

BILL ANALYSIS

Senate Research Center

S.B. 900
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Established in 1971, the Texas Windstorm Insurance Association (TWIA) has served as the insurer of last resort for wind and hail insurance for Tier 1 counties, including 14 coastal counties and part of Harris County. Today, TWIA provides coverage to over 200,000 policyholders, including residential, commercial, governmental and independent school districts.

Since its inception, TWIA has undergone significant legislative reform. In 2009, the Texas Legislature adopted funding reforms to reduce unknown financial liability for member insurers as an incentive to increase the number of voluntary policies issued among private carriers along the Texas coast. During the 1st Called Session in 2011, the Texas Legislature established a policyholder claims process to ensure legitimate claims are paid fairly and on time.

S.B. 900 outsources administrative functions to a third-party; changes the name of the Texas Windstorm Insurance Association to the Texas Coastal Insurance Association; amends the board makeup to reflect greater industry expertise and geographic representation; privatizes TWIA policy issuance and claims handling; and requires TWIA to maintain an actuarially sound financial structure. (Original Author's / Sponsor's Statement of Intent)

S.B. 900 amends current law relating to the operation of the Texas Windstorm Insurance Association.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the commissioner of insurance is modified in SECTION 18 (Section 2210.452, Insurance Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 4 (Section 2210.062, Insurance Code), SECTION 18 (Section 2210.452, Insurance Code), SECTION 30 (Sections 2210.702 and 2210.705, Insurance Code), and SECTION 34 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2210.003, Insurance Code, by amending Subdivision (1) and adding Subdivision (1-a), to define "administrator" and "association."

SECTION 2. Amends Section 2210.014, Insurance Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Provides that Chapter 542 (Processing and Settlement of Claims) does not apply to the Texas Windstorm Insurance Association (TWIA) or to an agent or representative of TWIA.

Deletes existing text providing that Chapter 542 does not apply to the processing and settlement of claims by TWIA.

(c) Provides that an administrator contracted under Sections 2210.062, if applicable, is an agent of TWIA for purposes of managing TWIA and administering the plan of operation under this chapter.

SECTION 3. Amends Subchapter A, Chapter 2210, Insurance Code, by adding Section 2110.015, as follows:

Sec. 2210.015. STUDY OF MARKET INCENTIVES; BIENNIAL REPORTING. (a) Requires the Texas Department of Insurance (TDI), each biennium, to conduct a study of market incentives to promote participation in the voluntary windstorm and hail insurance market in the seacoast territory of this state. Requires that the study address as possible incentives the mandatory or voluntary issuance of windstorm and hail insurance in conjunction with the issuance of a homeowners policy in the seacoast territory.

(b) Requires TDI to include the results of the study conducted under this section in the report submitted under Section 32.022 (Biennial Report to Legislature).

SECTION 4. Amends Subchapter B, Chapter 2210, Insurance Code, by adding Section 2210.062, as follows:

Sec. 2210.062. ADMINISTRATION BY CONTRACTED ADMINISTRATOR AUTHORIZED. (a) Authorizes the commissioner of insurance (commissioner), notwithstanding any other law, if determined by the commissioner to be in the best interest of the policyholders and the public, to contract with an administrator to manage TWIA and administer the plan of operation.

(b) Requires the commissioner to adopt rules as necessary to implement this section if the commissioner determines management of TWIA and administration of the plan of operation by an administrator is in the best interest of the policyholders and the public.

(c) Requires the administrator to hold either a managing general agent license issued under Chapter 4053 (Managing General Agents) or a third-party administrator certificate of authority issued under Chapter 4151 (Third-Party Administrators).

SECTION 5. Amends Subchapter B-1, Chapter 2210, Insurance Code, by amending Section 2210.071 and adding Section 2210.0715, as follows:

Sec. 2210.071. New heading: PAYMENT OF EXCESS LOSSES. Makes a nonsubstantive change.

Sec. 2210.0715. PAYMENT FROM RESERVES AND TRUST FUND. (a) Creates this subsection from existing text.

(b) Prohibits the proceeds of Class 1 public securities issued before the date of any occurrence or series of occurrences that results in insured losses from being included in available reserves for purposes of this section.

Deletes existing Subsection (c) requiring that losses not paid under Subsection (b) be paid from the proceeds from public securities issued in accordance with this subchapter and Subchapter M (Public Securities Program) and, notwithstanding Subsection (a), may be paid from the proceeds of public securities issued under Section 2210.072(a) before an occurrence or series of occurrences that results in insured losses.

SECTION 6. Amends Section 2210.072, Insurance Code, as follows:

Sec. 2210.072. PAYMENT FROM CLASS 1 PUBLIC SECURITIES; FINANCIAL INSTRUMENTS. (a) Requires that losses not paid under Section 2210.0715, rather than Section 2210.071(b), be paid as provided by this section from the proceeds from Class 1 public securities issued, rather than from Class 1 public securities authorized to be issued, in accordance with Subchapter M before, on, or after the date of any occurrence or series

of occurrences that results in insured losses. Provides that public securities described by this section must be paid within a period not to exceed 14 years, and may be paid sooner if the board of directors of TWIA (board of directors) elects to do so and the commissioner approves. Deletes existing text providing that public securities issued under this section must be repaid within a period not to exceed 14 years, and may be repaid sooner if the board of directors elections to do so and the commissioner approves. Makes nonsubstantive changes.

(b) Prohibits the public securities described in Subsection (a) that are issued before an occurrence or series of occurrences that results in incurred losses from, in the aggregate, exceeding \$500 million, rather than \$1 billion, at any one time, regardless of the calendar year or years in which the outstanding public securities were issued.

(b-1) Requires that the public securities described in Subsection (a) be issued as necessary in a principal amount not to exceed \$500 million, rather than \$1 billion, per catastrophe year, in the aggregate, and makes a conforming change.

(c) Requires that the public securities be repaid in the manner prescribed by Subchapter M if public securities are issued as described by this section.

Deletes existing text requiring that the public securities be paid from TWIA premium revenue.

(d) Authorizes TWIA to borrow from, or enter into other financing arrangements with, any market source, under which the market source makes interest-bearing loans or other financial instruments to TWIA to enable TWIA to pay losses under this section or to obtain public securities under this section. Provides that, for purposes of this subsection, financial instruments includes commercial paper.

(e) Requires that the proceeds of any outstanding public securities described by Subsection (a) that are issued before an occurrence or series of occurrences, together with the proceeds of any outstanding Class 1 public securities issued on or before June 1, 2015, be depleted before the proceeds of any securities issued after an occurrence or series of occurrences may be used. Provides that this subsection does not prohibit TWIA from issuing securities after an occurrence or series of occurrences before the proceeds of outstanding public securities issued during a previous catastrophe year have been depleted.

(f) Requires that the proceeds, if, under Subsection (e), the proceeds of any outstanding public securities issued during a previous catastrophe year, together with the proceeds of any outstanding Class 1 public securities issued on or before June 1, 2015, are required to be depleted, to count against the limit, rather than against the \$1 billion limit, on public securities described by this section in the catastrophe year in which the proceeds are required to be depleted.

SECTION 7. Amends Subchapter B-1, Chapter 2210, Insurance Code, by adding Section 2210.0725, as follows:

Sec. 2210.0725. PAYMENT FROM CLASS 1 ASSESSMENTS. (a) Requires that losses in a catastrophe year not paid under Sections 2210.0715 and 2210.072 (Payment from Class 1 Public Securities; Financial Instruments) be paid as provided by this section from Class 1 member assessments not to exceed \$500 million for that catastrophe year.

(b) Requires TWIA, with the approval of the commissioner, to notify each member of the amount of the member's assessment under this section. Requires that the proportion of the losses allocable to each insurer under this section be determined in the manner used to determine each insurer's participation in TWIA for the year under Section 2210.052 (Member Participation in Association).

(c) Prohibits a member of TWIA from recouping an assessment paid under this section through a premium surcharge or tax credit.

SECTION 8. Amends Section 2210.073, Insurance Code, as follows:

Sec. 2210.073. PAYMENT FROM CLASS 2 PUBLIC SECURITIES. (a) Requires losses not paid under Sections 2210.0715, 2210.072, and 2210.0725, rather than Sections 2210.071 (Payment of Excess Losses; Payment From Reserves and Trust Fund) and 2210.072, be paid as provided by this section from the proceeds from Class 2 public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence or series of occurrences that results in insured losses. Requires that public securities issued under this section be paid, rather than repaid, within a period not to exceed 10 years. Authorizes public securities issued under this section to be paid, rather than repaid, sooner if the board of directors elects to do so and the commissioner approves.

(b) Requires that public securities described by Subsection (a) be issued as necessary in a principal amount not to exceed \$250 million, rather than \$1 billion, per catastrophe year, in the aggregate, whether for a single occurrence or a series of occurrences. Authorizes public securities described by Subsection (a), subject to the maximum, rather than the \$1 billion maximum, described by Subdivision (1) (relating to a principal amount not to exceed \$250 million), to be issued, in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in that year, during the following calendar year.

(c) Requires that the public securities be paid, rather than repaid, in the manner prescribed by Subchapter M if the losses are paid with public securities described by this section.

SECTION 9. Amends Section 2210.074, Insurance Code, as follows:

Sec. 2210.074. New heading: PAYMENT THROUGH CLASS 2 ASSESSMENTS. (a) Requires that losses in a catastrophe year not paid under Sections 2210.0715, 2210.072, 2210.0725, and 2210.073 be paid as provided by this section from Class 2 member assessments not to exceed \$250 million for that catastrophe year.

(b) Requires TWIA, with the approval of the commissioner, to notify each member of the amount of the member's assessment under this section. Requires that the proportion of the losses allocable to each insurer under this section be determined in the manner used to determine each insurer's participation in TWIA for the year under Section 2210.052.

(c) Prohibits a member of TWIA from recouping an assessment paid under this section through a premium surcharge or tax credit.

Deletes text from existing Subsection (a) requiring that losses not paid under Sections 2210.071 and 2210.073 be paid as provided by this section from proceeds from public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence that results in insured losses under this subsection or through reinsurance as described by Section 2210.075. Deletes text from existing Subsection (a) requiring that public securities issued under this section be repaid within a period not to exceed 10 years, and may be repaid sooner if the board of directors elects to do so and the commissioner approves.

Deletes existing Subsection (b) providing that public securities described by Subsection (a) may be issued as necessary in a principal amount not to exceed \$500 million per catastrophe year, in the aggregate, whether for a single occurrence or a series of occurrences and subject to the \$500 million maximum

described by Subdivision (1), may be issued, in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in that year, during the following calendar year.

Deletes existing Subsection (c) requiring that public securities, if the losses are paid with public securities described by this section, be repaid in the manner prescribed by Subchapter M through member assessments as provided by this section. Deletes existing text requiring TWIA to notify each member of TWIA of the amount of the member's assessment under this section. Deletes existing text requiring that the proportion of the losses allocable to each insurer under this section be determined in the manner used to determine each insurer's participation in TWIA for the year under Section 2210.052. Deletes existing text prohibiting a member of TWIA from recouping an assessment paid under this subsection through a premium surcharge or tax credit.

SECTION 10. Amends Subchapter B-1, Chapter 2210, Insurance Code, by adding Sections 2210.0741 and 2210.0742, as follows:

Sec. 2210.0741. PAYMENT THROUGH CLASS 3 PUBLIC SECURITIES. (a) Requires that losses not paid under Sections 2210.0715, 2210.072, 2210.0725, 2210.073, and 2210.074 be paid as provided by this section from the proceeds from Class 3 public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence or series of occurrences that results in insured losses. Provides that public securities issued under this section must be paid within a period not to exceed 10 years, and may be paid sooner if the board of directors elects to do so and the commissioner approves.

(b) Provides that public securities described by Subsection (a):

(1) shall be issued as necessary in a principal amount not to exceed \$250 million per catastrophe year, in the aggregate, whether for a single occurrence or a series of occurrences; and

(2) subject to the maximum described by Subdivision (1), may be issued, in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in that year, during the following calendar year.

(c) Requires that the public securities, if the losses are paid with public securities described by this section, be paid in the manner prescribed by Subchapter M.

Sec. 2210.0742. PAYMENT FROM CLASS 3 ASSESSMENTS. (a) Requires that losses in a catastrophe year not paid under Sections 2210.0715, 2210.072, 2210.0725, 2210.073, 2210.074, and 2210.0741 be paid as provided by this section from Class 3 member assessments not to exceed \$250 million for that catastrophe year.

(b) Requires TWIA, with the approval of the commissioner, to notify each member of the amount of the member's assessment under this section. Requires that the proportion of the losses allocable to each insurer under this section be determined in the manner used to determine each insurer's participation in TWIA for the year under Section 2210.052 (Member Participation in Association).

(c) Prohibits a member of TWIA from recouping an assessment paid under this section through a premium surcharge or tax credit.

SECTION 11. Amends Section 2210.075, Insurance Code, as follows:

Sec. 2210.075. REINSURANCE. (a) Authorizes an insurer, before any occurrence or series of occurrences, to elect to purchase reinsurance to cover an assessment for which the insurer would otherwise be liable under this subchapter, rather than under Section 2210.074(c) (requiring the public securities to be repaid through member assessments).

(b) Requires that an insurer notify the board of directors, in the manner prescribed by TWIA whether the insurer will be purchasing reinsurance. Provides that, if the insurer does not elect to purchase reinsurance under this section, the insurer remains liable for any assessment imposed under this subchapter, rather than under Section 2210.074(c).

SECTION 12. Amends Section 2210.102, Insurance Code, by amending Subsections (b), (c), (d), (e), and (f) and adding Subsection (c-1), as follows:

(b) Requires three, rather than four, members to be representatives of the insurance industry who actively write and renew windstorm and hail insurance in the first tier coastal counties.

(c) Requires three, rather than four, members, as of the date of the appointment, to reside in the first tier coastal counties. Requires that each of the following regions be represented by a member residing in the region and appointed under this subsection:

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

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

(3) the region consisting of Brazoria, Chambers, Galveston, Jefferson, and Matagorda Counties and any part of Harris County designated as a catastrophe area under Section 2210.005 (Designation as Catastrophe Area; Revocation of Designation).

Deletes existing text providing that at least one of the members appointed under this subsection must be a property and casualty agent who is licensed under this code and is not a captive agent.

(c-1) Requires one of the members appointed under Subsection (c) to be a property and casualty agent who is licensed under this code and is not a captive agent.

(d) Requires that three members reside in an area of this state that is located more than 100 miles from the Texas coastline. Deletes existing text requiring that one member be a representative of an area of this state that is not located in the seacoast territory with demonstrated expertise in insurance and actuarial principles.

(e) Requires all members to have demonstrated experience in insurance, general business, or actuarial principles and the member's area of expertise, if any, sufficient to make the success of TWIA probable.

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

SECTION 13. Amends Section 2210.103(c), Insurance Code, as follows:

(c) Authorizes a member of the board of directors to be removed by the commissioner with cause stated in writing and posted on TWIA's website. Requires the commissioner to appoint a replacement in accordance with, rather than in the manner provided by, Section 2210.102 (Composition) for a member who leaves or is removed from the board of directors.

SECTION 14. Amends Section 2210.258, Insurance Code, by amending Subsections (a) and (b) and adding Subsection (d), as follows:

(a) and (b) Adds a reference to Subsection (d) and makes nonsubstantive changes

(d) Authorizes TWIA to insure a structure described by Subsection (a) (relating to construction compliance) for a policy term not to exceed 30 days if an inspection verification form or other inspection form adopted by TDI has been issued for the structure for purposes of providing temporary coverage while an applicant seeks to secure a certificate of compliance for the structure if the structure is otherwise insurable property.

SECTION 15. Amends Section 2210.2581, Insurance Code, as follows:

Sec. 2210.2581. MANDATORY COMPLIANCE WITH BUILDING STANDARDS; CERTAIN STRUCTURES. Prohibits TWIA, except as provided by Sections 2210.251(d) and (e) and Section 2210.258(d), and notwithstanding Sections 2210.258(a), (b), and (c), rather than Section 2210.258, or any other provision of this chapter, on and after December 31, 2015, from issuing or renewing insurance coverage for a structure unless the structure complies with the applicable building code standards in effect on the date the construction, alteration, remodeling, enlargement, or repair of, or addition to, the structure begins, as set forth in the plan of operation. Makes a nonsubstantive change.

SECTION 16. Amends Section 2210.355(b), Insurance Code, as follows:

(b) Requires that the following, in adopting rates under this chapter, be considered:

(1)-(3) Makes no change to these subdivisions;

(4) payment of public security obligations issued under this chapter, rather than payment of public security obligations for Class 1 public securities issued under this chapter, including the additional amount of any debt service coverage determined by TWIA to be required for the issuance of marketable public securities; and

(5) Makes no change to this subdivision.

SECTION 17. Amends the heading to Subchapter J, Chapter 2210, Insurance Code, to read as follows:

SUBCHAPTER J. CATASTROPHE RESERVE TRUST FUND; REINSURANCE AND ALTERNATIVE RISK FINANCING

SECTION 18. Amends Section 2210.452, Insurance Code, by amending Subsections (a), (c), and (d) and adding Subsection (f), as follows:

(a) Requires the commissioner to adopt rules under which TWIA makes payments to the catastrophe reserve trust fund (trust fund). Authorizes the trust fund, except as otherwise specifically provided by this section, to be used only for purposes directly related to funding the payment of insured losses, including funding the obligations of the trust fund under Subchapter B-1 (Payment of Losses), and purchasing reinsurance or using

alternative risk financing mechanisms under Section 2210.453. Makes nonsubstantive changes.

(c) Requires TWIA, at the end of each calendar year or policy year, to use the net gain from operations of TWIA, including all premium and other revenue of TWIA in excess of incurred losses, operating expenses, public security obligations, and public security administrative expenses, to make payments to the trust fund, procure reinsurance, or use alternative risk financing mechanisms, or to make payments to the trust fund and procure reinsurance or use alternative risk financing mechanism.

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

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

SECTION 19. Amends Subchapter J, Chapter 2210, Insurance Code, by adding Section 2210.4521, as follows:

Sec. 2210.4521. INVESTMENT OF TRUST FUND BALANCES. (a) Requires the comptroller of public accounts of the State of Texas (comptroller) to invest in accordance with the investment standard described by Section 404.024(j) (requiring the comptroller to invest certain funds under certain restrictions and procedures), Government Code, the portion of the trust fund balance that exceeds the amount of the sufficient balance determined under Subsection (b). Provides that the comptroller's investment of that portion of the balance is not subject to any other limitation or other requirement provided by Section 404.024 (Authorized Investments), Government Code.

(b) Requires the board of directors, at least once each 12-month period to determine a balance for the trust fund that the board considers to be sufficient to meet the cash flow requirements of the fund in funding the payment of insured losses as provided by Section 2210.452(a). Requires the board of directors, after determining that sufficient balance, to provide notice of the sufficient balance to the comptroller.

(c) Requires the comptroller, not later than the 30th day after the date the board of directors provides notice of the sufficient balance determined under Subsection (b), to adjust the investment portfolio of trust fund money to ensure that only the portion of the fund that exceeds the sufficient balance is invested as required by Subsection (a).

(d) Requires the comptroller to include the fair market value of the investment portfolio of the trust fund in calculating the amount in the fund for purposes of this chapter.

SECTION 20. Amends Section 2210.453, Insurance Code, as follows:

Sec. 2210.453. New heading: FUNDING LEVELS; REINSURANCE AND ALTERNATIVE RISK FINANCING MECHANISMS. (a) Authorizes TWIA to purchase reinsurance or use alternative risk financing mechanisms or both as necessary.

Deletes existing text authorizing TWIA to make payments into the trust fund, and purchase reinsurance.

(b) Requires TWIA to maintain total available loss funding in an amount not less than the probable maximum loss for TWIA for a catastrophe year with a probability of one in 100. Requires that the required funding level, if necessary, be achieved through the purchase of reinsurance or the use of alternative financing mechanisms, or both, to operate in addition to or in concert with the trust fund, public securities, financial instruments, and assessments authorized by this chapter.

Deletes existing text authorizing TWIA to purchase reinsurance that operates in addition to or in concert with the trust fund, public securities, financial instruments, and assessments authorized by this chapter.

(c) Prohibits the attachment point for reinsurance purchased under this section from being less than the aggregate amount of all funding available to TWIA under Subchapter B-1.

Deletes existing text requiring the board, if TWIA does not purchase reinsurance as authorized by this section, not later than June 1 of each year, to submit to the commissioner, the legislative oversight board established under Subchapter N (Legislative Oversight Board), the governor, the lieutenant governor, and the speaker of the house of representatives a report containing an actuarial plan for paying losses in the event of a catastrophe with estimated damages of \$2.5 billion or more. Deletes existing text requiring that the report required by this subsection contain certain information.

Deletes existing Subsection (d) prohibiting a person who prepares a report required by Subsection (c) from contracting to provide any other service to TWIA, except for the preparation of similar reports, before the third anniversary of the date the last report prepared by the person under that subsection is submitted.

Deletes existing Subsection (e) providing that the report submitted under this section is for informational purposes only and does not bind TWIA to a particular course of action.

SECTION 21. Amends Section 2210.602, Insurance Code, by amending Subdivision (4) and adding Subdivisions (2-a), (3-a), and (4-a), to define "Class 1 public security trust fund" "Class 2 public security trust fund," and "Class 3 public security trust fund" and to redefine "Class 3 public securities."

SECTION 22. Amends Section 2210.609, Insurance Code, as follows:

Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY OBLIGATIONS. (a) Requires the board of directors of the Texas Public Finance Authority (board) and TWIA to enter into an agreement under which TWIA is required to provide for the payment of all public security obligations from available funds collected by TWIA and deposited as required by this subchapter, rather than deposited into the public security obligation revenue fund. Requires TWIA, if TWIA determines that it is unable to pay the public security obligations and public security administrative expenses, if any, with available funds, to pay those obligations and expenses in accordance with Sections 2210.612, 2210.613, and 2210.6131, rather than with Sections 2210.613, 2210.613, and 2210.6135 (Payment of Class 3 Public Securities), and 2210.6136 (Alternative Sources of Payment), as applicable. Authorizes Class 1, or Class 2, or Class 3 public securities to be issued on a parity or subordinate lien basis with other Class 1 or Class 3 public securities, respectively.

(b) Requires TPFPA, if any public securities issued under this chapter are outstanding, to notify TWIA of the amount of the public security obligations and the estimated amount of public security administrative expenses, if any, each calendar year in a period sufficient, as determined by TWIA, to permit TWIA to

determine the availability of funds and assess a premium surcharge if necessary, rather than determine the availability of funds, assess members of TWIA under Sections 2210.613 and 2210.6135, and assess a premium surcharge if necessary.

(c) Requires TWIA to deposit all revenue collected under Section 2210.612 in the Class 1 public security trust, all revenue collected under Section 2210.613 in the Class 2 public security trust fund, and all revenue collected under Section 2210.6131 in the Class 3 public security trust fund. Authorizes the board, if TWIA has not transferred amounts sufficient to pay the public security obligations to the board's designated interest and sinking fund in a timely manner, to direct the Texas Treasury Safekeeping Trust Company to transfer from the Class 1 public security trust fund, the Class 2 public security trust fund, or the Class 3 public security trust fund to the appropriate account the amount necessary to pay the public security obligation, rather than to transfer from the public security obligation revenue fund, the premium surcharge trust fund, or the member assessment trust fund to the appropriate account the amount necessary to pay the public security obligation. Deletes existing text authorizing TWIA to deposit all revenue collected under Section 2210.612 in the public security obligation revenue fund, all revenue collected under Section 2210.613(b) in the premium surcharge trust fund, and all revenue collected under Sections 2210.613(a) and 2210.6135 in the member assessment trust fund.

(d) Requires TWIA to provide for the payment of the public security obligations and the public security administrative expenses by irrevocably pledging revenues received from premiums, premium surcharges, and amounts on deposit in the Class 1 public security trust fund, the Class 2 public security trust fund, and the Class 3 public security trust fund, together with any public security reserve fund, as provided in the proceedings authorizing the public securities and related credit agreements.

Deletes existing text requiring TWIA to provide for the payment of the public security obligations and the public security administrative expenses by irrevocably pledging revenues received from premiums, member assessments, premium surcharges, and amounts on deposit in the public security obligation revenue fund, the premium surcharge trust fund, and the member assessment trust fund, together with any public security reserve fund, as provided in the proceedings authorizing the public securities and related credit agreements.

(e) Requires that an amount owed by the board under a credit agreement be payable from and secured by a pledge of revenues received by TWIA from the Class 1 public security trust fund, the Class 2 public security trust fund, and the Class 3 public security trust fund to the extent provided in the proceedings authorizing the credit agreement.

Deletes existing text requiring that an amount owed by the board under a credit agreement be payable from and secured by a pledge of revenues received by TWIA or amounts from the public security obligation trust fund, the premium surcharge trust fund, and the member assessment trust fund to the extent provided in the proceedings authorizing the credit agreement.

SECTION 23. Amends Section 2210.610(a), Insurance Code, as follows:

(a) Authorizes revenues received from the premium surcharges under Sections 2210.612, 2210.613, and 2210.6131 to be applied only as provided by this subchapter.

Deletes existing text authorizing revenues received from the premium surcharges under Section 2210.613 and member assessments under Sections 2210.613 and 2210.6135 to be applied only as provided by this subchapter.

SECTION 24. Amends Section 2210.611, Insurance Code, as follows:

Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Authorizes revenue collected in any calendar year from a premium surcharge under Sections 2210.612, 2210.613, and 2210.6131, rather than premium surcharge under Section 2210.613 and member assessments under Sections 2210.613 and 2210.6135, that exceeds the amount of the public security obligations and public security administrative expenses payable in that calendar year and interest earned on the funds, rather than on the public security obligation fund, in the discretion of TWIA, to be:

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

(2) and (3) Makes no change to these subdivisions.

SECTION 25. Amends Section 2210.612, Insurance Code, as follows:

Sec. 2210.612. PAYMENT OF CLASS 1 PUBLIC SECURITIES. (a) Requires TWIA to pay Class 1 public securities issued under Section 2210.072 from net premium and other revenue, and if net premium and other revenue are not sufficient to pay the securities, a catastrophe area premium surcharge collected in accordance with this section.

(b) Requires TWIA, on approval by the commissioner, to assess, as provided by this section, a premium surcharge to each policyholder of a policy described by Subsection (c). Requires that the premium surcharge be set in an amount sufficient to pay, for the duration of the issued public securities, all debt service not already covered by available funds and all related expenses on the public securities.

(c) Requires that the premium surcharge under this section be assessed on all policyholders of TWIA policies issued under this chapter.

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

(e) Redesignates Subsection (b) as Subsection (e). Creates this subsection from existing text, and makes no further change to this subsection.

SECTION 26. Amends Section 2210.613, Insurance Code, as follows:

Sec. 2210.613. PAYMENT OF CLASS 2 PUBLIC SECURITIES. (a) Requires TWIA to pay Class 2 public securities issued under Section 2210.073 from net premium and other revenue, and if net premium and other revenue are not sufficient to pay the securities, a catastrophe area premium surcharge collected in accordance with this section.

(b) Requires TWIA, on approval by the commissioner, to assess, as provided by this section, a premium surcharge to each policyholder of a policy described by Subsection (c). Requires that the premium surcharge be set in an amount sufficient to pay, for the duration of the issued public securities, all debt service not already covered by available funds and all related expenses on the public securities.

Deletes existing text requiring that thirty percent of the cost of the public securities be paid through member assessments as provided by this section. Deletes existing text requiring TWIA to notify each member of TWIA the amount of the member's assessment under this section. Deletes existing text requiring that the proportion of the losses allocable to each insurer under this section be

determined in the manner used to determine each insurer's participation in TWIA for the year under Section 2210.052. Deletes existing text prohibiting a member of TWIA from recouping an assessment paid under this subsection through a premium surcharge or tax credit.

Deletes existing text requiring that seventy percent of the cost of the public securities be paid by a premium surcharge collected under this section in an amount set by the commissioner. Deletes existing text requiring each insurer, TWIA, and the Texas FAIR Plan Association (TFPA) to assess, as provided by this section, a premium surcharge to each policyholder of a policy that is in effect on or after the 180th day after the date the commissioner issued notice of the approval of the public securities on approval by the commissioner. Deletes existing text requiring that the premium surcharge be set in an amount sufficient to pay, for the duration of the issued public securities, all debt service not already covered by available funds or member assessments and all related expenses on the public securities.

(c) Requires that the premium surcharge under this section be assessed on all policyholders of TWIA policies issued under this chapter.

Deletes existing text requiring the premium surcharge under Subsection (b) be assessed on all policyholders of policies that cover insured property that is located in a catastrophe area, including automobiles principally garaged in a catastrophe area. Deletes existing text requiring that the premium surcharge be assessed on each Texas windstorm and hail insurance policy and each property and casualty insurance policy, including an automobile insurance policy, issued for automobiles and other property located in the catastrophe area. Deletes existing text providing that a premium surcharge under Subsection (b) applies to all policies written under certain enumerated lines of insurance, and the property insurance portion of a commercial multiple peril insurance policy.

(d) Changes a reference to Subsection (b) to this section.

SECTION 27. Amends Subchapter M, Chapter 2210, Insurance Code, by adding Sections 2210.6131 and 2210.6132, as follows:

Sec. 2210.6131. PAYMENT OF CLASS 3 PUBLIC SECURITIES. (a) Requires TWIA to pay Class 3 public securities issued under Section 2210.0741 from:

(1) net premium and other revenue; and

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

(b) Requires TWIA, on approval by the commissioner, to assess, as provided by this section, a premium surcharge to each policyholder of a policy described by Subsection (c). Requires that the premium surcharge be set in an amount sufficient to pay, for the duration of the issued public securities, all debt service not already covered by available funds and all related expenses on the public securities.

(c) Requires that the premium surcharge under this section be assessed on all policyholders of TWIA policies issued under this chapter.

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

Sec. 2210.6132. CONTINGENT SOURCE OF PAYMENT FOR CLASS 2 AND CLASS 3 PUBLIC SECURITIES. (a) Authorizes the commissioner to determine, in consultation with the board and TPFSA, that:

(1) TPFSA is unable to issue Class 2 or Class 3 public securities to be payable under Section 2210.613 or 2210.6131, as applicable; or

(2) the issuance of Class 2 or Class 3 public securities to be payable under Section 2210.613 or 2210.6131, as applicable, is financially unreasonable for TWIA.

(b) Requires the commissioner, if the commissioner makes a determination under Subsection (a), to order the Class 2 or Class 3 public securities, as applicable, to be paid by a premium surcharge assessed by each insurer, TWIA, and the Texas FAIR Plan Association on all policyholders of policies that are in effect on or after the 180th day after the date the commissioner issues the order. Requires that the premium surcharge be set in an amount sufficient to pay all debt service not already covered by available funds and all related expenses on the public securities.

(c) Requires that the premium surcharge under this section be assessed on all policyholders of policies that cover insured property that is located in a catastrophe area, including automobiles principally garaged in a catastrophe area. Requires that the premium surcharge be assessed on each Texas windstorm and hail insurance policy and each property and casualty policy, including an automobile insurance policy, issued for automobiles and other property located in the catastrophe area. Provides that a premium surcharge under Subsection (b) applies to:

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

(A) fire and allied lines;

(B) farm and ranch owners;

(C) residential property insurance;

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

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

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

SECTION 28. Amends Section 2210.616(a), Insurance Code, as follows:

(a) Provides that the state pledges for the benefit and protection of financing parties, the board, and TWIA that the state will not take or permit any action that would:

(1) impair the collection of premium surcharges or the deposit of those funds into the applicable trust fund, rather than impair the collection of member assessments and premium surcharges or the deposit of those funds into the member assessment trust fund or premium surcharge trust fund;

(2) reduce, alter, or impair the premium surcharges, rather than the member assessments or premium surcharges, to be imposed, collected, and remitted to financing parties until the principal, interest, and premium, and any other charges

incurred and contracts to be performed in connection with the related public securities, have been paid and performed in full; or

(3) Makes no change to this subdivision.

SECTION 29. Amends Section 2210.6165, Insurance Code, to provide that, if public securities issued under this subchapter are outstanding, the rights and interests of TWIA, a successor to TWIA, any member of TWIA, or any member of TFPA, including the right to impose, collect, and receive a premium surcharge, rather than a premium surcharge or a member assessment, authorized under this subchapter, are only contract rights until those revenues are first pledged for the repayment of TWIA's public security obligations as provided by Section 2210.609 (Repayment of Association's Public Security Obligations).

SECTION 30. Amends Chapter 2210, Insurance Code, by adding Subchapter O, as follows:

SUBCHAPTER O. DEPOPULATION PROGRAM

Sec. 2210.701. DEPOPULATION PROGRAM. (a) Requires TWIA to administer, subject to commissioner approval, a depopulation program that encourages the transfer of association policies to insurers through the voluntary market or assumption reinsurance.

(b) Authorizes an insurer engaged in the business of property and casualty insurance in this state to elect to participate in the depopulation program.

Sec. 2210.702. ASSUMPTION REINSURANCE DEPOPULATION. (a) Requires TWIA to make available to insurers who elect to participate in the depopulation program TWIA policy information necessary for the insurers to determine whether to reinsure a policy ceded to the insurer by TWIA. Requires the commissioner by rule to establish the information that is necessary to provide to an insurer under this subsection.

(b) Requires that the reinsurance, if an insurer elects to reinsure a policy under this section, be provided as assumption reinsurance by novation and the insurer is legally and contractually responsible for TWIA policy ceded to the insurer on the effective date of the reinsurance agreement regardless of whether TWIA continues to provide some services on the policy. Provides that TWIA is not liable under the policy on and after the effective date of the assumption reinsurance agreement. Requires the insurer, except as specifically provided in an agreement between TWIA and the insurer, to administer the policy and process, adjust, and pay claims in accordance with the policy.

(c) Requires the insurer, if an insurer elects to provide reinsurance under this section, to comply with the applicable provisions of Chapters 202 (Fees) and 493 (Reinsurance for Property and Casualty Insurers).

Sec. 2210.703. RENEWAL OF REINSURED POLICIES; COMPARABLE COVERAGE. (a) Requires an insurer electing to offer a policy under Section 2210.702 to offer a renewal of that policy to the TWIA policyholder for each of the next three years subject to the insurer's rate and underwriting guidelines as filed under this code.

(b) Prohibits an insurer from offering a policy to an association policyholder under this section unless the policy contains generally comparable coverage and premiums to the TWIA policy as determined by commissioner rule. Prohibits the premiums for a policy of generally comparable coverage from exceeding 115 percent of the premiums for the TWIA policy.

(c) Provides that Subchapter L-1 (Claims: Settlement and Dispute Resolution) does not apply to a policy renewed under this section.

Sec. 2210.704. CONFIDENTIALITY OF INFORMATION; USE OF POLICYHOLDER'S AGENT. (a) Provides that an insurer may use information

concerning a specific policy or insured provided by TWIA under Section 2210.702(a) only for the purposes of this subchapter and may not use or disclose the information for any other purpose.

(b) Requires the insurer, if an insurer elects to renew a policy for an association policyholder identified from information provided to the insurer under Section 2210.702, to offer the policy through the insurance agent of record for the TWIA policyholder under the prevailing terms, conditions, and commissions of the agent.

(c) Requires an insurer that offers to renew a policy under Section 2210.703 to allow the policyholder's agent to enter into a limited service agreement with the insurer for the agent to continue to provide services to the policyholder.

Sec. 2210.705. TRANSFER OF POLICIES. Requires the commissioner by rule to establish the procedure for the transfer of reinsured policies. Requires that the rule provide that a reinsurance agreement include:

- (1) an offer commencement date of December 1;
- (2) the opportunity for the policyholder to opt out of the reinsurance agreement on or before May 31;
- (3) a transfer of the earned premium on a reinsured policy to a trust account to be held until the expiration of the opt-out period described by Subdivision (2) when the earned premium for the final reinsured policy will be transferred to the reinsurer;
- (4) a period of not less than 60 days for the agent of record to accept an appointment or other written agreement with the reinsurer; and
- (5) any other requirements as the commissioner determines necessary for the protection of policyholders and the policyholders' agents.

SECTION 31. Repealer: Sections 2210.102(g) (requiring the commissioner to appoint one person to serve as a nonvoting member of the board to advise the board regarding issues relating to the inspection process) and (h) (requiring the certain persons appointed to be from different counties), Insurance Code.

Repealers: Sections 2210.602(5-a) (defining "gross premium"), (6) (defining "insurer"), (6-b) (defining "member assessment trust fund"), (6-c) (defining "premium surcharge trust fund"), and (10) (defining "public security obligation revenue fund"), Insurance Code;

Repealer: Section 2210.605(c) (providing that public securities issued under Section 2210.6136 are eligible obligations under Section 404.027 (Liquidity), Government Code), Insurance Code.

Repealer: Section 2210.6135 (Payment of Class 3 Public Securities), Insurance Code.

Repealer: Section 2210.6136 (Alternative Sources of Payment), Insurance Code.

SECTION 32. (a) Provides that the board of directors of TWIA established under Section 2210.102, Insurance Code, as that section existed before amendment by this Act, is abolished effective October 1, 2015.

(b) Requires the commissioner to appoint the members of the board of directors of TWIA under Section 2210.102, Insurance Code, as amended by this Act, effective October 1, 2015. Requires the initial directors to draw lots to achieve staggered terms, with three of

the directors serving one-year terms, three of the directors serving two-year terms, and three of the directors serving three-year terms.

(c) Provides that the term of a person who is serving as a member of the board of directors of TWIA immediately before the abolition of that board under Subsection (a) of this section expires on October 1, 2015. Provides that such a person is eligible for appointment by the commissioner to the new board of directors of the TWIA under Section 2210.102, Insurance Code, as amended by this Act.

(d) Provides that it is the intent of the legislature that each member of the legislative oversight board appointed under Section 2210.652 (Composition of Board), Insurance Code, and serving on the effective date of this Act continues to serve after the effective date of this Act until a successor is appointed under that section.

SECTION 33. Provides that Subchapter M, Chapter 2210, Insurance Code, as it existed before the effective date of this Act, is applicable to bond obligations incurred under Chapter 2210 (Texas Windstorm Insurance Association), Insurance Code, before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 34. Requires the board of TWIA, as soon as practicable after the effective date of this Act, to propose amendments to the plan of operation of TWIA and requires the commissioner of insurance to adopt rules to implement Subchapter O, Chapter 2210, Insurance Code, as added by this Act.

SECTION 35. Effective date: upon passage or September 1, 2015.