 Sec. 404.0242. INVESTMENT IN WINDSTORM CATASTROPHE
13 FINANCING ARRANGEMENTS. (a) The comptroller shall invest certain
14 economic stabilization fund balances to provide a financing
15 arrangement for losses of the Texas Windstorm Insurance Association
16 in accordance with this section and Chapter 2210, Insurance Code,
17 provided that, at the time of investment, the economic
18 stabilization fund balances are above the sufficient balance
19 determined under Section 316.092 of this code. For the purpose of
20 investing the assets of the economic stabilization fund under this
21 section, the comptroller may acquire, exchange, sell, supervise,
22 manage, or retain any kind of investment that a prudent investor
23 exercising reasonable care, skill, and caution would acquire,
24 exchange, sell, supervise, manage, or retain in light of the
25 purposes, terms, distribution requirements, and other
26 circumstances then prevailing for the economic stabilization fund,
27 taking into consideration the investment of all the assets of the

1 fund rather than a single investment.

2 **(b) For purposes of this section, the comptroller may enter**
3 **into an appropriate financing arrangement with the Texas Windstorm**
4 **Insurance Association to provide the association up to \$500 million**
5 **in funding before a catastrophic event and up to \$1 billion in**
6 **funding after a catastrophic event to fund the losses of the**
7 **association arising from the catastrophic event. Financing**
8 **provided under this section must be secured and repaid by**
9 **catastrophe surcharges under Subchapter M-2, Chapter 2210,**
10 **Insurance Code. For purposes of this chapter and subchapter, the**
11 **term "financing arrangement" includes all outstanding principal,**
12 **interest, and related financing and administrative expenses in**
13 **issuing a financing arrangement.**

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

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

20 **(2) two percent.**

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

24 **(e) Notwithstanding any other law, directly or indirectly**
25 **through a separately managed account or other investment vehicle,**
26 **the comptroller may invest up to \$1 billion of the economic**
27 **stabilization fund balance per catastrophe year to provide**

1 financing under this section.

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

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

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

1 purposes, terms, distribution requirements, and other
2 circumstances of that portfolio then prevailing.

3 SECTION 1.17. Effective September 1, 2027, the following
4 provisions of the Insurance Code are repealed:

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

6 (2) Subchapter M, Chapter 2210.

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

12 ARTICLE 2. CONFORMING AMENDMENTS

13 SECTION 2.01. (a) Section 2210.0081, Insurance Code, is
14 amended to read as follows:

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

18 (1) the association's inability to satisfy obligations
19 under Subchapter M, M-1, or M-2 related to a financing arrangement
20 entered into or the issuance of public securities under this
21 chapter constitutes a condition that makes the association's
22 continuation in business hazardous to the public or to the
23 association's policyholders for the purposes of Section 441.052;

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

1 association; and

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

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

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

14 (1) the association's inability to satisfy obligations
15 under Subchapter M-1 or M-2 [~~M~~] related to a financing arrangement
16 entered into [~~the issuance of public securities~~] under this chapter
17 constitutes a condition that makes the association's continuation
18 in business hazardous to the public or to the association's
19 policyholders for the purposes of Section 441.052;

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

25 (3) unless the commissioner takes further action
26 against the association under Chapter 441, as a condition of
27 release from supervision, the association must demonstrate to the

1 satisfaction of the commissioner that the association is able to
2 satisfy obligations under Subchapter M-1 or M-2 [~~M~~] related to a
3 financing arrangement entered into [~~the issuance of public~~
4 ~~securities~~] under this chapter.

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

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

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

11 (2) make investments authorized under applicable law;

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

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

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

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

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

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

27 (b) Effective September 1, 2027, Sections 2210.056(b) and

1 (c), Insurance Code, are amended to read as follows:

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

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

6 (2) make investments authorized under applicable law;

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

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

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

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

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

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

22 (c) On dissolution of the association, all assets of the
23 association, other than assets pledged for the repayment of
24 financial arrangements entered into [~~public securities issued~~]
25 under this chapter, revert to this state.

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

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

8 (b) Effective September 1, 2027, Section 2210.1052,
9 Insurance Code, is amended to read as follows:

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

17 SECTION 2.04. (a) Section 2210.355(b), Insurance Code, is
18 amended to read as follows:

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

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

24 (2) expenses of operation, including acquisition
25 costs;

26 (3) a reasonable margin for profit and contingencies;

27 (4) payment of financing arrangement obligations or

1 public security obligations issued under this chapter, including
2 the additional amount of any debt service coverage included in a
3 financing arrangement or determined by the association to be
4 required for the issuance of marketable public securities; and

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

7 (b) Effective September 1, 2027, Section 2210.355(b),
8 Insurance Code, is amended to read as follows:

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

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

14 (2) expenses of operation, including acquisition
15 costs;

16 (3) a reasonable margin for profit and contingencies;

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

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

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

26 (a) The association may offer a person insured under this
27 chapter an actuarially justified premium discount on a policy

1 issued by the association, or an actuarially justified credit
2 against a surcharge assessed against the person, other than a
3 surcharge assessed under Subchapter M, M-1, or M-2, if:

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

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

10 (b) Effective September 1, 2027, Section 2210.363(a),
11 Insurance Code, is amended to read as follows:

12 (a) The association may offer a person insured under this
13 chapter an actuarially justified premium discount on a policy
14 issued by the association, or an actuarially justified credit
15 against a surcharge assessed against the person, other than a
16 surcharge assessed under Subchapter M-1 or M-2 [~~M~~], if:

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

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

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

25 (a) The commissioner shall adopt rules under which the
26 association makes payments to the catastrophe reserve trust fund.
27 Except as otherwise specifically provided by this section, the

1 trust fund may be used only for purposes directly related to funding
2 the payment of insured losses, including:

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

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

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

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

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

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

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

24 (c) At the end of each calendar year or policy year, the
25 association shall use the net gain from operations of the
26 association, including all premium and other revenue of the
27 association in excess of incurred losses, operating expenses,

1 financing arrangement obligations, and financing arrangement
2 administrative expenses [~~public security obligations, and public~~
3 ~~security administrative expenses,~~] to make payments to the trust
4 fund, procure reinsurance, or use alternative risk financing
5 mechanisms[, ~~or to make payments to the trust fund and procure~~
6 ~~reinsurance or use alternative risk financing mechanisms~~].

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

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

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

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

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

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

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

15 ARTICLE 3. TRANSITION AND SAVINGS PROVISIONS

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

19 (1) the payment of excess losses and operating
20 expenses of the Texas Windstorm Insurance Association incurred
21 before January 1, 2026, is governed by the law as it existed on the
22 effective date of this Act, and that law is continued in effect for
23 that purpose;

24 (2) the issuance of public securities to pay excess
25 losses and operating expenses of the Texas Windstorm Insurance
26 Association incurred before January 1, 2026, the use of the
27 proceeds of those securities, the repayment or refinancing of those

1 securities, and any other rights, obligations, or limitations with
2 respect to those securities and proceeds of those securities are
3 governed by the law as it existed on the effective date of this Act,
4 and that law is continued in effect for that purpose; and

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

10 ARTICLE 4. EFFECTIVE DATE

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

ADOPTED

MAY 26 2025

Letsy Spaw
Secretary of the Senate

Al M

Brandon Cechter

FLOOR AMENDMENT NO. 1

BY:

Mayer Middleton

Amend C.S.H.B. No. 3689 (senate committee printing) as follows:

(1) Strike SECTION 1.12 of the bill, amending Sections 2210.453(d) and (e), Insurance Code (page 4, lines 35 through 60), and substitute the following:

SECTION 1.12. Section 2210.453, Insurance Code, is amended by amending Subsection (b) and adding Subsection (d-1) 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 50 [~~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, and assessments authorized by this chapter.

(d-1) The commissioner may adopt a method or approve the association's method of determining the probability of one in 50 for association risks. The commissioner shall provide any adopted or approved method to the association on or before February 1 of each year.

(2) In SECTION 2.07(a) of the bill, in amended Section 2210.453(b), Insurance Code (page 13, line 55), strike "100" and substitute "50 [~~100~~]".

(3) In SECTION 2.07(b) of the bill, in amended Section

1 2210.453(b), Insurance Code (page 13, line 69), strike "100" and
2 substitute "50 [~~100~~]".

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 27, 2025

TO: Honorable Dustin Burrows, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3689 by Hunter (Relating to funding of excess losses and operating expenses of the Texas Windstorm Insurance Association; authorizing an assessment; authorizing a surcharge.), **As Passed 2nd House**

The fiscal impact to the state cannot be determined as the amount of Economic Stabilization Funds that would be used to repay excess losses of the Texas Windstorm Insurance Association would be dependent on the severity and timing of coastal area catastrophes and cannot be estimated.

The bill would amend the Insurance Code and Government Code to allow the Texas Windstorm Insurance Association (TWIA) to enter into a financial arrangement with the Comptroller of Public Accounts and authorize the use of up to \$1.0 billion from the Economic Stabilization Fund to be used for the financing of excess losses of TWIA that would be repaid through the order of a catastrophe surcharge on all policy holders of property insurance policies. As the use of such funds would be dependent on the severity and timing of coastal area catastrophes and cannot be estimated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Note: This legislation would create or recreate a dedicated account in the General Revenue Fund, create or recreate a fund either in, with, or outside of the Treasury, or dedicate or rededicate a revenue source. The Legislature consolidated funds into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has enacted a funds consolidation bill. The dedication included in this bill, unless created by a constitutional amendment, would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: JMc, RStu, BFa, AAL, GDZ

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 23, 2025

TO: Honorable Charles Schwertner, Chair, Senate Committee on Business & Commerce

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3689 by Hunter (relating to funding of excess losses and operating expenses of the Texas Windstorm Insurance Association; authorizing an assessment; authorizing a surcharge.), **Committee Report 2nd House, Substituted**

The fiscal impact to the state cannot be determined as the amount of Economic Stabilization Funds that would be used to repay excess losses of the Texas Windstorm Insurance Association would be dependent on the severity and timing of coastal area catastrophes and cannot be estimated.

The bill would amend the Insurance Code and Government Code to allow the Texas Windstorm Insurance Association (TWIA) to enter into a financial arrangement with the Comptroller of Public Accounts and authorize the use of up to \$1.0 billion from the Economic Stabilization Fund to be used for the financing of excess losses of TWIA that would be repaid through the order of a catastrophe surcharge on all policy holders of property insurance policies. As the use of such funds would be dependent on the severity and timing of coastal area catastrophes and cannot be estimated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Note: This legislation would create or recreate a dedicated account in the General Revenue Fund, create or recreate a fund either in, with, or outside of the Treasury, or dedicate or rededicate a revenue source. The Legislature consolidated funds into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has enacted a funds consolidation bill. The dedication included in this bill, unless created by a constitutional amendment, would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: JMc, RStu, BFa, AAL, GDZ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 15, 2025

TO: Honorable Charles Schwertner, Chair, Senate Committee on Business & Commerce

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3689 by Hunter (Relating to funding of excess losses and operating expenses of the Texas Windstorm Insurance Association; authorizing an assessment; authorizing a surcharge.), **As Engrossed**

The fiscal impact to the state cannot be determined as the amount of Economic Stabilization Funds that would be used to repay excess losses of the Texas Windstorm Insurance Association would be dependent on the severity and timing of coastal area catastrophes and cannot be estimated.

The bill would amend the Insurance Code and Government Code to authorize the use of up to \$1.0 billion from the Economic Stabilization Fund to be used for the payment of excess losses of the Texas Windstorm Insurance Association (TWIA) and that would be repaid through the order of catastrophe surcharge on all policy holders of property insurance policies. As the use of such funds would be dependent on the severity and timing of coastal area catastrophes and cannot be estimated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Note: This legislation would create or recreate a dedicated account in the General Revenue Fund, create or recreate a fund either in, with, or outside of the Treasury, or dedicate or rededicate a revenue source. The Legislature consolidated funds into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has enacted a funds consolidation bill. The dedication included in this bill, unless created by a constitutional amendment, would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: JMc, RStu, BFa, AAL, GDZ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

April 1, 2025

TO: Honorable Jay Dean, Chair, House Committee on Insurance

FROM: Jerry McGinty, Director, Legislative Budget Board

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