

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5-30-09

Date

Honorable David Dewhurst
President of the Senate


Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 4409 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



MIKE JACKSON



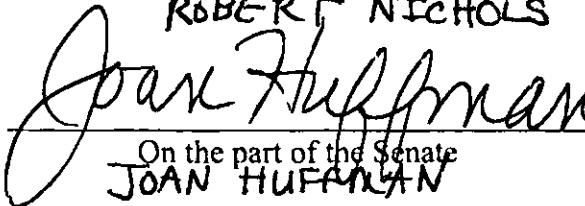
TROY FRASER



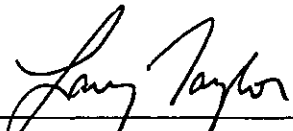
LETICIA VAN DE PUTTE



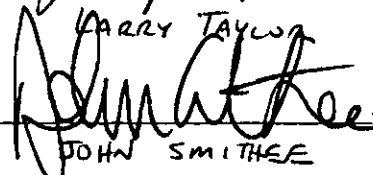
ROBERT NICHOLS



On the part of the Senate
JOAN HUFFMAN



LARRY TAYLOR



JOHN SMITH



On the part of the House
TODD HUNTER

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

**CONFERENCE
COMMITTEE REPORT**

3rd Printing

H.B. No. 4409

1 A BILL TO BE ENTITLED

2 AN ACT

3 relating to emergency preparation and management.

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

5 SECTION 1. Subchapter A, Chapter 418, Government Code, is
6 amended by adding Section 418.006 to read as follows:

7 Sec. 418.006. CIVIL LIABILITY. An officer or employee of
8 a state or local agency, or a volunteer acting at the direction
9 of an officer or employee of a state or local agency, is
10 considered for purposes of Section 431.085 to be a member of the
11 state military forces ordered into active service of the state
12 by proper authority and is considered to be discharging a duty
13 in that capacity if the person is performing an activity related
14 to sheltering or housing individuals in connection with the
15 evacuation of an area stricken or threatened by disaster.

16 SECTION 2. Section 418.043, Government Code, is amended to
17 read as follows:

18 Sec. 418.043. OTHER POWERS AND DUTIES. The division
19 shall:

20 (1) determine requirements of the state and its
21 political subdivisions for food, clothing, and other necessities
22 in event of a disaster;

23 (2) procure and position supplies, medicines,
24 materials, and equipment;

25 (3) adopt standards and requirements for local and
26 interjurisdictional emergency management plans;

27 (4) periodically review local and interjurisdictional

- 1 emergency management plans;
- 2 (5) coordinate deployment of mobile support units;
- 3 (6) establish and operate training programs and
4 programs of public information or assist political subdivisions
5 and emergency management agencies to establish and operate the
6 programs;
- 7 (7) make surveys of public and private industries,
8 resources, and facilities in the state that are necessary to
9 carry out the purposes of this chapter;
- 10 (8) plan and make arrangements for the availability
11 and use of any private facilities, services, and property and
12 provide for payment for use under terms and conditions agreed on
13 if the facilities are used and payment is necessary;
- 14 (9) establish a register of persons with types of
15 training and skills important in disaster mitigation,
16 preparedness, response, and recovery;
- 17 (10) establish a register of mobile and construction
18 equipment and temporary housing available for use in a disaster;
- 19 (11) assist political subdivisions in developing
20 plans for the humane evacuation, transport, and temporary
21 sheltering of service animals and household pets in a disaster;
- 22 (12) prepare, for issuance by the governor, executive
23 orders and regulations necessary or appropriate in coping with
24 disasters;
- 25 (13) cooperate with the federal government and any
26 public or private agency or entity in achieving any purpose of
27 this chapter and in implementing programs for disaster
28 mitigation, preparation, response, and recovery; ~~and~~
- 29 (14) define "individuals with special needs" in the
30 context of a disaster; and
- 31 (15) do other things necessary, incidental, or

1 appropriate for the implementation of this chapter.

2 SECTION 3. Subchapter F, Chapter 418, Government Code, is
3 amended by adding Section 418.126 to read as follows:

4 Sec. 418.126. PRE-EVENT DISASTER RESPONSE CONTRACTS. (a)
5 The General Land Office shall solicit proposals for and enter
6 into one or more pre-event contracts that may be activated by
7 the office in the event of a weather-related disaster
8 declaration to obtain services for debris removal from beaches
9 as needed following the disaster.

10 (b) The Texas Department of Transportation shall solicit
11 proposals for and enter into one or more pre-event contracts
12 that may be activated by the department in the event of a
13 weather-related disaster declaration to obtain services for
14 debris removal from the state highway system as needed following
15 the disaster.

16 (c) The Texas Department of Housing and Community Affairs
17 shall solicit proposals for and enter into one or more pre-event
18 contracts that may be activated by the department in the event
19 of a weather-related disaster declaration to obtain temporary or
20 emergency housing as needed following the disaster.

21 (d) Services obtained under a pre-event contract under
22 this section may be paid for with money from the disaster
23 contingency fund under Section 418.073.

24 SECTION 4. Subtitle G, Title 10, Government Code, is
25 amended by adding Chapter 2311 to read as follows:

26 CHAPTER 2311. ENERGY SECURITY TECHNOLOGIES FOR CRITICAL
27 GOVERNMENTAL FACILITIES

28 Sec. 2311.001. DEFINITIONS. In this chapter:

29 (1) "Combined heating and power system" means a
30 system that:

31 (A) is located on the site of a facility;

1 (B) is the primary source of both electricity
2 and thermal energy for the facility;

3 (C) can provide all of the electricity needed to
4 power the facility's critical emergency operations for at least
5 14 days; and

6 (D) has an overall efficiency of energy use that
7 exceeds 60 percent.

8 (2) "Critical governmental facility" means a building
9 owned by the state or a political subdivision of the state that
10 is expected to:

11 (A) be continuously occupied;

12 (B) maintain operations for at least 6,000 hours
13 each year;

14 (C) have a peak electricity demand exceeding 500
15 kilowatts; and

16 (D) serve a critical public health or public
17 safety function during a natural disaster or other emergency
18 situation that may result in a widespread power outage,
19 including a:

20 (i) command and control center;

21 (ii) shelter;

22 (iii) prison or jail;

23 (iv) police or fire station;

24 (v) communications or data center;

25 (vi) water or wastewater facility;

26 (vii) hazardous waste storage facility;

27 (viii) biological research facility;

28 (ix) hospital; or

29 (x) food preparation or food storage
30 facility.

31 Sec. 2311.002. COMBINED HEATING AND POWER SYSTEMS. When

1 constructing or extensively renovating a critical governmental
2 facility or replacing major heating, ventilation, and air-
3 conditioning equipment for a critical governmental facility, the
4 entity with charge and control of the facility shall evaluate
5 whether equipping the facility with a combined heating and power
6 system would result in expected energy savings that would exceed
7 the expected costs of purchasing, operating, and maintaining the
8 system over a 20-year period. The entity may equip the facility
9 with a combined heating and power system if the expected energy
10 savings exceed the expected costs.

11 SECTION 5. Section 2210.001, Insurance Code, is amended to
12 read as follows:

13 Sec. 2210.001. PURPOSE. The primary purpose of the Texas
14 Windstorm Insurance Association is the provision of an [An]
15 adequate market for windstorm and[7] hail[7, and fire] insurance
16 in the seacoast territory of this state. The legislature finds
17 that the provision of adequate windstorm and hail insurance is
18 necessary to the economic welfare of this state, and without
19 that insurance, the orderly growth and development of this state
20 would be severely impeded. This chapter provides a method by
21 which adequate windstorm and[7] hail[7, and fire] insurance may
22 be obtained in certain designated portions of the seacoast
23 territory of this state. The association is intended to serve
24 as a residual insurer of last resort for windstorm and hail
25 insurance in the seacoast territory. The association shall:

26 (1) function in such a manner as to not be a direct
27 competitor in the private market; and

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

31 SECTION 6. Section 2210.002, Insurance Code, is amended to

1 read as follows:

2 Sec. 2210.002. SHORT TITLE; SUNSET PROVISION. (a) This
3 chapter may be cited as the Texas Windstorm Insurance
4 Association Act.

5 (b) The association is subject to review under Chapter
6 325, Government Code (Texas Sunset Act), but is not abolished
7 under that chapter. The association shall be reviewed during
8 the period in which state agencies abolished in 2015 are
9 reviewed. The association shall pay the costs incurred by the
10 Sunset Advisory Commission in performing the review of the
11 association under this subsection. The Sunset Advisory
12 Commission shall determine the costs of the review performed
13 under this subsection, and the association shall pay the amount
14 of those costs promptly on receipt of a statement from the
15 Sunset Advisory Commission regarding those costs. This
16 subsection expires September 1, 2015.

17 SECTION 7. Subchapter A, Chapter 2210, Insurance Code, is
18 amended by adding Section 2210.0025 to read as follows:

19 Sec. 2210.0025. BIENNIAL REPORT TO LEGISLATURE. On or
20 before December 31 of each even-numbered year, the board of
21 directors shall submit to the commissioner, the appropriate
22 committees of each house of the legislature, and the Sunset
23 Advisory Commission a written report relating to the operations
24 of the association during the preceding biennium. The report
25 must include:

26 (1) any proposed changes in the laws relating to
27 regulation of the association and a statement of the reasons for
28 the changes; and

29 (2) any information regarding association operations
30 or procedures that is requested by the department to be
31 addressed in the report.

1 SECTION 8. Section 2210.003, Insurance Code, is amended by
2 adding Subdivision (3-a) and amending Subdivision (6) to read as
3 follows:

4 (3-a) "Catastrophe reserve trust fund" means the
5 trust fund established under Subchapter J.

6 (6) "Insurance" means Texas [~~fire and explosion~~
7 ~~insurance and Texas~~] windstorm and hail insurance.

8 SECTION 9. Subsection (a), Section 2210.004, Insurance
9 Code, is amended to read as follows:

10 (a) Except as provided by Subsection (h), for purposes of
11 this chapter and subject to this section, "insurable property"
12 means immovable property at a fixed location in a catastrophe
13 area or corporeal movable property located in that immovable
14 property, as designated in the plan of operation, that is
15 determined by the association according to the criteria
16 specified in the plan of operation to be in an insurable
17 condition against windstorm and hail [~~or fire and explosion, as~~
18 ~~appropriate~~], as determined by normal underwriting standards.
19 The term includes property described by Section 2210.209.

20 SECTION 10. Section 2210.005, Insurance Code, is amended
21 to read as follows:

22 Sec. 2210.005. DESIGNATION AS CATASTROPHE AREA [~~OR~~
23 ~~INADEQUATE FIRE INSURANCE AREA~~]; REVOCATION OF DESIGNATION.

24 (a) After at least 10 days' notice and a hearing, the
25 commissioner may designate an area of the seacoast territory of
26 this state as a catastrophe area if the commissioner determines,
27 unless such a determination results in an adverse impact to the
28 exposure of the association, that windstorm and hail insurance
29 is not reasonably available to a substantial number of the
30 owners of insurable property located in that territory because
31 the territory is subject to unusually frequent and severe damage

1 resulting from windstorms or hailstorms.

2 (b) ~~[After at least 10 days' notice and a hearing, the~~
3 ~~commissioner may designate an area of this state as an~~
4 ~~inadequate fire insurance area if the commissioner determines~~
5 ~~that fire and explosion insurance is not reasonably available to~~
6 ~~a substantial number of owners of insurable property located in~~
7 ~~that area.~~

8 ~~[(e)]~~ The commissioner shall revoke a designation made
9 under Subsection (a) ~~[or (b)]~~ if the commissioner determines,
10 after at least 10 days' notice and a hearing, that the
11 applicable insurance coverage is no longer reasonably
12 unavailable to a substantial number of owners of insurable
13 property within the designated territory.

14 (c) ~~[(d)]~~ If the association determines that windstorm and
15 hail insurance ~~[or fire and explosion insurance]~~ is no longer
16 reasonably unavailable to a substantial number of owners of
17 insurable property in a territory designated as a catastrophe
18 area ~~[or inadequate fire insurance area, as applicable]~~, the
19 association may request in writing that the commissioner revoke
20 the designation. After at least 10 days' notice and a hearing,
21 but not later than the 30th day after the date of the hearing,
22 the commissioner shall:

23 (1) approve the request and revoke the designation;

24 or

25 (2) reject the request.

26 SECTION 11. Section 2210.008, Insurance Code, is amended
27 to read as follows:

28 Sec. 2210.008. DEPARTMENT ORDERS; GENERAL RULEMAKING
29 AUTHORITY. (a) The ~~[After notice and hearing as provided by~~
30 ~~Subsection (b), the]~~ commissioner may issue any orders that the
31 commissioner considers necessary to implement this chapter[-

1 ~~including orders regarding maximum rates, competitive rates, and~~
2 ~~policy forms].~~

3 (b) The commissioner may adopt rules in the manner
4 prescribed by Subchapter A, Chapter 36, as reasonable and
5 necessary to implement this chapter [~~Before the commissioner~~
6 ~~adopts an order, the department shall post notice of the hearing~~
7 ~~on the order at the secretary of state's office in Austin and~~
8 ~~shall hold a hearing to consider the proposed order. Any person~~
9 ~~may appear at the hearing and testify for or against the~~
10 ~~adoption of the order].~~

11 (c) In rules adopted under this chapter, the commissioner
12 shall define the meaning of "alter" and "alteration" for
13 purposes of this chapter, specifically as used in Subchapters E
14 and F.

15 SECTION 12. Subchapter A, Chapter 2210, Insurance Code, is
16 amended by adding Section 2210.009 to read as follows:

17 Sec. 2210.009. LIST OF PRIVATE INSURERS; INCENTIVE PLAN.

18 (a) The department shall maintain a list of all insurers that
19 engage in the business of property and casualty insurance in the
20 voluntary market in the seacoast territory.

21 (b) The department shall develop incentive programs in the
22 manner described by Section 2210.053(b) to encourage authorized
23 insurers to write insurance on a voluntary basis and to minimize
24 the use of the association as a means to obtain insurance.

25 SECTION 13. Section 2210.052, Insurance Code, is amended
26 by amending Subsections (a) and (d) and adding Subsection (e) to
27 read as follows:

28 (a) Each member of the association shall participate in
29 insured losses and operating expenses of the association, in
30 excess of premium and other revenue [~~the writings, expenses,~~
31 ~~profits, and losses] of the association, in the proportion that~~

1 the net direct premiums of that member during the preceding
2 calendar year bears to the aggregate net direct premiums by all
3 members of the association, as determined using the information
4 provided under Subsection (b).

5 (d) Notwithstanding Subsection (a), a member, in
6 accordance with the plan of operation, is entitled to receive
7 credit for similar insurance voluntarily written in areas [~~an~~
8 ~~area~~] designated by the commissioner. The member's
9 participation in the insured losses and operating expenses of
10 the association in excess of premium and other revenue
11 [~~writings~~] of the association shall be reduced in accordance
12 with the plan of operation.

13 (e) Notwithstanding Subsections (a)-(d), an insurer that
14 becomes a member of the association and that has not previously
15 been a member of the association is not subject to participation
16 in any insured losses and operating expenses of the association
17 in excess of premium and other revenue of the association until
18 the second anniversary of the date on which the insurer first
19 becomes a member of the association.

20 SECTION 14. Subsection (b), Section 2210.056, Insurance
21 Code, is amended to read as follows:

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

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

27 (2) make investments authorized under applicable law;

28 (3) pay reasonable and necessary administrative
29 expenses incurred in connection with the operation of the
30 association and the processing of claims against the
31 association; [~~or~~]

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

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

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

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

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

13 SECTION 15. Subsection (c), Section 2210.060, Insurance
14 Code, is amended to read as follows:

15 (c) Subsection (a) does not authorize the association to
16 indemnify a member of the association for participating in the
17 assessments made by [writings, expenses, profits, and losses of]
18 the association in the manner provided by this chapter.

19 SECTION 16. Chapter 2210, Insurance Code, is amended by
20 adding Subchapter B-1 to read as follows:

21 SUBCHAPTER B-1. PAYMENT OF LOSSES

22 Sec. 2210.071. PAYMENT OF EXCESS LOSSES; PAYMENT FROM
23 RESERVES AND TRUST FUND. (a) If an occurrence or series of
24 occurrences in a catastrophe area results in insured losses and
25 operating expenses of the association in excess of premium and
26 other revenue of the association, the excess losses and
27 operating expenses shall be paid as provided by this subchapter.

28 (b) The association shall pay losses in excess of premium
29 and other revenue of the association from available reserves of
30 the association and available amounts in the catastrophe reserve
31 trust fund.

1 Sec. 2210.072. PAYMENT FROM CLASS 1 PUBLIC SECURITIES;

2 FINANCIAL INSTRUMENTS. (a) Losses not paid under Section
3 2210.071 shall be paid as provided by this section from the
4 proceeds from Class 1 public securities authorized to be issued
5 in accordance with Subchapter M on or after the date of any
6 occurrence or series of occurrences that results in insured
7 losses.

8 (b) Public securities described by Subsection (a) shall be
9 issued as necessary in a principal amount not to exceed \$1
10 billion per year.

11 (c) If the losses are paid with public securities
12 described by this section, the public securities shall be repaid
13 in the manner prescribed by Subchapter M from association
14 premium revenue.

15 (d) The association may borrow from, or enter into other
16 financing arrangements with, any market source, under which the
17 market source makes interest-bearing loans or other financial
18 instruments to the association to enable the association to pay
19 losses under this section or to obtain public securities under
20 this section. For purposes of this subsection, financial
21 instruments includes commercial paper.

22 Sec. 2210.073. PAYMENT FROM CLASS 2 PUBLIC SECURITIES.

23 (a) Losses not paid under Sections 2210.071 and 2210.072 shall
24 be paid as provided by this section from proceeds from Class 2
25 public securities authorized to be issued in accordance with
26 Subchapter M on or after the date of any occurrence that results
27 in insured losses under this subsection. Public securities
28 issued under this section must be repaid within a period set by
29 the commissioner by rule, not to exceed 10 years, and may be
30 repaid sooner if the board of directors elects to do so and the
31 commissioner approves.

1 (b) Public securities described by Subsection (a) may be
2 issued as necessary in a principal amount not to exceed \$1
3 billion per year. If the losses are paid with public securities
4 described by this section, the public securities shall be repaid
5 in the manner prescribed by Subchapter M.

6 Sec. 2210.074. PAYMENT THROUGH CLASS 3 PUBLIC SECURITIES.

7 (a) Losses not paid under Sections 2210.071, 2210.072, and
8 2210.073 shall be paid as provided by this section from proceeds
9 from public securities authorized to be issued in accordance
10 with Subchapter M on or after the date of any occurrence that
11 results in insured losses under this subsection or through
12 reinsurance as described by Subsection (c).

13 (b) Public securities described by Subsection (a) may be
14 issued as necessary in a principal amount not to exceed \$500
15 million per year. If the losses are paid with public securities
16 described by this section, the public securities shall be repaid
17 in the manner prescribed by Subchapter M through member
18 assessments as provided by this section. The association shall
19 notify each member of the association of the amount of the
20 member's assessment under this section. The proportion of the
21 losses allocable to each insurer under this section shall be
22 determined in the manner used to determine each insurer's
23 participation in the association for the year under Section
24 2210.052. A member of the association may not recoup an
25 assessment paid under this subsection through a premium
26 surcharge or tax credit.

27 Sec. 2210.075. REINSURANCE. (a) Before any occurrence or
28 series of occurrences, an insurer may elect to purchase
29 reinsurance to cover an assessment for which the insurer would
30 otherwise be liable under Section 2210.074(b).

31 (b) An insurer must notify the board of directors, in the

1 manner prescribed by the association whether the insurer will be
2 purchasing reinsurance. If the insurer does not elect to
3 purchase reinsurance under this section, the insurer remains
4 liable for any assessment imposed under Section 2210.074(b).

5 SECTION 17. The heading to Subchapter C, Chapter 2210,
6 Insurance Code, is amended to read as follows:

7 SUBCHAPTER C. ASSOCIATION BOARD OF DIRECTORS; GENERAL
8 POWERS AND DUTIES OF BOARD OF DIRECTORS

9 SECTION 18. Section 2210.102, Insurance Code, is amended
10 to read as follows:

11 Sec. 2210.102. COMPOSITION. (a) The board of directors
12 is composed of [~~the following~~] nine members appointed by the
13 commissioner in accordance with this section.

14 (b) Four members must be [~~+(1) five~~] representatives of
15 the insurance industry.

16 (c) Four members must [~~different insurers who are members~~
17 ~~of the association, elected by the members as provided by the~~
18 ~~plan of operation,~~

19 [~~+(2) two public representatives who are nominated by~~
20 ~~the office of public insurance counsel and who~~], as of the date
21 of the appointment, [~~+~~

22 [~~+(A)~~] reside in the first tier coastal counties. At
23 least one of the members appointed under this subsection must be
24 a [~~catastrophe area; and~~

25 [~~+(B) are policyholders of the association; and~~
26 [~~+(3) two~~] property and casualty agent who is licensed
27 under this code and is not a captive agent.

28 (d) One member must be a representative of an area of this
29 state that is not located in the seacoast territory with
30 demonstrated expertise in insurance and actuarial principles.

31 (e) All members must [~~agents, each of whom must+~~

1 ~~[(A)]~~ have demonstrated experience in insurance,
2 general business, or actuarial principles sufficient to make the
3 success of the association probable~~[→~~

4 ~~[(B)] maintain the agent's principal office, as~~
5 ~~of the date of the appointment, in a catastrophe area; and~~

6 ~~[(C)] hold a license under Chapter 4051 as a~~
7 ~~general property and casualty agent or a personal lines property~~
8 ~~and casualty agent].~~

9 (f) Insurers who are members of the association shall
10 nominate, from among those members, persons to fill any vacancy
11 in the four board of director seats reserved for representatives
12 of the insurance industry. The board of directors shall solicit
13 nominations from the members and submit the nominations to the
14 commissioner. The nominee slate submitted to the commissioner
15 under this subsection must include at least three more names
16 than the number of vacancies. The commissioner shall appoint
17 replacement insurance industry representatives from the nominee
18 slate.

19 (g) The commissioner shall appoint one person to serve as
20 a nonvoting member of the board to advise the board regarding
21 issues relating to the inspection process. The commissioner may
22 give preference in an appointment under this subsection to a
23 person who is a qualified inspector under Section 2210.254. The
24 nonvoting member appointed under this section must:

25 (1) be an engineer licensed by, and in good standing
26 with, the Texas Board of Professional Engineers;

27 (2) reside in a first tier coastal county; and

28 (3) be knowledgeable of, and have professional
29 expertise in, wind-related design and construction practices in
30 coastal areas that are subject to high winds and hurricanes.

31 (h) ~~[(b)]~~ The persons appointed under Subsection (c)

1 ~~[Subsections (a)(2) and (3)]~~ must be from different counties.

2 SECTION 19. Section 2210.103, Insurance Code, is amended
3 by adding Subsection (c) to read as follows:

4 (c) A member of the board of directors may be removed by
5 the commissioner with cause stated in writing and posted on the
6 association's website. The commissioner shall appoint a
7 replacement in the manner provided by Section 2210.102 for a
8 member who leaves or is removed from the board of directors.

9 SECTION 20. Section 2210.104, Insurance Code, is amended
10 to read as follows:

11 Sec. 2210.104. OFFICERS. The board of directors shall
12 elect from the board's membership an executive committee
13 consisting of a presiding officer, assistant presiding officer,
14 and secretary-treasurer. ~~[At least one of the officers must be~~
15 ~~a member appointed under Section 2210.102(a)(2) or (3).]~~

16 SECTION 21. Section 2210.105, Insurance Code, is amended
17 by adding Subsection (d) to read as follows:

18 (d) Except for an emergency meeting, a meeting of the
19 board of directors shall be held at a location as determined by
20 the board of directors.

21 SECTION 22. Subchapter C, Chapter 2210, Insurance Code, is
22 amended by adding Section 2210.1051 to read as follows:

23 Sec. 2210.1051. MEETINGS OF BOARD OF DIRECTORS.

24 (a) Notwithstanding Chapter 551, Government Code, or any other
25 law, members of the board of directors may meet by telephone
26 conference call, videoconference, or other similar
27 telecommunication method. The board may use telephone
28 conference call, videoconference, or other similar
29 telecommunication method for purposes of establishing a quorum
30 or voting or for any other meeting purpose in accordance with
31 this subsection and Subsection (b). This subsection applies

1 without regard to the subject matter discussed or considered by
2 the members of the board at the meeting.

3 (b) A meeting held by telephone conference call,
4 videoconference, or other similar telecommunication method:

5 (1) is subject to the notice requirements applicable
6 to other meetings of the board of directors;

7 (2) may not be held unless notice of the meeting
8 specifies the location of the meeting and a recording of the
9 meeting is posted on the association's website;

10 (3) must be audible to the public at the location
11 specified in the notice under Subdivision (2); and

12 (4) must provide two-way audio communication between
13 all members of the board attending the meeting during the entire
14 meeting, and if the two-way audio communication link with
15 members attending the meeting is disrupted so that a quorum of
16 the board is no longer participating in the meeting, the meeting
17 may not continue until the two-way audio communication link is
18 reestablished.

19 SECTION 23. Subchapter C, Chapter 2210, Insurance Code, is
20 amended by adding Section 2210.107 to read as follows:

21 Sec. 2210.107. PRIMARY BOARD OBJECTIVES. The primary
22 objectives of the board of directors are to ensure that the
23 association:

24 (1) operates in accordance with this chapter and
25 commissioner rules;

26 (2) complies with sound insurance principles; and

27 (3) meets all standards imposed under this chapter.

28 SECTION 24. Section 2210.151, Insurance Code, is amended
29 to read as follows:

30 Sec. 2210.151. ADOPTION OF PLAN OF OPERATION. With the
31 advice of the board of directors, the commissioner by rule shall

1 adopt the plan of operation to provide[+]

2 [~~(1)~~] Texas windstorm and hail insurance in a
3 catastrophe area[+; and

4 [~~(2)~~ Texas fire and explosion insurance in an
5 inadequate fire insurance area].

6 SECTION 25. Subsection (a), Section 2210.152, Insurance
7 Code, is amended to read as follows:

8 (a) The plan of operation must:

9 (1) provide for the efficient, economical, fair, and
10 nondiscriminatory administration of the association; and

11 (2) include:

12 (A) a plan for the equitable assessment of the
13 members of the association to defray losses and expenses;

14 (B) underwriting standards;

15 (C) procedures for accepting and ceding
16 reinsurance;

17 (D) procedures for obtaining and repaying
18 amounts under any financial instruments authorized under this
19 chapter;

20 (E) procedures for determining the amount of
21 insurance to be provided to specific risks;

22 (F) [~~(E)~~] time limits and procedures for
23 processing applications for insurance; and

24 (G) [~~(F)~~] other provisions as considered
25 necessary by the department to implement the purposes of this
26 chapter.

27 SECTION 26. Section 2210.202, Insurance Code, is amended
28 to read as follows:

29 Sec. 2210.202. APPLICATION FOR COVERAGE. (a) A person
30 who has an insurable interest in insurable property may apply to
31 the association for insurance coverage provided under the plan

1 of operation and an inspection of the property, subject to any
2 rules[, ~~including any inspection fee,~~] established by the board
3 of directors and approved by the commissioner. The association
4 shall make insurance available to each applicant in the
5 catastrophe area whose property is insurable property but who,
6 after diligent efforts, is unable to obtain property insurance
7 through the voluntary market, as evidenced by one declination
8 from an insurer authorized to engage in the business of, and
9 writing, property insurance providing windstorm and hail
10 coverage in the first tier coastal counties. For purposes of
11 this section, "declination" has the meaning assigned by the plan
12 of operation and shall include a refusal to offer coverage for
13 the perils of windstorm and hail and the inability to obtain
14 substantially equivalent insurance coverage for the perils of
15 windstorm and hail. Notwithstanding Section 2210.203(c),
16 evidence of one declination is also required with an application
17 for renewal of an association policy.

18 (b) A [~~general~~] property and casualty agent [~~or a personal~~
19 ~~lines property and casualty agent~~] must submit an application
20 for the insurance coverage on behalf of the applicant on forms
21 prescribed by the association. The application must contain a
22 statement as to whether the applicant has submitted or will
23 submit the premium in full from personal funds or, if not, to
24 whom a balance is or will be due. Each application for initial
25 or renewal coverage must also contain a statement that the agent
26 possesses proof of the declination described by Subsection (a)
27 and proof of flood insurance coverage or unavailability of that
28 coverage as described by Section 2210.203(a-1).

29 SECTION 27. Section 2210.203, Insurance Code, is amended
30 by adding Subsection (a-1) to read as follows:

31 (a-1) This subsection applies only to a structure

1 constructed, altered, remodeled, or enlarged on or after
2 September 1, 2009, and only for insurable property located in
3 areas designated by the commissioner. Notwithstanding
4 Subsection (a), if all or any part of the property to which this
5 subsection applies is located in Zone V or another similar zone
6 with an additional hazard associated with storm waves, as
7 defined by the National Flood Insurance Program, and if flood
8 insurance under that federal program is available, the
9 association may not issue an insurance policy for initial or
10 renewal coverage unless evidence that the property is covered by
11 a flood insurance policy is submitted to the association. An
12 agent offering or selling a Texas windstorm and hail insurance
13 policy in any area designated by the commissioner under this
14 subsection shall offer flood insurance coverage to the
15 prospective insured, if that coverage is available.

16 SECTION 28. Section 2210.204, Insurance Code, is amended
17 by amending Subsection (d) and adding Subsection (e) to read as
18 follows:

19 (d) If an insured requests cancellation of the insurance
20 coverage, the association shall refund the unearned premium,
21 less any minimum retained premium set forth in the plan of
22 operation, payable to the insured and the holder of an unpaid
23 balance. The property and casualty agent who submitted the
24 application shall refund the agent's commission on any unearned
25 premium in the same manner.

26 (e) For cancellation of insurance coverage under this
27 section, the minimum retained premium in the plan of operation
28 must be for a period of not less than 180 days, except for
29 events specified in the plan of operation that reflect a
30 significant change in the exposure or the policyholder
31 concerning the insured property, including:

- 1 (1) the purchase of similar coverage in the voluntary
2 market;
3 (2) sale of the property to an unrelated party;
4 (3) death of the policyholder; or
5 (4) total loss of the property.

6 SECTION 29. Subchapter E, Chapter 2210, Insurance Code, is
7 amended by adding Section 2210.2041 to read as follows:

8 Sec. 2210.2041. NONREFUNDABLE SURCHARGE. A nonrefundable
9 surcharge established under this chapter is not refundable under
10 this code for any reason or purpose.

11 SECTION 30. Section 2210.251, Insurance Code, is amended
12 to read as follows:

13 Sec. 2210.251. INSPECTION REQUIREMENTS. (a) Except as
14 provided by this section, to be considered insurable property
15 eligible for windstorm and hail insurance coverage from the
16 association, a structure that is constructed, altered,
17 remodeled, enlarged, or repaired or to which additions are made
18 on or after January 1, 1988, must be inspected [~~or approved~~] by
19 the department for compliance with the plan of operation.

20 (b) After January 1, 2004, for geographic areas specified
21 by the commissioner, the commissioner by rule shall adopt the
22 2003 International Residential Code for one- and two-family
23 dwellings published by the International Code Council. For
24 those geographic areas, the commissioner by rule may adopt a
25 subsequent edition of that code and may adopt any supplements
26 published by the International Code Council and amendments to
27 that code.

28 (c) After January 1, 2004, a person must submit a notice
29 of a windstorm inspection to the unit responsible for
30 certification of windstorm inspections at the department before
31 beginning to construct, alter, remodel, enlarge, or repair a

1 structure.

2 (d) A structure constructed, altered, remodeled, enlarged,
3 or repaired or to which additions were made before January 1,
4 1988, that is located in an area that was governed at the time
5 of the construction, alteration, remodeling, enlargement,
6 repair, or addition by a building code recognized by the
7 association is insurable property eligible for windstorm and
8 hail insurance coverage from the association without compliance
9 with the inspection [~~or approval~~] requirements of this section
10 or the plan of operation.

11 (e) A structure constructed, altered, remodeled, enlarged,
12 or repaired or to which additions were made before January 1,
13 1988, that is located in an area not governed by a building code
14 recognized by the association is insurable property eligible for
15 windstorm and hail insurance coverage from the association
16 without compliance with the inspection [~~or approval~~]
17 requirements of this section or the plan of operation if the
18 structure was previously insured by an insurer authorized to
19 engage in the business of insurance in this state and the
20 structure is in essentially the same condition as when
21 previously insured, except for normal wear and tear, and is
22 without any structural change other than a change made according
23 to code. For purposes of this subsection, evidence of previous
24 insurance coverage must reflect coverage for the perils of
25 windstorm and hail for the property within the 12-month period
26 immediately preceding the date of the application for coverage
27 through the association and includes:

- 28 (1) a copy of a previous insurance policy;
- 29 (2) copies of canceled checks or agent's records that
30 show payments for previous policies; and
- 31 (3) a copy of the title to the structure or mortgage

1 company records that show previous policies.

2 (f) Notwithstanding any other provision of this section, a
3 residential structure insured by the association as of September
4 1, 2009, may continue coverage through the association subject
5 to the inspection requirements imposed under Section 2210.258.

6 (g) The department shall issue a certificate of compliance
7 for each structure that qualifies for coverage. The certificate
8 is evidence of insurability of the structure by the association.

9 (h) [(g)] The department may enter into agreements and
10 contracts as necessary to implement this section.

11 (i) [h)] The department may charge a reasonable fee to
12 cover the cost of making building requirements and inspection
13 standards available to the public.

14 (j) The department shall charge a reasonable fee for each
15 inspection of each structure in an amount set by the
16 commissioner.

17 (k) Without limitation of the department's authority to
18 otherwise enforce this chapter, the department shall monitor the
19 association's compliance with this subchapter.

20 (l) Except as otherwise provided by this subchapter, the
21 department may not consider any request that a structure be
22 certified as insurable property if, within six months after the
23 final inspection of a structure, the department has not
24 received:

25 (1) fully completed documentation verifying that the
26 structure has been constructed, altered, remodeled, enlarged, or
27 repaired, or any addition to the structure has been made, in
28 compliance with the plan of operation; and

29 (2) full payment of all inspection fees owed to the
30 department, including any fees related to prior association
31 inspections.

1 (m) If a structure is rejected for coverage under
2 Subsection (l), a person may make a new request for
3 certification and the structure may be reinspected for
4 compliance with the plan of operation. A request for
5 certification brought under this subsection must meet the
6 requirements of Subsection (l).

7 SECTION 31. Subchapter F, Chapter 2210, Insurance Code, is
8 amended by adding Sections 2210.258 and 2210.259 to read as
9 follows:

10 Sec. 2210.258. MANDATORY COMPLIANCE WITH BUILDING CODES;
11 ELIGIBILITY. (a) Notwithstanding any other provision of this
12 chapter, to be eligible for insurance through the association,
13 all construction, alteration, remodeling, enlargement, and
14 repair of, or addition to, any structure located in the
15 catastrophe area that is begun on or after the effective date of
16 Sections ___ through ___ H.B. No. 4409, Acts of the 81st
17 Legislature, Regular Session, 2009, must be performed in
18 compliance with the applicable building code standards, as set
19 forth in the plan of operation.

20 (b) The association may not insure a structure described
21 by Subsection (a) until:

22 (1) the structure has been inspected for compliance
23 with the plan of operation in accordance with Section
24 2210.251(a); and

25 (2) a certificate of compliance has been issued for
26 the structure in accordance with Section 2210.251(g).

27 Sec. 2210.259. SURCHARGE FOR CERTAIN NONCOMPLIANT
28 STRUCTURES. (a) A noncompliant residential structure insured
29 by the association as of June 1, 2009, under Section 2210.251(f)
30 that had been approved for insurability under the approval
31 process regulations in effect on June 1, 2009, is subject to an

1 annual premium surcharge in an amount equal to 15 percent of the
2 premium for insurance coverage obtained through the association.
3 The surcharge under this subsection applies to each policy
4 issued or renewed by the association on or after the effective
5 date of SECTIONS ___ through ___, H.B. No. 4409, Acts of the
6 81st Legislature, Regular Session, 2009, and is due on the
7 issuance or renewal of the policy.

8 (b) A premium surcharge collected under this section shall
9 be deposited in the catastrophe reserve trust fund. A premium
10 surcharge under this section is a separate nonrefundable charge
11 in addition to the premiums collected and is not subject to
12 premium tax or commissions. Failure to pay the surcharge by a
13 policyholder constitutes failure to pay premium for purposes of
14 policy cancellation.

15 SECTION 32. Subsections (c) and (d), Section 2210.351,
16 Insurance Code, are amended to read as follows:

17 (c) Except as provided by Subsection (d), as [Ae] soon as
18 reasonably possible after the filing has been made, the
19 commissioner in writing shall approve[, ~~modify,~~] or disapprove
20 the filing. A filing is considered approved unless [modified
21 e] disapproved on or before the 30th day after the date of the
22 filing. If the commissioner disapproves a filing, the
23 commissioner shall state in writing the reasons for the
24 disapproval and the criteria the association is required to meet
25 to obtain approval.

26 (d) The association may use a rate filed by the
27 association without prior commissioner approval if:

28 (1) the filing is made not later than the 30th day
29 before the date of any use or delivery for use of the rate;

30 (2) the filed rate does not exceed 105 percent of the
31 rate in effect on the date on which the filing is made;

1 (3) the filed rate does not reflect a rate change for
2 an individual rating class that is 10 percent higher than the
3 rate in effect for that rating class on the date on which the
4 filing is made; and

5 (4) the commissioner has not disapproved the filing
6 in writing, advising of the reasons for the disapproval and the
7 criteria the association is required to meet to obtain approval
8 ~~[If at any time the commissioner determines that a filing~~
9 ~~approved under Subsection (c) no longer meets the requirements~~
10 ~~of this chapter, the commissioner may, after a hearing held on~~
11 ~~at least 20 days' notice to the association that specifies the~~
12 ~~matters to be considered at the hearing, issue an order~~
13 ~~withdrawing approval of the filing. The order must specify in~~
14 ~~what respects the commissioner determines that the filing no~~
15 ~~longer meets the requirements of this chapter. An order issued~~
16 ~~under this subsection may not take effect before the 30th day~~
17 ~~after the date of issuance of the order].~~

18 SECTION 33. Section 2210.352, Insurance Code, is amended
19 to read as follows:

20 Sec. 2210.352. MANUAL RATE FILINGS: ANNUAL FILING.

21 (a) Not later than August 15 of each year, the association
22 shall file with the department ~~[for approval by the~~
23 ~~commissioner]~~ a proposed manual rate for all types and classes
24 of risks written by the association~~[- Chapter 40 does not apply~~
25 ~~to:~~

26 ~~[(1) a filing made under this subsection; or~~

27 ~~[(2) a department action with respect to the filing].~~

28 (a-1) The association may use a rate filed by the
29 association under this section without prior commissioner
30 approval if:

31 (1) the filing is made not later than the 30th day

1 before the date of any use or delivery for use of the rate;

2 (2) the filed rate does not exceed 105 percent of the
3 rate used by the association in effect on the date on which the
4 filing is made; and

5 (3) the filed rate does not reflect a rate change for
6 an individual rating class that is 10 percent higher than the
7 rate in effect for that rating class on the date on which the
8 filing is made.

9 (a-2) The association may not file to use a rate described
10 by Subsection (a-1) more than once per year.

11 (b) Except as provided by Subsection (a-1), before
12 [Before] approving ~~or~~ disapproving~~[, or modifying]~~ a filing
13 under this section, the commissioner shall provide all
14 interested persons a reasonable opportunity to:

15 (1) review the filing;

16 (2) obtain copies of the filing on payment of any
17 legally required copying cost; and

18 (3) submit to the commissioner written comments or
19 information related to the filing.

20 (c) Except as provided by Subsection (a-1), [The
21 commissioner shall schedule an open meeting not later than the
22 45th day after the date the department receives a filing at
23 which interested persons may present written or oral comments
24 relating to the filing.

25 ~~[(d) An open meeting under Subsection (c) is subject to~~
26 ~~Chapter 551, Government Code, but is not a contested case~~
27 ~~hearing under Chapter 2001, Government Code.~~

28 ~~[(e) The department shall file with the secretary of state~~
29 ~~for publication in the Texas Register notice that a filing has~~
30 ~~been made under Subsection (a) not later than the seventh day~~
31 ~~after the date the department receives the filing. The notice~~

1 ~~must include information relating to:~~

2 ~~[(1) the availability of the filing for public~~
3 ~~inspection at the department during regular business hours and~~
4 ~~the procedures for obtaining copies of the filing;~~

5 ~~[(2) procedures for making written comments related~~
6 ~~to the filing; and~~

7 ~~[(3) the time, place, and date of the open meeting~~
8 ~~scheduled under Subsection (c) at which interested persons may~~
9 ~~present written or oral comments relating to the filing.~~

10 ~~[(f) After the conclusion of the open meeting,~~ the
11 commissioner shall approve or[7] disapprove[, ~~or modify~~] the
12 filing in writing not later than October [~~November~~] 15 of the
13 year in which the filing was made. If the filing is not
14 approved or[7] disapproved[, ~~or modified~~] on or before that
15 date, the filing is considered approved.

16 (d) Except as provided by Subsection (a-1), if [~~(g) If~~]
17 the commissioner disapproves a filing, the commissioner shall
18 state in writing the reasons for the disapproval and the
19 criteria the association is required to meet to obtain approval.

20 SECTION 34. Section 2210.353, Insurance Code, is amended
21 to read as follows:

22 Sec. 2210.353. MANUAL RATE FILINGS: AMENDED ANNUAL
23 FILING. (a) Not later than the 30th day after the date the
24 association receives the commissioner's written disapproval
25 under Section 2210.352(c) [~~2210.352(f)~~], the association may
26 file with the commissioner an amended annual filing that
27 conforms to all criteria stated in that written disapproval.

28 (b) Not later than the 30th day after the date an amended
29 filing made under Subsection (a) is received, the commissioner
30 shall approve [~~the amended filing with or without modifications~~]
31 or disapprove the amended filing. If the filing is not

1 ~~[modified or]~~ disapproved on or before the 30th day after the
2 date of receipt, the filing is considered approved ~~[without~~
3 ~~modification]~~. If the commissioner disapproves a filing, the
4 commissioner shall state in writing the reasons for the
5 disapproval and the criteria the association is required to meet
6 to obtain approval.

7 (c) Before approving or disapproving an amended annual
8 filing under this section, the commissioner shall, in the manner
9 provided by Section 2210.352(b), provide all interested persons
10 a reasonable opportunity to:

11 (1) review the amended annual filing;

12 (2) obtain copies of the amended annual filing on
13 payment of any legally required copying cost; and

14 (3) submit to the commissioner written comments or
15 information related to the amended annual filing.

16 ~~[(d) The commissioner may, in the manner provided by~~
17 ~~Sections 2210.352(c) and (d), hold a hearing regarding an~~
18 ~~amended filing not later than the 20th day after the date the~~
19 ~~department receives the amended filing.]~~

20 ~~[(e) Not later than the 10th day after the date the~~
21 ~~hearing is concluded, the commissioner shall approve or~~
22 ~~disapprove the amended filing.]~~

23 ~~[(f) The requirements imposed under Subsection (a) and~~
24 ~~under Sections 2210.352(e), (f), and (g) apply to a hearing~~
25 ~~conducted under this section and the commissioner's decision~~
26 ~~resulting from that hearing.]~~

27 SECTION 35. Subsections (a), (c), and (d), Section
28 2210.354, Insurance Code, are amended to read as follows:

29 (a) In conjunction with the review of a filing under
30 Section 2210.352, other than a filing made under Subsection (a-
31 1) of that section, [or 2210.353]:

1 (1) the commissioner may request the association to
2 provide additional supporting information relating to the
3 filing; and

4 (2) any interested person may file a written request
5 with the commissioner, during a period specified by the
6 commissioner by rule, for additional supporting information
7 relating to the filing.

8 (c) The commissioner shall submit to the association all
9 requests for additional supporting information made under this
10 section for the commissioner's use and the use of any interested
11 person not later than the 21st day after the date of receipt of
12 the filing.

13 (d) Unless a different period is requested by the
14 association and approved by the commissioner, the association
15 shall provide the information to the commissioner not later than
16 the fifth day after the date the written request for additional
17 supporting information is delivered to the association. [~~The
18 department shall notify an interested person who has requested
19 additional information of the availability of the information
20 not later than one business day after the date the commissioner
21 receives the information from the association.]~~

22 SECTION 36. Section 2210.355, Insurance Code, is amended by
23 adding Subsections (h) and (i) to read as follows:

24 (h) In adopting rates under this chapter, recognized
25 catastrophe models may be considered.

26 (i) The association may establish rating territories and
27 may vary rates among the territories as provided by this
28 subsection. A rating territory that subdivides a county may be
29 used only if the rate for any subdivision in the county is not
30 more than:

31 (A) five percent higher than the rate used by the

1 association in 2009 in any other subdivision in the county;

2 (B) six percent higher than the rate used by the
3 association in 2010 in any other subdivision in the county;

4 (C) seven percent higher than the rate used by the
5 association in 2011 in any other subdivision in the county; and

6 (D) eight percent higher than the rate used by the
7 association in 2012 in any other subdivision in the county.

8 SECTION 37. Subsection (b), Section 2210.361, Insurance
9 Code, is amended to read as follows:

10 (b) After notice and hearing, the commissioner may
11 accept~~[, modify,]~~ or reject a recommendation made by the
12 association under this section. ~~[Chapter 40 does not apply to~~
13 ~~an action taken under this section.]~~

14 SECTION 38. Subsections (a), (c), and (d), Section
15 2210.452, Insurance Code, are amended to read as follows:

16 (a) The commissioner shall adopt rules under which the
17 association makes ~~[members relinquish their net equity on an~~
18 ~~annual basis as provided by those rules by making]~~ payments to
19 the catastrophe reserve trust fund. The trust fund may be used
20 only to fund~~[-~~

21 ~~[-(1)]~~ the obligations of the trust fund under
22 Subchapter B-1 ~~[Section 2210.058(a); and~~

23 ~~[-(2) the mitigation and preparedness plan established~~
24 ~~under Section 2210.454 to reduce the potential for payments by~~
25 ~~association members that give rise to tax credits in the event~~
26 ~~of loss].~~

27 (c) At the end of each calendar year or policy year, the
28 association shall use ~~[pay]~~ the net gain from operations
29 ~~[equity]~~ of the association ~~[a member]~~, including all premium
30 and other revenue of the association in excess of incurred
31 losses and operating expenses, to make payments to the trust

1 fund, to procure ~~or a~~ reinsurance, or to make payments to the
2 trust fund and to procure reinsurance ~~[program approved by the~~
3 commissioner].

4 (d) The commissioner by rule shall establish the procedure
5 relating to the disbursement of money from the trust fund to
6 policyholders in the event of an occurrence or series of
7 occurrences within a catastrophe area that results in a
8 disbursement under Subchapter B-1 [Section 2210.058(a)].

9 SECTION 39. Section 2210.453, Insurance Code, is amended
10 to read as follows:

11 Sec. 2210.453. REINSURANCE ~~[PROGRAM]~~. (a) The
12 association may ~~[shall]~~:

- 13 (1) make payments into the trust fund; and ~~[or]~~
14 (2) purchase ~~[establish a]~~ reinsurance ~~[program~~
15 ~~approved by the department]~~.

16 (b) The ~~[With the approval of the department, the]~~
17 association may purchase ~~[establish a]~~ reinsurance ~~[program]~~
18 that operates in addition to or in concert with the trust fund,
19 public securities, financial instruments, and assessments
20 authorized by this chapter.

21 SECTION 40. Subsection (b), Section 2210.454, Insurance
22 Code, is amended to read as follows:

23 (b) Each state fiscal year, the department may fund the
24 mitigation and preparedness plan using available funds ~~[the~~
25 ~~investment income of the trust fund in an amount not less than~~
26 ~~\$1 million and not more than 10 percent of the investment income~~
27 ~~of the prior fiscal year. From that amount and as part of that~~
28 ~~plan, the department may use in each fiscal year \$1 million for~~
29 ~~the windstorm inspection program established under Section~~
30 ~~2210.251].~~

31 SECTION 41. Chapter 2210, Insurance Code, is amended by

1 adding Subchapters M and N to read as follows:

2 SUBCHAPTER M. PUBLIC SECURITIES PROGRAM

3 Sec. 2210.601. PURPOSE. The legislature finds that
4 authorizing the issuance of public securities to provide a
5 method to raise funds to provide windstorm and hail insurance
6 through the association in certain designated portions of the
7 state is for the benefit of the public and in furtherance of a
8 public purpose.

9 Sec. 2210.602. DEFINITIONS. In this subchapter:

10 (1) "Board" means the board of directors of the Texas
11 Public Finance Authority.

12 (2) "Class 1 public securities" means public
13 securities authorized to be issued on or after an occurrence or
14 series of occurrences by Section 2210.072, including a
15 commercial paper program authorized before the occurrence of a
16 catastrophic event so long as no tranche of commercial paper is
17 issued under the program until after the catastrophic event.

18 (3) "Class 2 public securities" means public
19 securities authorized to be issued on or after the occurrence of
20 a catastrophic event by Section 2210.073.

21 (4) "Class 3 public securities" means public
22 securities authorized to be issued on or after the occurrence of
23 a catastrophic event by Section 2210.074.

24 (5) "Credit agreement" has the meaning assigned by
25 Chapter 1371, Government Code.

26 (6) "Insurer" means each property and casualty
27 insurer authorized to engage in the business of property and
28 casualty insurance in this state and an affiliate of such an
29 insurer, as described by Section 823.003, including an affiliate
30 that is not authorized to engage in the business of property and
31 casualty insurance in this state. The term specifically

1 includes a county mutual insurance company, a Lloyd's plan, and
2 a reciprocal or interinsurance exchange.

3 (7) "Public security" means a debt instrument or
4 other public security issued by the Texas Public Finance
5 Authority.

6 (8) "Public security administrative expenses" means
7 expenses incurred to administer public securities issued under
8 this subchapter, including fees for credit enhancement, paying
9 agents, trustees, and attorneys, and for other professional
10 services.

11 (9) "Public security obligations" means the principal
12 of a public security and any premium and interest on a public
13 security issued under this subchapter, together with any amount
14 owed under a related credit agreement.

15 (10) "Public security obligation revenue fund" means
16 the dedicated trust fund established by the association and held
17 by the Texas Safekeeping Trust Company outside the state
18 treasury under this subchapter.

19 (11) "Public security resolution" means the
20 resolution or order authorizing public securities to be issued
21 under this subchapter.

22 Sec. 2210.603. APPLICABILITY OF OTHER LAWS. (a) The board
23 shall issue the public securities as described by Section
24 2210.604 in accordance with and subject to the requirements of
25 Chapter 1232, Government Code, other than Section 1232.108 of
26 that chapter, and in accordance with and subject to other
27 provisions of Title 9, Government Code, that apply to issuance
28 of a public security by a state agency. In the event of a
29 conflict, this subchapter controls.

30 (b) A purpose for which public securities are issued under
31 this chapter constitutes an eligible project for purposes of

1 Chapter 1371, Government Code.

2 Sec. 2210.604. ISSUANCE OF PUBLIC SECURITIES AUTHORIZED.

3 (a) At the request of the association and with the approval of
4 the commissioner, the Texas Public Finance Authority shall issue
5 Class 1, Class 2, or Class 3 public securities. The association
6 and the commissioner must approve each tranche of commercial
7 paper issued under a commercial paper program established under
8 this chapter.

9 (b) The association shall specify in the association's
10 request to the board the maximum principal amount of the public
11 securities and the maximum term of the public securities.

12 (c) The principal amount determined by the association
13 under Subsection (b) may be increased to include an amount
14 sufficient to:

15 (1) pay the costs related to issuance of the public
16 securities;

17 (2) provide a public security reserve fund; and

18 (3) capitalize interest for the period determined
19 necessary by the association, not to exceed two years.

20 Sec. 2210.605. TERMS OF ISSUANCE. (a) The board shall
21 determine the method of sale, type and form of public security,
22 maximum interest rates, and other terms of the public securities
23 that, in the board's judgment, best achieve the goals of the
24 association and effect the borrowing at the lowest practicable
25 cost. The board may enter into a credit agreement in connection
26 with the public securities.

27 (b) Public securities must be issued by the board on
28 behalf of the association.

29 (c) Public securities issued under this chapter are
30 eligible obligations under Section 404.027, Government Code.

31 Sec. 2210.606. ADDITIONAL COVENANTS. The board may make

1 additional covenants with respect to the public securities and
2 the designated income and receipts of the association pledged to
3 their payment, and provide for the flow of funds and the
4 establishment, maintenance, and investment of funds and accounts
5 with respect to the public securities, and the administration of
6 those funds and accounts, as provided in the proceedings
7 authorizing the public securities.

8 Sec. 2210.607. PUBLIC SECURITY PROCEEDS. The proceeds of
9 public securities issued by the board under this subchapter may
10 be deposited with the Texas Treasury Safekeeping Trust Company.

11 Sec. 2210.608. USE OF PUBLIC SECURITY PROCEEDS. (a)
12 Public security proceeds, including investment income, shall be
13 held in trust for the exclusive use and benefit of the
14 association. The association may use the proceeds to:

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

17 (2) purchase reinsurance for the association;

18 (3) pay the costs of issuing the public securities,
19 and public security administrative expenses, if any;

20 (4) provide a public security reserve; and

21 (5) pay capitalized interest and principal on the
22 public securities for the period determined necessary by the
23 association.

24 (b) Any excess public security proceeds remaining after
25 the purposes for which the public securities were issued are
26 satisfied may be used to purchase or redeem outstanding public
27 securities. If there are no outstanding public security
28 obligations or public security administrative expenses, the
29 excess proceeds shall be transferred to the catastrophe reserve
30 trust fund.

31 Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY

1 OBLIGATIONS. (a) The board and the association shall enter
2 into an agreement under which the association shall provide for
3 the payment of all public security obligations from available
4 funds collected by the association and deposited into the public
5 security obligation revenue fund. If the association determines
6 that it is unable to pay the public security obligations and
7 public security administrative expenses, if any, with available
8 funds, the association shall pay those obligations and expenses
9 in accordance with Sections 2210.612, 2210.613, and 2210.6135 as
10 applicable. Class 1, Class 2, or Class 3 public securities may
11 be issued on a priority or subordinate lien basis with other
12 Class 1, Class 2, or Class 3 public securities, respectively.

13 (b) The board shall notify the association of the amount
14 of the public security obligations and the estimated amount of
15 public security administrative expenses, if any, each year in a
16 period sufficient, as determined by the association, to permit
17 the association to determine the availability of funds and
18 assess a premium surcharge if necessary.

19 (c) The association shall deposit all revenue collected
20 under Sections 2210.612, 2210.613, and 2210.6135 in the public
21 security obligation revenue fund. Money deposited in the fund
22 may be invested as permitted by general law. Money in the fund
23 required to be used to pay public security obligations and
24 public security administrative expenses, if any, shall be
25 transferred to the appropriate funds in the manner and at the
26 time specified in the proceedings authorizing the public
27 securities to ensure timely payment of obligations and expenses.
28 This may include the board establishing funds and accounts with
29 the comptroller that the board determines are necessary to
30 administer and repay the public security obligations. If the
31 association has not transferred amounts sufficient to pay the

1 public security obligations to the board's designated interest
2 and sinking fund in a timely manner, the board may direct the
3 Texas Treasury Safekeeping Trust Company to transfer from the
4 public security obligation revenue fund to the appropriate
5 account the amount necessary to pay the public security
6 obligation.

7 (d) The association shall provide for the payment of the
8 public security obligations and the public security
9 administrative expenses by irrevocably pledging revenues
10 received from premiums, premium surcharges, and amounts on
11 deposit in the public security obligation revenue fund, together
12 with any public security reserve fund, as provided in the
13 proceedings authorizing the public securities and related credit
14 agreements.

15 (e) An amount owed by the board under a credit agreement
16 shall be payable from and secured by a pledge of revenues
17 received by the association or amounts from the obligation trust
18 fund to the extent provided in the proceedings authorizing the
19 credit agreement.

20 Sec. 2210.610. PUBLIC SECURITY PAYMENTS. (a) Revenues
21 received from the premium surcharges under Section 2210.613 may
22 be applied only as provided by this subchapter.

23 (b) The association may pay public security obligations
24 with other legally available funds.

25 (c) Public security obligations are payable only from
26 sources provided for payment in this subchapter.

27 Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT
28 EARNINGS. Revenue collected in any year from a premium
29 surcharge under Section 2210.613 that exceeds the amount of the
30 public security obligations and public security administrative
31 expenses payable in that year and interest earned on the public

1 security obligation fund may, in the discretion of the
2 association, be:

3 (1) used to pay public security obligations payable
4 in the subsequent year, offsetting the amount of the premium
5 surcharge that would otherwise be required to be levied for the
6 year under this subchapter;

7 (2) used to redeem or purchase outstanding public
8 securities; or

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

10 Sec. 2210.612. PAYMENT OF CLASS 1 PUBLIC SECURITIES. (a)

11 The association shall pay Class 1 public securities issued under
12 Section 2210.072 from its premium and other revenue.

13 (b) The association may enter financing arrangements as
14 described by Section 2210.072(d) as necessary to obtain public
15 securities issued under that section. Nothing in this
16 subsection shall prevent the authorization and creation of one
17 or more programs for the issuance of commercial paper before
18 the date of an occurrence that results in insured losses under
19 Section 2210.072(a) so long as no tranche of commercial paper is
20 issued under a commercial paper program until after such an
21 occurrence;

22
23 Sec. 2210.613. PAYMENT OF CLASS 2 PUBLIC SECURITIES. (a)

24 The association shall pay Class 2 public securities issued under
25 Section 2210.073 as provided by this section. Thirty percent of
26 the cost of the public securities shall be paid through member
27 assessments as provided by this section. The association shall
28 notify each member of the association of the amount of the
29 member's assessment under this section. The proportion of the
30 losses allocable to each insurer under this section shall be
31 determined in the manner used to determine each insurer's

1 participation in the association for the year under Section
2 2210.052. A member of the association may not recoup an
3 assessment paid under this subsection through a premium
4 surcharge or tax credit.

5 (b) Seventy percent of the cost of the public securities
6 shall be paid by a nonrefundable premium surcharge collected
7 under this section in an amount set by the commissioner. On
8 approval by the commissioner, each insurer, the association, and
9 the Texas FAIR Plan Association shall assess a premium surcharge
10 to its policyholders as provided by this section. The premium
11 surcharge must be set in an amount sufficient to pay all debt
12 service not already covered by available funds and all related
13 expenses on the public securities.

14 (c) The premium surcharge under Subsection (b) shall be
15 assessed on all policyholders who reside or have operations in,
16 or whose insured property is located in a catastrophe area for
17 each Texas windstorm and hail insurance policy and each property
18 and casualty insurance policy issued for property located in the
19 catastrophe area. A premium surcharge under Subsection (b)
20 applies to all policies that provide coverage on any premises,
21 locations, operations, or property located in the area described
22 by this subsection for all property and casualty lines of
23 insurance, other than federal flood insurance, workers'
24 compensation insurance, accident and health insurance, and
25 medical malpractice insurance.

26 (d) A premium surcharge under Subsection (b) is a separate
27 nonrefundable charge in addition to the premiums collected and
28 is not subject to premium tax or commissions. Failure by a
29 policyholder to pay the surcharge constitutes failure to pay
30 premium for purposes of policy cancellation.

31 Sec. 2210.6135. PAYMENT OF CLASS 3 PUBLIC SECURITIES. (a)

1 The association shall pay Class 3 public securities issued under
2 Section 2210.074 as provided by this section through member
3 assessments. The association shall assess the members of the
4 association an amount not to exceed \$500 million per year for
5 the payment of the losses. The association shall notify each
6 member of the association of the amount of the member's
7 assessment under this section.

8 (b) The proportion of the losses allocable to each insurer
9 under this section shall be determined in the manner used to
10 determine each insurer's participation in the association for
11 the year under Section 2210.052.

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

15 Sec. 2210.614. REFINANCING PUBLIC SECURITIES. The
16 association may request the board to refinance any public
17 securities issued in accordance with Subchapter B-1, whether
18 Class 1, Class 2, or Class 3 public securities, with public
19 securities payable from the same sources as the original public
20 securities.

21 Sec. 2210.615. SOURCE OF PAYMENT; STATE DEBT NOT CREATED.

22 (a) A public security or credit agreement is payable solely
23 from revenue as provided by this subchapter.

24 (b) A public security issued under this subchapter, and
25 any related credit agreement, is not a debt of this state or any
26 state agency or political subdivision of this state, and does
27 not constitute a pledge of the faith and credit of this state or
28 any state agency or political subdivision of this state.

29 (c) Each public security, and any related credit
30 agreement, issued under this subchapter must state on the
31 security's face that:

1 (1) neither the state nor a state agency, political
2 corporation, or political subdivision of the state is obligated
3 to pay the principal of or interest on the public security
4 except as provided by this subchapter; and

5 (2) neither the faith and credit nor the taxing power
6 of the state or any state agency, political corporation, or
7 political subdivision of the state is pledged to the payment of
8 the principal of or interest on the public security.

9 Sec. 2210.616. STATE NOT TO IMPAIR PUBLIC SECURITY
10 OBLIGATIONS. If public securities under this subchapter are
11 outstanding, the state may not:

12 (1) take action to limit or restrict the rights of
13 the association to fulfill its responsibility to pay public
14 security obligations; or

15 (2) in any way impair the rights and remedies of the
16 public security owners until the public securities are fully
17 discharged.

18 Sec. 2210.617. ENFORCEMENT BY MANDAMUS. A writ of
19 mandamus and any other legal and equitable remedies are
20 available to a party at interest to require the association or
21 another party to fulfill an agreement and to perform functions
22 and duties under:

23 (1) this subchapter;

24 (2) the Texas Constitution; or

25 (3) a relevant public security resolution.

26 Sec. 2210.618. EXEMPTION FROM TAXATION. A public security
27 issued under this subchapter, any transaction relating to the
28 public security, and profits made from the sale of the public
29 security are exempt from taxation by this state or by a
30 municipality or other political subdivision of this state.

31 Sec. 2210.619. NO PERSONAL LIABILITY. The members of the

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

6 Sec. 2210.620. AUTHORIZED INVESTMENTS. Public securities
7 issued under this subchapter are authorized investments under:

- 8 (1) Subchapter B, Chapter 424;
9 (2) Subchapter C, Chapter 425; and
10 (3) Sections 425.203-425.213.

11 SUBCHAPTER N. LEGISLATIVE OVERSIGHT BOARD

12 Sec. 2210.651. DEFINITION. In this subchapter, "board"
13 means the windstorm insurance legislative oversight board.

14 Sec. 2210.652. COMPOSITION OF BOARD. The windstorm
15 insurance legislative oversight board is composed of eight
16 members as follows:

- 17 (1) four members of the senate appointed by the
18 lieutenant governor, including the chairperson of the Senate
19 Business and Commerce committee, who shall serve as co-
20 chairperson of the board; and
21 (2) four members of the house of representatives
22 appointed by the speaker of the house of representatives.

23 Sec. 2210.653. POWERS AND DUTIES OF BOARD. (a) The board
24 shall:

- 25 (1) receive information about rules proposed by the
26 department relating to windstorm insurance and may submit
27 comments to the commissioner on the proposed rules;
28 (2) monitor windstorm insurance in this state,
29 including:
30 (A) the adequacy of rates;
31 (B) the operation of the association; and

1 (C) the availability of coverage; and
2 (3) review recommendations for legislation proposed
3 by the department or the association.

4 (b) The board may request reports and other information
5 from the department and the association as necessary to
6 implement this subchapter.

7 Sec. 2210.654. REPORT. (a) Not later than November 15 of
8 each even-numbered year, the board shall report on the board's
9 activities under Section 2210.653 to:

- 10 (1) the governor;
11 (2) the lieutenant governor; and
12 (3) the speaker of the house of representatives.

13 (b) The report must include:

- 14 (1) an analysis of any problems identified; and
15 (2) recommendations for any legislative action necessary
16 to address those problems and to foster stability, availability,
17 and competition within the windstorm insurance industry.

18 SECTION 42. Section 941.003, Insurance Code, is amended by
19 adding Subsection (e) to read as follows:

20 (e) A Lloyd's plan is subject to Chapter 2210, as provided
21 by that chapter.

22 SECTION 43. Section 942.003, Insurance Code, is amended by
23 adding Subsection (f) to read as follows:

24 (f) An exchange is subject to Chapter 2210, as provided by
25 that chapter.

26 SECTION 44. The following laws are repealed:

- 27 (1) Subdivisions (5) and (12), Section 2210.003,
28 Insurance Code;
29 (2) Sections 2210.058 and 2210.059, Insurance Code;
30 (3) Sections 2210.205 and 2210.206, Insurance Code;
31 (4) Sections 2210.356, 2210.360, and 2210.363,

1 Insurance Code; and

2 (6) Subchapter G, Chapter 2210, Insurance Code.

3 SECTION 45. (a) The board of directors of the Texas
4 Windstorm Insurance Association established under Section
5 2210.102, Insurance Code, as that section existed before
6 amendment by this Act, is abolished effective December 31, 2009.

7 (b) The commissioner of insurance shall appoint the
8 members of the board of directors of the Texas Windstorm
9 Insurance Association under Section 2210.102, Insurance Code, as
10 amended by this Act, not later than December 31, 2009.

11 (c) The term of a person who is serving as a member of the
12 board of directors of the Texas Windstorm Insurance Association
13 immediately before the abolition of that board under Subsection
14 (a) of this section expires on December 31, 2009. Such a person
15 is eligible for appointment by the commissioner of insurance to
16 the new board of directors of the Texas Windstorm Insurance
17 Association under Section 2210.102, Insurance Code, as amended
18 by this Act.

19 SECTION 46. (a) The commissioner of insurance shall adopt
20 rules as required by Chapter 2210, Insurance Code, as amended by
21 this Act, as soon as possible after the effective date of this
22 Act, but not later than the 30th day after the effective date of
23 this Act.

24 (b) The Texas Windstorm Insurance Association, through the
25 board of directors of that association, shall propose to the
26 commissioner of insurance amendments to the association's plan
27 of operation as required by Chapter 2210, Insurance Code, as
28 amended by this Act, not later than March 1, 2010.

29 SECTION 47. Sections 2210.202 and 2210.203, Insurance
30 Code, as amended by this Act, apply to an application for
31 insurance coverage submitted to the Texas Windstorm Insurance

1 Association on or after the effective date of this Act.

2 SECTION 48. Section 2210.251, Insurance Code, as amended
3 by this Act, applies to an inspection conducted on or after
4 September 1, 2009. Except as otherwise specifically provided by
5 that section, a structure that has been inspected and is the
6 subject of a certificate of compliance issued by the Texas
7 Department of Insurance under Subsection (g), Section 2210.251,
8 Insurance Code, as that section existed immediately before
9 September 1, 2009, is not required to obtain a new inspection
10 certificate to remain eligible for insurance coverage through
11 the Texas Windstorm Insurance Association unless the structure
12 is altered, remodeled, enlarged, or repaired on or after
13 September 1, 2009.

14 SECTION 49. The changes in law made by this Act in
15 amending Section 2210.251, Insurance Code, take effect September
16 1, 2009.

17 SECTION 50. Not later than January 1, 2010, the relevant
18 state agencies shall adopt the contracts required by Section
19 418.126, Government Code, as added by this Act.

20 SECTION 51. (a) Except as provided by Subsection (b) of
21 this section or otherwise provided by this Act, this Act takes
22 effect immediately if it receives a vote of two-thirds of all
23 the members elected to each house, as provided by Section 39,
24 Article III, Texas Constitution. If this Act does not receive
25 the vote necessary for immediate effect, this Act takes effect
26 September 1, 2009.

27 (b) Sections ____-____ and 50 of this Act take effect
28 September 1, 2009.

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SECTION 1. Subchapter A, Chapter 418, Government Code, is amended by adding Section 418.006 to read as follows:

Sec. 418.006. CIVIL LIABILITY. An officer or employee of a state or local agency, or a volunteer acting at the direction of an officer or employee of a state or local agency, is considered for purposes of Section 431.085 to be a member of the state military forces ordered into active service of the state by proper authority and is considered to be discharging a duty in that capacity if the person is performing an activity related to sheltering or housing individuals in connection with the evacuation of an area stricken or threatened by disaster.

SECTION 2. Section 418.043, Government Code, is amended to read as follows:

Sec. 418.043. OTHER POWERS AND DUTIES. The division shall:

- (1) determine requirements of the state and its political subdivisions for food, clothing, and other necessities in event of a disaster;
- (2) procure and position supplies, medicines, materials, and equipment;
- (3) adopt standards and requirements for local and interjurisdictional emergency management plans;
- (4) periodically review local and interjurisdictional emergency management plans;
- (5) coordinate deployment of mobile support units;
- (6) establish and operate training programs and

SENATE VERSION

SECTION 1. Same as House version.

SECTION 2. Section 418.043, Government Code, is amended to read as follows:

Sec. 418.043. OTHER POWERS AND DUTIES. The division shall:

- (1) determine requirements of the state and its political subdivisions for food, clothing, and other necessities in event of a disaster;
- (2) procure and position supplies, medicines, materials, and equipment;
- (3) adopt standards and requirements for local and interjurisdictional emergency management plans;
- (4) periodically review local and interjurisdictional emergency management plans;
- (5) coordinate deployment of mobile support units;
- (6) establish and operate training programs and

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SECTION 1. Same as House version.

SECTION 2. Same as Senate version.

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programs of public information or assist political subdivisions and emergency management agencies to establish and operate the programs;

(7) make surveys of public and private industries, resources, and facilities in the state that are necessary to carry out the purposes of this chapter;

(8) plan and make arrangements for the availability and use of any private facilities, services, and property and provide for payment for use under terms and conditions agreed on if the facilities are used and payment is necessary;

(9) establish a register of persons with types of training and skills important in disaster mitigation, preparedness, response, and recovery;

(10) establish a register of mobile and construction equipment and temporary housing available for use in a disaster;

(11) assist political subdivisions in developing plans for the humane evacuation, transport, and temporary sheltering of service animals and household pets in a disaster;

(12) prepare, for issuance by the governor, executive orders and regulations necessary or appropriate in coping with disasters;

(13) cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster mitigation, preparation, response, and recovery; ~~and~~

(14) define "individuals with special needs" in the

SENATE VERSION

programs of public information or assist political subdivisions and emergency management agencies to establish and operate the programs;

(7) make surveys of public and private industries, resources, and facilities in the state that are necessary to carry out the purposes of this chapter;

(8) plan and make arrangements for the availability and use of any private facilities, services, and property and provide for payment for use under terms and conditions agreed on if the facilities are used and payment is necessary;

(9) establish a register of persons with types of training and skills important in disaster mitigation, preparedness, response, and recovery;

(10) establish a register of mobile and construction equipment and temporary housing available for use in a disaster;

(11) assist political subdivisions in developing plans for the humane evacuation, transport, and temporary sheltering of service animals and household pets in a disaster;

(12) prepare, for issuance by the governor, executive orders and regulations necessary or appropriate in coping with disasters;

(13) cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster mitigation, preparation, response, and recovery; ~~and~~

(14) define "individuals with special needs" in the

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context of a disaster;

(15) do other things necessary, incidental, or appropriate for the implementation of this chapter; and

(16) in coordination with the Texas Commission on Environmental Quality, adopt rules to require a retail public utility that serves customers in a county any territory of which is located not more than 100 miles from the Gulf of Mexico to adopt and submit to the commission for its approval an emergency preparedness plan that ensures that, in the event of a local power outage during the next year, the retail public utility maintains the ability to provide water to the local distribution system with at least the minimum water pressure required under commission rules and sewer services to all existing customers.

(A) An emergency preparedness plan must provide for:

(i) the maintenance of automatically starting auxiliary generators for that purpose. If a retail public utility's emergency preparedness plan provides for the maintenance of automatically starting auxiliary generators, the retail public utility must include with the plan a proposed schedule for the regular servicing, testing, and operation of the generators that complies with commission rules. A retail public utility that maintains auxiliary generators shall maintain a log of the regular servicing, testing, and operation of the generators and shall submit a copy of the log to the commission with its yearly emergency preparedness plan. The commission may inspect the log at any time before the retail public utility submits the log to the commission; or

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context of a disaster; and

(15) do other things necessary, incidental, or appropriate for the implementation of this chapter.

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(ii) the retail public utility's participation in a recognized statewide mutual aid program, if the commission finds that the utility's participation in the program will provide the utility with access to auxiliary generators and other necessary aid or equipment sufficient for the utility to restore service not later than the 36th hour after the hour the local power outage begins.

(B) The commission may impose an administrative penalty on a person licensed under this chapter who violates this section or a rule or order adopted under this section. The commission by rule shall prescribe standards relating to the servicing, testing, and operation of auxiliary power generators used in the implementation of an emergency preparedness plan.

SECTION 3. Subchapter F, Chapter 418, Government Code, is amended by adding Section 418.126 to read as follows:

Sec. 418.126. PRE-EVENT DISASTER RESPONSE CONTRACTS. (a) The General Land Office shall solicit proposals for and enter into one or more pre-event contracts that may be activated by the office in the event of a weather-related disaster declaration to obtain services for debris removal from beaches as needed following the disaster.

(b) The Texas Department of Transportation shall solicit proposals for and enter into one or more pre-event contracts that may be activated by the department in the event of a weather-related disaster declaration to obtain services for debris removal from the state highway

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SECTION 3. Subchapter F, Chapter 418, Government Code, is amended by adding Section 418.126 to read as follows:

Sec. 418.126. PRE-EVENT DISASTER RESPONSE CONTRACTS. (a) The General Land Office shall solicit proposals for and enter into one or more pre-event contracts that may be activated by the office in the event of a weather-related disaster declaration to obtain services for debris removal from beaches as needed following the disaster.

(b) The Texas Department of Transportation shall solicit proposals for and enter into one or more pre-event contracts that may be activated by the department in the event of a weather-related disaster declaration to obtain services for debris removal from the state highway

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SECTION 3. Same as Senate version.

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system as needed following the disaster.

(c) The Texas Department of Housing and Community Affairs shall solicit proposals for and enter into one or more pre-event contracts that may be activated by the department in the event of a weather-related disaster declaration to obtain temporary or emergency housing as needed following the disaster.

(d) Services obtained under a pre-event contract under this section shall be paid for with money from the disaster contingency fund under Section 418.073.

No equivalent provision.

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system as needed following the disaster.

(c) The Texas Department of Housing and Community Affairs shall solicit proposals for and enter into one or more pre-event contracts that may be activated by the department in the event of a weather-related disaster declaration to obtain temporary or emergency housing as needed following the disaster.

(d) Services obtained under a pre-event contract under this section may be paid for with money from the disaster contingency fund under Section 418.073.

SECTION 4. Subtitle G, Title 10, Government Code, is amended by adding Chapter 2311 to read as follows:

CHAPTER 2311. ENERGY SECURITY
TECHNOLOGIES FOR CRITICAL
GOVERNMENTAL FACILITIES

Sec. 2311.001. DEFINITIONS. In this chapter:

(1) "Combined heating and power system" means a system that:

(A) is located on the site of a facility;

(B) is the primary source of both electricity and thermal energy for the facility;

(C) can provide all of the electricity needed to power the facility's critical emergency operations for at least 14 days; and

(D) has an overall efficiency of energy use that exceeds 60 percent.

(2) "Critical governmental facility" means a building owned by the state or a political subdivision of the state that is expected to:

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SECTION 4. Same as Senate version.

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(A) be continuously occupied;
(B) maintain operations for at least 6,000 hours each year;
(C) have a peak electricity demand exceeding 500 kilowatts; and
(D) serve a critical public health or public safety function during a natural disaster or other emergency situation that may result in a widespread power outage, including a:
(i) command and control center;
(ii) shelter;
(iii) prison or jail;
(iv) police or fire station;
(v) communications or data center;
(vi) water or wastewater facility;
(vii) hazardous waste storage facility;
(viii) biological research facility;
(ix) hospital; or
(x) food preparation or food storage facility.
Sec. 2311.002, COMBINED HEATING AND POWER SYSTEMS. When constructing or extensively renovating a critical governmental facility or replacing major heating, ventilation, and air-conditioning equipment for a critical governmental facility, the entity with charge and control of the facility shall evaluate whether equipping the facility with a combined heating and power system would result in expected energy savings that would exceed the expected costs of purchasing, operating, and maintaining the system over a 20-year period on a discounted net present value basis.

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The entity may equip the facility with a combined heating and power system if the expected energy savings exceed the expected costs.

No equivalent provision.

SECTION __. Section 418.018, Government Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

Same as House version.

(d) The division, in cooperation with the Department of Public Safety, shall create a task force to study and develop uniform reentry procedures for essential personnel entering a disaster area or a stricken or threatened area that has been evacuated. The task force shall submit a written report on the procedures developed by the task force to the governor. The procedures must:

(1) authorize the orderly reentry of essential personnel according to the critical functions provided by the personnel in restoring normal operations to the area following an evacuation;

(2) prioritize the order of reentry for the essential personnel, including emergency responders, search and rescue personnel, infrastructure and utility repair personnel, official damage assessment personnel, health care providers, and businesses essential to the return of residents; and

(3) establish methods to authenticate the identity of the personnel authorized to reenter the area.

(e) The task force created under Subsection (d) must include representatives of:

(1) the office of the governor;

(2) the Department of Public Safety;

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- (3) emergency responders;
 - (4) search and rescue personnel;
 - (5) infrastructure and utility repair personnel;
 - (6) official damage assessment personnel;
 - (7) health care providers;
 - (8) the Texas Oil and Gas Association;
 - (9) county judges and mayors; and
 - (10) businesses essential to the return of residents.
- (f) Based on the report and procedures developed by the task force created under Subsection (d) and in cooperation with the Department of Public Safety, the division shall establish uniform reentry procedures for essential personnel entering a disaster area or a stricken or threatened area that has been evacuated. The procedures adopted under this section may not diminish the authority of local emergency management officials to adopt appropriate reentry provisions in a local plan or to make decisions on the timing and implementation of reentry a activities.

No equivalent provision.

SECTION __. The division of emergency management in the office of the governor, in cooperation with the Department of Public Safety of the State of Texas, shall:

- (1) appoint members to the task force created under Subsection (d), Section 418.018, Government Code, as added by this Act; and
- (2) based on the report and procedures developed by the task force, adopt uniform reentry procedures for essential personnel as required by Subsection (f), Section 418.018, Government Code, as added by this Act.

Same as House version.

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No equivalent provision.

SECTION __. Section 2306.0521, Government Code, is amended by adding Subsection (c) to read as follows:
(c) Notwithstanding Subsection (a), the department shall establish and maintain an emergency housing and disaster recovery division. The division shall:
(1) develop a program to provide for the rapid deployment of temporary housing for homeowners affected by natural disasters;
(2) develop a program to quickly restore or replace permanent housing for homeowners affected by natural disasters;
(3) develop a program to quickly provide additional rental housing to areas affected by natural disasters;
(4) provide funding to nonprofit agencies that provide to homeowners affected by natural disasters counseling on refinancing options and financial assistance available through state and federal programs; and
(5) collaborate with the division of emergency management established under Chapter 418 and the Federal Emergency Management Agency to secure reimbursement for housing needs in areas affected by natural disasters.

Same as House version.

No equivalent provision.

SECTION __. Section 2306.056, Government Code, is amended by adding Subsections (c) and (d) to read as follows:
(c) If federal or state money, other than money appropriated to the department under a current services budget for the state fiscal biennium prepared for the state budgetary process is allocated to the department to

Same as House version.

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address the results of a natural disaster, the board may appoint a committee composed of residents of the affected area. The committee shall serve until 90 percent of the money allocated to the department to address the results of the natural disaster has been spent. The committee may give input to the department and the emergency housing and disaster recovery division with regards to resource allocation.

(d) The department shall develop and implement policies that provide the public with a reasonable opportunity to appear periodically before a committee created under Subsection (c) and to speak on any issue under the jurisdiction of the emergency housing and disaster recovery division.

No equivalent provision.

SECTION __. Section 2210.001, Insurance Code, is amended to read as follows:

Sec. 2210.001. PURPOSE. The primary purpose of the Texas Windstorm Insurance Association is the provision of an [Aa] adequate market for windstorm and[;] hail[; and fire] insurance in the seacoast territory of this state. The legislature finds that the provision of adequate windstorm and hail insurance is necessary to the economic welfare of this state, and without that insurance, the orderly growth and development of this state would be severely impeded. This chapter provides a method by which adequate windstorm and[;] hail[; and fire] insurance may be obtained in certain designated portions of the seacoast territory of this state. The association is intended to serve as a residual insurer of

SECTION 5. Same as Senate version.

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last resort for windstorm and hail insurance in the seacoast territory. The association shall:

(1) function in such a manner as to not be a direct competitor in the private market; and

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

No equivalent provision.

SECTION __. Section 2210.002, Insurance Code, is amended to read as follows:

Sec. 2210.002. SHORT TITLE; SUNSET PROVISION.

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

(b) The association is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The association shall be reviewed during the period in which state agencies abolished in 2015 are reviewed. The association shall pay the costs incurred by the Sunset Advisory Commission in performing the review of the association under this subsection. The Sunset Advisory Commission shall determine the costs of the review performed under this subsection, and the association shall pay the amount of those costs promptly on receipt of a statement from the Sunset Advisory Commission regarding those costs. This subsection expires September 1, 2015.

No equivalent provision.

SECTION __. Subchapter A, Chapter 2210, Insurance Code, is amended by adding Section 2210.0025 to read as follows:

SECTION 6. Same as Senate version.

SECTION 7. Same as Senate version.

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Sec. 2210.0025. BIENNIAL REPORT TO LEGISLATURE. On or before December 31 of each even-numbered year, the board of directors shall submit to the commissioner, the appropriate committees of each house of the legislature, and the Sunset Advisory Commission a written report relating to the operations of the association during the preceding biennium. The report must include:

(1) any proposed changes in the laws relating to regulation of the association and a statement of the reasons for the changes; and

(2) any information regarding association operations or procedures that is requested by the department to be addressed in the report.

No equivalent provision.

SECTION __. Section 2210.003, Insurance Code, is amended by adding Subdivision (3-a) and amending Subdivision (6) to read as follows:

(3-a) "Catastrophe reserve trust fund" means the trust fund established under Subchapter J.

(6) "Insurance" means Texas [~~fire and explosion insurance and Texas~~] windstorm and hail insurance.

SECTION 8. Same as Senate version.

No equivalent provision.

SECTION __. Subsection (a), Section 2210.004, Insurance Code, is amended to read as follows:

(a) Except as provided by Subsection (h), for purposes of this chapter and subject to this section, "insurable property" means immovable property at a fixed location in a catastrophe area or corporeal movable property located in that immovable property, as designated in the

SECTION 9. Same as Senate version.

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plan of operation, that is determined by the association according to the criteria specified in the plan of operation to be in an insurable condition against windstorm and hail [~~or fire and explosion, as appropriate~~], as determined by normal underwriting standards. The term includes property described by Section 2210.209.

No equivalent provision.

SECTION __. Section 2210.005, Insurance Code, is amended to read as follows:

Sec. 2210.005. DESIGNATION AS CATASTROPHE AREA [~~OR INADEQUATE FIRE INSURANCE AREA~~]; REVOCATION OF DESIGNATION. (a) After at least 10 days' notice and a hearing, the commissioner may designate an area of the seacoast territory of this state as a catastrophe area if the commissioner determines unless such a determination results in an adverse impact to the exposure of the association, that windstorm and hail insurance is not reasonably available to a substantial number of the owners of insurable property located in that territory because the territory is subject to unusually frequent and severe damage resulting from windstorms or hailstorms. (b) [~~After at least 10 days' notice and a hearing, the commissioner may designate an area of this state as an inadequate fire insurance area if the commissioner determines that fire and explosion insurance is not reasonably available to a substantial number of owners of insurable property located in that area.~~

[(e)] The commissioner shall revoke a designation made under Subsection (a) [~~or (b)~~] if the commissioner

SECTION 10. Same as Senate version.

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determines, after at least 10 days' notice and a hearing, that the applicable insurance coverage is no longer reasonably unavailable to a substantial number of owners of insurable property within the designated territory.

(c) [~~(d)~~] If the association determines that windstorm and hail insurance [~~or fire and explosion insurance~~] is no longer reasonably unavailable to a substantial number of owners of insurable property in a territory designated as a catastrophe area [~~or inadequate fire insurance area, as applicable~~], the association may request in writing that the commissioner revoke the designation. After at least 10 days' notice and a hearing, but not later than the 30th day after the date of the hearing, the commissioner shall:
(1) approve the request and revoke the designation; or
(2) reject the request.

No equivalent provision.

SECTION __. Section 2210.008, Insurance Code, is amended to read as follows:

Sec. 2210.008. DEPARTMENT ORDERS; GENERAL RULEMAKING AUTHORITY. (a) The [~~After notice and hearing as provided by Subsection (b), the~~] commissioner may issue any orders that the commissioner considers necessary to implement this chapter[, ~~including orders regarding maximum rates, competitive rates, and policy forms~~].

(b) The commissioner may adopt rules in the manner prescribed by Subchapter A, Chapter 36, as reasonable and necessary to implement this chapter [~~Before the commissioner adopts an order, the department shall post notice of the hearing on the order at the secretary of~~

SECTION 11. Same as Senate version.

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~~state's office in Austin and shall hold a hearing to consider the proposed order. Any person may appear at the hearing and testify for or against the adoption of the order].~~

No equivalent provision.

SECTION __. Subchapter A, Chapter 2210, Insurance Code, is amended by adding Section 2210.009 to read as follows:

SECTION 12. Same as Senate version.

Sec. 2210.009. LIST OF PRIVATE INSURERS; INCENTIVE PLAN. (a) The department shall maintain a list of all insurers that engage in the business of property and casualty insurance in the voluntary market in the seacoast territory.

(b) The department shall develop incentive programs in the manner described by Section 2210.053(b) to encourage authorized insurers to write insurance on a voluntary basis and to minimize the use of the association as a means to obtain insurance.

No equivalent provision.

SECTION __. Section 2210.052, Insurance Code, is amended by amending Subsections (a) and (d) and adding Subsection (e) to read as follows:

SECTION 13. Same as Senate version.

(a) Each member of the association shall participate in insured losses and operating expenses of the association, in excess of premium and other revenue ~~[the writings, expenses, profits, and losses]~~ of the association, in the proportion that the net direct premiums of that member during the preceding calendar year bears to the aggregate net direct premiums by all members of the association, as determined using the information provided under

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Subsection (b).

(d) Notwithstanding Subsection (a), a member, in accordance with the plan of operation, is entitled to receive credit for similar insurance voluntarily written in areas ~~[an area]~~ designated by the commissioner. The member's participation in the insured losses and operating expenses of the association in excess of premium and other revenue ~~[writings]~~ of the association shall be reduced in accordance with the plan of operation.

(e) Notwithstanding Subsections (a)-(d), an insurer that becomes a member of the association and that has not previously been a member of the association is not subject to participation in any insured losses and operating expenses of the association in excess of premium and other revenue of the association until the second anniversary of the date on which the insurer first becomes a member of the association.

No equivalent provision.

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

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

- (1) satisfy, in whole or in part, the liability of the association on claims made on policies written by the association;
- (2) make investments authorized under applicable law;
- (3) pay reasonable and necessary administrative expenses incurred in connection with the operation of the association and the processing of claims against the

SECTION 14. Same as Senate version.

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association; [or]

(4) satisfy, in whole or in part, the obligations of the association incurred in connection with Subchapters B-1, J, and 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.

No equivalent provision.

SECTION __. Subsection (c), Section 2210.060, Insurance Code, is amended to read as follows:

(c) Subsection (a) does not authorize the association to indemnify a member of the association for participating in the assessments made by [writings, expenses, profits, and losses of] the association in the manner provided by this chapter.

No equivalent provision.

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

SUBCHAPTER B-1. PAYMENT OF LOSSES

Sec. 2210.071. PAYMENT OF EXCESS LOSSES; AUTHORIZATION TO REINSURE OR BORROW.

(a) If an occurrence or series of occurrences in a catastrophe area results in insured losses and operating

SECTION 15. Same as Senate version.

SECTION 16. SECTION 12. Chapter 2210, Insurance Code, is amended by adding Subchapter B-1 to read as follows:

SUBCHAPTER B-1. PAYMENT OF LOSSES

Sec. 2210.071. PAYMENT OF EXCESS LOSSES; PAYMENT FROM RESERVES AND TRUST FUND.

(a) If an occurrence or series of occurrences in a catastrophe area results in insured losses and operating

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expenses of the association in excess of premium and other revenue of the association, the excess losses and operating expenses shall be paid as provided by this subchapter.

(b) The association shall pay losses in excess of premium and other revenue of the association from available reserves of the association and available amounts in the catastrophe reserve trust fund.

(c) The association may borrow from, or enter into other financing arrangements with, any market sources at prevailing interest rates as authorized by this subchapter and as necessary to pay insured losses.

(d) The association may pay losses in excess of premium and other revenue of the association with:

(1) reinsurance proceeds, as provided by this subchapter, from reinsurance purchased by the association as authorized under Section 2210.453;

(2) the proceeds of Class 1 or Class 2 public securities authorized under Section 2210.073, 2210.074, 2210.076, or 2210.077; and

(3) proceeds from financial instruments, including loans or other financing arrangements described by Subsection (c), as authorized under this subchapter.

(e) With respect to assessments to members of the association, the proportion of the losses allocable to each insurer under this subchapter shall be determined in the manner used to determine each insurer's participation in

expenses of the association in excess of premium and other revenue of the association, the excess losses and operating expenses shall be paid as provided by this subchapter.

(b) The association shall pay losses in excess of premium and other revenue of the association from available reserves of the association.

[See Section 2210.079 below.]

(c) Losses in excess of the available reserves of the association shall be paid from available amounts in the catastrophe reserve trust fund.

[See Sections 2210.072, 2210.073, 2210.076, and 2210.079 below.]

[See Sections 2210.074 and 2210.075(b) below.]

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the association for the year under Section 2210.052.
Sec. 2210.072. PAYMENT FROM TRUST FUND;
ASSESSMENT; REINSURANCE. (a) For each
occurrence, losses shall be paid from the catastrophe
reserve trust fund and any available reinsurance. Losses
in excess of the catastrophe reserve trust fund and any
available reinsurance shall be paid as provided by this
section.
(b) For each occurrence, the association shall assess the
members of the association an amount not greater than
\$400 million. The proportion of the assessment allocable
to each insurer shall be determined in the manner used to
determine each member's participation in the association
under Section 2210.052.
(c) Assessments against members of the association
under this section may not exceed \$400 million during a
calendar year.
(d) The amount of an assessment under this section must
be:
(1) provided to each member of the association not later
than the fifth day after the date the assessment is
determined by the board of directors under Subsection
(b); and
(2) paid by each member not later than the 30th day
after the date on which the insurer receives notice of the
amount of its assessment.
(e) A member may not recoup an assessment paid under
this section through a premium surcharge.
(f) The association may purchase reinsurance in addition
to using some or all of the trust fund if, after a cost-

[See Section 2210.076 below, requiring certain losses to be paid through reinsurance purchased by the association.]

[See Section 2210.076 below.]

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benefit analysis or other appropriate examination, the board of directors determines that the use of reinsurance is a fiscally appropriate alternative to other sources of funding or is economically beneficial to this state. If the association purchases reinsurance under this section, the cost of the reinsurance shall be paid from premium paid by policyholders, other revenue of the association, and the catastrophe reserve trust fund.

Sec. 2210.073. PAYMENT FROM CLASS 1 PUBLIC SECURITIES; REINSURANCE; FINANCIAL INSTRUMENTS. (a) Losses not paid under Section 2210.072 shall be paid as provided by this section.

(b) The losses may be paid with:

(1) proceeds from Class 1 public securities authorized to be issued in accordance with Subchapter M before or on or after the date of any occurrence that results in insured losses under Subsection (a);

(2) available reinsurance described by Subsection (f);

(3) proceeds from financial instruments described by Subsection (e); or

(4) a combination of reinsurance, public securities, and financial instruments described by Subdivisions (1)-(3).

(c) Public securities described by Subsection (b)(1) may be issued if the board of directors determines, before the date of any occurrence, that the amount available from premium and other revenue, in combination with the amounts available from the catastrophe reserve trust fund, any reinsurance, and any financial instruments may be insufficient to pay insured losses. The public securities shall be issued as necessary in a principal

Sec. 2210.072. PAYMENT FROM CLASS 1 PUBLIC SECURITIES.

(a) Losses not paid under Section 2210.071 shall be paid as provided by this section from the proceeds from Class 1 public securities authorized to be issued in accordance with Subchapter M before the date of any occurrence that results in insured losses.

[See Sections 2210.076 and 2210.079 below.]

(b) Public securities described by Subsection (a) may be issued if the board of directors determines, before the date of any occurrence, that the amount available from premium and other revenue, in combination with the amounts available from the catastrophe reserve trust fund, may be insufficient to pay insured losses. The public securities shall be issued as necessary in a principal amount not to exceed \$300 million per

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amount not to exceed \$600 million per occurrence.

(d) Any public securities proceeds received under this section from Class 1 public securities authorized in accordance with Subchapter M before the date of any occurrence that results in insured losses under Subsection (a):

(1) must be used before the proceeds of any public securities that the association authorizes to be issued under Section 2210.074 on or after any catastrophic event; and

(2) may not be used to fund losses of any catastrophic event occurring before the date on which public securities described by this section are authorized to be issued.

(e) Under the authority of Section 2210.071(c), the association may borrow from, or enter into other financing arrangements with, any market source, under which the market source makes interest-bearing loans to the association to enable the association to pay losses under this section in lieu of, or in addition to, the issuance of public securities.

(f) The association may purchase reinsurance in lieu of, or in addition to, using Class 1 public securities or proceeds of financial instruments authorized under this section if, after a cost-benefit analysis or other appropriate examination, the board of directors determines that the use of reinsurance is a fiscally appropriate alternative to other sources of funding or is economically beneficial to this state. If the association purchases reinsurance under this section, the cost of the

occurrence.

(c) Any public securities proceeds received under this section from Class 1 public securities authorized in accordance with Subchapter M before the date of any occurrence that results in insured losses under Subsection (a):

(1) must be used before the proceeds of any public securities that the association authorizes to be issued under Section 2210.073 on or after any catastrophic event; and

(2) may not be used to fund losses of any catastrophic event occurring before the date public securities described by this section are authorized to be issued.

[See Section 2210.079 below]

[See Section 2210.076 below]

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reinsurance shall be paid from premium paid by policyholders of the association, other revenue of the association, and the catastrophe reserve trust fund.

(g) If the losses are paid with public securities or proceeds from financial instruments described by this section, the public securities or proceeds from financial instruments shall be repaid by premium surcharges in the manner prescribed by Section 2210.612.

Sec. 2210.074. PAYMENT FROM CLASS 2 PUBLIC SECURITIES; REINSURANCE; FINANCIAL INSTRUMENTS. (a) Losses not paid under Sections 2210.072 and 2210.073 shall be paid as provided by this section.

(b) The losses may be paid from:

(1) proceeds from Class 2 public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence that results in insured losses under Subsection (a);

(2) available reinsurance described by Subsection (e);

(3) proceeds from financial instruments described by Subsection (d); or

(4) a combination of the reinsurance, public securities, and financial instruments described by Subdivisions (1)-(3).

(c) Public securities described by Subsection (b)(1) may be issued as necessary in a principal amount not to exceed \$1 billion per occurrence.

(d) Under the authority of Section 2210.071(c), the association may borrow from, or enter into other financial arrangements with, any market source, under

(d) If the losses are paid with public securities described by this section, the public securities shall be repaid as prescribed by Subchapter M.

Sec. 2210.073. PAYMENT FROM CLASS 2 PUBLIC SECURITIES.

(a) Losses not paid under Sections 2210.071 and 2210.072 shall be paid as provided by this section from proceeds from Class 2 public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence that results in insured losses under this subsection.

[See Sections 2210.076 and 2210.079 below.]

(b) Public securities described by Subsection (a) may be issued as necessary in a principal amount not to exceed \$300 million per occurrence.

[See Section 2210.079 below.]

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which the market source makes interest-bearing loans to the association to enable the association to pay losses under this section without the issuance of public securities.

(e) The association may purchase reinsurance in lieu of, or in addition to, using Class 2 public securities or proceeds of financial instruments authorized under this section if, after a cost-benefit analysis or other appropriate examination, the board of directors determines that the use of reinsurance is a fiscally appropriate alternative to other sources of funding or is economically beneficial to this state. If the association purchases reinsurance under this section, the cost of the reinsurance shall be paid from premium paid by the policyholders of the association, other revenue of the association, and the catastrophe reserve trust fund.

(f) If the losses are paid with public securities or proceeds from financial instruments described by this section, the public securities or proceeds from financial instruments shall be repaid by premium surcharges in the manner prescribed by Section 2210.613.

[See Section 2210.076 below.]

(c) If the losses are paid with public securities described by this section, the public securities shall be repaid as prescribed by Subchapter M.

Sec. 2210.074. PAYMENT THROUGH NONRECOUPABLE MEMBER ASSESSMENTS. (a) Losses not paid under Sections 2210.071, 2210.072, and 2210.073 shall be paid through member assessments as provided by this section. The association shall assess the members of the association an amount not to exceed \$300 million per occurrence for the payment of the losses. The association shall notify each member of the association of the amount of the member's assessment

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Sec. 2210.075. PAYMENT FROM ASSOCIATION ASSESSMENT. (a) Losses not paid under Sections 2210.072-2210.074 shall be paid as provided by this section.

(b) The association shall assess the members of the association \$300 million per occurrence for the payment of losses described by this section. The association shall notify each member of the association of the amount of the member's assessment under this subsection.

The proportion of the losses 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) The association may not assess members of the association under this section more than twice in any calendar year.

(d) A member of the association may recoup an assessment paid under this section through a premium surcharge collected for one year on each policy of property or casualty insurance written by the member.

under this section.

(b) The proportion of the losses 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) A member of the association may not recoup an assessment paid under this section through a premium surcharge or tax credit.

Sec. 2210.075. PAYMENT THROUGH RECOUPABLE MEMBER ASSESSMENTS.

(a) Losses not paid under Sections 2210.071-2210.074 shall be paid through member assessments as provided by this section. The association shall assess the members of the association an amount not to exceed \$100 million per occurrence for the payment of the losses. The association shall notify each member of the association of the amount of the member's assessment under this section.

(b) The proportion of the losses 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) The assessments shall be repaid by a nonrefundable premium surcharge collected under this section in an amount set by the commissioner. The association and each insurer shall collect from each of its policyholders who reside in or have operations in, or whose insured

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A premium surcharge under this section shall apply to all policies that provide coverage on any premises, locations, operations, or property located in this state for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance.

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

Sec. 2210.076. PAYMENT FROM CLASS 2 PUBLIC SECURITIES; REINSURANCE; FINANCIAL INSTRUMENTS. (a) Losses not paid under Sections 2210.072-2210.075 shall be paid as provided by this section.

(b) The losses may be paid from:

(1) proceeds from Class 2 public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence that results in insured losses under Subsection (a);

(2) available reinsurance described by Subsection (e);

(3) proceeds from financial instruments described by

property is located in a catastrophe area, the nonrefundable premium surcharge for each Texas windstorm and hail insurance policy and each property and casualty insurance policy issued by the insurer for property located in the catastrophe area.

(d) A premium surcharge under this section applies to all policies that provide coverage on any premises, locations, operations, or property located in the area described by Subsection (c) for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance.

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

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Subsection (d); or

(4) a combination of the reinsurance, public securities, and financial instruments described by Subdivisions (1)-(3).

(c) Public securities described by Subsection (b)(1) may be issued as necessary in a principal amount not to exceed \$500 million per occurrence.

(d) Under the authority of Section 2210.071(c), the association may borrow from, or enter into other financing agreements with, any market source, under which the market source makes interest-bearing loans to the association to enable the association to pay losses under this section in lieu of, or in addition to, the issuance of public securities.

(e) The association may purchase reinsurance in lieu of, or in addition to, using Class 2 public securities or proceeds from financial instruments authorized under this section if, after a cost-benefit analysis or other appropriate examination, the board of directors determines that the use of reinsurance is a fiscally appropriate alternative to other sources of funding or is economically beneficial to this state. If the association purchases reinsurance under this section, the cost of the reinsurance shall be paid from premium paid by the policyholders of the association, other revenue of the association, and the catastrophe reserve trust fund.

(f) If the losses are paid with public securities or proceeds from financial instruments described by this section, the public securities or proceeds from financial instruments shall be repaid by premium surcharges in the

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manner prescribed by Section 2210.613.

[See Sections 2210.071(d), 2210.072(f), 2210.073(b) and (f), 2210.074(b) and (e), and 2210.076(b) and (e) above and Section 2210.077(b) and (d) below.]

Sec. 2210.077. PAYMENT FROM CLASS 2 PUBLIC SECURITIES; REINSURANCE. (a) Losses not paid under Sections 2210.072-2210.076 shall be paid as provided by this section.

(b) The losses may be paid from:

(1) proceeds from Class 2 public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence that results in insured losses under Subsection (a);

(2) available reinsurance described by Subsection (d); or

(3) a combination of the reinsurance and public securities described by Subdivisions (1) and (2).

(c) Public securities described by Subsection (b)(1) may be issued as necessary in a principal amount not to exceed \$2.8 billion per occurrence.

(d) The association may purchase reinsurance in lieu of, or in addition to, using Class 2 public securities authorized under this section if, after a cost-benefit analysis or other appropriate examination, the board of directors determines that the use of reinsurance is a

Sec. 2210.076. PAYMENT THROUGH REINSURANCE. (a) Losses not paid under Sections 2210.071-2210.075 shall be paid through reinsurance as provided by this section.

(b) The association shall purchase reinsurance in an amount not to exceed \$1 billion. The cost of the reinsurance purchased under this section shall be paid from premium paid by the policyholders of the association and other revenue of the association.

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fiscally appropriate alternative to other sources of funding or is economically beneficial to this state. If the association purchases reinsurance under this section, the cost of the reinsurance shall be paid from premium paid by the policyholders of the association, other revenue of the association, and the catastrophe reserve trust fund.

(e) If the losses are paid with public securities described by this section, the public securities shall be repaid by premium surcharges in the manner prescribed by Section 2210.613.

Sec. 2210.078. PAYMENT FROM ADDITIONAL ASSOCIATION ASSESSMENTS. (a) Losses not paid under Sections 2210.072-2210.077 and any available reinsurance shall be paid as provided by this section.

(b) The board of directors shall assess the members of the association for the payment of losses described by this section. The association shall notify each member of the association of the amount of the member's assessments under this subsection, with the proportion of the assessment allocable to each insurer determined in the manner used to determine each member's participation in the association under Section 2210.052.

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

(d) A member of the association may credit an amount paid in accordance with this section in a calendar year against the insurer's premium tax under Chapter 221. The tax credit authorized under this subsection shall be

Sec. 2210.077. PAYMENT FROM ADDITIONAL ASSOCIATION ASSESSMENTS. (a) Losses not paid under Sections 2210.071-2210.076 shall be paid through member assessments as provided by this section.

(b) The association shall assess the members of the association an amount not to exceed \$750 million per occurrence for the payment of losses described by this section. The association shall notify each member of the association of the amount of the member's assessments under this section, with the proportion of the assessment allocable to each insurer determined in the manner used to determine each member's participation in the association under Section 2210.052.

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

(d) A member of the association may credit an amount paid in accordance with this section in a calendar year against the insurer's premium tax under Chapter 221. The tax credit authorized under this subsection shall be

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allowed at a rate not to exceed 20 percent per year for five or more successive years beginning the calendar year that the assessments under this section are paid. The balance of payments made by the insurer and not claimed as a premium tax credit may be reflected in the books and records of the insurer as an admitted asset of the insurer for all purposes, including exhibition in an annual statement under Section 862.001.

Sec. 2210.079. NOTIFICATION REGARDING TAX CREDITS. (a) The association shall immediately notify the department if an occurrence or series of occurrences in a catastrophe area results in insured losses that result in a tax credit under Section 2210.078(d) in a calendar year.

(b) On receipt of notice under Subsection (a), the department shall immediately notify the governor and the appropriate committees of each house of the legislature of the amount of insured losses eligible for tax credits under Section 2210.078(d).

[See Sections 2210.071(c) and (d), 2210.073(b) and (e), 2210.074(b) and (d), and 2210.076(b) and (e) above.]

allowed at a rate not to exceed 20 percent per year for five or more successive years beginning the calendar year that the assessments under this section are paid. The balance of payments made by the insurer and not claimed as a premium tax credit may be reflected in the books and records of the insurer as an admitted asset of the insurer for all purposes, including exhibition in an annual statement under Section 862.001.

Sec. 2210.078. NOTIFICATION REGARDING TAX CREDITS. (a) The association shall immediately notify the department if an occurrence or series of occurrences in a catastrophe area results in insured losses that result in a tax credit under Section 2210.077(d) in a calendar year.

(b) On receipt of notice under Subsection (a), the department shall immediately notify the governor and the appropriate committees of each house of the legislature of the amount of insured losses eligible for tax credits under Section 2210.077(d).

Sec. 2210.079. COMBINATION OF FINANCING MECHANISMS. Notwithstanding any other provision of this subchapter, if the board of directors determines that the sale of public securities or the purchase of reinsurance is not possible, or that other financing mechanisms described by this subchapter are fiscally appropriate or economically beneficial to this state, the board of directors, with the approval of the commissioner, may use any combination of the financing arrangements described by this subchapter as necessary to pay the excess losses.

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No equivalent provision.

SECTION __. The heading to Subchapter C, Chapter 2210, Insurance Code, is amended to read as follows:
SUBCHAPTER C. ASSOCIATION BOARD OF DIRECTORS; GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS

SECTION 17. Same as Senate version.

No equivalent provision.

SECTION __. Section 2210.102, Insurance Code, is amended to read as follows:
Sec. 2210.102. COMPOSITION. (a) The board of directors is composed of [the following] nine members appointed by the commissioner in accordance with this section.
(b) Four members must be [:
[1]—five] representatives of different insurers who are members of the association.
(c) Three members must be [, elected by the members as provided by the plan of operation;
[2]—two] public representatives:
(1) at least one of whom [who are nominated by the office of public insurance counsel and who], as of the date of the appointment, does not [:
[(A)] reside in or own property in a first tier coastal county; and
(2) at least one of whom, as of the date of the appointment, resides in or owns property in a first tier coastal county and is a policyholder of the association.
(d) Two members must be [a catastrophe area; and
[(B)] are policyholders of the association; and

SECTION 18. Section 2210.102, Insurance Code, is amended to read as follows:
Sec. 2210.102. COMPOSITION. (a) The board of directors is composed of [the following] nine members appointed by the commissioner in accordance with this section.
(b) Four members must be [:
[1]—five] representatives of the insurance industry.
(c) Four members must [different insurers who are members of the association, elected by the members as provided by the plan of operation;
[2]—two public representatives who are nominated by the office of public insurance counsel and who], as of the date of the appointment, [:
[(A)] reside in the first tier coastal counties. At least one of the members appointed under this subsection must be a [catastrophe area; and [(B)] are policyholders of the association; and
[3]—two] property and casualty agent who is licensed under this code and is not a captive agent.
(d) One member must be a representative of an area of this state that is not located in the seacoast territory with

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~~[(3) two]~~ property and casualty agents who are licensed under this code and are not captive agents. One of the agents, but not more than one, as of the date of the appointment, must maintain the agent's principal office in a first tier coastal county.

~~(e) All members must[, each of whom must:~~

~~[(A)] have demonstrated experience in insurance, general business, or actuarial principles sufficient to make the success of the association probable[;~~

~~[(B) maintain the agent's principal office, as of the date of the appointment, in a catastrophe area; and~~

~~[(C) hold a license under Chapter 4051 as a general property and casualty agent or a personal lines property and casualty agent].~~

(f) Insurers who are members of the association shall nominate, from among those members, persons to fill any vacancy in the four board of director seats reserved for insurers. The board of directors shall solicit nominations from the members and submit the nominations to the commissioner. The nominee slate submitted to the commissioner under this subsection must include at least three more names than the number of vacancies. The commissioner shall appoint replacement insurer members from the nominee slate.

(g) The commissioner shall appoint one person to serve as a nonvoting member of the board to advise the board regarding issues relating to the inspection process. The commissioner may give preference in an appointment under this subsection to a person who is a qualified

demonstrated expertise in insurance and actuarial principles.

~~(e) All members must [agents, each of whom must:~~

~~[(A)] have demonstrated experience in insurance, general business, or actuarial principles sufficient to make the success of the association probable[;~~

~~[(B) maintain the agent's principal office, as of the date of the appointment, in a catastrophe area; and~~

~~[(C) hold a license under Chapter 4051 as a general property and casualty agent or a personal lines property and casualty agent].~~

(f) Insurers who are members of the association shall nominate, from among those members, persons to fill any vacancy in the four board of director seats reserved for representatives of the insurance industry. The board of directors shall solicit nominations from the members and submit the nominations to the commissioner. The nominee slate submitted to the commissioner under this subsection must include at least three more names than the number of vacancies. The commissioner shall appoint replacement insurance industry representatives from the nominee slate.

(g) The commissioner shall appoint one person to serve as a nonvoting member of the board to advise the board regarding issues relating to the inspection process. The commissioner may give preference in an appointment under this subsection to a person who is a qualified

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inspector under Section 2210.254. The nonvoting member appointed under this section must:

(1) be an engineer licensed by, and in good standing with, the Texas Board of Professional Engineers;

(2) reside in a first tier coastal county; and

(3) be knowledgeable of, and have professional expertise in, wind-related design and construction practices in coastal areas that are subject to high winds and hurricanes.

(h) [(b)] The persons appointed under Subsection (c) [Subsections (a)(2) and (3)] must be from different counties.

SECTION __. Section 2210.103, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) A member of the board of directors may be removed by the commissioner with cause stated in writing and posted on the association's website. The commissioner shall appoint a replacement in the manner provided by Section 2210.102 for a member who leaves or is removed from the board of directors.

SECTION __. Section 2210.104, Insurance Code, is amended to read as follows:

Sec. 2210.104. OFFICERS. The board of directors shall elect from the board's membership an executive committee consisting of a presiding officer, assistant presiding officer, and secretary-treasurer. ~~[At least one of the officers must be a member appointed under Section 2210.102(a)(2) or (3).]~~

inspector under Section 2210.254. The nonvoting member appointed under this section must:

(1) be an engineer licensed by, and in good standing with, the Texas Board of Professional Engineers;

(2) reside in a first tier coastal county; and

(3) be knowledgeable of, and have professional expertise in, wind-related design and construction practices in coastal areas that are subject to high winds and hurricanes.

(h) [(b)] The persons appointed under Subsection (c) [Subsections (a)(2) and (3)] must be from different counties.

SECTION 19. Same as Senate version.

SECTION 20. Same as Senate version.

No equivalent provision.

No equivalent provision.

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No equivalent provision.

SECTION __. Section 2210.105, Insurance Code, is amended by adding Subsection (d) to read as follows:
(d) Except for an emergency meeting, a meeting of the board of directors shall be held at a location as determined by the board of directors.

SECTION 21. Same as Senate version.

No equivalent provision.

SECTION __. Subchapter C, Chapter 2210, Insurance Code, is amended by adding Section 2210.1051 to read as follows:
Sec. 2210.1051. MEETINGS OF BOARD OF DIRECTORS. (a) Notwithstanding Chapter 551, Government Code, or any other law, members of the board of directors may meet by telephone conference call, videoconference, or other similar telecommunication method. The board may use telephone conference call, videoconference, or other similar telecommunication method for purposes of establishing a quorum or voting or for any other meeting purpose in accordance with this subsection and Subsection (b). This subsection applies without regard to the subject matter discussed or considered by the members of the board at the meeting.
(b) A meeting held by telephone conference call, videoconference, or other similar telecommunication method:
(1) is subject to the notice requirements applicable to other meetings of the board of directors;
(2) may not be held unless notice of the meeting specifies the location of the meeting, which shall be located in a tier one county; a recording of these

SECTION 22. Same as Senate version.

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meetings shall be posted on the association's website;
(3) must be audible to the public at the location specified
in the notice under Subdivision (2); and
(4) must provide two-way audio communication
between all members of the board attending the meeting
during the entire meeting, and if the two-way audio
communication link with members attending the meeting
is disrupted so that a quorum of the board is no longer
participating in the meeting, the meeting may not
continue until the two-way audio communication link is
reestablished.

No equivalent provision.

SECTION __. Subchapter C, Chapter 2210, Insurance Code, is amended by adding Section 2210.107 to read as follows:

SECTION 23. Same as Senate version.

Sec. 2210.107. PRIMARY BOARD OBJECTIVES.
The primary objectives of the board of directors are to
ensure that the association:

(1) operates in accordance with this chapter and
commissioner rules;

(2) complies with sound insurance principles; and

(3) meets all standards imposed under this chapter.

No equivalent provision.

SECTION __. Section 2210.151, Insurance Code, is amended to read as follows:

SECTION 24. Same as Senate version.

Sec. 2210.151. ADOPTION OF PLAN OF OPERATION. With the advice of the board of directors, the commissioner by rule shall adopt the plan of operation to provide[:

[(+)] Texas windstorm and hail insurance in a

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catastrophe area~~]; and~~
~~[(2) Texas fire and explosion insurance in an inadequate fire insurance area].~~

No equivalent provision.

SECTION __. Subsection (a), Section 2210.152, Insurance Code, is amended to read as follows:

- (a) The plan of operation must:
- (1) provide for the efficient, economical, fair, and nondiscriminatory administration of the association; and
 - (2) include:
 - (A) a plan for the equitable assessment of the members of the association to defray losses and expenses;
 - (B) underwriting standards;
 - (C) procedures for accepting and ceding reinsurance;
 - (D) procedures for obtaining and repaying amounts pursuant to financial instruments authorized under Subchapter B-1;
 - (E) procedures for determining the amount of insurance to be provided to specific risks;
 - (F) ~~[(E)]~~ time limits and procedures for processing applications for insurance; and
 - (G) ~~[(F)]~~ other provisions as considered necessary by the department to implement the purposes of this chapter.

No equivalent provision.

SECTION __. Section 2210.202, Insurance Code, is amended to read as follows:

Sec. 2210.202. APPLICATION FOR COVERAGE. (a) A person who has an insurable interest in insurable property may apply to the association for insurance

SECTION 25. Subsection (a), Section 2210.152, Insurance Code, is amended to read as follows:

- (a) The plan of operation must:
- (1) provide for the efficient, economical, fair, and nondiscriminatory administration of the association; and
 - (2) include:
 - (A) a plan for the equitable assessment of the members of the association to defray losses and expenses;
 - (B) underwriting standards;
 - (C) procedures for accepting and ceding reinsurance;
 - (D) procedures for obtaining and repaying amounts under any financial instruments authorized under this chapter;
 - (E) procedures for determining the amount of insurance to be provided to specific risks;
 - (F) ~~[(E)]~~ time limits and procedures for processing applications for insurance; and
 - (G) ~~[(F)]~~ other provisions as considered necessary by the department to implement the purposes of this chapter.

SECTION 26. Same as Senate version.

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coverage provided under the plan of operation and an inspection of the property, subject to any rules[; ~~including any inspection fee;~~] established by the board of directors and approved by the commissioner. The association shall make insurance available to each applicant in the catastrophe area whose property is insurable property but who, after diligent efforts, is unable to obtain property insurance through the voluntary market, as evidenced by one declination from an insurer authorized to engage in the business of, and writing, property insurance providing windstorm and hail coverage in the first tier coastal counties. For purposes of this section, "declination" has the meaning assigned by the plan of operation and shall include a refusal to offer coverage for the perils of windstorm and hail and the inability to obtain substantially equivalent insurance coverage for the perils of windstorm and hail. Notwithstanding Section 2210.203(c), evidence of one declination is also required with an application for renewal of an association policy.

(b) A ~~general~~ property and casualty agent ~~[or a personal lines property and casualty agent]~~ must submit an application for the insurance coverage on behalf of the applicant on forms prescribed by the association. The application must contain a statement as to whether the applicant has submitted or will submit the premium in full from personal funds or, if not, to whom a balance is or will be due. Each application for initial or renewal coverage must also contain a statement that the agent possesses proof of the declination described by

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Subsection (a) and proof of flood insurance coverage or unavailability of that coverage as described by Section 2210.203(a-1).

No equivalent provision.

SECTION __. Section 2210.203, Insurance Code, is amended by adding Subsection (a-1) to read as follows:
(a-1)

Notwithstanding Subsection (a), if all or any part of the property for which an application for new or renewal insurance coverage is made is located in Zone V or another similar zone with an additional hazard associated with storm waves, as defined by the National Flood Insurance Program, and if flood insurance under that federal program is available, the association may not issue a new or renewal insurance policy unless evidence that the property is covered by a flood insurance policy is submitted to the association.

No equivalent provision.

SECTION __. Section 2210.204, Insurance Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:
(d) If an insured requests cancellation of the insurance coverage, the association shall refund the unearned premium, less any minimum retained premium set forth

SECTION 27. (a-1) This subsection applies only to a structure constructed, remodeled, or enlarged on or after the effective date of S.B. No. 14, Acts of the 81st Legislature, Regular Session, 2009, and only for insurable property located in areas designated by the commissioner. Notwithstanding Subsection (a), if all or any part of the property to which this subsection applies is located in Zone V or another similar zone with an additional hazard associated with storm waves, as defined by the National Flood Insurance Program, and if flood insurance under that federal program is available, the association may not issue an insurance policy for initial coverage unless evidence that the property is covered by a flood insurance policy is submitted to the association. An agent offering or selling a Texas windstorm and hail insurance policy in any area designated by the commissioner under this subsection shall offer flood insurance coverage to the prospective insured, if that coverage is available.

SECTION 28. Same as Senate version.

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in the plan of operation, payable to the insured and the holder of an unpaid balance. The property and casualty agent who submitted the application shall refund the agent's commission on any unearned premium in the same manner.

(e) For cancellation of insurance coverage under this section, the minimum retained premium in the plan of operation must be for a period of not less than 180 days, except for events specified in the plan of operation that reflect a significant change in the exposure or the policyholder concerning the insured property, including:

- (1) the purchase of similar coverage in the voluntary market;
- (2) sale of the property to an unrelated party;
- (3) death of the policyholder; or
- (4) total loss of the property.

No equivalent provision.

SECTION __. Subchapter E, Chapter 2210, Insurance Code, is amended by adding Section 2210.2041 to read as follows:

Sec. 2210.2041. NONREFUNDABLE SURCHARGE. A nonrefundable surcharge established under this chapter is not refundable under this code for any reason or purpose.

SECTION 29. Same as Senate version.

No equivalent provision.

SECTION __. Section 2210.251, Insurance Code, is amended to read as follows:

Sec. 2210.251. INSPECTION REQUIREMENTS. (a) Except as provided by this section, to be considered insurable property eligible for windstorm and hail

SECTION 30. Same as Senate version.

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insurance coverage from the association, a structure that is constructed, altered, remodeled, enlarged, or repaired or to which additions are made on or after January 1, 1988, must be inspected [~~or approved~~] by the association [~~department~~] for compliance with the plan of operation.

(b) After January 1, 2004, for geographic areas specified by the commissioner, the commissioner by rule shall adopt the 2003 International Residential Code for one- and two-family dwellings published by the International Code Council. For those geographic areas, the commissioner by rule may adopt a subsequent edition of that code and may adopt any supplements published by the International Code Council and amendments to that code.

(c) After January 1, 2004, a person must submit a notice of a windstorm inspection to the association [~~unit responsible for certification of windstorm inspections at the department~~] before beginning to construct, alter, remodel, enlarge, or repair a structure.

(d) A structure constructed, altered, remodeled, enlarged, or repaired or to which additions were made before January 1, 1988, that is located in an area that was governed at the time of the construction, alteration, remodeling, enlargement, repair, or addition by a building code recognized by the association is insurable property eligible for windstorm and hail insurance coverage from the association without compliance with the inspection [~~or approval~~] requirements of this section or the plan of operation.

(e) A structure constructed, altered, remodeled, enlarged,

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or repaired or to which additions were made before January 1, 1988, that is located in an area not governed by a building code recognized by the association is insurable property eligible for windstorm and hail insurance coverage from the association without compliance with the inspection [~~or approval~~] requirements of this section or the plan of operation if the structure was previously insured by an insurer authorized to engage in the business of insurance in this state and the structure is in essentially the same condition as when previously insured, except for normal wear and tear, and is without any structural change other than a change made according to code. For purposes of this subsection, evidence of previous insurance coverage must reflect coverage for the perils of windstorm and hail for the property within the 12-month period immediately preceding the date of the application for coverage through the association and includes:

- (1) a copy of a previous insurance policy;
- (2) copies of canceled checks or agent's records that show payments for previous policies; and
- (3) a copy of the title to the structure or mortgage company records that show previous policies.

(f) Notwithstanding any other provision of this section, a residential structure insured by the association as of June 1, 2009, may continue coverage through the association subject to the inspection requirements imposed under Section 2210.258.

(g) The association [~~department~~] shall issue a certificate of compliance for each structure that qualifies for

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coverage. The certificate is evidence of insurability of the structure by the association.

~~[(g) The department may enter into agreements and contracts as necessary to implement this section.]~~

(h) The association ~~[department]~~ may charge a reasonable fee to cover the cost of making building requirements and inspection standards available to the public.

(i) The association shall charge a reasonable fee for each inspection of each structure in an amount set by the board of directors. The association may use fees collected under this section for operating expenses or for the purchase of reinsurance.

(j) Without limitation of the department's authority to otherwise enforce this chapter, the department shall monitor the association's compliance with this subchapter.

(k) Except as otherwise provided by this subchapter, the association may not consider any request that a structure be certified as insurable property if, within six months after the final inspection of a structure, the association has not received:

(1) fully completed documentation verifying that the structure has been constructed, altered, remodeled, enlarged, or repaired, or any addition to the structure has been made, in compliance with the plan of operation; and
(2) full payment of all inspection fees owed to the association, including any fees related to prior association inspections.

(l) If a structure is rejected for coverage under

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Subsection (k), a person may make a new request for certification and the structure may be reinspected for compliance with the plan of operation. A request for certification brought under this subsection must meet the requirements of Subsection (k).

No equivalent provision.

SECTION __. Subsections (a), (c), and (d), Section 2210.254, Insurance Code, are amended to read as follows:

Same as House version.

(a) For purposes of this chapter, a "qualified inspector" includes:

(1) a person determined by the association [~~department~~] to be qualified because of training or experience to perform building inspections;

(2) a licensed professional engineer who meets the requirements specified by the association [~~commissioner rule~~] for appointment to conduct windstorm inspections; and

(3) an inspector who:

(A) is certified by the International Code Council, the Building Officials and Code Administrators International, Inc., the International Conference of Building Officials, or the Southern Building Code Congress International, Inc.;

(B) has certifications as a buildings inspector and coastal construction inspector; and

(C) complies with other requirements specified by the association [~~commissioner rule~~].

(c) Before performing building inspections, a qualified inspector must be approved and appointed or employed

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by the association [~~department~~].

(d) The association [~~department~~] may charge a reasonable fee for the filing of applications by and determining the qualifications of persons for appointment as qualified inspectors.

No equivalent provision.

SECTION __. Section 2210.255, Insurance Code, is amended to read as follows:

Sec. 2210.255. APPOINTMENT OF LICENSED ENGINEER AS INSPECTOR. (a) On request of an engineer licensed by the Texas Board of Professional Engineers, the association may [~~commissioner shall~~] appoint the engineer as an inspector under this subchapter on receipt of information satisfactory to the association [~~not later than the 10th day after the date the engineer delivers to the commissioner information demonstrating~~] that the engineer is qualified to perform windstorm inspections under this subchapter.

(b) The association shall consult with the commissioner regarding [~~shall adopt rules establishing~~] the information to be considered in appointing engineers under this section.

Same as House version.

No equivalent provision.

SECTION __. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Section 2210.2565 to read as follows:

Sec. 2210.2565. PROCEDURES REGARDING APPOINTMENT OF INSPECTORS. The association shall develop procedures for the appointment and oversight of qualified inspectors appointed under

Same as House version.

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Sections 2210.254 and 2210.255, including procedures relating to the suspension or revocation of an appointment made by the association.

No equivalent provision.

SECTION __. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Sections 2210.258 and 2210.259 to read as follows:

Sec. 2210.258. MANDATORY COMPLIANCE WITH BUILDING CODES; ELIGIBILITY. (a)

Notwithstanding any other provision of this chapter, to be eligible for insurance through the association, all construction, alteration, remodeling, enlargement, and repair of, or addition to, any structure located in the catastrophe area that is begun on or after the effective date of S.B. No. 14, Acts of the 81st Legislature, Regular Session, 2009, must be performed in compliance with the applicable building code standards, as set forth in the plan of operation.

(b) The association may not insure a structure described by Subsection (a) until:

(1) the structure has been inspected for compliance with the plan of operation in accordance with Section 2210.251(a); and

(2) a certificate of compliance has been issued for the structure in accordance with Section 2210.251(g).

Sec. 2210.259. SURCHARGE FOR CERTAIN NONCOMPLIANT STRUCTURES. (a) A

noncompliant residential structure insured by the association as of June 1, 2009, under Section 2210.251(f) that had been approved for insurability under the

SECTION 34. Same as Senate version.

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approval process regulations in effect on June 1, 2009, is subject to an annual premium surcharge in an amount not less than 15 percent of the premium for insurance coverage obtained through the association. The surcharge under this subsection applies to each policy issued or renewed by the association on or after the effective date of S.B. No. 14, Acts of the 81st Legislature, Regular Session, 2009, and is due on the issuance or renewal of the policy.

(b) A premium surcharge collected under this section shall be deposited in the catastrophe reserve trust fund. A premium surcharge under this section is a separate nonrefundable charge in addition to the premiums collected and is not subject to premium tax or commissions. Failure to pay the surcharge by a policyholder constitutes failure to pay premium for purposes of policy cancellation.

SECTION __. Subsections (c) and (d), Section 2210.351, Insurance Code, are amended to read as follows:

(c) Except as provided by Subsection (d), as [As] soon as reasonably possible after the filing has been made, the commissioner in writing shall approve[~~;~~ modify;] or disapprove the filing. A filing is considered approved unless [~~modified or~~] disapproved on or before the 30th day after the date of the filing. If the commissioner disapproves a filing, the commissioner shall state in writing the reasons for the disapproval and the criteria the association is required to meet to obtain approval.

No equivalent provision.

SECTION 35. Same as Senate version.

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(d) The association may use a rate filed by the association without prior commissioner approval if:
(1) the filing is made not later than the 30th day before the date of any use or delivery for use of the rate;
(2) the filed rate does not exceed 105 percent of the rate in effect on the date on which the filing is made;
(3) the filed rate does not reflect a rate change for an individual rating class that is 10 percent higher than the rate in effect for that rating class on the date on which the filing is made; and
(4) the commissioner has not disapproved the filing in writing, advising of the reasons for the disapproval and the criteria the association is required to meet to obtain approval [~~If at any time the commissioner determines that a filing approved under Subsection (c) no longer meets the requirements of this chapter, the commissioner may, after a hearing held on at least 20 days' notice to the association that specifies the matters to be considered at the hearing, issue an order withdrawing approval of the filing. The order must specify in what respects the commissioner determines that the filing no longer meets the requirements of this chapter. An order issued under this subsection may not take effect before the 30th day after the date of issuance of the order].~~

No equivalent provision.

SECTION __. Section 2210.352, Insurance Code, is amended to read as follows:
Sec. 2210.352. MANUAL RATE FILINGS: ANNUAL FILING. (a) Not later than August 15 of each year, the association shall file with the department [~~for approval~~

SECTION 36. Same as Senate version.

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~~by the commissioner]~~ a proposed manual rate for all types and classes of risks written by the association[; Chapter 40 does not apply to:

~~[(1) a filing made under this subsection; or~~

~~[(2) a department action with respect to the filing].~~

(a-1) The association may use a rate filed by the association under this section without prior commissioner approval if:

(1) the filing is made not later than the 30th day before the date of any use or delivery for use of the rate;

(2) the filed rate does not exceed 105 percent of the rate used by the association in effect on the date on which the filing is made; and

(3) the filed rate does not reflect a rate change for an individual rating class that is 10 percent higher than the rate in effect for that rating class on the date on which the filing is made.

(b) Except as provided by Subsection (a-1), before [Before] approving or[;] disapproving[; or modifying] a filing under this section, the commissioner shall provide all interested persons a reasonable opportunity to:

(1) review the filing;

(2) obtain copies of the filing on payment of any legally required copying cost; and

(3) submit to the commissioner written comments or information related to the filing.

(c) Except as provided by Subsection (a-1), [The commissioner shall schedule an open meeting not later than the 45th day after the date the department receives a filing at which interested persons may present written or

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~~oral comments relating to the filing.~~

~~[(d) An open meeting under Subsection (c) is subject to Chapter 551, Government Code, but is not a contested case hearing under Chapter 2001, Government Code.~~

~~[(e) The department shall file with the secretary of state for publication in the Texas Register notice that a filing has been made under Subsection (a) not later than the seventh day after the date the department receives the filing. The notice must include information relating to:~~

~~[(1) the availability of the filing for public inspection at the department during regular business hours and the procedures for obtaining copies of the filing;~~

~~[(2) procedures for making written comments related to the filing; and~~

~~[(3) the time, place, and date of the open meeting scheduled under Subsection (c) at which interested persons may present written or oral comments relating to the filing.~~

~~[(f) After the conclusion of the open meeting,] the commissioner shall approve or[;] disapprove[, or modify] the filing in writing not later than October [November] 15 of the year in which the filing was made. If the filing is not approved or[;] disapproved[, or modified] on or before that date, the filing is considered approved.~~

(d) Except as provided by Subsection (a-1), if ~~[(g) If]~~ the commissioner disapproves a filing, the commissioner shall state in writing the reasons for the disapproval and the criteria the association is required to meet to obtain approval.

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No equivalent provision.

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SECTION __. Section 2210.353, Insurance Code, is amended to read as follows:

Sec. 2210.353. MANUAL RATE FILINGS: AMENDED ANNUAL FILING. (a) Not later than the 30th day after the date the association receives the commissioner's written disapproval under Section 2210.352(c) [~~2210.352(f)~~], the association may file with the commissioner an amended annual filing that conforms to all criteria stated in that written disapproval.

(b) Not later than the 30th day after the date an amended filing made under Subsection (a) is received, the commissioner shall approve [~~the amended filing with or without modifications~~] or disapprove the amended filing. If the filing is not [~~modified or~~] disapproved on or before the 30th day after the date of receipt, the filing is considered approved [~~without modification~~]. If the commissioner disapproves a filing, the commissioner shall state in writing the reasons for the disapproval and the criteria the association is required to meet to obtain approval.

(c) Before approving or disapproving an amended annual filing under this section, the commissioner shall, in the manner provided by Section 2210.352(b), provide all interested persons a reasonable opportunity to:

- (1) review the amended annual filing;
- (2) obtain copies of the amended annual filing on payment of any legally required copying cost; and
- (3) submit to the commissioner written comments or information related to the amended annual filing.

~~[(d) The commissioner may, in the manner provided by~~

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SECTION 37. Same as Senate version.

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~~Sections 2210.352(e) and (d), hold a hearing regarding an amended filing not later than the 20th day after the date the department receives the amended filing.~~

~~[(e) Not later than the 10th day after the date the hearing is concluded, the commissioner shall approve or disapprove the amended filing.~~

~~[(f) The requirements imposed under Subsection (a) and under Sections 2210.352(e), (f), and (g) apply to a hearing conducted under this section and the commissioner's decision resulting from that hearing.]~~

No equivalent provision.

SECTION __. Subsections (a), (c), and (d), Section 2210.354, Insurance Code, are amended to read as follows:

(a) In conjunction with the review of a filing under Section 2210.352, other than a filing made under Subsection (a-1) of that section, ~~[or 2210.353:~~

~~[(1)]~~ the commissioner may request the association to provide additional supporting information relating to the filing~~;~~ ~~and~~

~~[(2) any interested person may file a written request with the commissioner for additional supporting information relating to the filing].~~

(c) The commissioner shall submit to the association all requests for additional supporting information made under this section for the commissioner's use not later than the 21st day after the date of receipt of the filing ~~[and the use of any interested person].~~

(d) Unless a different period is requested by the association and approved by the commissioner, the

SECTION 38. Same as Senate version.

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association shall provide the information to the commissioner not later than the fifth day after the date the written request for additional supporting information is delivered to the association. ~~[The department shall notify an interested person who has requested additional information of the availability of the information not later than one business day after the date the commissioner receives the information from the association.]~~

SECTION __. Section 2210.355, Insurance Code, is amended by amending Subsection (b) and adding Subsection (h) to read as follows:

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

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

(2) recognized catastrophe models;

(3) expenses of operation, including acquisition costs;

(4) ~~(3)~~ a reasonable margin for profit and contingencies; and

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

No equivalent provision.

SECTION 39. Section 2210.355, Insurance Code, is amended by amending Subsection (c) and adding Subsections (h) and (i) to read as follows:

(c) Rates must be reasonable, adequate, not unfairly discriminatory, and nonconfiscatory as to any class of insurer. Rates must be sufficient to pay association operating expenses, non-catastrophic claim loads, reinsurance, and other funding requirements of the association as provided by this chapter.

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(h) The association may establish rating territories and may vary rates among the territories.

(h) In adopting rates under this chapter, recognized catastrophe models may be considered.

(i) The association may establish rating territories and may vary rates among the territories as provided by this subsection. A rating territory that subdivides a county may be used only if the rate for any subdivision in the county is not more than five percent higher than the rate used by the association in any other subdivision in the county.

No equivalent provision.

SECTION __. Subsection (b), Section 2210.361, Insurance Code, is amended to read as follows:
(b) After notice and hearing, the commissioner may accept~~[, modify,]~~ or reject a recommendation made by the association under this section. ~~[Chapter 40 does not apply to an action taken under this section.]~~

SECTION 40. Same as Senate version.

No equivalent provision.

SECTION __. Subchapter H, Chapter 2210, Insurance Code, is amended by adding Section 2210.364 to read as follows:
Sec. 2210.364. MIGRATION TO ACTUARIALLY SOUND RATES. Not later than September 1, 2009, the association shall begin implementing rates that are actuarially sound as determined by the association. Not later than August 31, 2012, all rates used by the association for an initial policy or renewal policy issued by the association shall be actuarially sound as determined by the association.

Same as House version.

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No equivalent provision.

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SECTION __. Subsections (a), (c), and (d), Section 2210.452, Insurance Code, are amended to read as follows:

(a) The commissioner shall adopt rules under which the association makes ~~[members relinquish their net equity on an annual basis as provided by those rules by making]~~ payments to the catastrophe reserve trust fund. The trust fund may be used only to fund[:

~~[(1)] the obligations of the trust fund under Subchapter B-1 [Section 2210.058(a); and~~

~~[(2) the mitigation and preparedness plan established under Section 2210.454 to reduce the potential for payments by association members that give rise to tax credits in the event of loss].~~

(c) At the end of each calendar year or policy year, the association shall use ~~[pay]~~ the net gain from operations ~~[equity]~~ of the association ~~[a member]~~, including all premium and other revenue of the association in excess of incurred losses and operating expenses, to make payments to the trust fund, to procure ~~[or a]~~ reinsurance, or to make payments to the trust fund and to procure reinsurance ~~[program approved by the commissioner].~~

(d) The commissioner by rule shall establish the procedure relating to the disbursement of money from the trust fund to policyholders in the event of an occurrence or series of occurrences within a catastrophe area that results in a disbursement under Subchapter B-1 ~~[Section 2210.058(a)].~~

SECTION __. Section 2210.453, Insurance Code, is

No equivalent provision.

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SECTION 41. Same as Senate version.

SECTION 42. Same as Senate version.

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amended to read as follows:

Sec. 2210.453. REINSURANCE [PROGRAM]. (a)

The association may ~~shall~~:

(1) make payments into the trust fund; and ~~or~~

(2) purchase ~~establish a~~ reinsurance ~~[program approved by the department]~~.

(b) The ~~[With the approval of the department, the]~~ association may purchase ~~establish a~~ reinsurance ~~[program]~~ that operates in addition to or in concert with the trust fund, public securities, financial instruments, and assessments authorized by this chapter.

No equivalent provision.

SECTION __. Subsection (b), Section 2210.454, Insurance Code, is amended to read as follows:

(b) Each state fiscal year, the department may fund the mitigation and preparedness plan using available funds ~~[the investment income of the trust fund in an amount not less than \$1 million and not more than 10 percent of the investment income of the prior fiscal year. From that amount and as part of that plan, the department may use in each fiscal year \$1 million for the windstorm inspection program established under Section 2210.251].~~

SECTION 43. Same as Senate version.

No equivalent provision.

SECTION __. Section 2210.552, Insurance Code, is amended to read as follows:

Sec. 2210.552. CLAIM DISPUTES; VENUE. (a) Except as provided by Sections 2210.007 and 2210.106, a person insured under this chapter who is aggrieved by an act, ruling, or decision of the association relating to the payment of, the amount of, or the denial of a claim

Same as House version.

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may:

(1) bring an action for policy benefits against the association~~[, including an action under Chapter 541];~~ or

(2) appeal ~~[the act, ruling, or decision]~~ under Section 2210.551.

(b) The remedies provided by Subsection (a) and Section 2210.551 are exclusive. A person may not proceed under both Section 2210.551 and this section for the same act, ruling, or decision.

(c) Venue ~~[Except as provided by Subsection (d), venue]~~ in an action brought under this section~~[, including an action under Chapter 541,]~~ against the association is in the county in which the insured property is located or in a district court in Travis County.

~~[(d) Venue in an action, including an action under Chapter 541, brought under this section in which the claimant joins the department as a party to the action is only in a district court in Travis County.]~~

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

SUBCHAPTER M. PUBLIC SECURITIES PROGRAM

Sec. 2210.601. PURPOSE. The legislature finds that authorizing the issuance of public securities to provide a method to raise funds to provide windstorm and hail insurance through the association in certain designated portions of the state is for the benefit of the public and in furtherance of a public purpose.

No equivalent provision.

SECTION 45. Chapter 2210, Insurance Code, is amended by adding Subchapters M and N to read as follows:

SUBCHAPTER M. PUBLIC SECURITIES PROGRAM

Sec. 2210.601. PURPOSE. The legislature finds that authorizing the issuance of public securities to provide a method to raise funds to provide windstorm and hail insurance through the association in certain designated portions of the state is for the benefit of the public and in furtherance of a public purpose.

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Sec. 2210.602. DEFINITIONS. In this subchapter:

- (1) "Board" means the board of directors of the Texas Public Finance Authority.
- (2) "Class 1 public securities" means public securities authorized to be issued before or on or after the occurrence of a catastrophic event by Section 2210.073.
- (3) "Class 2 public securities" means public securities authorized to be issued on or after the occurrence of a catastrophic event by Section 2210.074, 2210.076, or 2210.077.
- (4) "Credit agreement" has the meaning assigned by Chapter 1371, Government Code.
- (5) "Insurer" means each property and casualty insurer authorized to engage in the business of property and casualty insurance in this state and an affiliate of such an insurer, as described by Section 823.003, including an affiliate that is not authorized to engage in the business of property and casualty insurance in this state. The term specifically includes a county mutual insurance company, a Lloyd's plan, and a reciprocal or interinsurance exchange.
- (6) "Public security" means a debt instrument or other public security issued by the Texas Public Finance Authority.
- (7) "Public security administrative expenses" means expenses incurred to administer public securities issued under this subchapter, including fees for paying agents, trustees, and attorneys, and for other professional services necessary to ensure compliance with applicable state or federal law.

Sec. 2210.602. DEFINITIONS. In this subchapter:

- (1) "Board" means the board of directors of the Texas Public Finance Authority.
- (2) "Class 1 public securities" means public securities authorized to be issued before the occurrence of a catastrophic event by Section 2210.072.
- (3) "Class 2 public securities" means public securities authorized to be issued on or after the occurrence of a catastrophic event by Section 2210.073.
- (4) "Credit agreement" has the meaning assigned by Chapter 1371, Government Code.
- (5) "Insurer" means each property and casualty insurer authorized to engage in the business of property and casualty insurance in this state and an affiliate of such an insurer, as described by Section 823.003, including an affiliate that is not authorized to engage in the business of property and casualty insurance in this state. The term specifically includes a county mutual insurance company, a Lloyd's plan, and a reciprocal or interinsurance exchange.
- (6) "Public security" means a debt instrument or other public security issued by the Texas Public Finance Authority.
- (7) "Public security administrative expenses" means expenses incurred to administer public securities issued under this subchapter, including fees for paying agents, trustees, and attorneys, and for other professional services necessary to ensure compliance with applicable state or federal law.

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(8) "Public security obligations" means the principal of a public security and any premium and interest on a public security issued under this subchapter, together with any amount owed under a related credit agreement.

(9) "Public security obligation revenue fund" means the dedicated trust fund established by the association outside the state treasury under this subchapter.

(10) "Public security resolution" means the resolution or order authorizing public securities to be issued under this subchapter.

Sec. 2210.603. APPLICABILITY OF OTHER LAWS. The board shall issue the public securities as described by Section 2210.604 in accordance with and subject to the requirements of Chapter 1232, Government Code, and other provisions of Title 9, Government Code, that apply to issuance of a public security by a state agency. In the event of a conflict, this subchapter controls.

Sec. 2210.604. ISSUANCE OF PUBLIC SECURITIES AUTHORIZED. (a) At the request of the association and with the approval of the commissioner, the Texas Public Finance Authority shall issue Class 1 or Class 2 public securities.

(b) The association shall specify in the association's request to the board the maximum principal amount of the public securities and the maximum term of the public securities.

(c) The principal amount determined by the association under Subsection (b) may be increased to include an amount sufficient to:

(1) pay the costs related to issuance of the public

(8) "Public security obligations" means the principal of a public security and any premium and interest on a public security issued under this subchapter, together with any amount owed under a related credit agreement.

(9) "Public security obligation revenue fund" means the dedicated trust fund established by the association outside the state treasury under this subchapter.

(10) "Public security resolution" means the resolution or order authorizing public securities to be issued under this subchapter.

Sec. 2210.603. APPLICABILITY OF OTHER LAWS. The board shall issue the public securities as described by Section 2210.604 in accordance with and subject to the requirements of Chapter 1232, Government Code, and other provisions of Title 9, Government Code, that apply to issuance of a public security by a state agency. In the event of a conflict, this subchapter controls.

Sec. 2210.604. ISSUANCE OF PUBLIC SECURITIES AUTHORIZED. (a) At the request of the association and with the approval of the commissioner, the Texas Public Finance Authority shall issue Class 1 or Class 2 public securities.

(b) The association shall specify in the association's request to the board the maximum principal amount of the public securities and the maximum term of the public securities.

(c) The principal amount determined by the association under Subsection (b) may be increased to include an amount sufficient to:

(1) pay the costs related to issuance of the public

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securities;

(2) provide a public security reserve fund; and

(3) capitalize interest for the period determined necessary by the association, not to exceed two years.

Sec. 2210.605. TERMS OF ISSUANCE. (a) The board shall determine the method of sale, type and form of public security, maximum interest rates, and other terms of the public securities that, in the board's judgment, best achieve the goals of the association and effect the borrowing at the lowest practicable cost. The board may enter into a credit agreement in connection with the public securities.

(b) Public securities must be issued in the name of the association.

Sec. 2210.606. ADDITIONAL COVENANTS. The board may make additional covenants with respect to the public securities and the designated income and receipts of the association pledged to their payment, and provide for the flow of funds and the establishment, maintenance, and investment of funds and accounts with respect to the public securities, and the administration of those funds and accounts, as provided in the proceedings authorizing the public securities.

Sec. 2210.607. PUBLIC SECURITY PROCEEDS. The proceeds of public securities issued by the board under this subchapter may be deposited with a trustee selected by the association in consultation with the commissioner or held by the comptroller in a dedicated trust fund outside the state treasury in the custody of the comptroller.

securities;

(2) provide a public security reserve fund; and

(3) capitalize interest for the period determined necessary by the association, not to exceed two years.

Sec. 2210.605. TERMS OF ISSUANCE. (a) The board shall determine the method of sale, type and form of public security, maximum interest rates, and other terms of the public securities that, in the board's judgment, best achieve the goals of the association and effect the borrowing at the lowest practicable cost. The board may enter into a credit agreement in connection with the public securities.

(b) Public securities must be issued in the name of the association.

Sec. 2210.606. ADDITIONAL COVENANTS. The board may make additional covenants with respect to the public securities and the designated income and receipts of the association pledged to their payment, and provide for the flow of funds and the establishment, maintenance, and investment of funds and accounts with respect to the public securities, and the administration of those funds and accounts, as provided in the proceedings authorizing the public securities.

Sec. 2210.607. PUBLIC SECURITY PROCEEDS. The proceeds of public securities issued by the board under this subchapter may be deposited with a trustee selected by the association in consultation with the commissioner or held by the comptroller in a dedicated trust fund outside the state treasury in the custody of the comptroller.

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Sec. 2210.608. USE OF PUBLIC SECURITY PROCEEDS. (a) Public security proceeds, including investment income, shall be held in trust for the exclusive use and benefit of the association. The association may use the proceeds to:

- (1) pay incurred claims and operating expenses of the association;
- (2) purchase reinsurance for the association;
- (3) pay the costs of issuing the public securities, and public security administrative expenses, if any;
- (4) provide a public security reserve; and
- (5) pay capitalized interest and principal on the public securities for the period determined necessary by the association.

(b) Any excess public security proceeds remaining after the purposes for which the public securities were issued are satisfied may be used to purchase or redeem outstanding public securities. If there are no outstanding public security obligations or public security administrative expenses, the excess proceeds shall be transferred to the catastrophe reserve trust fund.

Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY OBLIGATIONS. (a) The association shall pay all public security obligations from available funds collected by the association and deposited into the public security obligation revenue fund. If the association determines that it is unable to pay the public security obligations and public security administrative expenses, if any, with available funds, the association shall pay those obligations and expenses in

Sec. 2210.608. USE OF PUBLIC SECURITY PROCEEDS. (a) Public security proceeds, including investment income, shall be held in trust for the exclusive use and benefit of the association. The association may use the proceeds to:

- (1) pay incurred claims and operating expenses of the association;
- (2) purchase reinsurance for the association;
- (3) pay the costs of issuing the public securities, and public security administrative expenses, if any;
- (4) provide a public security reserve; and
- (5) pay capitalized interest and principal on the public securities for the period determined necessary by the association.

(b) Any excess public security proceeds remaining after the purposes for which the public securities were issued are satisfied may be used to purchase or redeem outstanding public securities. If there are no outstanding public security obligations or public security administrative expenses, the excess proceeds shall be transferred to the catastrophe reserve trust fund.

Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY OBLIGATIONS. (a) The association shall pay all public security obligations from available funds collected by the association and deposited into the public security obligation revenue fund. If the association determines that it is unable to pay the public security obligations and public security administrative expenses, if any, with available funds, the association shall pay those obligations and expenses in

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accordance with Sections 2210.612 and 2210.613, as applicable.

(b) The board shall notify the association of the amount of the public security obligations and the estimated amount of public security administrative expenses, if any, each year in a period sufficient, as determined by the association, to permit the association to determine the availability of funds and assess a premium surcharge if necessary.

(c) The association shall deposit all revenue collected under Sections 2210.612 and 2210.613 in the public security obligation revenue fund. Money deposited in the fund may be invested as permitted by general law. Money in the fund required to be used to pay public security obligations and public security administrative expenses, if any, shall be transferred to the appropriate funds in the manner and at the time specified in the proceedings authorizing the public securities to ensure timely payment of obligations and expenses.

(d) The association shall provide for the payment of the public security obligations and the public security administrative expenses by irrevocably pledging revenues received from premiums, premium surcharges, and amounts on deposit in the public security obligation revenue fund, together with any public security reserve fund, as provided in the proceedings authorizing the public securities and related credit agreements.

(e) An amount owed by the board under a credit agreement shall be payable from and secured by a pledge of revenues received by the association or amounts from

accordance with Sections 2210.612 and 2210.613, as applicable.

(b) The board shall notify the association of the amount of the public security obligations and the estimated amount of public security administrative expenses, if any, each year in a period sufficient, as determined by the association, to permit the association to determine the availability of funds and assess a premium surcharge if necessary.

(c) The association shall deposit all revenue collected under Sections 2210.612 and 2210.613 in the public security obligation revenue fund. Money deposited in the fund may be invested as permitted by general law. Money in the fund required to be used to pay public security obligations and public security administrative expenses, if any, shall be transferred to the appropriate funds in the manner and at the time specified in the proceedings authorizing the public securities to ensure timely payment of obligations and expenses.

(d) The association shall provide for the payment of the public security obligations and the public security administrative expenses by irrevocably pledging revenues received from premiums, premium surcharges, and amounts on deposit in the public security obligation revenue fund, together with any public security reserve fund, as provided in the proceedings authorizing the public securities and related credit agreements.

(e) An amount owed by the board under a credit agreement shall be payable from and secured by a pledge of revenues received by the association or amounts from

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the obligation trust fund to the extent provided in the proceedings authorizing the credit agreement.

Sec. 2210.610. PUBLIC SECURITY PAYMENTS. (a) Revenues received from the premium surcharges under Section 2210.612 or 2210.613 may be applied only as provided by this subchapter.

(b) The association may pay public security obligations with other legally available funds.

(c) Public security obligations are payable only from sources provided for payment in this subchapter.

Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Revenue collected in any year from a premium surcharge under Section 2210.612 or 2210.613 that exceeds the amount of the public security obligations and public security administrative expenses payable in that year and interest earned on the public security obligation fund may, in the discretion of the association, be:

(1) used to pay public security obligations payable in the subsequent year, offsetting the amount of the premium surcharge that would otherwise be required to be levied for the year under this subchapter;

(2) used to redeem or purchase outstanding public securities; or

(3) deposited in the catastrophe reserve trust fund.

Sec. 2210.612. CLASS 1 PREMIUM SURCHARGE; REPAYMENT OF AMOUNTS OWED UNDER FINANCIAL INSTRUMENTS.

the obligation trust fund to the extent provided in the proceedings authorizing the credit agreement.

Sec. 2210.610. PUBLIC SECURITY PAYMENTS. (a) Revenues received from the premium surcharges under Section 2210.612 or 2210.613 may be applied only as provided by this subchapter.

(b) The association may pay public security obligations with other legally available funds.

(c) Public security obligations are payable only from sources provided for payment in this subchapter.

Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Revenue collected in any year from a premium surcharge under Section 2210.612 or 2210.613 that exceeds the amount of the public security obligations and public security administrative expenses payable in that year and interest earned on the public security obligation fund may, in the discretion of the association, be:

(1) used to pay public security obligations payable in the subsequent year, offsetting the amount of the premium surcharge that would otherwise be required to be levied for the year under this subchapter;

(2) used to redeem or purchase outstanding public securities; or

(3) deposited in the catastrophe reserve trust fund.

Sec. 2210.612. CLASS 1 PREMIUM SURCHARGE.

(a) The association shall pay interest on pre-event Class 1 public securities issued under Section 2210.072 from its premium and other revenue as provided by Section 2210.609.

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(a) Each insurer, the association, and the Texas FAIR Plan Association shall collect from their policyholders a surcharge in addition to any premiums to pay:

(1) public security obligations and public security administrative expenses, if any, on Class 1 public securities; and

(2) principal and interest on any financial instruments entered into by the association under Section 2210.073.

(b) The association shall determine the premium surcharge at least annually.

(c) On approval by the commissioner, each insurer, the association, and the Texas FAIR Plan Association shall assess a premium surcharge to its policyholders as provided by this section. The premium surcharge must be set in an amount sufficient to pay all debt service not already covered by available funds and all related expenses on the public securities or financial instruments, as applicable. The premium surcharge shall be assessed on all policyholders who reside or have operations in, or whose insured property is located in a catastrophe area.

(d) The percent of premium assessed as surcharges to all policies issued or renewed by the association must be at least twice the percent of premium assessed as surcharges to all other policies.

(e) The association shall collect the premium surcharge from its policyholders. Each insurer and the Texas FAIR Plan Association shall collect the premium surcharge

(b) Notwithstanding Section 2210.609, to pay pre-event principal and post-event principal and interest on the Class 1 public securities, each insurer and the association shall collect from their policyholders a surcharge in addition to any premiums to pay public security obligations and public security administrative expenses, if any, on the Class 1 public securities.

The association shall determine the premium surcharge under this subsection at least annually.

(c) On approval by the commissioner, each insurer and the association shall assess a premium surcharge under Subsection (b) to their policyholders who have a property or casualty insurance policy or Texas windstorm and hail insurance policy that provides coverage for premises, locations, operations, or property located in a catastrophe area, first tier coastal county, or that part of a second tier coastal county that is included in coverage through the association and shall remit the premium surcharge to the association as required by commissioner rule.

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from their affected policyholders and shall remit the premium surcharge to the association as required by commissioner rule.

(f) A premium surcharge under this section shall apply to all policies that provide coverage on any premises, locations, operations, or property located in the area described by Subsection (c) for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance.

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

Sec. 2210.613. CLASS 2 PREMIUM SURCHARGE: REPAYMENT OF AMOUNTS OWED UNDER FINANCIAL INSTRUMENTS.

(a) Each insurer, the association, and the Texas FAIR Plan Association shall collect from their policyholders a premium surcharge to pay: (1) public security obligations and public security administrative expenses, if any, on Class 2 public securities issued under Section 2210.074;

[See Subsection (c) below.]

A premium surcharge under Subsection (b) shall apply to all policies that provide coverage on any premises, locations, operations, or property located in a catastrophe area, first tier coastal county, or that part of a second tier coastal county that is included in coverage through the association for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance.

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

Sec. 2210.613. CLASS 2 PREMIUM SURCHARGE.

(a) Each insurer and the association shall collect from their policyholders a premium surcharge to pay public security obligations and public security administrative expenses, if any, on Class 2 public securities issued under Section 2210.073.

The premium surcharge must be set in an amount sufficient to pay all debt service and all related expenses on the public securities, as applicable.

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(2) public security obligations and public security administrative expenses, if any, on Class 2 public securities issued under Section 2210.076;

(3) public security obligations and public security administrative expenses, if any, on Class 2 public securities issued under Section 2210.077;

(4) principal and interest on financial instruments entered into by the association under Section 2210.074; or

(5) principal and interest on financial instruments entered into by the association under Section 2210.076.

(b) The association shall determine the premium surcharge at least annually.

(c) On approval by the commissioner, each insurer, the association, and the Texas FAIR Plan Association shall assess a premium surcharge to its policyholders as provided by this section.

The premium surcharge must be set in an amount sufficient to pay all debt service and all related expenses on the public securities or financial instruments, as applicable.

(d) Each insurer, the association, and the Texas FAIR Plan Association shall collect the premium surcharge under this section from their policyholders who have a

(b) The association shall determine the premium surcharge under Subsection (a) at least annually.

On approval by the commissioner, each insurer and the association shall assess the premium surcharge under Subsection (a) to their policyholders who have a property or casualty insurance policy or Texas windstorm and hail insurance policy that provides coverage for premises, locations, operations, or property located in a catastrophe area, first tier coastal county, or that part of a second tier coastal county that is included in coverage through the association and shall remit the premium surcharge to the association as required by commissioner rule.

[See Subsection (a) above.]

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property or casualty policy that provides coverage for premises, locations, operations, or property located in this state, and shall remit the premium surcharge to the association as required by commissioner rule.

(e) A premium surcharge under this section shall apply to all policies that provide coverage on any premises, locations, operations, or property located in this state for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance.

The premium surcharge does not apply to premiums charged for any premises, locations, operations, or property located outside this state.

(f) Seventy percent of a premium surcharge assessed under Subsection (a)(1), (2), (4), or (5) must be assessed on policyholders who have a property or casualty policy that provides coverage for premises, locations, operations, or property located in a catastrophe area.

(g) With respect to the premium surcharge assessed under Subsection (a)(1), (2), (4), or (5) in accordance with Subsection (f), the percent of premium assessed as surcharges to all policies issued or renewed by the association must be at least twice the percent of premium assessed as surcharges to all other new or renewal policies.

(h) A premium surcharge under this section is a separate nonrefundable charge in addition to the premiums

A premium surcharge under Subsection (a) shall apply to all policies that provide coverage on any premises, locations, operations, or property located in a catastrophe area, first tier coastal county, or that part of a second tier coastal county that is included in coverage through the association for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance.

(c) A premium surcharge under this section is a separate nonrefundable charge in addition to the premiums

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collected and is not subject to premium tax or commissions. Failure to pay the surcharge by a policyholder constitutes failure to pay premium for purposes of policy cancellation.

Sec. 2210.614. REFINANCING PUBLIC SECURITIES. The association may request the board to refinance any public securities issued in accordance with Subchapter B-1, whether Class 1 or Class 2 public securities, with the refinanced public securities payable from the same sources as the original public securities.

Sec. 2210.615. SOURCE OF PAYMENT; STATE DEBT NOT CREATED. (a) A public security or credit agreement is payable solely from revenue as provided by this subchapter.

(b) A public security issued under this subchapter, and any related credit agreement, is not a debt of this state or any state agency or political subdivision of this state, and does not constitute a pledge of the faith and credit of this state or any state agency or political subdivision of this state.

(c) Each public security, and any related credit agreement, issued under this subchapter must state on the security's face that:

(1) neither the state nor a state agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the public security except as provided by this subchapter; and

(2) neither the faith and credit nor the taxing power of the state or any state agency, political corporation, or political subdivision of the state is pledged to the

collected and is not subject to premium tax or commissions. Failure to pay the surcharge by a policyholder constitutes failure to pay premium for purposes of policy cancellation.

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(c) Each public security, and any related credit agreement, issued under this subchapter must state on the security's face that:

(1) neither the state nor a state agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the public security except as provided by this subchapter; and

(2) neither the faith and credit nor the taxing power of the state or any state agency, political corporation, or political subdivision of the state is pledged to the

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payment of the principal of or interest on the public security.

Sec. 2210.616. STATE NOT TO IMPAIR PUBLIC SECURITY OBLIGATIONS. If public securities under this subchapter are outstanding, the state may not:

(1) take action to limit or restrict the rights of the association to fulfill its responsibility to pay public security obligations; or

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

Sec. 2210.617. ENFORCEMENT BY MANDAMUS. A writ of mandamus and any other legal and equitable remedies are available to a party at interest to require the association or another party to fulfill an agreement and to perform functions and duties under:

(1) this subchapter;

(2) the Texas Constitution; or

(3) a relevant public security resolution.

Sec. 2210.618. EXEMPTION FROM TAXATION. A public security issued under this subchapter, any transaction relating to the public security, and profits made from the sale of the public security are exempt from taxation by this state or by a municipality or other political subdivision of this state.

Sec. 2210.619. NO PERSONAL LIABILITY. The members of the association, members of the association board of directors, association employees, the board, the employees of the Texas Public Finance Authority, the commissioner, and department employees are not

payment of the principal of or interest on the public security.

Sec. 2210.616. STATE NOT TO IMPAIR PUBLIC SECURITY OBLIGATIONS. If public securities under this subchapter are outstanding, the state may not:

(1) take action to limit or restrict the rights of the association to fulfill its responsibility to pay public security obligations; or

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

Sec. 2210.617. ENFORCEMENT BY MANDAMUS. A writ of mandamus and any other legal and equitable remedies are available to a party at interest to require the association or another party to fulfill an agreement and to perform functions and duties under:

(1) this subchapter;

(2) the Texas Constitution; or

(3) a relevant public security resolution.

Sec. 2210.618. EXEMPTION FROM TAXATION. A public security issued under this subchapter, any transaction relating to the public security, and profits made from the sale of the public security are exempt from taxation by this state or by a municipality or other political subdivision of this state.

Sec. 2210.619. NO PERSONAL LIABILITY. The members of the association, members of the association board of directors, association employees, the board, the employees of the Texas Public Finance Authority, the commissioner, and department employees are not

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personally liable as a result of exercising the rights and responsibilities granted under this subchapter.

Sec. 2210.620. AUTHORIZED INVESTMENTS. Public securities issued under this subchapter are authorized investments under:

- (1) Subchapter B, Chapter 424;
- (2) Subchapter C, Chapter 425; and
- (3) Sections 425.203-425.213.

personally liable as a result of exercising the rights and responsibilities granted under this subchapter.

Sec. 2210.620. AUTHORIZED INVESTMENTS. Public securities issued under this subchapter are authorized investments under:

- (1) Subchapter B, Chapter 424;
- (2) Subchapter C, Chapter 425; and
- (3) Sections 425.203-425.213.

SUBCHAPTER N. LEGISLATIVE OVERSIGHT BOARD

Sec. 2210.651. DEFINITION. In this subchapter, "board" means the windstorm insurance legislative oversight board.

Sec. 2210.652. COMPOSITION OF BOARD. The windstorm insurance legislative oversight board is composed of six members as follows:

- (1) three members of the senate appointed by the lieutenant governor, at least one of whom does not represent a district in the seacoast territory; and
- (2) three members of the house of representatives appointed by the speaker of the house of representatives, at least one of whom does not represent a district in the seacoast territory.

Sec. 2210.653. POWERS AND DUTIES OF BOARD.

(a) The board shall:

- (1) receive information about rules proposed by the department relating to windstorm insurance and may submit comments to the commissioner on the proposed rules;
- (2) monitor windstorm insurance in this state, including:

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(A) the fairness of rates;
(B) the operation of the association; and
(C) the availability of coverage; and
(3) review recommendations for legislation proposed by
the department or the association.
(b) The board may request reports and other information
from the department and the association as necessary to
implement this subchapter.
Sec. 2210.654. REPORT. (a) Not later than November
15 of each even-numbered year, the board shall report on
the board's activities under Section 2210.653 to:
(1) the governor;
(2) the lieutenant governor; and
(3) the speaker of the house of representatives.
(b) The report must include:
(1) an analysis of any problems identified; and
(2) recommendations for any legislative action necessary
to address those problems and to foster stability,
availability, and competition within the windstorm
insurance industry.

No equivalent provision.

SECTION __. Section 941.003, Insurance Code, is amended by adding Subsection (e) to read as follows:
(e) A Lloyd's plan is subject to Chapter 2210, as provided by that chapter.

SECTION 46. Same as Senate version.

No equivalent provision.

SECTION __. Section 942.003, Insurance Code, is amended by adding Subsection (f) to read as follows:
(f) An exchange is subject to Chapter 2210, as provided by that chapter.

SECTION 47. Same as Senate version.

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No equivalent provision.

No equivalent provision.

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SECTION __. The following laws are repealed:
(1) Subdivisions (5) and (12), Section 2210.003, Insurance Code;
(2) Sections 2210.058 and 2210.059, Insurance Code;
(3) Sections 2210.205 and 2210.206, Insurance Code;
(4) Sections 2210.256 and 2210.257, Insurance Code;
(5) Sections 2210.356, 2210.359, 2210.360, and 2210.363, Insurance Code; and
(6) Subchapter G, Chapter 2210, Insurance Code.

SECTION __. (a) The board of directors of the Texas Windstorm Insurance Association established under Section 2210.102, Insurance Code, as that section existed before amendment by this Act of Chapter 2210, Insurance Code, is abolished effective December 31, 2009.
(b) The commissioner of insurance shall appoint the members of the board of directors of the Texas Windstorm Insurance Association under Section 2210.102, Insurance Code, as amended by this Act, not later than December 31, 2009.
(c) The term of a person who is serving as a member of the board of directors of the Texas Windstorm Insurance Association immediately before the abolition of that board under Subsection (a) of this section expires on December 31, 2009. Such a person is eligible for appointment by the commissioner of insurance to the new board of directors of the Texas Windstorm Insurance Association under Section 2210.102, Insurance Code, as amended by this Act.

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SECTION 48. The following laws are repealed:
(1) Subdivisions (5) and (12), Section 2210.003, Insurance Code;
(2) Sections 2210.058 and 2210.059, Insurance Code;
(3) Sections 2210.205 and 2210.206, Insurance Code;
(4) Sections 2210.356, 2210.360, and 2210.363, Insurance Code; and
(5) Subchapter G, Chapter 2210, Insurance Code.

SECTION 49. Same as Senate version.

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No equivalent provision.

SECTION __. (a) The commissioner of insurance shall adopt rules as required by Chapter 2210, Insurance Code, as amended by this Act, as soon as possible after the effective date of this Act, but not later than the 30th day after the effective date of this Act.

(b) The Texas Windstorm Insurance Association, through the board of directors of that association, shall propose to the commissioner of insurance amendments to the association's plan of operation as required by Chapter 2210, Insurance Code, as amended by this Act, not later than March 1, 2010.

SECTION 50. Same as Senate version.

No equivalent provision.

SECTION __. Sections 2210.202 and 2210.203, Insurance Code, as amended by this Act, apply to an application for insurance coverage submitted to the Texas Windstorm Insurance Association on or after the effective date of this Act.

SECTION 51. Same as Senate version.

No equivalent provision.

SECTION __. Section 2210.251, Insurance Code, as amended by this Act, applies to an inspection conducted by the Texas Windstorm Insurance Association on or after September 1, 2009. Except as otherwise specifically provided by that section, a structure that has been inspected and is the subject of a certificate of compliance issued by the Texas Department of Insurance under Subsection (g), Section 2210.251, Insurance Code, as that section existed immediately before September 1, 2009, is not required to obtain an inspection certificate from the Texas Windstorm Insurance Association to remain eligible for insurance coverage through that

Same as House version.

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No equivalent provision.

association unless the structure is altered, remodeled, enlarged, or repaired on or after September 1, 2009.

SECTION __. The changes in law made by this Act in amending Sections 2210.251, 2210.254, and 2210.255, Insurance Code, adding Section 2210.2565, Insurance Code, and repealing Section 2210.256, Insurance Code, take effect September 1, 2009.

SECTION 53. Same as Senate version, except makes this provision applicable only to Section 2210.251, Insurance Code. .

No equivalent provision.

SECTION __. Section 2210.552, Insurance Code, as amended by this Act, applies to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law as it exists immediately before that date, and that law is continued in effect for that purpose.

Same as House version.

No equivalent provision.

No equivalent provision.

Same as House version.

SECTION 4. Requires the relevant state agencies, not later than January 1, 2010, to adopt the contracts required by Section 418.126, Government Code, as added by this Act.

SECTION 4. Same as House version.

SECTION 56. Same as House version.

SECTION 5. This Act takes effect September 1, 2009.

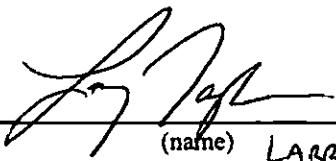
SECTION 5. Same as House version.

SECTION 57. Same as House version.

Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on H. B. 4409 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.



(name) LARRY TAYLOR

5/30/09

(date)