

1-1 By: Smithee, et al. (Senate Sponsor - Carona) H.B. No. 272
1-2 (In the Senate - Received from the House May 12, 2011;
1-3 May 12, 2011, read first time and referred to Committee on Business
1-4 and Commerce; May 20, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 3;
1-6 May 20, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 272 By: Carona

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the operation of the Texas Windstorm Insurance
1-11 Association and to the resolution of certain disputes concerning
1-12 claims made to that association; providing penalties.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 83.002, Insurance Code, is amended by
1-15 adding Subsection (c) to read as follows:

1-16 (c) This chapter also applies to:

1-17 (1) a person appointed as a qualified inspector under
1-18 Section 2210.254 or 2210.255; and

1-19 (2) a person acting as a qualified inspector under
1-20 Section 2210.254 or 2210.255 without being appointed as a qualified
1-21 inspector under either of those sections.

1-22 SECTION 2. Section 541.152, Insurance Code, is amended by
1-23 amending Subsection (b) and adding Subsection (c) to read as
1-24 follows:

1-25 (b) Except as provided by Subsection (c), on [On] a finding
1-26 by the trier of fact that the defendant knowingly committed the act
1-27 complained of, the trier of fact may award an amount not to exceed
1-28 three times the amount of actual damages.

1-29 (c) Subsection (b) does not apply to an action under this
1-30 subchapter brought against the Texas Windstorm Insurance
1-31 Association by a person who is insured under Chapter 2210.

1-32 SECTION 3. Section 542.052, Insurance Code, is amended to
1-33 read as follows:

1-34 Sec. 542.052. APPLICABILITY OF SUBCHAPTER. (a) This
1-35 subchapter applies to any insurer authorized to engage in business
1-36 as an insurance company or to provide insurance in this state,
1-37 including:

1-38 (1) a stock life, health, or accident insurance
1-39 company;

1-40 (2) a mutual life, health, or accident insurance
1-41 company;

1-42 (3) a stock fire or casualty insurance company;

1-43 (4) a mutual fire or casualty insurance company;

1-44 (5) a Mexican casualty insurance company;

1-45 (6) a Lloyd's plan;

1-46 (7) a reciprocal or interinsurance exchange;

1-47 (8) a fraternal benefit society;

1-48 (9) a stipulated premium company;

1-49 (10) a nonprofit legal services corporation;

1-50 (11) a statewide mutual assessment company;

1-51 (12) a local mutual aid association;

1-52 (13) a local mutual burial association;

1-53 (14) an association exempt under Section 887.102;

1-54 (15) a nonprofit hospital, medical, or dental service
1-55 corporation, including a corporation subject to Chapter 842;

1-56 (16) a county mutual insurance company;

1-57 (17) a farm mutual insurance company;

1-58 (18) a risk retention group;

1-59 (19) a purchasing group;

1-60 (20) an eligible surplus lines insurer; and

1-61 (21) except as provided by Section 542.053(b), a
1-62 guaranty association operating under Chapter 462 or 463.

1-63 (b) This subchapter does not apply to the Texas Windstorm

2-1 Insurance Association.

2-2 SECTION 4. Subchapter A, Chapter 2210, Insurance Code, is
2-3 amended by adding Sections 2210.0081 and 2210.010 to read as
2-4 follows:

2-5 Sec. 2210.0081. CERTAIN ACTIONS BROUGHT AGAINST
2-6 ASSOCIATION BY COMMISSIONER. In an action brought by the
2-7 commissioner against the association under Chapter 441:

2-8 (1) the association's inability to satisfy obligations
2-9 under Subchapter M related to the issuance of public securities
2-10 under this chapter constitutes a condition that makes the
2-11 association's continuation in business hazardous to the public or
2-12 to the association's policyholders for the purposes of Section
2-13 441.052;

2-14 (2) the time for the association to comply with the
2-15 requirements of supervision or for the conservator to complete the
2-16 conservator's duties, as applicable, is limited to three years from
2-17 the date the commissioner commences the action against the
2-18 association; and

2-19 (3) unless the commissioner takes further action
2-20 against the association under Chapter 441, as a condition of
2-21 release from supervision, the association must demonstrate to the
2-22 satisfaction of the commissioner that the association is able to
2-23 satisfy obligations under Subchapter M related to the issuance of
2-24 public securities under this chapter.

2-25 Sec. 2210.010. CERTAIN CONDUCT IN DISPUTE RESOLUTION
2-26 PROHIBITED. (a) For purposes of this section, "presiding officer"
2-27 includes a judge, arbitrator, appraiser, or panel member.

2-28 (b) If a person insured under this chapter is assigned to
2-29 act as presiding officer to preside over or resolve a dispute
2-30 involving the association and another person insured under this
2-31 chapter, the presiding officer shall, not later than the seventh
2-32 day after the date of assignment, give written notice to the
2-33 association and to each other party to the dispute, or the
2-34 association's or other party's attorney, that the presiding officer
2-35 is insured under this chapter.

2-36 (c) In a proceeding with respect to which the commissioner
2-37 has authority to designate the presiding officer, the association
2-38 or other party that receives notice under Subsection (b) may file
2-39 with the commissioner a written objection to the assignment of the
2-40 presiding officer to the dispute. The written objection must
2-41 contain the factual basis on which the association or other party
2-42 objects to the assignment.

2-43 (d) The commissioner shall assign a different presiding
2-44 officer to the dispute if, after reviewing the objection filed
2-45 under Subsection (c), the commissioner determines that the
2-46 presiding officer originally assigned to the dispute has a direct
2-47 financial or personal interest in the outcome of the dispute.

2-48 (e) The association or another party must file an objection
2-49 under Subsection (c) not later than the earlier of:

2-50 (1) the seventh day after the date the association or
2-51 other party receives actual notice that the presiding officer is
2-52 insured under this chapter; or

2-53 (2) the seventh day before the date of the first
2-54 proceeding concerning the dispute.

2-55 (f) The commissioner may, on a showing of good cause, extend
2-56 the deadline to file an objection under Subsection (e).

2-57 SECTION 5. Section 2210.054(a), Insurance Code, is amended
2-58 to read as follows:

2-59 (a) The association shall file annually with the department
2-60 and the state auditor's office a statement covering periods
2-61 designated by the department that summarizes the transactions,
2-62 conditions, operations, and affairs of the association during the
2-63 preceding year.

2-64 SECTION 6. Section 2210.056(c), Insurance Code, is amended
2-65 to read as follows:

2-66 (c) On dissolution of the association, all assets of the
2-67 association, other than assets pledged for the repayment of public
2-68 securities issued under this chapter, revert to this state.

2-69 SECTION 7. Subchapter B, Chapter 2210, Insurance Code, is

3-1 amended by adding Sections 2210.058, 2210.059, and 2210.061 to read
3-2 as follows:

3-3 Sec. 2210.058. AUDIT OF ASSOCIATION. (a) The association
3-4 is subject to audit by the state auditor and shall pay the costs
3-5 incurred by the state auditor in performing an audit under this
3-6 section.

3-7 (b) The association shall pay the costs described by
3-8 Subsection (a) promptly after receipt of a statement from the state
3-9 auditor's office regarding the amount of those costs.

3-10 Sec. 2210.059. CLAIMS PRACTICES AUDIT. (a) If the
3-11 commissioner determines that 100 or more claims have been filed
3-12 under association policies the bases of which are damage to insured
3-13 property caused by the same storm, the department shall conduct a
3-14 random audit of the claim files of those claims to:

3-15 (1) determine whether the association is adequately
3-16 and properly documenting claims decisions in each claim file; and

3-17 (2) ensure that each claim is being handled
3-18 appropriately, including being handled in accordance with the terms
3-19 of the policy under which the claim is filed.

3-20 (b) The department shall conduct an audit required under
3-21 this section as soon as possible after the filing of the 100th claim
3-22 described by Subsection (a) to ensure the quality of the process
3-23 with which the association is handling claims described by
3-24 Subsection (a).

3-25 (c) If, following an audit conducted under this section, the
3-26 commissioner determines that the association is not adequately and
3-27 properly documenting claims decisions or that claims described by
3-28 Subsection (a) are not otherwise being handled appropriately, the
3-29 commissioner shall:

3-30 (1) notify the board of directors of that
3-31 determination; and

3-32 (2) identify the manner in which the association
3-33 should correct any deficiencies identified by the commissioner.

3-34 Sec. 2210.061. CONTRACTORS AND MANAGERIAL EMPLOYEES:
3-35 COMPENSATION AND BONUSES. The association shall post on the
3-36 association's Internet website any compensation, monetary or
3-37 otherwise, and any bonus that, when aggregated, exceed \$100,000 in
3-38 a 12-month period and that are paid or given by the association to:

3-39 (1) a vendor or independent contractor with whom the
3-40 association has a contract; and

3-41 (2) an association employee who serves in a managerial
3-42 capacity.

3-43 SECTION 8. Section 2210.071, Insurance Code, is amended by
3-44 adding Subsection (c) to read as follows:

3-45 (c) Losses not paid under Subsection (b) shall be paid from
3-46 the proceeds from public securities issued in accordance with this
3-47 subchapter and Subchapter M.

3-48 SECTION 9. Section 2210.072, Insurance Code, is amended by
3-49 amending Subsections (a) and (b) and adding Subsections (a-1) and
3-50 (a-2) to read as follows:

3-51 (a) Losses not paid under Section 2210.071 shall be paid as
3-52 provided by this section from the proceeds from Class 1 public
3-53 securities authorized to be issued in accordance with Subchapter M.
3-54 Class 1 public securities may be issued under this section at any
3-55 time during a calendar year, on request of the association and
3-56 approval by the commissioner, if the association determines that
3-57 insured losses in the calendar year have exceeded, or are likely to
3-58 exceed, the amount available for the payment of losses under
3-59 Section 2210.071(b).

3-60 (a-1) The commissioner by rule shall establish, for each
3-61 calendar year, the maximum principal amount in which public
3-62 securities may be issued under this section before an occurrence or
3-63 series of occurrences that results in insured losses. The
3-64 commissioner shall consult the Texas Public Finance Authority when
3-65 adopting rules under this subsection.

3-66 (a-2) ~~[on or after the date of any occurrence or series of~~
3-67 ~~occurrences that results in insured losses.]~~ Public securities
3-68 issued under this section must be repaid within a period not to
3-69 exceed 14 ~~[40]~~ years, and may be repaid sooner if the board of

4-1 directors elects to do so and the commissioner approves.

4-2 (b) Public securities described by Subsection (a):

4-3 (1) shall be issued as necessary in a principal amount
4-4 not to exceed \$1 billion in the aggregate whether for a single
4-5 occurrence or a series of occurrences that takes place in a calendar
4-6 ~~per~~ year and results in insured losses; and

4-7 (2) may be issued, in one or more issuances or
4-8 tranches, during the calendar year in which the occurrence or
4-9 series of occurrences occurs or, if the public securities cannot
4-10 reasonably be issued in the calendar year in which the occurrence or
4-11 series of occurrences takes place, during a subsequent calendar
4-12 year.

4-13 SECTION 10. Section 2210.073, Insurance Code, is amended by
4-14 amending Subsection (b) and adding Subsection (c) to read as
4-15 follows:

4-16 (b) Public securities described by Subsection (a):

4-17 (1) may be issued as necessary in a principal amount
4-18 not to exceed \$1 billion in the aggregate whether for a single
4-19 occurrence or a series of occurrences that takes place in a calendar
4-20 ~~per~~ year and results in insured losses; and

4-21 (2) may be issued, in one or more issuances or
4-22 tranches, during the calendar year in which the occurrence or
4-23 series of occurrences occurs or, if the public securities cannot
4-24 reasonably be issued in the calendar year in which the occurrence or
4-25 series of occurrences takes place, during a subsequent calendar
4-26 year.

4-27 (c) If the losses are paid with public securities described
4-28 by this section, the public securities shall be repaid in the manner
4-29 prescribed by Subchapter M.

4-30 SECTION 11. Section 2210.074, Insurance Code, is amended by
4-31 amending Subsection (b) and adding Subsection (c) to read as
4-32 follows:

4-33 (b) Public securities described by Subsection (a):

4-34 (1) may be issued as necessary in a principal amount
4-35 not to exceed \$500 million in the aggregate whether for a single
4-36 occurrence or a series of occurrences that takes place in a calendar
4-37 ~~per~~ year and results in insured losses; and

4-38 (2) may be issued, in one or more issuances or
4-39 tranches, during the calendar year in which the occurrence or
4-40 series of occurrences occurs or, if the public securities cannot
4-41 reasonably be issued in the calendar year in which the occurrence or
4-42 series of occurrences takes place, during a subsequent calendar
4-43 year.

4-44 (c) If the losses are paid with public securities described
4-45 by this section, the public securities shall be repaid in the manner
4-46 prescribed by Subchapter M through member assessments as provided
4-47 by this section. The association shall notify each member of the
4-48 association of the amount of the member's assessment under this
4-49 section. The proportion of the losses allocable to each insurer
4-50 under this section shall be determined in the manner used to
4-51 determine each insurer's participation in the association for the
4-52 year under Section 2210.052. A member of the association may not
4-53 recoup an assessment paid under this subsection through a premium
4-54 surcharge or tax credit.

4-55 SECTION 12. Section 2210.075, Insurance Code, is amended to
4-56 read as follows:

4-57 Sec. 2210.075. REINSURANCE. (a) Before any occurrence or
4-58 series of occurrences, an insurer may elect to purchase reinsurance
4-59 to cover an assessment for which the insurer would otherwise be
4-60 liable under Section 2210.074(c) [~~2210.074(b)~~].

4-61 (b) An insurer must notify the board of directors, in the
4-62 manner prescribed by the association whether the insurer will be
4-63 purchasing reinsurance. If the insurer does not elect to purchase
4-64 reinsurance under this section, the insurer remains liable for any
4-65 assessment imposed under Section 2210.074(c) [~~2210.074(b)~~].

4-66 SECTION 13. Section 2210.102, Insurance Code, is amended by
4-67 adding Subsection (i) to read as follows:

4-68 (i) Notwithstanding Subsection (f), for a vacancy occurring
4-69 in a position under Subsection (b), the commissioner may appoint,

5-1 for the lesser of 120 days or until the vacancy is filled, a person
 5-2 who has demonstrated knowledge in insurance principles. This
 5-3 subsection does not apply to a vacancy due to the expiration of a
 5-4 term occurring under Section 2210.103. This subsection expires
 5-5 December 31, 2012, and any appointment in effect on that date is
 5-6 continued until the expiration of the term of the appointment.

5-7 SECTION 14. Section 2210.105, Insurance Code, is amended by
 5-8 amending Subsections (a) and (b) and adding Subsections (b-1), (e),
 5-9 and (f) to read as follows:

5-10 (a) Except for an emergency meeting, the association shall:
 5-11 (1) notify the department not later than the 11th day
 5-12 before the date of a meeting of the board of directors or of the
 5-13 members of the association; and

5-14 (2) not later than the seventh day before the date of a
 5-15 meeting of the board of directors, post notice of the meeting on the
 5-16 association's Internet website and the department's Internet
 5-17 website.

5-18 (b) Except for a closed meeting authorized by Subchapter D,
 5-19 Chapter 551, Government Code, a meeting of the board of directors or
 5-20 of the members of the association is open to[+]

5-21 [~~(1) the commissioner or the commissioner's designated~~
 5-22 ~~representative, and~~

5-23 [~~(2)~~] the public.

5-24 (b-1) The commissioner or the commissioner's designated
 5-25 representative may attend a meeting of the board of directors or the
 5-26 members of the association, including a closed meeting authorized
 5-27 by Subchapter D, Chapter 551, Government Code, except for those
 5-28 portions of a closed meeting that involve the rendition of legal
 5-29 advice to the board concerning a regulatory matter or that would
 5-30 constitute an ex parte communication with the commissioner.

5-31 (e) The association shall:

5-32 (1) broadcast live on the association's Internet
 5-33 website all meetings of the board of directors, other than closed
 5-34 meetings; and

5-35 (2) archive the recording of a meeting until the
 5-36 second anniversary of the meeting.

5-37 (f) The presence of the commissioner or the commissioner's
 5-38 designated representative at a closed meeting does not waive or
 5-39 impair any privilege, including attorney-client privilege, that
 5-40 exists in statute or at common law.

5-41 SECTION 15. Section 2210.107, Insurance Code, is amended to
 5-42 read as follows:

5-43 Sec. 2210.107. PRIMARY BOARD OBJECTIVES; REPORT. (a) The
 5-44 primary objectives of the board of directors are to ensure that the
 5-45 association:

5-46 (1) operates in accordance with this chapter and
 5-47 commissioner rules;

5-48 (2) complies with sound insurance principles; and

5-49 (3) meets all standards imposed under this chapter,
 5-50 including that claims against the association are promptly and
 5-51 fairly resolved.

5-52 (b) Every two months, the general manager of the association
 5-53 shall submit to the board a report evaluating the extent to which
 5-54 the association met the objectives described by Subsection (a) in
 5-55 the two-month period immediately preceding the date of the report.

5-56 (c) Not later than June 1 of each year, the association
 5-57 shall submit to the commissioner, the legislative oversight board
 5-58 established under Subchapter N, the governor, the lieutenant
 5-59 governor, and the speaker of the house of representatives a report
 5-60 evaluating the extent to which the board met the objectives
 5-61 described by Subsection (a) in the 12-month period immediately
 5-62 preceding the date of the report.

5-63 SECTION 16. Subchapter C, Chapter 2210, Insurance Code, is
 5-64 amended by adding Section 2210.108 to read as follows:

5-65 Sec. 2210.108. OPEN MEETINGS AND OPEN RECORDS. (a) Except
 5-66 as specifically provided by this chapter or another law, the
 5-67 association is subject to Chapters 551 and 552, Government Code.

5-68 (b) Except as provided by Subsection (c), the following
 5-69 information is exempt from disclosure under Chapter 552, Government

6-1 Code:

6-2 (1) a name, address, telephone number, tax
6-3 identification number, social security number, or policy or claim
6-4 number of a person insured under this chapter;

6-5 (2) policy information related to:

6-6 (A) insured amounts; or

6-7 (B) insured items that identify specific
6-8 property or could reasonably be used to identify specific property;

6-9 (3) claim file information, including photographs and
6-10 descriptive reports, that identifies specific property or could
6-11 reasonably be used to identify specific property; and

6-12 (4) other information that could be considered
6-13 personally identifiable financial information.

6-14 (c) This section may not be construed to limit a request:

6-15 (1) by a person insured under this chapter, or the
6-16 person's counsel, for information contained in that person's
6-17 association policy or for claim information related to a loss
6-18 claimed under that policy;

6-19 (2) by the commissioner or the department for
6-20 information for a purpose authorized under this code, including for
6-21 the purposes of developing and implementing incentive programs
6-22 under Sections 2210.009(b) and 2210.053(b);

6-23 (3) for aggregate policy, coverage, and claims
6-24 information; or

6-25 (4) for discovery in a judicial or administrative
6-26 proceeding.

6-27 SECTION 17. Section 2210.202, Insurance Code, is amended to
6-28 read as follows:

6-29 Sec. 2210.202. APPLICATION FOR COVERAGE. (a) A person who
6-30 has an insurable interest in insurable property may apply to the
6-31 association for insurance coverage provided under the plan of
6-32 operation and an inspection of the property, subject to any rules
6-33 established by the board of directors and approved by the
6-34 commissioner. The association shall make insurance available to
6-35 each applicant in the catastrophe area whose property is insurable
6-36 property but who, after diligent efforts, is unable to obtain
6-37 property insurance through the voluntary market, as evidenced by
6-38 one declination from an insurer authorized to engage in the
6-39 business of, and writing, property insurance providing windstorm
6-40 and hail coverage in the first tier coastal counties. For purposes
6-41 of this section, "declination" has the meaning assigned by the plan
6-42 of operation and shall include a refusal to offer coverage for the
6-43 perils of windstorm and hail and the inability to obtain
6-44 substantially equivalent insurance coverage for the perils of
6-45 windstorm and hail. Notwithstanding Section 2210.203(c), evidence
6-46 of one declination every three calendar years is also required with
6-47 an application for renewal of an association policy.

6-48 (b) A property and casualty agent must submit an application
6-49 for initial [the] insurance coverage on behalf of the applicant on
6-50 forms prescribed by the association. The association shall develop
6-51 a simplified renewal process that allows for the acceptance of an
6-52 application for renewal coverage, and payment of premiums, from a
6-53 property and casualty agent or a person insured under this chapter.
6-54 An [The] application for initial or renewal coverage must contain:

6-55 (1) a statement as to whether the applicant has
6-56 submitted or will submit the premium in full from personal funds or,
6-57 if not, to whom a balance is or will be due; and

6-58 (2) [~~Each application for initial or renewal~~
6-59 ~~coverage must also contain]~~ a statement that the agent acting on
6-60 behalf of the applicant possesses proof of the declination
6-61 described by Subsection (a) and proof of flood insurance coverage
6-62 or unavailability of that coverage as described by Section
6-63 2210.203(a-1).

6-64 SECTION 18. Section 2210.203, Insurance Code, is amended by
6-65 amending Subsections (a-1) and (c) and adding Subsections (a-2) and
6-66 (a-3) to read as follows:

6-67 (a-1) [~~This subsection applies only to a structure~~
6-68 ~~constructed, altered, remodeled, or enlarged on or after September~~
6-69 ~~1, 2009, and only for insurable property located in areas~~

7-1 ~~designated by the commissioner.]~~ Notwithstanding Subsection (a),
 7-2 if all or any part of the property to be insured [~~which this~~
 7-3 ~~subsection applies~~] is located in Zone V or another similar zone
 7-4 with an additional hazard associated with storm waves, as defined
 7-5 by the National Flood Insurance Program, or is a residential
 7-6 structure located in an area described by Section 2210.004(g)(2),
 7-7 [~~and if flood insurance under that federal program is available,~~]
 7-8 the association may not issue an insurance policy for initial or
 7-9 renewal coverage unless evidence is submitted to the association
 7-10 that the property to be covered under the policy is also covered by
 7-11 a flood insurance policy that has a deductible or self-insurance
 7-12 amount comparable to the association policy to be issued and that is
 7-13 issued under the National Flood Insurance Program or by an insurer
 7-14 in an aggregate amount that is:

7-15 (1) equal to or greater than the amount of coverage
 7-16 under the policy to be issued by the association; or

7-17 (2) equal to the maximum amount obtainable through the
 7-18 National Flood Insurance Program or an insurer.

7-19 (a-2) Subsection (a-1) does not apply to property for which
 7-20 flood insurance is not available under the National Flood Insurance
 7-21 Program [~~is submitted to the association~~].

7-22 (a-3) An agent offering or selling a Texas windstorm and
 7-23 hail insurance policy [~~in any area designated by the commissioner~~
 7-24 ~~under this subsection~~] shall offer flood insurance coverage
 7-25 required under Subsection (a-1) to a [~~the~~] prospective insured, if
 7-26 that coverage is available.

7-27 (c) A policy is automatically [~~may be~~] renewed annually [~~on~~
 7-28 ~~application for renewal~~] as long as the property continues to be
 7-29 insurable property.

7-30 SECTION 19. Subchapter E, Chapter 2210, Insurance Code, is
 7-31 amended by adding Sections 2210.205, 2210.210, and 2210.211 to read
 7-32 as follows:

7-33 Sec. 2210.205. REQUIRED POLICY PROVISIONS: DEADLINE FOR
 7-34 FILING CLAIM; NOTICE CONCERNING DISPUTE RESOLUTION. (a) A
 7-35 windstorm and hail insurance policy issued by the association must:

7-36 (1) require an insured to file a claim under the policy
 7-37 not later than the first anniversary of the date on which the loss
 7-38 that is the basis of the claim occurs; and

7-39 (2) contain a conspicuous notice concerning the
 7-40 resolution of disputes under the policy, including:

7-41 (A) describing the appraisal process under
 7-42 Section 2210.576;

7-43 (B) describing the alternative dispute
 7-44 resolution process under Section 2210.577; and

7-45 (C) stating that compliance with the provisions
 7-46 described by Paragraphs (A) and (B) is a condition precedent to
 7-47 seeking administrative relief under Subchapter L-1.

7-48 (b) The association shall extend the one-year period
 7-49 described by Subsection (a)(1) for an additional period not to
 7-50 exceed 120 days if, before the 120th day after the expiration of the
 7-51 one-year period, the insured shows good cause in a written request
 7-52 to the association.

7-53 Sec. 2210.210. COVERAGE OF CERTAIN STRUCTURES PROHIBITED.
 7-54 The association may not issue coverage for a wind turbine
 7-55 regardless of whether the turbine could otherwise be considered
 7-56 insurable property under this chapter.

7-57 Sec. 2210.211. PROOF OF OTHER COVERAGE REQUIRED FOR
 7-58 SETTLEMENT OF CERTAIN CLAIMS; CLAIMS PAYMENT LIMITED. (a) This
 7-59 section applies only to a claim filed under an association policy
 7-60 the issuance or renewal of which, under Section 2210.203(a-1),
 7-61 requires evidence of coverage by a flood insurance policy.

7-62 (b) The association may not pay or settle a portion of a
 7-63 claim filed under a policy described by Subsection (a) if:

7-64 (1) that portion of the claim is for damage that is
 7-65 covered by the flood insurance policy, if the required flood
 7-66 insurance coverage was in effect on the date the damage occurred; or

7-67 (2) that portion of the claim is for damage that would
 7-68 have been covered by the flood insurance policy, if the required
 7-69 flood insurance coverage was not in effect on the date the damage

8-1 occurred.

8-2 SECTION 20. Section 2210.254, Insurance Code, is amended by
8-3 adding Subsection (e) to read as follows:

8-4 (e) The department may establish an annual renewal period
8-5 for persons appointed as qualified inspectors.

8-6 SECTION 21. Subchapter F, Chapter 2210, Insurance Code, is
8-7 amended by adding Section 2210.2551 to read as follows:

8-8 Sec. 2210.2551. EXCLUSIVE ENFORCEMENT AUTHORITY; RULES.

8-9 (a) The department has exclusive authority over all matters
8-10 relating to the appointment and oversight of qualified inspectors
8-11 for purposes of this chapter.

8-12 (b) The commissioner by rule shall establish criteria to
8-13 ensure that a person seeking appointment as a qualified inspector
8-14 under this subchapter, including an engineer seeking appointment
8-15 under Section 2210.255, possesses the knowledge, understanding,
8-16 and professional competence to perform windstorm inspections under
8-17 this chapter and to comply with other requirements of this chapter.

8-18 SECTION 22. The heading to Section 2210.256, Insurance
8-19 Code, is amended to read as follows:

8-20 Sec. 2210.256. DISCIPLINARY PROCEEDINGS REGARDING
8-21 APPOINTED INSPECTORS AND CERTAIN OTHER PERSONS.

8-22 SECTION 23. Section 2210.256, Insurance Code, is amended by
8-23 adding Subsection (a-1) to read as follows:

8-24 (a-1) In addition to any other action authorized under this
8-25 section, the commissioner ex parte may enter an emergency cease and
8-26 desist order under Chapter 83 against a qualified inspector, or a
8-27 person acting as a qualified inspector, if:

8-28 (1) the commissioner believes that:

8-29 (A) the qualified inspector has:

8-30 (i) through submitting or failing to submit
8-31 to the department sealed plans, designs, calculations, or other
8-32 substantiating information, failed to demonstrate that a structure
8-33 or a portion of a structure subject to inspection meets the
8-34 requirements of this chapter and department rules; or

8-35 (ii) refused to comply with requirements
8-36 imposed under this chapter or department rules; or

8-37 (B) the person acting as a qualified inspector is
8-38 acting without appointment as a qualified inspector under Section
8-39 2210.254 or 2210.255; and

8-40 (2) the commissioner determines that the conduct
8-41 described by Subdivision (1) is fraudulent or hazardous or creates
8-42 an immediate danger to the public.

8-43 SECTION 24. Subchapter F, Chapter 2210, Insurance Code, is
8-44 amended by adding Section 2210.260 to read as follows:

8-45 Sec. 2210.260. ALTERNATIVE ELIGIBILITY FOR COVERAGE. (a)
8-46 On and after January 1, 2012, a person who has an insurable interest
8-47 in a residential structure may obtain insurance coverage through
8-48 the association for that structure without obtaining a certificate
8-49 of compliance under Section 2210.251(g) in accordance with this
8-50 section and rules adopted by the commissioner.

8-51 (b) The department may issue an alternative certification
8-52 for a residential structure if the person who has an insurable
8-53 interest in the structure demonstrates that at least one qualifying
8-54 structural building component of the structure has been:

8-55 (1) inspected by a department inspector or by a
8-56 qualified inspector; and

8-57 (2) determined to be in compliance with applicable
8-58 building code standards, as set forth in the plan of operation.

8-59 (c) The commissioner shall adopt reasonable and necessary
8-60 rules to implement this section. The rules adopted under this
8-61 section must establish which structural building components are
8-62 considered qualifying structural building components for the
8-63 purposes of Subsection (b), taking into consideration those items
8-64 that are most probable to generate losses for the association's
8-65 policyholders and the cost to upgrade those items.

8-66 (d) Except as provided in Section 2210.251(f), a person who
8-67 has an insurable interest in a residential structure that is
8-68 insured by the association as of January 1, 2012, but for which the
8-69 person has not obtained a certificate of compliance under Section

9-1 2210.251(g), must obtain an alternative certification under this
9-2 section before the association, on or after January 1, 2013, may
9-3 renew coverage for the structure.

9-4 (e) Each residential structure for which a person obtains an
9-5 alternative certification under this section must comply with:

9-6 (1) the requirements of this chapter, including
9-7 Section 2210.258; and

9-8 (2) the association's underwriting requirements,
9-9 including maintaining the structure in an insurable condition and
9-10 paying premiums in the manner required by the association.

9-11 (f) The association shall develop and implement an
9-12 actuarially sound rate, credit, or surcharge that reflects the
9-13 risks presented by structures with reference to which alternative
9-14 certifications have been obtained under this section. A rate,
9-15 credit, or surcharge under this subsection may vary based on the
9-16 number of qualifying structural building components included in a
9-17 structure with reference to which an alternative certification is
9-18 obtained under this section.

9-19 SECTION 25. The heading to Subchapter H, Chapter 2210,
9-20 Insurance Code, is amended to read as follows:

9-21 SUBCHAPTER H. RATES; DISCOUNTS AND CREDITS

9-22 SECTION 26. Sections 2210.355(b) and (g), Insurance Code,
9-23 are amended to read as follows:

9-24 (b) In adopting rates under this chapter, the following must
9-25 be considered:

9-26 (1) the past and prospective loss experience within
9-27 and outside this state of hazards for which insurance is made
9-28 available through the plan of operation, if any;

9-29 (2) expenses of operation, including acquisition
9-30 costs;

9-31 (3) a reasonable margin for profit and contingencies;

9-32 (4) payment of public security obligations for Class 1
9-33 public securities issued under this chapter, including the
9-34 additional amount of any debt service coverage determined by the
9-35 association to be required for the issuance of marketable public
9-36 securities; and

9-37 (5) [~~4~~] all other relevant factors, within and
9-38 outside this state.

9-39 (g) A commission paid to an agent for a windstorm and hail
9-40 insurance policy issued by the association must comply with the
9-41 commission structure approved by the commissioner under Section
9-42 2210.356 and be reasonable, adequate, not unfairly discriminatory,
9-43 and nonconfiscatory.

9-44 SECTION 27. Subchapter H, Chapter 2210, Insurance Code, is
9-45 amended by adding Section 2210.356 to read as follows:

9-46 Sec. 2210.356. AGENT COMMISSIONS. (a) The commissioner,
9-47 after receiving a recommendation from the board, shall approve a
9-48 commission structure for payment of an agent who submits an
9-49 application for coverage to the association on behalf of a person
9-50 who has an insurable interest in insurable property.

9-51 (b) The commission structure adopted by the commissioner
9-52 must be fair and reasonable, taking into consideration the amount
9-53 of work performed by an agent in submitting an application to the
9-54 association and the prevailing commission structure in the private
9-55 windstorm insurance market.

9-56 SECTION 28. Subchapter H, Chapter 2210, Insurance Code, is
9-57 amended by adding Section 2210.363 to read as follows:

9-58 Sec. 2210.363. PREMIUM DISCOUNTS; SURCHARGE CREDITS. (a)
9-59 The association may offer a person insured under this chapter an
9-60 actuarially justified premium discount on a policy issued by the
9-61 association, or an actuarially justified credit against a surcharge
9-62 assessed against the person, other than a surcharge assessed under
9-63 Subchapter M, if the construction, alteration, remodeling,
9-64 enlargement, or repair of, or an addition to, insurable property
9-65 exceeds applicable building code standards set forth in the plan of
9-66 operation.

9-67 (b) The association shall offer a person insured under this
9-68 chapter an actuarially justified premium discount on a policy
9-69 issued by the association, or an actuarially justified credit

10-1 against a surcharge assessed against the person, other than a
 10-2 surcharge assessed under Subchapter M, if, in the policy period
 10-3 immediately preceding the policy period for which the premium is
 10-4 paid, the person chose binding arbitration offered by the
 10-5 association under Section 2210.553.

10-6 (c) The commissioner shall adopt rules necessary to
 10-7 implement and enforce this section.

10-8 SECTION 29. Chapter 2210, Insurance Code, is amended by
 10-9 adding Subchapter I to read as follows:

10-10 SUBCHAPTER I. EXPERT PANEL

10-11 Sec. 2210.401. FUNDING AND RESOURCES. (a) At the request
 10-12 of the commissioner, the association shall provide the funds and
 10-13 resources necessary to implement Section 2210.402, including:

10-14 (1) employing or retaining persons to perform the
 10-15 functions necessary or proper under Section 2210.402;

10-16 (2) providing administrative assistance and services,
 10-17 including planning, contracting, and purchasing; and

10-18 (3) providing computer equipment and support.

10-19 (b) A person or entity employed or retained under Subsection
 10-20 (a) acts solely under the direction of, and performs duties
 10-21 assigned by, the commissioner.

10-22 Sec. 2210.402. EXPERT PANEL. (a) This section applies only
 10-23 to losses concurrently caused by wind and tidal surges in which no
 10-24 substantial portion of an insured structure, other than the
 10-25 foundation of the structure, remains.

10-26 (b) The commissioner shall appoint a panel of experts to
 10-27 advise the association concerning the extent to which a loss to
 10-28 insurable property that is described by Subsection (a) was caused
 10-29 by wind and tidal surges. The panel consists of the number of
 10-30 experts determined by the commissioner, and the commissioner shall
 10-31 appoint one member of the panel to serve as the presiding officer of
 10-32 the panel.

10-33 (c) Members of the panel must have professional expertise
 10-34 in, and be knowledgeable concerning, the geography and meteorology
 10-35 of the seacoast territory as well as the scientific basis for
 10-36 determining the extent to which a loss is caused by wind and tidal
 10-37 surges. The areas of expertise of the panel members may include
 10-38 structural engineering, hydrology, statistical science, actuarial
 10-39 science, claims adjusting, and other areas of expertise determined
 10-40 to be necessary and advisable by the commissioner.

10-41 (d) The panel shall meet at the request of the commissioner
 10-42 or the call of the presiding officer of the panel.

10-43 (e) The panel shall investigate, collect, and evaluate the
 10-44 information necessary to provide recommendations under Subsection
 10-45 (f).

10-46 (f) At the request of the commissioner, the panel shall
 10-47 recommend to the commissioner methods or models for determining the
 10-48 extent to which a loss to insurable property may be or was caused by
 10-49 wind and tidal surges with respect to any weather-related event for
 10-50 geographic areas or regions designated by the commissioner. The
 10-51 panel shall, at the request of the commissioner, develop both
 10-52 pre-event and post-event methods or models for determining the
 10-53 extent to which a loss to insurable property may be or was caused by
 10-54 wind and tidal surges. The methods or models developed by the panel
 10-55 shall provide guidance to the commissioner on the issue of whether
 10-56 loss to insurable property resulting from a weather-related event
 10-57 may be or has been caused by wind and tidal surges. The methods or
 10-58 models must be based on sound scientific principles.

10-59 (g) After consideration of the recommendations made by the
 10-60 panel under Subsection (f), the commissioner shall publish
 10-61 guidelines that the association will use to settle or pay a claim
 10-62 based on a loss described by this section.

10-63 Sec. 2210.403. RULES. The commissioner may adopt rules as
 10-64 necessary to implement this subchapter.

10-65 SECTION 30. Section 2210.452(c), Insurance Code, is amended
 10-66 to read as follows:

10-67 (c) At the end of each calendar year or policy year, the
 10-68 association shall use the net gain from operations of the
 10-69 association, including all premium and other revenue of the

11-1 association in excess of incurred losses, ~~and~~ operating expenses,
 11-2 public security obligations, and public security administrative
 11-3 expenses, to make payments to the trust fund, to procure
 11-4 reinsurance, or to make payments to the trust fund and to procure
 11-5 reinsurance.

11-6 SECTION 31. The heading to Section 2210.453, Insurance
 11-7 Code, is amended to read as follows:

11-8 Sec. 2210.453. RISK TRANSFER FINANCING; REINSURANCE.

11-9 SECTION 32. Section 2210.453, Insurance Code, is amended by
 11-10 adding Subsections (c), (d), and (e) to read as follows:

11-11 (c) Not later than January 1 of each year, to establish the
 11-12 solvency level required under this chapter, the board of directors
 11-13 shall determine the association's current probable maximum loss,
 11-14 based on an average of at least two recognized catastrophe models,
 11-15 as follows:

11-16 (1) for calendar years 2011 and 2012, at not less than
 11-17 a one in 50 year occurrence;

11-18 (2) for calendar year 2013, at not less than a one in
 11-19 75 year occurrence; and

11-20 (3) for each calendar year after calendar year 2013,
 11-21 at not less than a one in 100 year occurrence.

11-22 (d) The board of directors shall, on January 1 of each year,
 11-23 develop a plan to obtain pre-event risk transfer financing from
 11-24 private sector sources determined by the board of directors to be
 11-25 reasonable and appropriate to the association's risk of loss and in
 11-26 an amount sufficient to maintain the claims paying ability of the
 11-27 association in the event of a catastrophe with estimated damages of
 11-28 \$2.5 billion or more. The plan submitted under this subsection is
 11-29 for informational purposes only and does not bind the association
 11-30 to a particular course of action. The plan shall, at a minimum,
 11-31 include:

11-32 (1) a certification to the governor, lieutenant
 11-33 governor, speaker of the house of representatives, and commissioner
 11-34 stating whether or not the required solvency level of the
 11-35 association is satisfied for that calendar year;

11-36 (2) an analysis of the claims paying ability of the
 11-37 association both with and without reliance upon borrowing
 11-38 authorized by this chapter;

11-39 (3) consideration of the costs, availability, and
 11-40 effects of reinsurance, bonds, and other risk transfer financing
 11-41 mechanisms;

11-42 (4) the likelihood and maximum size of assessments
 11-43 authorized by this chapter; and

11-44 (5) the probability of exhausting the association's
 11-45 financial resources.

11-46 (e) If the association does not purchase reinsurance as
 11-47 authorized by this section, the board, not later than June 1 of each
 11-48 year, shall submit to the commissioner, the legislative oversight
 11-49 board established under Subchapter N, the governor, the lieutenant
 11-50 governor, and the speaker of the house of representatives a report
 11-51 containing an actuarial plan for paying losses in the event of a
 11-52 catastrophe with estimated damages of \$2.5 billion or more. The
 11-53 report submitted under this subsection is for informational
 11-54 purposes only and does not bind the association to a particular
 11-55 course of action.

11-56 SECTION 33. Section 2210.502, Insurance Code, is amended by
 11-57 adding Subsection (e) to read as follows:

11-58 (e) Notwithstanding Subsection (a), the maximum liability
 11-59 limit described by Section 2210.501(b)(1) may not exceed \$1.5
 11-60 million.

11-61 SECTION 34. The heading to Subchapter L, Chapter 2210,
 11-62 Insurance Code, is amended to read as follows:

11-63 SUBCHAPTER L. CERTAIN APPEALS AND OTHER ACTIONS

11-64 SECTION 35. Sections 2210.551(a) and (b), Insurance Code,
 11-65 are amended to read as follows:

11-66 (a) This section:

11-67 (1) does not apply to a person insured under this
 11-68 chapter who is required to resolve a dispute concerning a claim
 11-69 under Subchapter L-1 or who has elected binding arbitration offered

12-1 by the association under Section 2210.553; and
 12-2 (2) applies only to:
 12-3 (A) [~~(1)~~] a person not described by Subdivision
 12-4 (1) who is insured under this chapter or an authorized
 12-5 representative of the person; or
 12-6 (B) [~~(2)~~] an affected insurer.
 12-7 (b) A person or entity described by Subsection (a)(2) [~~(a)~~
 12-8 who is aggrieved by an act, ruling, or decision of the association
 12-9 may appeal to the commissioner not later than the 30th day after the
 12-10 date of that act, ruling, or decision.
 12-11 SECTION 36. The heading to Section 2210.552, Insurance
 12-12 Code, is amended to read as follows:
 12-13 Sec. 2210.552. CLAIM DISPUTES; VENUE AND NOTICE OF INTENT
 12-14 TO BRING ACTION.
 12-15 SECTION 37. Section 2210.552, Insurance Code, is amended by
 12-16 amending Subsection (a) and adding Subsections (e) and (f) to read
 12-17 as follows:
 12-18 (a) Except as provided by Sections 2210.007 and 2210.106 and
 12-19 subject to Subsection (e), a person insured under this chapter who
 12-20 is aggrieved by an act, ruling, or decision of the association
 12-21 relating to the payment of, the amount of, or the denial of a claim
 12-22 may:
 12-23 (1) after providing the association the notice that
 12-24 meets the requirements of Section 541.154, bring an action against
 12-25 the association, including an action under Chapter 541; or
 12-26 (2) if applicable, appeal the act, ruling, or decision
 12-27 under Section 2210.551.
 12-28 (e) A person required to resolve a dispute concerning a
 12-29 claim in accordance with Subchapter L-1 may not bring an action
 12-30 against the association before exhausting all remedies under
 12-31 Subchapter L-1. If a person required to resolve a dispute
 12-32 concerning a claim in accordance with Subchapter L-1 brings an
 12-33 action against the association before exhausting all remedies under
 12-34 that subchapter, the court shall abate the action until all
 12-35 remedies under that subchapter have been exhausted.
 12-36 (f) A claimant who prevails in an action against the
 12-37 association under this section:
 12-38 (1) may recover:
 12-39 (A) the relief described in Sections 541.152(a)
 12-40 and 2210.575; and
 12-41 (B) prejudgment interest; and
 12-42 (2) may not recover damages under Section 541.152(b)
 12-43 of this code or treble damages under Section 17.50, Business &
 12-44 Commerce Code.
 12-45 SECTION 38. Subchapter L, Chapter 2210, Insurance Code, is
 12-46 amended by adding Sections 2210.553 and 2210.554 to read as
 12-47 follows:
 12-48 Sec. 2210.553. VOLUNTARY ARBITRATION OF CERTAIN COVERAGE
 12-49 AND CLAIM DISPUTES. (a) If a person insured under this chapter has
 12-50 a dispute with the association involving an act, ruling, or
 12-51 decision of the association relating to the payment of, the amount
 12-52 of, or the denial of a claim filed by the person, the association
 12-53 may offer to the person that the association and the person resolve
 12-54 the dispute through binding arbitration.
 12-55 (b) An arbitration under this section shall be conducted in
 12-56 the manner and under rules and deadlines prescribed by the
 12-57 commissioner by rule.
 12-58 Sec. 2210.554. LIMITATIONS PERIOD. Notwithstanding any
 12-59 other law, including Section 541.162, a person insured under this
 12-60 chapter who brings an action against the association must bring the
 12-61 action not later than the second anniversary of the date of the act,
 12-62 ruling, or decision of the association by which the insured is
 12-63 aggrieved.
 12-64 SECTION 39. Chapter 2210, Insurance Code, is amended by
 12-65 adding Subchapter L-1 to read as follows:
 12-66 SUBCHAPTER L-1. CLAIMS: SETTLEMENT, APPRAISAL, AND DISPUTE
 12-67 RESOLUTION
 12-68 Sec. 2210.571. DEFINITIONS. In this subchapter:
 12-69 (1) "Association policy" means a windstorm and hail

13-1 insurance policy issued by the association.

13-2 (2) "Claim" means a request for payment under an
 13-3 association policy following damage to property insured under the
 13-4 policy.

13-5 (3) "Claimant" means a person who makes a claim.

13-6 Sec. 2210.572. FILING OF CLAIM. Subject to Section
 13-7 2210.205(b), an insured must file a claim under an association
 13-8 policy not later than the first anniversary of the date on which the
 13-9 damage to property that is the basis of the claim occurs.

13-10 Sec. 2210.573. RECEIPT OF NOTICE OF CLAIM. (a) Not later
 13-11 than the 30th day after the date the association receives notice of
 13-12 a claim, the association shall:

13-13 (1) acknowledge receipt of the claim;

13-14 (2) commence any investigation of the claim; and

13-15 (3) request from the claimant all items, statements,
 13-16 and forms that the association reasonably believes, at that time,
 13-17 will be required from the claimant.

13-18 (b) The association may make additional requests for
 13-19 information if during the investigation of the claim the additional
 13-20 requests are necessary.

13-21 (c) If the acknowledgment of receipt of a claim is not made
 13-22 in writing, the association shall make a record of the date, manner,
 13-23 and content of the acknowledgment.

13-24 Sec. 2210.574. NOTICE OF ACCEPTANCE OR REJECTION OF CLAIM.

13-25 (a) Except as provided by Subsection (c), the association shall
 13-26 notify a claimant in writing of the acceptance or rejection of a
 13-27 claim not later than the 30th day after the date the association
 13-28 receives all items, statements, and forms required by the
 13-29 association to secure final proof of loss.

13-30 (b) If the association rejects the claim, the notice
 13-31 required by Subsection (a) must state the reasons for the
 13-32 rejection.

13-33 (c) If the association is unable to accept or reject the
 13-34 claim within the period specified by Subsection (a), the
 13-35 association, within that same period, shall notify the claimant of
 13-36 the reasons that the association needs additional time. The
 13-37 association shall accept or reject the claim not later than the 30th
 13-38 day after the date the association notifies a claimant under this
 13-39 subsection.

13-40 Sec. 2210.575. PAYMENT OF CLAIM; DELAY IN PAYMENT OF CLAIM;
 13-41 INTEREST ON CLAIM. (a) Except as provided by Subsection (b) or
 13-42 (e), if the association notifies a claimant under Section 2210.574
 13-43 that the association will pay a claim or part of a claim, the
 13-44 association shall pay the claim not later than the 10th day after
 13-45 the date notice is made.

13-46 (b) Except as provided by Subsection (e), if payment of the
 13-47 claim or part of the claim is conditioned on the performance of an
 13-48 act by the claimant, the association shall pay the claim not later
 13-49 than the 10th day after the date the act is performed.

13-50 (c) Except as otherwise provided, if the association, after
 13-51 receiving all items, statements, and forms reasonably requested and
 13-52 required under Section 2210.573, delays payment of the claim for
 13-53 more than 60 days, the association shall pay damages and other items
 13-54 as provided by Subsection (f).

13-55 (d) Subsection (c) does not apply in a case in which it is
 13-56 finally determined, in accordance with this subchapter, that a
 13-57 claim received by the association is invalid and should not be paid
 13-58 by the association.

13-59 (e) If the association does not have sufficient cash on hand
 13-60 or available in the catastrophe reserve trust fund to comply with
 13-61 this section, the commissioner by rule may extend the periods
 13-62 described by Subsections (a), (b), and (c) by an additional period
 13-63 not to exceed 120 days.

13-64 (f) If the association is liable for a claim under an
 13-65 association policy and does not comply with the deadlines
 13-66 prescribed under Subsection (a), (b), or (c) or any extension of
 13-67 those deadlines under Subsection (e), or with Section 2210.573 or
 13-68 2210.574, the association is liable to pay the claimant, in
 13-69 addition to the amount of the claim, interest on the amount of the

14-1 claim at the rate of 18 percent a year as damages. A claimant may
 14-2 bring an action as described by Section 2210.578 to enforce this
 14-3 subsection.

14-4 Sec. 2210.576. DISPUTES CONCERNING AMOUNT OF LOSS. (a) If a
 14-5 claimant disputes the amount of loss determined by the association,
 14-6 the claimant or the association may resolve that dispute by, not
 14-7 later than the 60th day after the date the claimant receives the
 14-8 notice from the association that gives rise to the dispute,
 14-9 requesting appraisal in accordance with the terms of the insurance
 14-10 policy.

14-11 (b) The 60-day period described by Subsection (a) may be
 14-12 extended for:

14-13 (1) an agreed period of time by mutual consent of the
 14-14 claimant and the association; or

14-15 (2) 30 days by the claimant if, before the expiration
 14-16 of the 60-day period described by Subsection (a), the claimant is
 14-17 unable to retain an appraiser and provides written notice of that
 14-18 inability to the association.

14-19 (c) If a claimant or the association requests appraisal
 14-20 under this section, the claimant is responsible for paying any
 14-21 costs incurred or charged by an appraiser retained by and on behalf
 14-22 of the claimant, the association is responsible for paying any
 14-23 costs incurred or charged by an appraiser retained by and on behalf
 14-24 of the association, and the claimant and the association are
 14-25 responsible in equal shares for any costs incurred or charged by any
 14-26 umpire.

14-27 (d) Except as provided by Subsection (b), if the association
 14-28 or a claimant does not demand appraisal before the expiration of the
 14-29 60-day period described by Subsection (a), the association or
 14-30 claimant, as applicable, waives the right to have the amount of loss
 14-31 determined by appraisal.

14-32 (e) This section applies only to disputes regarding the
 14-33 amount of loss and does not apply to disputes regarding the
 14-34 association's determination concerning coverage for a claim or
 14-35 causation of damage to property insured under an association policy
 14-36 that is the basis of a claim.

14-37 (f) The appraisal decision is binding on the claimant and
 14-38 the association as to the amount of loss and is subject to review
 14-39 only if the claimant brings an action against the association as
 14-40 described by Section 2210.578.

14-41 Sec. 2210.577. ALTERNATE DISPUTE RESOLUTION. (a) If a
 14-42 claimant disputes the association's determination concerning
 14-43 coverage for a claim or causation of damage to property insured
 14-44 under an association policy that is the basis of a claim and
 14-45 provides notice of intent to bring an action that meets the
 14-46 requirements of Section 541.154, the association may require the
 14-47 claimant, as a prerequisite to filing the action against the
 14-48 association, to submit the dispute to alternate dispute resolution
 14-49 by mediation or moderated settlement conference, as provided by
 14-50 Chapter 154, Civil Practice and Remedies Code.

14-51 (b) The association must request alternate dispute
 14-52 resolution of a dispute described by Subsection (a) not later than
 14-53 the 60th day after the date the association receives from the
 14-54 claimant notice of intent to bring an action.

14-55 (c) Alternate dispute resolution under this section must be
 14-56 completed not later than the 60th day after the date a request for
 14-57 alternate dispute resolution is made under Subsection (b). The
 14-58 60-day period described by this subsection may be extended by the
 14-59 commissioner by rule or by the association and a claimant by mutual
 14-60 consent.

14-61 (d) If alternate dispute resolution is not completed before
 14-62 the expiration of the 60-day period described by Subsection (c) or,
 14-63 if applicable, any extension under that subsection, the claimant
 14-64 may bring an action against the association as described by Section
 14-65 2210.578.

14-66 (e) A moderated settlement conference under this section
 14-67 may be conducted by a panel consisting of one or more impartial
 14-68 third parties.

14-69 (f) The commissioner shall establish rules to implement

15-1 this section, including provisions for expediting alternate
 15-2 dispute resolution, facilitating the ability of a claimant to
 15-3 appear with or without counsel, and providing that formal rules of
 15-4 evidence shall not apply to the proceedings.

15-5 Sec. 2210.578. ACTION BY CLAIMANT. (a) Subject to
 15-6 providing notice of intent to bring an action that meets the
 15-7 requirements of Section 541.154, a claimant aggrieved by an
 15-8 appraisal process under Section 2210.576 or the outcome of
 15-9 alternate dispute resolution under Section 2210.577 or seeking to
 15-10 enforce Section 2210.575(f) may bring an action against the
 15-11 association.

15-12 (b) An action brought against the association under this
 15-13 section must be presided over by a judge appointed by the judicial
 15-14 panel on multidistrict litigation designated under Section 74.161,
 15-15 Government Code. A judge appointed under this section must be a
 15-16 resident of a first tier coastal county or a second tier coastal
 15-17 county.

15-18 (c) An action brought against the association is governed by
 15-19 this subchapter and Sections 2210.552 and 2210.554.

15-20 Sec. 2210.579. CONSTRUCTION WITH OTHER LAW. (a) To the
 15-21 extent of any conflict between a provision of this subchapter and
 15-22 any other law, the provision of this subchapter prevails.

15-23 (b) Notwithstanding any other law, the association may not
 15-24 bring an action against a claimant, for declaratory or other
 15-25 relief, before the 180th day after the date an appraisal under
 15-26 Section 2210.576, or alternate dispute resolution under Section
 15-27 2210.577, is completed.

15-28 SECTION 40. Section 2210.602, Insurance Code, is amended by
 15-29 amending Subdivisions (1) and (2) and adding Subdivisions (1-a),
 15-30 (1-b), (5-a), (6-a), (6-b), (6-c), and (6-d) to read as follows:

15-31 (1) "Authority" means the Texas Public Finance
 15-32 Authority.

15-33 (1-a) "Board" means the board of directors of the
 15-34 Texas Public Finance Authority.

15-35 (1-b) "Catastrophic event" means an occurrence or a
 15-36 series of occurrences that occurs in a catastrophe area during a
 15-37 calendar year and that results in insured losses and operating
 15-38 expenses of the association in excess of premium and other revenue
 15-39 of the association.

15-40 (2) "Class 1 public securities" means public
 15-41 securities authorized to be issued [~~on or after an occurrence or~~
 15-42 ~~series of occurrences]~~ by Section 2210.072, including a commercial
 15-43 paper program authorized before the occurrence of a catastrophic
 15-44 event [~~so long as no tranche of commercial paper is issued under the~~
 15-45 ~~program until after the catastrophic event].~~

15-46 (5-a) "Gross premium" means association premium, less
 15-47 premium returned to policyholders for canceled or reduced policies.

15-48 (6-a) "Marketable" means, with reference to public
 15-49 securities, securities:

15-50 (A) for which the authority has determined there
 15-51 to be demonstrable market demand; and

15-52 (B) that can be rated by at least two nationally
 15-53 recognized rating agencies for municipal securities in:

15-54 (i) the highest rating category for a
 15-55 short-term debt instrument; or

15-56 (ii) one of the three highest rating
 15-57 categories for a long-term debt instrument.

15-58 (6-b) "Member assessment trust fund" means the
 15-59 dedicated trust fund established by the board and held by the Texas
 15-60 Safekeeping Trust Company into which member assessments collected
 15-61 under Sections 2210.613 and 2210.6135 are deposited.

15-62 (6-c) "Net premium" means gross premium, less:

15-63 (A) premium collected by the association but that
 15-64 has not yet been earned by the association;

15-65 (B) earned premium expected to be paid in
 15-66 connection with the disposition of losses not associated with a
 15-67 catastrophic event;

15-68 (C) operating expenses; and

15-69 (D) any amounts necessary to fund or replenish a

16-1 reasonable operating reserve for the association.

16-2 (6-d) "Premium surcharge trust fund" means the
 16-3 dedicated trust fund established by the board and held by the Texas
 16-4 Safekeeping Trust Company into which premium surcharges collected
 16-5 under Section 2210.613 are deposited.

16-6 SECTION 41. Section 2210.604, Insurance Code, is amended by
 16-7 amending Subsections (b) and (c) and adding Subsection (d) to read
 16-8 as follows:

16-9 (b) The association shall specify in the association's
 16-10 request to the board the maximum principal amount of the public
 16-11 securities and the maximum term of the public securities. The
 16-12 maximum principal requested under this subsection may not exceed
 16-13 the amount of public securities the association, in consultation
 16-14 with the authority, determines to be marketable.

16-15 (c) The principal amount determined by the association
 16-16 under Subsection (b) may be increased to include an amount
 16-17 sufficient to:

16-18 (1) pay the costs related to issuance of the public
 16-19 securities;

16-20 (2) provide a public security reserve fund; ~~and~~

16-21 (3) capitalize interest for the period determined
 16-22 necessary by the association, not to exceed two years; and

16-23 (4) provide the amount of debt service coverage for
 16-24 public securities determined by the association, in consultation
 16-25 with the authority, to be required for the issuance of marketable
 16-26 public securities.

16-27 (d) If the amount of marketable Class 1 public securities is
 16-28 insufficient to pay the excess losses for which the securities are
 16-29 issued, marketable Class 2 public securities may be issued. If the
 16-30 amount of marketable Class 2 public securities is insufficient to
 16-31 pay the excess losses for which the securities are issued,
 16-32 marketable Class 3 public securities may be issued.

16-33 SECTION 42. Section 2210.605(c), Insurance Code, is amended
 16-34 to read as follows:

16-35 (c) Public securities issued under Section 2210.6136 ~~[this~~
 16-36 ~~chapter]~~ are eligible obligations under Section 404.027,
 16-37 Government Code.

16-38 SECTION 43. Section 2210.608(a), Insurance Code, is amended
 16-39 to read as follows:

16-40 (a) Public security proceeds, including investment income,
 16-41 shall be held in trust for the exclusive use and benefit of the
 16-42 association. The association may use the proceeds to:

16-43 (1) pay incurred claims and operating expenses of the
 16-44 association;

16-45 (2) purchase reinsurance for the association;

16-46 (3) pay the costs of issuing the public securities,
 16-47 and public security administrative expenses, if any;

16-48 (4) provide a public security reserve; ~~and~~

16-49 (5) pay capitalized interest and principal on the
 16-50 public securities for the period determined necessary by the
 16-51 association;

16-52 (6) pay private financial agreements entered into by
 16-53 the association as temporary sources of payment of losses and
 16-54 operating expenses of the association; and

16-55 (7) reimburse the association for any cost described
 16-56 by Subdivisions (1)-(6) paid by the association before issuance of
 16-57 the public securities.

16-58 SECTION 44. Section 2210.609, Insurance Code, is amended to
 16-59 read as follows:

16-60 Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY
 16-61 OBLIGATIONS. (a) The board and the association shall enter into an
 16-62 agreement under which the association shall provide for the payment
 16-63 of all public security obligations from available funds collected
 16-64 by the association and deposited into the public security
 16-65 obligation revenue fund. If the association determines that it is
 16-66 unable to pay the public security obligations and public security
 16-67 administrative expenses, if any, with available funds, the
 16-68 association shall pay those obligations and expenses in accordance
 16-69 with Sections 2210.612, 2210.613, ~~and~~ 2210.6135, and 2210.6136 as

17-1 applicable. Class 1, Class 2, or Class 3 public securities may be
 17-2 issued on a parity or subordinate lien basis with other Class 1,
 17-3 Class 2, or Class 3 public securities, respectively.

17-4 (b) If any public securities issued under this chapter are
 17-5 outstanding, the authority [The board] shall notify the association
 17-6 of the amount of the public security obligations and the estimated
 17-7 amount of public security administrative expenses, if any, each
 17-8 year in a period sufficient, as determined by the association, to
 17-9 permit the association to determine the availability of funds,
 17-10 assess members of the association under Sections 2210.613 and
 17-11 2210.6135, and assess a premium surcharge if necessary.

17-12 (c) The association shall deposit all revenue collected
 17-13 under Section [Sections] 2210.612 [2210.613, and 2210.6135] in
 17-14 the public security obligation revenue fund, all revenue collected
 17-15 under Section 2210.613(b) in the premium surcharge trust fund, and
 17-16 all revenue collected under Sections 2210.613(a) and 2210.6135 in
 17-17 the member assessment trust fund. Money deposited in a [the] fund
 17-18 may be invested as permitted by general law. Money in a [the] fund
 17-19 required to be used to pay public security obligations and public
 17-20 security administrative expenses, if any, shall be transferred to
 17-21 the appropriate funds in the manner and at the time specified in the
 17-22 proceedings authorizing the public securities to ensure timely
 17-23 payment of obligations and expenses. This may include the board
 17-24 establishing funds and accounts with the comptroller that the board
 17-25 determines are necessary to administer and repay the public
 17-26 security obligations. If the association has not transferred
 17-27 amounts sufficient to pay the public security obligations to the
 17-28 board's designated interest and sinking fund in a timely manner,
 17-29 the board may direct the Texas Treasury Safekeeping Trust Company
 17-30 to transfer from the public security obligation revenue fund, the
 17-31 premium surcharge trust fund, or the member assessment trust fund
 17-32 to the appropriate account the amount necessary to pay the public
 17-33 security obligation.

17-34 (d) The association shall provide for the payment of the
 17-35 public security obligations and the public security administrative
 17-36 expenses by irrevocably pledging revenues received from premiums,
 17-37 member assessments, premium surcharges, and amounts on deposit in
 17-38 the public security obligation revenue fund, the premium surcharge
 17-39 trust fund, and the member assessment trust fund, together with any
 17-40 public security reserve fund, as provided in the proceedings
 17-41 authorizing the public securities and related credit agreements.

17-42 (e) An amount owed by the board under a credit agreement
 17-43 shall be payable from and secured by a pledge of revenues received
 17-44 by the association or amounts from the public security obligation
 17-45 trust fund, the premium surcharge trust fund, and the member
 17-46 assessment trust fund to the extent provided in the proceedings
 17-47 authorizing the credit agreement.

17-48 SECTION 45. Section 2210.610(a), Insurance Code, is amended
 17-49 to read as follows:

17-50 (a) Revenues received from the premium surcharges under
 17-51 Section 2210.613 and member assessments under Sections 2210.613 and
 17-52 2210.6135 may be applied only as provided by this subchapter.

17-53 SECTION 46. Section 2210.611, Insurance Code, is amended to
 17-54 read as follows:

17-55 Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT
 17-56 EARNINGS. Revenue collected in any year from a premium surcharge
 17-57 under Section 2210.613 and member assessments under Sections
 17-58 2210.613 and 2210.6135 that exceeds the amount of the public
 17-59 security obligations and public security administrative expenses
 17-60 payable in that year and interest earned on the public security
 17-61 obligation fund may, in the discretion of the association, be:

17-62 (1) used to pay public security obligations payable in
 17-63 the subsequent year, offsetting the amount of the premium surcharge
 17-64 and member assessments, as applicable, that would otherwise be
 17-65 required to be levied for the year under this subchapter;

17-66 (2) used to redeem or purchase outstanding public
 17-67 securities; or

17-68 (3) deposited in the catastrophe reserve trust fund.

17-69 SECTION 47. Section 2210.612, Insurance Code, is amended to

18-1 read as follows:

18-2 Sec. 2210.612. PAYMENT OF CLASS 1 PUBLIC SECURITIES. (a)
18-3 The association shall pay Class 1 public securities issued under
18-4 Section 2210.072 from its net premium and other revenue.

18-5 (b) The association may enter financing arrangements as
18-6 described by Section 2210.072(d) as necessary to obtain public
18-7 securities issued under Section 2210.072 [~~that section~~]. Nothing
18-8 in this subsection shall prevent the authorization and creation of
18-9 one or more programs for the issuance of commercial paper before the
18-10 date of an occurrence or series of occurrences that results in
18-11 insured losses under Section 2210.072(a) [~~so long as no tranche of~~
18-12 ~~commercial paper is issued under a commercial paper program until~~
18-13 ~~after such an occurrence~~].

18-14 SECTION 48. Sections 2210.613(b), (c), and (d), Insurance
18-15 Code, are amended to read as follows:

18-16 (b) Seventy percent of the cost of the public securities
18-17 shall be paid by a [~~nonrefundable~~] premium surcharge collected
18-18 under this section in an amount set by the commissioner. On
18-19 approval by the commissioner, each insurer, the association, and
18-20 the Texas FAIR Plan Association shall assess, as provided by this
18-21 section, a premium surcharge to each policyholder of a policy that
18-22 is in effect on or after the 180th day after the date the
18-23 commissioner issues notice of the approval of the public securities
18-24 [~~its policyholders as provided by this section~~]. The premium
18-25 surcharge must be set in an amount sufficient to pay, for the
18-26 duration of the issued public securities, all debt service not
18-27 already covered by available funds or member assessments and all
18-28 related expenses on the public securities.

18-29 (c) The premium surcharge under Subsection (b) shall be
18-30 assessed on all policyholders of policies that cover [~~who reside or~~
18-31 ~~have operations in, or whose~~] insured property that is located in a
18-32 catastrophe area, including automobiles principally garaged in a
18-33 catastrophe area. The premium surcharge shall be assessed on [~~for~~]
18-34 each Texas windstorm and hail insurance policy and each property
18-35 and casualty insurance policy, including an automobile insurance
18-36 policy, issued for automobiles and other property located in the
18-37 catastrophe area. A premium surcharge under Subsection (b) applies
18-38 to:

18-39 (1) all policies written under the following lines of
18-40 insurance:

18-41 (A) fire and allied lines;
18-42 (B) farm and ranch owners;
18-43 (C) residential property insurance;
18-44 (D) private passenger automobile liability and

18-45 physical damage insurance; and
18-46 (E) commercial passenger automobile liability
18-47 and physical damage insurance; and

18-48 (2) the property insurance portion of a commercial
18-49 multiple peril insurance policy [~~that provide coverage on any~~
18-50 ~~premises, locations, operations, or property located in the area~~
18-51 ~~described by this subsection for all property and casualty lines of~~
18-52 ~~insurance, other than federal flood insurance, workers'~~
18-53 ~~compensation insurance, accident and health insurance, and medical~~
18-54 ~~malpractice insurance~~].

18-55 (d) A premium surcharge under Subsection (b) is a separate
18-56 [~~nonrefundable~~] charge in addition to the premiums collected and is
18-57 not subject to premium tax or commissions. Failure by a
18-58 policyholder to pay the surcharge constitutes failure to pay
18-59 premium for purposes of policy cancellation.

18-60 SECTION 49. Section 2210.6135(a), Insurance Code, is
18-61 amended to read as follows:

18-62 (a) The association shall pay Class 3 public securities
18-63 issued under Section 2210.074 as provided by this section through
18-64 member assessments. For the payment of the losses, the [~~The~~]
18-65 association shall assess the members of the association an amount
18-66 not to exceed \$500 million per occurrence or series of occurrences
18-67 in a calendar year that results in insured losses [~~year for the~~
18-68 ~~payment of the losses~~]. The association shall notify each member of
18-69 the association of the amount of the member's assessment under this

19-1 section.

19-2 SECTION 50. Subchapter M, Chapter 2210, Insurance Code, is
19-3 amended by adding Section 2210.6136 to read as follows:

19-4 Sec. 2210.6136. COMBINED SOURCES OF PAYMENT. (a) In lieu
19-5 of issuing distinct Class 1, Class 2, or Class 3 public securities,
19-6 on request of the association and approval by the commissioner, the
19-7 board may issue public securities payable from all of the sources
19-8 described in Sections 2210.612, 2210.613, and 2210.6135 with the
19-9 first source of payment being as described in Section 2210.612 to
19-10 the extent public securities described by that section are
19-11 marketable, the second source of payment being as described in
19-12 Section 2210.613, and the third source of payment being as
19-13 described in Section 2210.6135.

19-14 (b) The aggregate principal amount of public securities
19-15 issued in the manner described by this section may not exceed \$2.5
19-16 billion in any consecutive 12-month period from the date of an
19-17 occurrence or series of occurrences in a calendar year that results
19-18 in insured losses in excess of premium and other revenue of the
19-19 association from available reserves of the association and
19-20 available amounts in the catastrophe reserve trust fund.

19-21 SECTION 51. Section 2210.614, Insurance Code, is amended to
19-22 read as follows:

19-23 Sec. 2210.614. REFINANCING PUBLIC SECURITIES. (a) The
19-24 association may request the board to refinance, in accordance with
19-25 Chapter 1207, Government Code, any public securities issued in
19-26 accordance with Subchapter B-1, whether Class 1, Class 2, or Class 3
19-27 public securities, with public securities payable from any of the
19-28 [same] sources described by Section 2210.612, 2210.613, 2210.6135,
19-29 or 2210.6136 [as the original public securities]. The amount of
19-30 public securities that may be refinanced under this subsection with
19-31 the proceeds of Class 1 public securities may not exceed \$1 billion
19-32 for a single occurrence or a series of occurrences that takes place
19-33 in a calendar year.

19-34 (b) Notwithstanding Section 1207.006, Government Code,
19-35 public securities refinanced under this section may not have a term
19-36 that is greater than 14 years.

19-37 SECTION 52. Section 2210.616, Insurance Code, is amended to
19-38 read as follows:

19-39 Sec. 2210.616. STATE NOT TO IMPAIR PUBLIC SECURITY
19-40 OBLIGATIONS. (a) The state pledges for the benefit and protection
19-41 of financing parties, the board, and the association that the state
19-42 will not take or permit any action that would:

19-43 (1) impair the collection of member assessments and
19-44 premium surcharges or the deposit of those funds into the member
19-45 assessment trust fund or premium surcharge trust fund;

19-46 (2) reduce, alter, or impair the member assessments or
19-47 premium surcharges to be imposed, collected, and remitted to
19-48 financing parties until the principal, interest, and premium, and
19-49 any other charges incurred and contracts to be performed in
19-50 connection with the related public securities, have been paid and
19-51 performed in full; or

19-52 (3) [If public securities under this subchapter are
19-53 outstanding, the state may not:

19-54 [(1) take action to limit or restrict the rights of the
19-55 association to fulfill its responsibility to pay public security
19-56 obligations; or

19-57 [(2)] in any way impair the rights and remedies of the
19-58 public security owners until the public securities are fully
19-59 discharged.

19-60 (b) A party issuing public securities under this subchapter
19-61 may include the pledge described by Subsection (a) in any
19-62 documentation relating to those securities.

19-63 SECTION 53. Subchapter M, Chapter 2210, Insurance Code, is
19-64 amended by adding Section 2210.6165 to read as follows:

19-65 Sec. 2210.6165. PROPERTY RIGHTS. If public securities
19-66 issued under this subchapter are outstanding, the rights and
19-67 interests of the association, a successor to the association, any
19-68 member of the association, or any member of the Texas FAIR Plan
19-69 Association, including the right to impose, collect, and receive a

20-1 premium surcharge or a member assessment authorized under this
 20-2 subchapter, are only contract rights until those revenues are first
 20-3 pledged for the repayment of the association's public security
 20-4 obligations as provided by Section 2210.609.

20-5 SECTION 54. Sections 2210.502(c) and 2210.551(e),
 20-6 Insurance Code, are repealed.

20-7 SECTION 55. (a) The Texas Department of Insurance and the
 20-8 Texas Windstorm Insurance Association shall jointly study whether
 20-9 the association's using a single adjuster program would improve the
 20-10 effectiveness and efficiency with which the association receives,
 20-11 processes, settles, and pays claims filed under insurance policies
 20-12 issued by the association under Chapter 2210, Insurance Code.

20-13 (b) The commissioner of insurance shall study the
 20-14 feasibility of the association writing policies directly and the
 20-15 impact the association writing policies directly would have on
 20-16 rates for policies issued by the association. The commissioner
 20-17 shall submit the finding of the study conducted under this
 20-18 subsection to the board of directors of the association.

20-19 (c) The results of the studies conducted under Subsections
 20-20 (a) and (b) of this section shall be included in the 2012 biennial
 20-21 report submitted to the legislature by the association under
 20-22 Section 2210.0025, Insurance Code.

20-23 SECTION 56. (a) A legislative interim study committee
 20-24 shall conduct a study of alternative ways to provide insurance to
 20-25 the seacoast territory of this state through a quasi-governmental
 20-26 entity.

20-27 (b) The committee is composed of 12 members appointed as
 20-28 follows:

20-29 (1) four members of the senate appointed by the
 20-30 lieutenant governor;

20-31 (2) four members of the house of representatives
 20-32 appointed by the speaker of the house of representatives; and

20-33 (3) four public members with a background in actuarial
 20-34 science, law, business, or insurance appointed as follows:

20-35 (A) two by the governor;

20-36 (B) one by the lieutenant governor; and

20-37 (C) one by the speaker of the house of
 20-38 representatives.

20-39 (c) The speaker of the house of representatives and the
 20-40 lieutenant governor shall jointly designate a chair or,
 20-41 alternatively, designate two co-chairs, from among the committee
 20-42 membership.

20-43 (d) The committee shall:

20-44 (1) examine alternative ways to provide insurance to
 20-45 the seacoast territory of this state through a quasi-governmental
 20-46 entity, including providing insurance coverage through a system or
 20-47 program in which insurers in this state provide insurance in the
 20-48 seacoast territory of this state in proportion to the percentage of
 20-49 insurance coverage provided in geographic areas of this state other
 20-50 than the seacoast territory;

20-51 (2) study the residual markets for windstorm and hail
 20-52 insurance in other states to determine if those markets operate
 20-53 more efficiently and effectively than the residual market for
 20-54 windstorm and hail insurance coverage in this state;

20-55 (3) recommend:

20-56 (A) the appropriate scope of authority and
 20-57 responsibility for the entity to provide insurance to the seacoast
 20-58 territory of this state;

20-59 (B) an organizational structure to exercise
 20-60 authority and responsibility over the provision of insurance to the
 20-61 seacoast territory of this state;

20-62 (C) a timetable for implementation; and

20-63 (D) specific amendments to state laws and rules
 20-64 that are necessary to implement the committee's recommendations
 20-65 under this subdivision; and

20-66 (4) estimate funding requirements to implement the
 20-67 recommendations.

20-68 (e) The committee may adopt rules necessary to conduct
 20-69 business under and implement this section.

21-1 (f) Except as specifically provided by this section, the
21-2 committee may operate in the same manner as a joint committee of the
21-3 82nd Legislature.

21-4 (g) Not later than December 1, 2012, the committee shall
21-5 report to the governor and the legislature the recommendations made
21-6 under this section.

21-7 SECTION 57. This Act applies only to a Texas windstorm and
21-8 hail insurance policy, and a claim or dispute arising under a Texas
21-9 windstorm and hail insurance policy, delivered, issued for
21-10 delivery, or renewed by the Texas Windstorm Insurance Association
21-11 on or after the 30th day after the effective date of this Act. A
21-12 Texas windstorm and hail insurance policy, and a claim or dispute
21-13 arising under a Texas windstorm and hail insurance policy,
21-14 delivered, issued for delivery, or renewed by the Texas Windstorm
21-15 Insurance Association before the 30th day after the effective date
21-16 of this Act, are governed by the law in effect on the date the policy
21-17 was delivered, issued for delivery, or renewed, and the former law
21-18 is continued in effect for that purpose.

21-19 SECTION 58. The Texas Windstorm Insurance Association shall
21-20 amend the association's plan of operation to conform to the changes
21-21 in law made by this Act not later than January 1, 2012.

21-22 SECTION 59. Section 2210.605(c), Insurance Code, as amended
21-23 by this Act, and Section 2210.6136, Insurance Code, as added by this
21-24 Act, apply to the issuance and repayment of public securities
21-25 issued by the Texas Windstorm Insurance Association under Chapter
21-26 2210, Insurance Code, in response to an occurrence or series of
21-27 occurrences that takes place on or after June 1, 2011. The issuance
21-28 and repayment of public securities issued by the association under
21-29 Chapter 2210, Insurance Code, before June 1, 2011, is governed by
21-30 the law as it existed immediately before the effective date of this
21-31 Act, and that law is continued in effect for that purpose.

21-32 SECTION 60. This Act takes effect immediately if it
21-33 receives a vote of two-thirds of all the members elected to each
21-34 house, as provided by Section 39, Article III, Texas Constitution.
21-35 If this Act does not receive the vote necessary for immediate
21-36 effect, this Act takes effect September 1, 2011.

21-37

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