

By: _____ .B. No. _____

Substitute the following for .B. No. _____:

By: _____ C.S..B. No. _____

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the operation of the Texas Windstorm Insurance
3 Association and the FAIR Plan Association.

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

5 SECTION 1. Section 2210.001, Insurance Code, is amended to
6 read as follows:

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

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

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

24 SECTION 2. Section 2210.002(a), Insurance Code, is amended

1 to read as follows:

2 (a) This chapter may be cited as the Texas [~~Windstorm~~]
3 Insurance Plan Association Act.

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

7 (1) "Administrator" means the entity contractually
8 retained to:

9 (A) manage the association and administer the
10 plan of operation under Section 2210.062;

11 (B) establish, administer, and maintain the
12 electronic portal under Section 2210.211; and

13 (C) manage the FAIR Plan Association and
14 administer the plan of operation under Section 2211.0522.

15 (1-a) "Association" means the Texas [~~Windstorm~~]
16 Insurance Plan Association.

17 SECTION 4. Section 2210.0081, Insurance Code, is amended to
18 read as follows:

19 Sec. 2210.0081. CERTAIN ACTIONS BROUGHT AGAINST
20 ASSOCIATION BY COMMISSIONER. (a) In an action brought by the
21 commissioner against the association under Chapter 441:

22 (1) the association's inability to satisfy obligations
23 under Subchapter M related to the issuance of public securities
24 under this chapter constitutes a condition that makes the
25 association's continuation in business hazardous to the public or
26 to the association's policyholders for the purposes of Section
27 441.052;

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

6 (3) unless the commissioner takes further action
7 against the association under Chapter 441, as a condition of
8 release from supervision, the association must demonstrate to the
9 satisfaction of the commissioner that the association:

10 (A) is able to satisfy obligations under
11 Subchapter M related to the issuance of public securities under
12 this chapter; and

13 (B) has met the criteria established under
14 Subsection (b).

15 (b) The commissioner by rule shall establish specific
16 criteria for the release of the association from supervision or
17 conservatorship.

18 (c) The supervisor or conservator shall provide a written
19 report that states the release status of the association and
20 explains in detail all efforts undertaken to meet the criteria
21 established under Subsection (b) to:

22 (1) the association on a monthly basis; and

23 (2) the following officials on a quarterly basis:

24 (A) the governor;

25 (B) the lieutenant governor;

26 (C) the speaker of the house of representatives;

27 and

1 (D) the chairs of:

2 (i) the Senate Committee on Business and
3 Commerce or a successor of that committee with jurisdiction over
4 insurance;

5 (ii) the House Committee on Insurance or a
6 successor of that committee with jurisdiction over insurance; and

7 (iii) the legislative oversight board under
8 Subchapter N.

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

12 (b) Chapter 542 does not apply to the processing and
13 settlement of claims by the association or to an agent or
14 representative of the association.

15 (c) An insurer or adjuster, or the administrator contracted
16 under Section 2210.062, is an agent of the association for purposes
17 of adjusting association claims under this section.

18 SECTION 6. Subchapter B, Chapter 2210, Insurance Code, is
19 amended by adding Sections 2210.062, 2210.063, 2210.064, 2210.065,
20 2210.066, and 2210.067 to read as follows:

21 Sec. 2210.062. ADMINISTRATION BY CONTRACTED ADMINISTRATOR.

22 (a) Notwithstanding any other law, the commissioner shall contract
23 with an administrator to manage the association, establish,
24 administer, and maintain the electronic portal under Section
25 2210.211, and administer the plan of operation not later than
26 January 1, 2014.

27 (b) The administrator must hold either a managing general

1 agent license issued under Chapter 4053 or a third-party
2 administrator certificate of authority issued under Chapter 4151,
3 or both.

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

7 Sec. 2210.063. COMPENSATION OF ADMINISTRATOR. (a) The
8 contract between the commissioner and the administrator must
9 specify the administrator's compensation. The compensation must be
10 based in part on reasonable projections of the cost to administer
11 the association.

12 (b) The administrator's compensation shall be paid by the
13 association.

14 Sec. 2210.064. PROPRIETARY INFORMATION. (a) Any
15 information, analyses, programs, or data acquired or created by the
16 administrator under a contract under this chapter or Chapter 2211
17 are property of the department.

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

21 Sec. 2210.065. OFFICE; RECORDS. (a) The administrator
22 shall maintain an office in Austin, Texas.

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

25 Sec. 2210.066. AUDIT. The administrator is subject to
26 audit by the commissioner and shall pay the costs incurred by the
27 commissioner in performing an audit under this section in an amount

1 the commissioner finds reasonable.

2 Sec. 2210.067. ANNUAL REPORT TO COMMISSIONER. Not later
3 than March 1 of each year, the administrator shall submit a report
4 to the commissioner, the governor, and the legislature regarding
5 the administrator's duties under this chapter and Chapter 2211.
6 The report must be made in accordance with the terms of the
7 administrator's contract with the department.

8 SECTION 7. The heading to Section 2210.071, Insurance Code,
9 is amended to read as follows:

10 Sec. 2210.071. PAYMENT OF EXCESS LOSSES [~~;~~ ~~PAYMENT FROM~~
11 ~~RESERVES AND TRUST FUND~~].

12 SECTION 8. The heading to Section 2210.072, Insurance Code,
13 is amended to read as follows:

14 Sec. 2210.072. PAYMENT FROM CLASS 1 FUNDS [~~PUBLIC~~
15 ~~SECURITIES, FINANCIAL INSTRUMENTS~~].

16 SECTION 9. Sections 2210.072(a), (b), (c), and (d),
17 Insurance Code, are amended to read as follows:

18 (a) The association shall pay losses in excess of premium
19 and other revenue of the association from:

20 (1) available amounts in the catastrophe reserve trust
21 fund, not to exceed \$1 billion in a catastrophe year; and

22 (2) if amounts available under Subdivision (1) are not
23 sufficient to pay the losses, member assessments as provided by
24 this section. [~~Losses not paid under Section 2210.071(b) shall be~~
25 paid as provided by this section from the proceeds from Class 1
26 public securities authorized to be issued in accordance with
27 Subchapter M before, on, or after the date of any occurrence or

1 ~~series of occurrences that results in insured losses. Public~~
2 ~~securities issued under this section must be repaid within a period~~
3 ~~not to exceed 14 years, and may be repaid sooner if the board of~~
4 ~~directors elects to do so and the commissioner approves.]~~

5 (b) For a catastrophe year in which losses exceed the lesser
6 of the available amounts in the catastrophe reserve trust fund or \$1
7 billion, the association may assess association members in an
8 amount not to exceed the lesser of:

9 (1) \$800 million; or

10 (2) \$1 billion less any amount paid from the
11 catastrophe reserve trust fund for that year under Subsection (a).

12 ~~[Public securities described by Subsection (a) that are issued~~
13 ~~before an occurrence or series of occurrences that results in~~
14 ~~incurred losses:~~

15 ~~[(1) may be issued on the request of the board of~~
16 ~~directors with the approval of the commissioner, and~~

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

20 (c) For a catastrophe year, the total combined amount of
21 catastrophe reserve trust fund monies and member assessments used
22 to pay losses under this section may not exceed \$1 billion. ~~[If~~
23 ~~public securities are issued as described by this section, the~~
24 ~~public securities shall be repaid in the manner prescribed by~~
25 ~~Subchapter M from association premium revenue.]~~

26 (d) The association shall notify each member of the amount
27 of the member's assessment under this section. The proportion of

1 the losses allocable to each insurer under this section shall be
2 determined in the manner used to determine each insurer's
3 participation in the association for the year under Section
4 2210.052. [~~The association may borrow from, or enter into other~~
5 ~~financing arrangements with, any market source, under which the~~
6 ~~market source makes interest-bearing loans or other financial~~
7 ~~instruments to the association to enable the association to pay~~
8 ~~losses under this section or to obtain public securities under this~~
9 ~~section. For purposes of this subsection, financial instruments~~
10 ~~includes commercial paper.~~]

11 SECTION 10. Section 2210.073, Insurance Code, is amended to
12 read as follows:

13 Sec. 2210.073. PAYMENT FROM CLASS 2 FUNDS AND PUBLIC
14 SECURITIES. (a) Losses not paid under Section [~~Sections 2210.071~~
15 ~~and~~] 2210.072 shall be paid as provided by this section from
16 proceeds from:

17 (1) member assessments not to exceed \$300 million; and
18 (2) Class 2 public securities, not to exceed \$700
19 million, as authorized to be issued in accordance with Subchapter M
20 on or after the date of any occurrence that results in insured
21 losses under this subsection.

22 (b) Public securities issued under this section must be
23 repaid within a period not to exceed 10 years, and may be repaid
24 sooner if the board of directors elects to do so and the
25 commissioner approves.

26 (c) [~~(b)~~] Public securities described by Subsection (a):

27 (1) may be issued as necessary in a principal amount

1 not to exceed \$700 million [~~\$1 billion~~] per catastrophe year, in the
2 aggregate, whether for a single occurrence or a series of
3 occurrences; and

4 (2) subject to the \$700 million [~~\$1 billion~~] maximum
5 described by Subdivision (1), may be issued, in one or more
6 issuances or tranches, during the calendar year in which the
7 occurrence or series of occurrences occurs or, if the public
8 securities cannot reasonably be issued in that year, during the
9 following calendar year.

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

13 (e) The total combined amount of Class 2 public securities
14 proceeds and member assessments used to pay losses under this
15 section for a catastrophe year may not exceed \$1 billion and, for
16 any amount of losses, the percentage of Class 2 public securities
17 proceeds used to pay the losses must be 70 percent and the
18 percentage of member assessments must be 30 percent.

19 SECTION 11. Section 2210.074, Insurance Code, is amended to
20 read as follows:

21 Sec. 2210.074. PAYMENT THROUGH CLASS 3 FUNDS [~~PUBLIC~~
22 ~~SECURITIES~~]. (a) Losses not paid under Sections [~~2210.071~~]
23 2210.072[~~7~~] and 2210.073 shall be paid as provided by this section
24 from member assessments not to exceed \$800 million less the amount
25 of any assessment made under Section 2210.072(b) for that year
26 [~~proceeds from public securities authorized to be issued in~~
27 ~~accordance with Subchapter M on or after the date of any occurrence~~

1 ~~that results in insured losses under this subsection or through~~
2 ~~reinsurance as described by Section 2210.075. Public securities~~
3 ~~issued under this section must be repaid within a period not to~~
4 ~~exceed 10 years, and may be repaid sooner if the board of directors~~
5 ~~elects to do so and the commissioner approves].~~

6 (b) ~~[Public securities described by Subsection (a):~~

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

10 ~~[(2) subject to the \$500 million maximum described by~~
11 ~~Subdivision (1), may be issued, in one or more issuances or~~
12 ~~tranches, during the calendar year in which the occurrence or~~
13 ~~series of occurrences occurs or, if the public securities cannot~~
14 ~~reasonably be issued in that year, during the following calendar~~
15 ~~year.~~

16 ~~[(c) If the losses are paid with public securities described~~
17 ~~by this section, the public securities shall be repaid in the manner~~
18 ~~prescribed by Subchapter M through member assessments as provided~~
19 ~~by this section.] The association shall notify each member of the~~
20 ~~association of the amount of the member's assessment under this~~
21 ~~section. The proportion of the losses allocable to each insurer~~
22 ~~under this section shall be determined in the manner used to~~
23 ~~determine each insurer's participation in the association for the~~
24 ~~year under Section 2210.052. [A member of the association may not~~
25 ~~recoup an assessment paid under this subsection through a premium~~
26 ~~surcharge or tax credit.]~~

27 SECTION 12. Subchapter B-1, Chapter 2210, Insurance Code,

1 is amended by adding Section 2210.076 to read as follows:

2 Sec. 2210.076. PREMIUM TAX CREDIT. (a) With respect to the
3 first \$300 million assessed on association members under this
4 subchapter during a catastrophe year, each member that pays the
5 assessment is entitled to a premium tax credit as provided in
6 Subsection (b).

7 (b) An insurer may credit an amount paid in accordance with
8 an assessment described by Subsection (a) in a catastrophe year
9 against the insurer's premium tax under Chapter 221. The tax credit
10 authorized under this section shall be allowed at a rate not to
11 exceed 20 percent per year for five or more successive years
12 following the year of payment of the claims. The balance of
13 payments made by the insurer and not claimed as a premium tax credit
14 may be reflected in the books and records of the insurer as an
15 admitted asset of the insurer for all purposes, including
16 exhibition in an annual statement under Section 862.001.

17 SECTION 13. Subchapter E, Chapter 2210, Insurance Code, is
18 amended by adding Section 2210.211 to read as follows:

19 Sec. 2210.211. ESTABLISHMENT OF ELECTRONIC PORTAL;
20 COLLECTION OF DATA; HARDWARE AND PROPRIETARY INFORMATION. (a) The
21 administrator shall establish, administer, and maintain an
22 electronic portal of information related to association policies
23 and make the portal available to all insurers for the purpose of
24 soliciting offers of coverage.

25 (b) The administrator may enter into a contract with a
26 vendor to establish the electronic portal, purchase hardware, or
27 develop software and technology.

1 (c) The commissioner shall establish by rule the
2 information each applicant for new and renewal association coverage
3 must submit to be included in the portal, including information on
4 policies covering the property for perils other than the perils
5 covered by an association policy.

6 (d) Information required under Subsection (c) shall be
7 submitted upon the renewal of coverage for an association policy.

8 (e) Any hardware purchased under this section or any
9 software, technology, information, analyses, programs, or data
10 acquired or created by a vendor under a contract under this section
11 are property of the state.

12 (f) Information, analyses, programs, or data described by
13 this section are confidential and exempt from public disclosure
14 under Chapter 552, Government Code.

15 (g) The commissioner shall adopt rules necessary to
16 implement this section.

17 (h) A participating insurer may not sell to any other person
18 information obtained under this section.

19 SECTION 14. Subchapter H, Chapter 2210, Insurance Code, is
20 amended by adding Section 2210.3551 to read as follows:

21 Sec. 2210.3551. ACTUARIAL OPINION ON RATES. (a) Each rate
22 filing under this chapter must contain an actuarial opinion by an
23 independent actuary that states what rate changes are necessary to
24 produce rates that are adequate, not excessive, and not unfairly
25 discriminatory.

26 (b) This section does not modify the other rate filing
27 requirements or limitations in this chapter.

1 SECTION 15. Section 2210.451, Insurance Code, is amended to
2 read as follows:

3 Sec. 2210.451. DEFINITION. Except to the extent that
4 context clearly requires otherwise, in [~~In~~] this subchapter, "trust
5 fund" means the catastrophe reserve trust fund.

6 SECTION 16. Section 2210.452, Insurance Code, is amended by
7 amending Subsections (a), (c), and (d) and adding Subsection (f) to
8 read as follows:

9 (a) The commissioner shall adopt rules under which the
10 association makes payments to the catastrophe reserve trust fund.
11 Except as otherwise specifically provided by this section, the
12 [~~The~~] trust fund may be used only to:

13 (1) fund the obligations of the trust fund under
14 Subchapter B-1 and Section 2210.4522; and

15 (2) purchase reinsurance under Section 2210.453.

16 (c) At the end of each calendar year or policy year, the
17 association shall use the net gain from operations of the
18 association, including all premium and other revenue of the
19 association in excess of incurred losses, operating expenses,
20 deposits to the fund under Section 2210.4521, public security
21 obligations, and public security administrative expenses, to make
22 payments to the trust fund, to procure reinsurance, or to make
23 payments to the trust fund and to procure reinsurance.

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

1 that results in a disbursement under Subchapter B-1.

2 (f) The commissioner by rule shall establish the procedure
3 relating to the disbursement of money from the trust fund to pay for
4 operating expenses, including reinsurance under Section 2210.453,
5 if the association does not have sufficient premium and other
6 revenue.

7 SECTION 17. Subchapter J, Chapter 2210, Insurance Code, is
8 amended by adding Sections 2210.4521 and 2210.4522 to read as
9 follows:

10 Sec. 2210.4521. CATASTROPHE RESERVE TRUST FUND DEDICATION.

11 (a) Notwithstanding any other provision in this chapter, as
12 provided for in the plan of operation, the association shall
13 deposit monthly in a fund, separate from the catastrophe reserve
14 trust fund established under Section 2210.452, an amount sufficient
15 to accumulate on an annual calendar year basis the greater of:

16 (1) \$200 million; or

17 (2) one-half of the association's gross earned premium
18 for that calendar year.

19 (b) The fund described by Subsection (a) is a trust fund
20 with the Texas Treasury Safekeeping Trust Company to be held
21 outside the state treasury.

22 (c) Not later than February 1 of each year the association
23 shall direct the Texas Treasury Safekeeping Trust Company to
24 deposit all amounts deposited in the fund described by Subsection
25 (a) during the preceding calendar year, and interest earned on
26 those amounts, into the catastrophe reserve trust fund.

27 (d) Money deposited in the fund described by Subsection (a)

1 is irrevocably pledged to be distributed to the catastrophe reserve
2 trust fund as provided in this section and is exempt from any other
3 claim or attachment under law.

4 (e) Money deposited under this section may be invested by
5 the Texas Treasury Safekeeping Trust Company as permitted by
6 general law.

7 Sec. 2210.4522. CLASS 2 PUBLIC SECURITY ALLOCATION. (a) If
8 Class 2 public securities are outstanding and payable, the
9 commissioner may authorize the transfer of any portion of the
10 amount of catastrophe reserve trust funds in excess of \$1 billion to
11 the premium surcharge trust fund established for the payment of
12 Class 2 public securities and public security administrative
13 expenses related to public securities issued under Section
14 2210.613.

15 (b) The commissioner shall consider the transfer authorized
16 by this section when determining the premium surcharge under
17 Section 2210.613.

18 SECTION 18. Sections 2210.453(a) and (b), Insurance Code,
19 are amended to read as follows:

20 (a) The association shall [~~may~~;
21 [~~(1) make payments into the trust fund, and~~
22 [~~(2)~~] purchase reinsurance in an amount equal to or
23 greater than \$1 billion to operate[-

24 [~~(b) The association may purchase reinsurance that~~
25 ~~operates~~] in addition to [~~or in concert with the trust fund,~~] public
26 securities[~~, financial instruments,~~] and assessments authorized by
27 this chapter.

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

4 SECTION 19. Subchapter J, Chapter 2210, Insurance Code, is
5 amended by adding Section 2210.4531 to read as follows:

6 Sec. 2210.4531. ADDITIONAL REINSURANCE. (a) Except as
7 provided by Subsection (b), the association shall purchase, in
8 addition to reinsurance purchased under Section 2210.453,
9 reinsurance in an amount such that the association's total loss
10 funding is sufficient to fund its probable maximum loss for a
11 catastrophe year with a probability of one in 75.

12 (b) If the balance of the catastrophe reserve trust fund
13 exceeds \$1 billion, the association shall purchase reinsurance in
14 an amount such that the association's total loss funding is
15 sufficient to fund its probable maximum loss for a catastrophe year
16 with a probability of one in 100.

17 (c) The attachment point for reinsurance purchased under
18 this section may not be less than the aggregate amount of all
19 funding available to the association under Subchapter B-1 and
20 Section 2210.453.

21 (d) The association shall assess member insurers the cost of
22 reinsurance purchased under this section. The proportion of the
23 reinsurance cost allocable to each insurer under this section shall
24 be determined in the manner used to determine each insurer's
25 participation in the association for the year under Section
26 2210.052.

27 SECTION 20. Subchapter L-1, Chapter 2210, Insurance Code,

1 is amended by adding Section 2210.5725 to read as follows:

2 Sec. 2210.5725. ASSOCIATION CLAIMS PROCESSING. (a) An
3 insurer that has primary coverage on property for loss by fire must
4 adjust all claims made on an association policy covering the same
5 property.

6 (b) An insurer acting under this section is an agent of the
7 association for purposes of Sections 2210.014 and 2210.572 and
8 shall process claims as prescribed by this chapter and the plan of
9 operation.

10 (c) An insurer acting under this section is not liable for
11 any amount payable under the terms of the association policy.

12 SECTION 21. Section 2210.604(a), Insurance Code, is amended
13 to read as follows:

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

20 SECTION 22. Section 2210.609, Insurance Code, is amended to
21 read as follows:

22 Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY
23 OBLIGATIONS. (a) The board and the association shall enter into an
24 agreement under which the association shall provide for the payment
25 of all public security obligations from available funds collected
26 by the association and deposited into the public security
27 obligation revenue fund. If the association determines that it is

1 unable to pay the public security obligations and public security
2 administrative expenses, if any, with available funds, the
3 association shall pay those obligations and expenses in accordance
4 with Section [~~Sections 2210.612,~~] 2210.613[~~, 2210.6135, and~~
5 ~~2210.6136 as applicable~~]. [~~Class 1,~~] Class 2[~~, or Class 3~~] public
6 securities may be issued on a parity or subordinate lien basis with
7 other [~~Class 1,~~] Class 2[~~, or Class 3~~] public securities[~~,~~
8 ~~respectively~~].

9 (b) If any public securities issued under this chapter are
10 outstanding, the authority shall notify the association of the
11 amount of the public security obligations and the estimated amount
12 of public security administrative expenses, if any, each calendar
13 year in a period sufficient, as determined by the association, to
14 permit the association to determine the availability of funds,
15 assess members of the association under Section [~~Sections~~] 2210.613
16 [~~and 2210.6135~~], and assess a premium surcharge if necessary.

17 (c) The association shall deposit all revenue collected
18 under [~~Section 2210.612 in the public security obligation revenue~~
19 ~~fund, all revenue collected under~~] Section 2210.613(a)
20 [~~2210.613(b)~~] in the premium surcharge trust fund[~~, and all revenue~~
21 ~~collected under Sections 2210.613(a) and 2210.6135 in the member~~
22 ~~assessment trust fund~~]. Money deposited in the [~~a~~] fund may be
23 invested as permitted by general law. Money in the [~~a~~] fund
24 required to be used to pay public security obligations and public
25 security administrative expenses, if any, shall be transferred to
26 the appropriate funds in the manner and at the time specified in the
27 proceedings authorizing the public securities to ensure timely

1 payment of obligations and expenses. This may include the board
2 establishing funds and accounts with the comptroller that the board
3 determines are necessary to administer and repay the public
4 security obligations. If the association has not transferred
5 amounts sufficient to pay the public security obligations to the
6 board's designated interest and sinking fund in a timely manner,
7 the board may direct the Texas Treasury Safekeeping Trust Company
8 to transfer from [~~the public security obligation revenue fund,~~] the
9 premium surcharge trust fund[~~, or the member assessment trust fund~~]
10 to the appropriate account the amount necessary to pay the public
11 security obligation.

12 (d) The association shall provide for the payment of the
13 public security obligations and the public security administrative
14 expenses by irrevocably pledging revenues received from [~~premiums,~~
15 ~~member assessments,~~] premium surcharges and[~~, and amounts on~~
16 ~~deposit in the public security obligation revenue fund,~~] the
17 premium surcharge trust fund, [~~and the member assessment trust~~
18 ~~fund,~~] together with any public security reserve fund, as provided
19 in the proceedings authorizing the public securities and related
20 credit agreements.

21 (e) An amount owed by the board under a credit agreement
22 shall be payable from and secured by a pledge of revenues received
23 by the association or amounts from [~~the public security obligation~~
24 ~~trust fund,~~] the premium surcharge trust fund[~~, and the member~~
25 ~~assessment trust fund~~] to the extent provided in the proceedings
26 authorizing the credit agreement.

27 SECTION 23. Section 2210.610(a), Insurance Code, is amended

1 to read as follows:

2 (a) Revenues received from the premium surcharges under
3 Section 2210.613 [~~and member assessments under Sections 2210.613~~
4 ~~and 2210.6135~~] may be applied only as provided by this subchapter.

5 SECTION 24. Section 2210.611, Insurance Code, is amended to
6 read as follows:

7 Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT
8 EARNINGS. Revenue collected in any calendar year from a premium
9 surcharge under Section 2210.613 [~~and member assessments under~~
10 ~~Sections 2210.613 and 2210.6135~~] that exceeds the amount of the
11 public security obligations and public security administrative
12 expenses payable in that calendar year and interest earned on the
13 public security obligation fund may, in the discretion of the
14 association, be:

15 (1) used to pay public security obligations payable in
16 the subsequent calendar year, offsetting the amount of the premium
17 surcharge [~~and member assessments, as applicable,~~] that would
18 otherwise be required to be levied for the year under this
19 subchapter;

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

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

23 SECTION 25. Section 2210.613, Insurance Code, is amended to
24 read as follows:

25 Sec. 2210.613. PAYMENT OF CLASS 2 PUBLIC SECURITIES. (a)
26 The association shall pay Class 2 public securities issued under
27 Section 2210.073 through [~~as provided by this section. Thirty~~

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

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

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

1 insurance policy and each property and casualty insurance policy,
2 including an automobile insurance policy, issued for automobiles
3 and other property located in the catastrophe area. A premium
4 surcharge under Subsection (a) [~~(b)~~] applies to:

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

7 (A) fire and allied lines;

8 (B) farm and ranch owners;

9 (C) residential property insurance;

10 (D) private passenger automobile liability and
11 physical damage insurance; and

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

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

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

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

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

1 SECTION 27. Section 2210.616(a), Insurance Code, is amended
2 to read as follows:

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

6 (1) impair the collection of [~~member assessments and~~
7 premium surcharges or the deposit of those funds into the member
8 assessment trust fund or premium surcharge trust fund;

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

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

18 SECTION 28. Section 2210.653(a), Insurance Code, is amended
19 to read as follows:

20 (a) The board shall:

21 (1) receive information about rules proposed by the
22 department relating to windstorm insurance and may submit comments
23 to the commissioner on the proposed rules;

24 (2) monitor windstorm insurance in this state,
25 including:

26 (A) the adequacy of rates;

27 (B) the operation of the association; and

1 (C) the availability of coverage; [~~and~~]
2 (3) monitor the operation of the electronic portal
3 established under Section 2210.211 and the performance of the
4 administrator contracted under Section 2210.062; and
5 (4) review recommendations for legislation proposed
6 by the department or the association.

7 SECTION 29. Section 2211.001, Insurance Code, is amended by
8 amending Subdivision (1) and adding Subdivision (1-a) to read as
9 follows:

10 (1) "Administrator" means the entity contractually
11 retained to manage:

12 (A) the Texas Insurance Plan Association under
13 Section 2210.062; and

14 (B) the association under Section 2211.0522.

15 (1-a) "Association" means the FAIR Plan Association
16 established under this chapter.

17 SECTION 30. Subchapter B, Chapter 2211, Insurance Code, is
18 amended by adding Sections 2211.0522 and 2211.0555 to read as
19 follows:

20 Sec. 2211.0522. ADMINISTRATION BY CONTRACTED
21 ADMINISTRATOR. Notwithstanding Section 2211.052 or any other law,
22 the administrator shall manage the association and administer the
23 plan of operation beginning January 1, 2014.

24 Sec. 2211.0555. ASSOCIATION CLAIMS PROCESSING. (a) The
25 administrator shall adjust claims made on or after January 1, 2014,
26 on an association policy.

27 (b) The administrator is not liable for any amount payable

1 under the terms of an association policy.

2 SECTION 31. Subchapter D, Chapter 2211, Insurance Code, is
3 amended by adding Section 2211.1514 to read as follows:

4 Sec. 2211.1514. PARTICIPATION IN ELECTRONIC PORTAL. (a)
5 The commissioner shall establish by rule the information each
6 applicant for new and renewal association coverage must submit to
7 be included in the portal established under Section 2210.211,
8 including information on policies covering the property for perils
9 other than perils covered by an association policy.

10 (b) Information under Subsection (a) shall be submitted on
11 the renewal of coverage for an association policy.

12 (c) Any hardware purchased under this section or any
13 software, technology, information, analyses, programs, or data
14 acquired or created by a vendor under a contract under this section
15 are property of the state.

16 (d) Information, analyses, programs, or data described by
17 this section are confidential and exempt from public disclosure
18 under Chapter 552, Government Code.

19 (e) The commissioner shall adopt rules necessary to
20 implement this section.

21 (f) A participating insurer may not sell to any other person
22 information obtained under this section.

23 SECTION 32. Section 2210.5725, Insurance Code, as added by
24 this Act, applies only to adjustment of a claim made on or after the
25 effective date of this Act.

26 SECTION 33. The following provisions of Chapter 2210,
27 Insurance Code, are repealed:

- 1 (1) Sections 2210.071(b) and (c);
- 2 (2) Sections 2210.072(b-1), (e), and (f);
- 3 (3) Sections 2210.453(c), (d), and (e);
- 4 (4) Sections 2210.602(2), (4), (5-a), and (6-b);
- 5 (5) Section 2210.605(c);
- 6 (6) Section 2210.608(c); and
- 7 (7) Sections 2210.612, 2210.6135, and 2210.6136.

8 SECTION 34. (a) Notwithstanding Section 2210.4521,
9 Insurance Code, as added by this Act, beginning on the effective
10 date of this Act and continuing until December 31, 2013, the Texas
11 Insurance Plan Association shall deposit one-half of its gross
12 earned premium into the trust fund described by that section. Not
13 later than February 1, 2014, the association shall direct the Texas
14 Treasury Safekeeping Trust Company to deposit all amounts deposited
15 in the trust fund during the 2013 calendar year, and interest earned
16 on those funds, into the catastrophe reserve trust fund as
17 described by that section.

18 (b) Section 2210.4521, Insurance Code, as added by this Act,
19 applies to all association gross premium earned on and after
20 January 1, 2014.

21 (c) Notwithstanding Subsection (a) of this section and
22 Section 2210.072, Insurance Code, as amended by this Act, amounts
23 collected under Section 2210.4521, Insurance Code, as added by this
24 Act, may not be used to pay for a covered insured association loss
25 incurred before June 1, 2013.

26 SECTION 35. (a) Effective January 1, 2014, the name of the
27 Texas Windstorm Insurance Association is changed to the Texas

1 Insurance Plan Association.

2 (b) Effective January 1, 2014, a reference in law to the
3 Texas Windstorm Insurance Association is a reference to the Texas
4 Insurance Plan Association.

5 (c) The Texas Windstorm Insurance Association shall adopt a
6 timetable for phasing in the change of the association's name so as
7 to minimize the fiscal impact of the name change. Until January 1,
8 2014, to allow for phasing in the change of the association's name
9 and in accordance with the timetable established as required by
10 this section, the association may perform any act authorized by law
11 for the Texas Insurance Plan Association as the Texas Windstorm
12 Insurance Association. Any act of the Texas Insurance Plan
13 Association acting as the Texas Windstorm Insurance Association
14 after the effective date of this Act and before January 1, 2014, is
15 an act of the Texas Windstorm Insurance Association.

16 SECTION 36. The commissioner may, by order, require the
17 administrator contracted to administer the Texas Insurance Plan
18 Association under Section 2210.062, Insurance Code, as added by
19 this Act, to assume responsibility for administering the Texas
20 Insurance Plan Association and the plan of operation as described
21 by that section before January 1, 2014.

22 SECTION 37. This Act takes effect immediately if it
23 receives a vote of two-thirds of all the members elected to each
24 house, as provided by Section 39, Article III, Texas Constitution.
25 If this Act does not receive the vote necessary for immediate
26 effect, this Act takes effect on the 91st day after the last day of
27 the legislative session.