

By: Bonnen of Galveston

H.B. No. 2245

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the operation of the Texas Windstorm Insurance
3 Association and the renaming of the Texas Windstorm Insurance
4 Association as the Texas Coastal Insurance Association.

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

6 SECTION 1. The heading to Chapter 2210, Insurance Code, is
7 amended to read as follows:

8 CHAPTER 2210. TEXAS COASTAL [WINDSTORM] INSURANCE ASSOCIATION

9 SECTION 2. Section 2210.001, Insurance Code, is amended to
10 read as follows:

11 Sec. 2210.001. PURPOSE. The primary purpose of the Texas
12 Coastal [Windstorm] Insurance Association is the provision of an
13 adequate market for windstorm and hail insurance in the seacoast
14 territory of this state. The legislature finds that the provision
15 of adequate windstorm and hail insurance is necessary to the
16 economic welfare of this state, and without that insurance, the
17 orderly growth and development of this state would be severely
18 impeded. This chapter provides a method by which adequate
19 windstorm and hail insurance may be obtained in certain designated
20 portions of the seacoast territory of this state. The association
21 is intended to serve as a residual insurer of last resort for
22 windstorm and hail insurance in the seacoast territory. The
23 association shall:

24 (1) function in such a manner as to not be a direct

1 competitor in the private market; and

2 (2) provide windstorm and hail insurance coverage to
3 those who are unable to obtain that coverage in the private market.

4 SECTION 3. Section 2210.002, Insurance Code, is amended by
5 amending Subsection (a) and adding Subsection (a-1) to read as
6 follows:

7 (a) This chapter may be cited as the Texas Coastal
8 ~~Windstorm~~ Insurance Association Act.

9 (a-1) A reference in this chapter or other law to the Texas
10 Windstorm Insurance Association means the Texas Coastal Insurance
11 Association.

12 SECTION 4. Section 2210.003, Insurance Code, is amended by
13 amending Subdivision (1) and adding Subdivisions (1-a) and (9-a) to
14 read as follows:

15 (1) "Administrator" means the entity contractually
16 retained to:

17 (A) manage the association and administer the
18 plan of operation under Section 2210.062; and

19 (B) manage the contracts with primary insurers
20 under Section 2210.063.

21 (1-a) "Association" means the Texas Coastal
22 ~~Windstorm~~ Insurance Association.

23 (9-a) "Primary insurer" means a member insurer that:

24 (A) has primary coverage for loss by fire on a
25 property that is or may be insured under this chapter; and

26 (B) acts on behalf of the association under this
27 chapter.

1 SECTION 5. Section 2210.014, Insurance Code, is amended by
2 amending Subsection (b) and adding Subsection (c) to read as
3 follows:

4 (b) Chapter 542 does not apply to ~~the processing and~~
5 ~~settlement of claims by~~ the association ~~or to an agent or~~
6 representative of the association.

7 (c) A primary insurer, adjuster, agent or representative of
8 the primary insurer, or the administrator contracted under Sections
9 2210.062 and 2210.063, is an agent of the association for purposes
10 of administering and issuing association policies and adjusting and
11 processing association claims under this chapter.

12 SECTION 6. Subchapter A, Chapter 2210, Insurance Code, is
13 amended by adding Section 2210.015 to read as follows:

14 Sec. 2210.015. STUDY OF MARKET INCENTIVES; BIENNIAL
15 REPORTING. (a) Each biennium, the department shall conduct a study
16 of market incentives to promote participation in the voluntary
17 windstorm and hail insurance market in the seacoast territory of
18 this state. The study must address as possible incentives the
19 mandatory or voluntary issuance of windstorm and hail insurance in
20 conjunction with the issuance of a homeowners policy in the
21 seacoast territory.

22 (b) The department shall include the results of the study
23 conducted under this section in the report submitted under Section
24 32.022.

25 SECTION 7. Subchapter B, Chapter 2210, Insurance Code, is
26 amended by adding Sections 2210.062, 2210.063, 2210.064, 2210.065,
27 2210.066, and 2210.067 to read as follows:

1 Sec. 2210.062. ADMINISTRATION BY CONTRACTED ADMINISTRATOR.

2 (a) Notwithstanding any other law, the commissioner shall contract
3 with an administrator to manage the association and administer the
4 plan of operation beginning December 1, 2015. The administrator
5 may not exercise any power under the contract before December 1,
6 2015.

7 (b) The administrator must hold either a managing general
8 agent license issued under Chapter 4053 or a third-party
9 administrator certificate of authority issued under Chapter 4151.

10 (c) The term of the administrator's contract may not exceed
11 five years. The contract may be renewed for additional terms not to
12 exceed five years for each term.

13 (d) In establishing the compensation paid to the
14 administrator under the contract, the commissioner shall consider
15 the cost of operations of the association and make every reasonable
16 effort to ensure that the cost of operations of the association
17 under the contract does not exceed average historical costs.

18 Sec. 2210.063. CONTRACTS BETWEEN ADMINISTRATOR AND PRIMARY
19 INSURERS. (a) Notwithstanding any other law, the administrator
20 shall contract with each primary insurer to administer and issue
21 association policies and adjust and process claims under
22 association policies beginning January 1, 2016. A primary insurer
23 may not exercise any power under the contract before January 1,
24 2016.

25 (b) In establishing the compensation paid to each primary
26 insurer under the contract, the administrator shall consider the
27 cost of operations of the association and make every reasonable

1 effort to ensure that the cost of operations of the association
2 under the contract does not exceed average historical costs.

3 Sec. 2210.064. PROPRIETARY INFORMATION. (a) Any
4 information, analyses, programs, or data acquired or created by the
5 administrator under a contract under this chapter are property of
6 the department.

7 (b) Information, analyses, programs, or data described by
8 Subsection (a) are confidential and exempt from public disclosure
9 under Chapter 552, Government Code.

10 Sec. 2210.065. OFFICE. (a) The administrator shall
11 maintain an office in Austin, Texas.

12 (b) The commissioner may arrange to lease office space of
13 the department to the administrator.

14 Sec. 2210.066. AUDIT. (a) The administrator is subject to
15 audit by the commissioner and shall pay the costs incurred by the
16 commissioner in performing an audit under this section in an amount
17 the commissioner finds reasonable.

18 (b) Work papers, as defined by Section 401.020(a), from an
19 audit are confidential and not subject to disclosure under Chapter
20 552, Government Code.

21 Sec. 2210.067. ANNUAL REPORT OF ADMINISTRATOR. (a) Not
22 later than March 1 of each year, the administrator shall submit a
23 report regarding the administrator's duties under this chapter to:

24 (1) the governor;
25 (2) the lieutenant governor;
26 (3) the speaker of the house of representatives;
27 (4) the senate committee on business and commerce or

1 the successor of that committee with jurisdiction over insurance;
2 (5) the house committee on insurance or the successor
3 of that committee with jurisdiction over insurance; and
4 (6) the legislative oversight board established under
5 Subchapter N.

6 (b) The report must be made in accordance with the terms of
7 the administrator's contract with the department.

8 SECTION 8. Subchapter B-1, Chapter 2210, Insurance Code, is
9 amended by amending Section 2210.071 and adding Sections 2210.0715
10 and 2210.0716 to read as follows:

11 Sec. 2210.071. PAYMENT OF EXCESS LOSSES [~~, PAYMENT FROM~~
12 ~~RESERVES AND TRUST FUND~~]. [~~(a)~~] If, in a catastrophe year, an
13 occurrence or series of occurrences in a catastrophe area results
14 in insured losses and operating expenses of the association in
15 excess of premium and other revenue of the association, the excess
16 losses and operating expenses shall be paid as provided by this
17 subchapter.

18 Sec. 2210.0715. PAYMENT FROM RESERVES AND TRUST FUND. [~~(b)~~]
19 The association shall pay losses in excess of premium and other
20 revenue of the association from available reserves of the
21 association and available amounts in the catastrophe reserve trust
22 fund.

23 Sec. 2210.0716. PAYMENT FROM CLASS 1 ASSESSMENTS. (a)
24 Losses in a catastrophe year not paid under Section 2210.0715 shall
25 be paid as provided by this section from Class 1 member assessments
26 not to exceed \$500 million for that catastrophe year.

27 (b) The administrator, with the approval of the

1 commissioner, shall notify each member of the amount of the
2 member's assessment under this section. The proportion of the
3 losses allocable to each insurer under this section shall be
4 determined in the manner used to determine each insurer's
5 participation in the association for the year under Section
6 [2210.052](#).

7 (c) A member of the association may not recoup an assessment
8 paid under this section through a premium surcharge or tax credit.

9 ~~[(c) Losses not paid under Subsection (b) shall be paid from~~
10 ~~the proceeds from public securities issued in accordance with this~~
11 ~~subchapter and Subchapter M and, notwithstanding Subsection (a),~~
12 ~~may be paid from the proceeds of public securities issued under~~
13 ~~Section [2210.072\(a\)](#) before an occurrence or series of occurrences~~
14 ~~that results in insured losses.]~~

15 SECTION 9. Sections [2210.072\(a\)](#), (b), (b-1), (c), and (f),
16 Insurance Code, are amended to read as follows:

17 (a) Losses not paid under Sections 2210.0715 and 2210.0716
18 ~~[Section [2210.071\(b\)](#)]~~ shall be paid as provided by this section
19 from the proceeds from Class 1 public securities authorized to be
20 issued in accordance with Subchapter M before, on, or after the date
21 of any occurrence or series of occurrences that results in insured
22 losses. Public securities issued under this section must be paid
23 ~~[repaid]~~ within a period not to exceed 10 ~~[14]~~ years~~[–]~~ and may be
24 paid ~~[repaid]~~ sooner if the board of directors elects to do so and
25 the commissioner approves.

26 (b) Public securities described by Subsection (a) that are
27 issued before an occurrence or series of occurrences that results

1 in incurred losses:

2 (1) may be issued on the request of the board of
3 directors with the approval of the commissioner; and

4 (2) may not, in the aggregate, exceed \$500 million [~~\$1~~
5 ~~billion~~] at any one time, regardless of the calendar year or years
6 in which the outstanding public securities were issued.

7 (b-1) Public securities described by Subsection (a):

8 (1) shall be issued as necessary in a principal amount
9 not to exceed \$500 million [~~\$1 billion~~] per catastrophe year, in the
10 aggregate, for securities issued during that catastrophe year
11 before the occurrence or series of occurrences that results in
12 incurred losses in that year and securities issued on or after the
13 date of that occurrence or series of occurrences, and regardless of
14 whether for a single occurrence or a series of occurrences; and

15 (2) subject to the [~~\$1 billion~~] maximum described by
16 Subdivision (1), may be issued, in one or more issuances or
17 tranches, during the calendar year in which the occurrence or
18 series of occurrences occurs or, if the public securities cannot
19 reasonably be issued in that year, during the following calendar
20 year.

21 (c) If public securities are issued as described by this
22 section, the public securities shall be paid [~~repaid~~] in the manner
23 prescribed by Subchapter M [~~from association premium revenue~~].

24 (f) If, under Subsection (e), the proceeds of any
25 outstanding public securities issued during a previous catastrophe
26 year must be depleted, those proceeds shall count against the \$500
27 million [~~\$1 billion~~] limit on public securities described by this

1 section in the catastrophe year in which the proceeds must be
2 depleted.

3 SECTION 10. Subchapter B-1, Chapter 2210, Insurance Code,
4 is amended by adding Section 2210.0725 to read as follows:

5 Sec. 2210.0725. PAYMENT FROM CLASS 2 ASSESSMENTS. (a)
6 Losses in a catastrophe year not paid under Sections 2210.0715,
7 2210.0716, and 2210.072 shall be paid as provided by this section
8 from Class 2 member assessments not to exceed \$500 million for that
9 catastrophe year.

10 (b) The administrator, with the approval of the
11 commissioner, shall notify each member of the amount of the
12 member's assessment under this section. The proportion of the
13 losses allocable to each insurer under this section shall be
14 determined in the manner used to determine each insurer's
15 participation in the association for the year under Section
16 2210.052.

17 (c) A member of the association may not recoup an assessment
18 paid under this section through a premium surcharge or tax credit.

19 SECTION 11. Section 2210.073, Insurance Code, is amended to
20 read as follows:

21 Sec. 2210.073. PAYMENT FROM CLASS 2 PUBLIC SECURITIES. (a)
22 Losses not paid under Sections 2210.0715, 2210.0716, [2210.071 and]
23 2210.072, and 2210.0725 shall be paid as provided by this section
24 from the proceeds from Class 2 public securities authorized to be
25 issued in accordance with Subchapter M on or after the date of any
26 occurrence or series of occurrences that results in insured losses
27 [under this subsection]. Public securities issued under this

1 section must be paid [~~repaid~~] within a period not to exceed 10
2 years[~~T~~] and may be paid [~~repaid~~] sooner if the board of directors
3 elects to do so and the commissioner approves.

4 (b) Public securities described by Subsection (a):

5 (1) shall [~~may~~] be issued as necessary in a principal
6 amount not to exceed \$500 million [~~\$1 billion~~] per catastrophe
7 year, in the aggregate, whether for a single occurrence or a series
8 of occurrences; and

9 (2) subject to the [~~\$1 billion~~] maximum described by
10 Subdivision (1), may be issued, in one or more issuances or
11 tranches, during the calendar year in which the occurrence or
12 series of occurrences occurs or, if the public securities cannot
13 reasonably be issued in that year, during the following calendar
14 year.

15 (c) If the losses are paid with public securities described
16 by this section, the public securities shall be paid [~~repaid~~] in the
17 manner prescribed by Subchapter M.

18 SECTION 12. Section 2210.102, Insurance Code, is amended to
19 read as follows:

20 Sec. 2210.102. COMPOSITION. (a) The board of directors is
21 composed of nine members appointed by the governor [~~commissioner~~]
22 in accordance with this section.

23 (b) Three [~~Four~~] members must be representatives of the
24 insurance industry who actively write and renew windstorm and hail
25 insurance in the first tier coastal counties.

26 (c) Three [~~Four~~] members must, as of the date of the
27 appointment, reside in the first tier coastal counties. Each of

1 the following regions must be represented by a member residing in
2 the region and [At least one of the members] appointed under this
3 subsection:

4 (1) the region consisting of Cameron, Kenedy, Kleberg,
5 and Willacy Counties;

6 (2) the region consisting of Aransas, Calhoun, Nueces,
7 Refugio, and San Patricio Counties; and

8 (3) the region consisting of Brazoria, Chambers,
9 Galveston, Jefferson, and Matagorda Counties and any part of Harris
10 County designated as a catastrophe area under Section 2210.005.

11 (c-1) One of the members appointed under Subsection (c) must
12 be a property and casualty agent who is licensed under this code and
13 is not a captive agent.

14 (d) One member must be a representative of an area of this
15 state that is not located in the seacoast territory [with
16 demonstrated expertise in insurance and actuarial principles].

17 (d-1) One member must be an engineer who:

18 (1) is knowledgeable of, and has professional
19 expertise in, wind-related design and construction practices in
20 coastal areas that are subject to high winds and hurricanes; and

21 (2) resides in a second tier coastal county.

22 (d-2) One member must be a representative of the financial
23 industry who resides in a second tier coastal county.

24 (e) All members must have demonstrated experience in
25 insurance, general business, or actuarial principles and the
26 member's area of expertise, if any, sufficient to make the success
27 of the association probable.

19 (1) hold an elective office of this state or a
20 political subdivision of this state: and

26 (B) the southern portion of the seacoast
27 territory [~~(2) reside in a first tier coastal county~~]; or [~~and~~

9 SECTION 13. Section 2210.103(c), Insurance Code, is amended
10 to read as follows:

11 (c) A member of the board of directors may be removed by the
12 governor [~~commissioner~~] with cause stated in writing and posted on
13 the association's website. The governor [~~commissioner~~] shall
14 appoint a replacement in accordance with [~~the manner provided by~~]
15 Section 2210.102 for a member who leaves or is removed from the
16 board of directors.

17 SECTION 14. Chapter 2210, Insurance Code, is amended by
18 adding Subchapter D-1 to read as follows:

SUBCHAPTER D-1. PRIMARY INSURER

20 Sec. 2210.175. ADMINISTRATION AND ISSUANCE OF ASSOCIATION
21 POLICIES AND ADJUSTMENT AND PROCESSING OF CLAIMS BY PRIMARY
22 INSURER. (a) A primary insurer that has primary coverage on
23 property for loss by fire shall administer and issue an association
24 policy providing windstorm and hail insurance coverage for the same
25 property and adjust and process all claims made on the association
26 policy in accordance with this chapter, the plan of operation, and
27 the contract entered into under Section 2210.063.

1 (b) An insurer acting under this chapter is an agent of the
2 association for purposes of Sections 2210.014 and 2210.572.

3 (c) An insurer acting in accordance with this section is not
4 liable for any amount payable under the terms of the association
5 policy.

6 SECTION 15. Subchapter E, Chapter 2210, Insurance Code, is
7 amended by adding Sections 2210.2022 and 2210.211 to read as
8 follows:

9 Sec. 2210.2022. INFORMATION REQUIRED FOR CERTAIN
10 APPLICATIONS. An application for association coverage, including
11 an application for new or renewal coverage on or after January 1,
12 2016, must include information on any policy covering the property
13 for perils other than windstorm and hail, including:

14 (1) the total premium for the policy, including a
15 policy number for coverage issued by the FAIR Plan Association
16 under Chapter 2211, if applicable, and:

17 (A) the amount of insurance on the dwelling and
18 contents provided by the policy; or

19 (B) if the policy is a tenants policy or
20 condominium owners policy, the insured amount for the contents
21 coverage; and

22 (2) the deductibles applicable for the policy.

23 Sec. 2210.211. CONFIDENTIAL INFORMATION. (a) Except as

24 provided by Subsection (b), all information, data, and databases
25 collected and used under Section 2210.2022 are confidential
26 information not subject to disclosure under Chapter 552, Government
27 Code.

1 (b) Information described by Subsection (a) may be used for
2 the purposes and in the manner described by this chapter and Chapter
3 2211.

4 SECTION 16. The heading to Subchapter J, Chapter 2210,
5 Insurance Code, is amended to read as follows:

6 SUBCHAPTER J. CATASTROPHE RESERVE TRUST FUND; AND REINSURANCE AND
7 ALTERNATIVE RISK FINANCING [PROGRAM]

8 SECTION 17. Section 2210.452, Insurance Code, is amended by
9 amending Subsections (a), (c), and (d) and adding Subsection (f) to
10 read as follows:

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

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

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

20 (c) At the end of each calendar year or policy year, the
21 association shall use the net gain from operations of the
22 association, including all premium and other revenue of the
23 association in excess of incurred losses, operating expenses,
24 public security obligations, and public security administrative
25 expenses, to make payments to the trust fund, [to] procure
26 reinsurance, or use alternative risk financing mechanisms, or to
27 make payments to the trust fund and [to] procure reinsurance or use

1 alternative risk financing mechanisms.

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

8 (f) The commissioner by rule shall establish the procedure
9 relating to the disbursement of money from the trust fund to pay for
10 operating expenses, including reinsurance or alternative risk
11 financing mechanisms under Section 2210.453, if the association
12 does not have sufficient premium and other revenue.

13 SECTION 18. Section 2210.453, Insurance Code, is amended to
14 read as follows:

15 Sec. 2210.453. REINSURANCE AND ALTERNATIVE RISK FINANCING
16 MECHANISMS. (a) The association shall [may:
17 [+(1) make payments into the trust fund, and
18 [+(2) purchase reinsurance or use alternative risk
19 financing mechanisms in an amount equal to the probable maximum
20 loss for the association for a catastrophe year with a probability
21 of one in 100.

22 (b) Any [The association may purchase] reinsurance
23 purchased or alternative risk financing mechanism used under this
24 section operates [that operates] in addition to [or in concert with
25 the trust fund,] public securities, other approved financial
26 instruments, and assessments authorized by this chapter.

27 (c) The attachment point for reinsurance purchased under

1 this section may not be less than the aggregate amount of all
2 funding available to the association under Subchapter B-1. [If the
3 association does not purchase reinsurance as authorized by this
4 section, the board, not later than June 1 of each year, shall submit
5 to the commissioner, the legislative oversight board established
6 under Subchapter N, the governor, the lieutenant governor, and the
7 speaker of the house of representatives a report containing an
8 actuarial plan for paying losses in the event of a catastrophe with
9 estimated damages of \$2.5 billion or more. The report required by
10 this subsection must:

11 [(1) document and delineate the association's
12 resources available to pay claims, including cash or other highly
13 liquid assets, assessments that the association is projected to
14 impose, pre-event and post-event bonding capacity, and
15 private-sector recognized risk-transfer mechanisms, including
16 catastrophe bonds and reinsurance;

17 [(2) include an independent, third-party appraisal of
18 the likelihood of an assessment, the maximum potential size of the
19 assessment, and an estimate of the probability that the assessment
20 would not be adequate to meet the association's needs; and

21 [(3) include an analysis of financing alternatives to
22 assessments that includes the costs of borrowing and the
23 consequences that additional purchase of reinsurance, catastrophe
24 bonds, or other private-sector recognized risk transfer
25 instruments would have in reducing the size or potential of
26 assessments.

27 [(d) A person who prepares a report required by Subsection

1 ~~(c) may not contract to provide any other service to the
2 association, except for the preparation of similar reports, before
3 the third anniversary of the date the last report prepared by the
4 person under that subsection is submitted.~~

5 ~~[(e) The report submitted under this section is for
6 informational purposes only and does not bind the association to a
7 particular course of action.]~~

8 SECTION 19. Section [2210.602](#), Insurance Code, is amended by
9 adding Subdivisions (2-a) and (3-a) to read as follows:

10 (2-a) "Class 1 public security trust fund" means the
11 dedicated trust fund established by the board and held by the Texas
12 Treasury Safekeeping Trust Company into which premium surcharges
13 collected under Section [2210.612](#) for the purpose of repaying Class
14 1 public securities are deposited.

15 (3-a) "Class 2 public security trust fund" means the
16 dedicated trust fund established by the board and held by the Texas
17 Treasury Safekeeping Trust Company into which premium surcharges
18 collected under Section [2210.613](#) for the purpose of repaying Class
19 2 public securities are deposited.

20 SECTION 20. Section [2210.604\(a\)](#), Insurance Code, is amended
21 to read as follows:

22 (a) At the request of the association and with the approval
23 of the commissioner, the Texas Public Finance Authority shall issue
24 Class 1 or ~~[, or Class 3]~~ Class 2 public securities. The
25 association shall submit to the commissioner a cost-benefit
26 analysis of various financing methods and funding structures when
27 requesting the issuance of public securities under this subsection.

1 SECTION 21. Section 2210.609, Insurance Code, is amended to
2 read as follows:

3 Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY
4 OBLIGATIONS. (a) The board and the association shall enter into an
5 agreement under which the association shall provide for the payment
6 of all public security obligations from available funds collected
7 by the association and deposited as required by this subchapter
8 [~~into the public security obligation revenue fund~~]. If the
9 association determines that it is unable to pay the public security
10 obligations and public security administrative expenses, if any,
11 with available funds, the association shall pay those obligations
12 and expenses in accordance with Sections 2210.612 and [~~or~~] 2210.613,
13 [~~2210.6135, and 2210.6136~~] as applicable. Class 1 or [~~or~~] Class
14 2[~~, or Class 3~~] public securities may be issued on a parity or
15 subordinate lien basis with other Class 1 or [~~or~~] Class 2[~~, or Class~~
16 ~~3~~] public securities, respectively.

17 (b) If any public securities issued under this chapter are
18 outstanding, the authority shall notify the association of the
19 amount of the public security obligations and the estimated amount
20 of public security administrative expenses, if any, each calendar
21 year in a period sufficient, as determined by the association, to
22 permit the association to determine the availability of funds[~~or~~
23 ~~assess members of the association under Sections 2210.613 and~~
24 ~~2210.6135,~~] and assess a premium surcharge if necessary.

25 (c) The association shall deposit all revenue collected
26 under Section 2210.612 in the Class 1 public security trust fund and
27 [~~public security obligation revenue fund,~~] all revenue collected

1 under Section 2210.613 [~~2210.613(b)~~] in the Class 2 public security
2 trust fund [~~premium surcharge trust fund, and all revenue collected~~
3 ~~under Sections 2210.613(a) and 2210.6135 in the member assessment~~
4 ~~trust fund~~]. Money deposited in a fund may be invested as
5 permitted by general law. Money in a fund required to be used to
6 pay public security obligations and public security administrative
7 expenses, if any, shall be transferred to the appropriate funds in
8 the manner and at the time specified in the proceedings authorizing
9 the public securities to ensure timely payment of obligations and
10 expenses. This may include the board establishing funds and
11 accounts with the comptroller that the board determines are
12 necessary to administer and repay the public security
13 obligations. If the association has not transferred amounts
14 sufficient to pay the public security obligations to the board's
15 designated interest and sinking fund in a timely manner, the board
16 may direct the Texas Treasury Safekeeping Trust Company to transfer
17 from the Class 1 public security trust fund [~~public security~~
18 ~~obligation revenue fund, the premium surcharge trust fund,~~] or the
19 Class 2 public security trust fund [~~member assessment trust fund~~]
20 to the appropriate account the amount necessary to pay the public
21 security obligation.

22 (d) The association shall provide for the payment of the
23 public security obligations and the public security administrative
24 expenses by irrevocably pledging revenues received from premiums,
25 [~~member assessments,~~] premium surcharges, and amounts on deposit in
26 the Class 1 public security trust fund [~~public security obligation~~
27 ~~revenue fund, the premium surcharge trust fund,~~] and the Class 2

1 public security trust fund [~~member assessment trust fund~~], together
2 with any public security reserve fund, as provided in the
3 proceedings authorizing the public securities and related credit
4 agreements.

5 (e) An amount owed by the board under a credit agreement
6 shall be payable from and secured by a pledge of revenues received
7 by the association [~~or amounts from the public security obligation~~
8 ~~trust fund~~], the Class 1 public security trust fund [~~premium~~
9 ~~surcharge trust fund~~], and the Class 2 public security trust fund
10 [~~member assessment trust fund~~] to the extent provided in the
11 proceedings authorizing the credit agreement.

12 SECTION 22. Section 2210.610(a), Insurance Code, is amended
13 to read as follows:

14 (a) Revenues received from the premium surcharges under
15 Sections 2210.612 and [~~Section~~] 2210.613 [~~and member assessments~~
16 ~~under Sections 2210.613 and 2210.6135~~] may be applied only as
17 provided by this subchapter.

18 SECTION 23. Section 2210.611, Insurance Code, is amended to
19 read as follows:

20 Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT
21 EARNINGS. Revenue collected in any calendar year from a premium
22 surcharge under Sections 2210.612 and [~~Section~~] 2210.613 [~~and~~
23 ~~member assessments under Sections 2210.613 and 2210.6135~~] that
24 exceeds the amount of the public security obligations and public
25 security administrative expenses payable in that calendar year and
26 interest earned on the funds [~~public security obligation fund~~] may,
27 in the discretion of the association, be:

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8 (3) deposited in the catastrophe reserve trust fund.

9 SECTION 24. Section 2210.612, Insurance Code, is amended to
10 read as follows:

11 Sec. 2210.612. PAYMENT OF CLASS 1 PUBLIC SECURITIES.

12 (a) The association shall pay Class 1 public securities issued
13 under Section [2210.072](#) from:

14 (1) [its] net premium and other revenue; and

15 (2) if net premium and other revenue are not
16 sufficient to pay the securities, a catastrophe area premium
17 surcharge collected in accordance with this section.

18 (b) On approval by the commissioner, the association shall
19 assess, as provided by this section, a premium surcharge to each
20 policyholder of a policy described by Subsection (c). The premium
21 surcharge must be set in an amount sufficient to pay, for the
22 duration of the issued public securities, all debt service not
23 already covered by available funds and all related expenses on the
24 public securities.

25 (c) The premium surcharge under this section shall be
26 assessed on all policyholders of association policies issued under
27 this chapter.

1 (d) A premium surcharge under this section is a separate
2 charge in addition to the premiums collected and is not subject to
3 premium tax or commissions. Failure by a policyholder to pay the
4 surcharge constitutes failure to pay premium for purposes of policy
5 cancellation.

6 (e) ~~(b)~~ The association may enter financing arrangements
7 as described by Section [2210.072](#)(d) as necessary to obtain public
8 securities issued under Section [2210.072](#). Nothing in this
9 subsection shall prevent the authorization and creation of one or
10 more programs for the issuance of commercial paper before the date
11 of an occurrence or series of occurrences that results in insured
12 losses under Section [2210.072](#)(a).

13 SECTION 25. Section [2210.613](#), Insurance Code, is amended to
14 read as follows:

15 Sec. 2210.613. PAYMENT OF CLASS 2 PUBLIC SECURITIES. (a)
16 The association shall pay Class 2 public securities issued under
17 Section [2210.073](#) from:

18 (1) net premium and other revenue; and
19 (2) if net premium and other revenue are not
20 sufficient to pay the securities, a catastrophe area premium
21 surcharge collected in accordance with this section.

22 (b) On approval by the commissioner, the association and
23 each insurer that provides insurance in a catastrophe area shall
24 assess, as provided by this section, a premium surcharge to each
25 policyholder of a policy described by Subsection (c). The premium
26 surcharge must be set in an amount sufficient to pay, for the
27 duration of the issued public securities, all debt service not

1 already covered by available funds and all related expenses on the
2 public securities [as provided by this section. Thirty percent of
3 the cost of the public securities shall be paid through member
4 assessments as provided by this section. The association shall
5 notify each member of the association of the amount of the member's
6 assessment under this section. The proportion of the losses
7 allocable to each insurer under this section shall be determined in
8 the manner used to determine each insurer's participation in the
9 association for the year under Section 2210.052. A member of the
10 association may not recoup an assessment paid under this subsection
11 through a premium surcharge or tax credit].

12 [(b) Seventy percent of the cost of the public securities
13 shall be paid by a premium surcharge collected under this section in
14 an amount set by the commissioner. On approval by the
15 commissioner, each insurer, the association, and the Texas FAIR
16 Plan Association shall assess, as provided by this section, a
17 premium surcharge to each policyholder of a policy that is in effect
18 on or after the 180th day after the date the commissioner issues
19 notice of the approval of the public securities. The premium
20 surcharge must be set in an amount sufficient to pay, for the
21 duration of the issued public securities, all debt service not
22 already covered by available funds or member assessments and all
23 related expenses on the public securities.]

24 (c) The premium surcharge under this section [Subsection
25 (b)] shall be assessed on all policyholders of policies that cover
26 insured property that is located in a catastrophe area, including
27 automobiles principally garaged in a catastrophe area. The

1 premium surcharge shall be assessed on each Texas windstorm and
2 hail insurance policy and each property and casualty insurance
3 policy, including an automobile insurance policy, issued for
4 automobiles and other property located in the catastrophe area.

5 The [A] premium surcharge [~~under Subsection (b)~~] applies to:

6 (1) all policies written under the following lines of
7 insurance:

8 (A) fire and allied lines;
9 (B) farm and ranch owners;
10 (C) residential property insurance;
11 (D) private passenger automobile liability and
12 physical damage insurance; and

13 (E) commercial automobile liability and physical
14 damage insurance; and

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

17 (d) A premium surcharge under this section [~~Subsection (b)~~]
18 is a separate charge in addition to the premiums collected and is
19 not subject to premium tax or commissions. Failure by a
20 policyholder to pay the surcharge constitutes failure to pay
21 premium for purposes of policy cancellation.

22 SECTION 26. Section 2210.614, Insurance Code, is amended to
23 read as follows:

24 Sec. 2210.614. REFINANCING PUBLIC SECURITIES. The
25 association may request the board to refinance any public
26 securities issued in accordance with Subchapter B-1, whether Class
27 1 or [~~or~~] Class 2 [~~, or Class 3~~] public securities, with public

1 securities payable from the same sources as the original public
2 securities.

3 SECTION 27. Section [2210.616\(a\)](#), Insurance Code, is amended
4 to read as follows:

5 (a) The state pledges for the benefit and protection of
6 financing parties, the board, and the association that the state
7 will not take or permit any action that would:

8 (1) impair the collection of ~~member assessments and~~
9 premium surcharges or the deposit of those funds into the Class 1
10 public security ~~member assessment~~ trust fund or Class 2 public
11 security ~~premium surcharge~~ trust fund;

12 (2) reduce, alter, or impair the ~~member assessments~~
13 ~~or~~ premium surcharges to be imposed, collected, and remitted to
14 financing parties until the principal, interest, and premium, and
15 any other charges incurred and contracts to be performed in
16 connection with the related public securities, have been paid and
17 performed in full; or

18 (3) in any way impair the rights and remedies of the
19 public security owners until the public securities are fully
20 discharged.

21 SECTION 28. Section [2210.6165](#), Insurance Code, is amended
22 to read as follows:

23 Sec. 2210.6165. PROPERTY RIGHTS. If public securities
24 issued under this subchapter are outstanding, the rights and
25 interests of the association, a successor to the association, any
26 member of the association, or any member of the Texas FAIR Plan
27 Association, including the right to impose, collect, and receive a

1 premium surcharge [~~or a member assessment~~] authorized under this
2 subchapter, are only contract rights until those revenues are first
3 pledged for the repayment of the association's public security
4 obligations as provided by Section [2210.609](#).

5 SECTION 29. The following provisions of Chapter 2210,
6 Insurance Code, are repealed:

- 7 (1) Section [2210.074](#);
- 8 (2) Sections [2210.602](#)(4), (5-a), (6-b), (6-c), and
9 (10);
- 10 (3) Section [2210.605](#)(c); and
- 11 (4) Sections [2210.6135](#) and [2210.6136](#).

12 SECTION 30. (a) The board of directors of the Texas
13 Windstorm Insurance Association established under Section
14 [2210.102](#), Insurance Code, as that section existed before amendment
15 by this Act, is abolished effective October 1, 2015.

16 (b) The governor shall appoint the members of the board of
17 directors of the Texas Coastal Insurance Association under Section
18 [2210.102](#), Insurance Code, as amended by this Act, effective October
19 1, 2015. The initial directors shall draw lots to achieve staggered
20 terms, with three of the directors serving one-year terms, three of
21 the directors serving two-year terms, and three of the directors
22 serving three-year terms.

23 (c) The term of a person who is serving as a member of the
24 board of directors of the Texas Windstorm Insurance Association
25 immediately before the abolition of that board under Subsection (a)
26 of this section expires on October 1, 2015. Such a person is
27 eligible for appointment by the governor to the new board of

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1 directors of the Texas Coastal Insurance Association under Section
2 [2210.102](#), Insurance Code, as amended by this Act.

3 (d) Section 2210.175, Insurance Code, as added by this Act,
4 applies only to administering or issuing a policy or adjusting or
5 processing a claim under a policy issued on or after January 1,
6 2016.

7 (e) Subchapter M, Chapter 2210, Insurance Code, as it
8 existed before the effective date of this Act, is applicable to bond
9 obligations incurred under Chapter 2210, Insurance Code, before the
10 effective date of this Act, and that law is continued in effect for
11 that purpose.

12 (f) It is the intent of the legislature that each member of
13 the legislative oversight board appointed under Section [2210.652](#),
14 Insurance Code, and serving on the effective date of this Act
15 continues to serve after the effective date of this Act until a
16 successor is appointed under that section.

17 SECTION 31. This Act takes effect immediately if it
18 receives a vote of two-thirds of all the members elected to each
19 house, as provided by Section [39](#), Article III, Texas Constitution.
20 If this Act does not receive the vote necessary for immediate
21 effect, this Act takes effect September 1, 2015.