

By: _____

___ B, No. _____

A BILL TO BE ENTITLED

AN ACT

Relating to the operation and funding of the Texas Windstorm Insurance Association.

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

SECTION 1. Subchapter B, Chapter 2210, Insurance Code, is amended by adding Section 2210.0581 to read as follows:

Sec. 2210.0581. TEMPORARY TRUST FUND SOLVENCY ASSESSMENT.

(a) In this section, "trust fund" means the catastrophe reserve trust fund established under Subchapter J.

(b) To ensure available reserves and the capacity to pay excess losses, the members of the association shall be assessed for deposit in the trust fund, as follows:

(1) the amount of \$300 Million.

(2) the assessments under section (b) shall be collected annually beginning on the 30th days after the effective date of this act, and ending on the same date in the year 2013.

(3) the proportion of the assessment under section (b) allocable to each insurer shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052.

(c) To further ensure available reserves and the capacity to pay excess losses, each insurer, the association, and the Texas FAIR Plan Association shall collect from its policyholders a premium surcharge as provided by this subsection, and shall remit the

premium surcharge to the association for deposit into the trust fund as required by commissioner rule..

(1) A premium surcharge in the amount of 5% shall be assessed to all policyholders who have a property or casualty policy that provides coverage for premises, locations, operations, or property located in a catastrophe area

(2) A premium surcharge in the amount of 2% shall be assessed to all policyholders who have a property or casualty policy that provides coverage for premises, locations, operations, or property located in this state not in a catastrophe area.

(d) A premium surcharge under this section shall apply to all policies that provide coverage on any premises, locations, operations, or property for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance. The premium surcharge does not apply to premiums charged for any premises, locations, operations or property located outside this state.

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

(f) A premium surcharge under this section shall be collected annually beginning September 1, 2009, and ending August 31, 2014.

(g) This section 2210.0581 expires September 1, 2014.

SECTION 2. Section 2210.060(c), Insurance Code, is amended to read as follows:

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

SECTION 3. Section 2210.102, Insurance Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The board of directors is composed of the following 11 [~~nine~~] members appointed by the commissioner:

(1) five members who represent the interests of [~~representatives of different~~] insurers who are members of the association[~~, elected by the members as provided by the plan of operation~~];

(2) four members who represent the interests of the [~~two~~] public, [~~representatives~~] who are nominated by the office of public insurance counsel, and who, as of the date of the appointment:

(A) reside in a catastrophe area; and

(B) are policyholders of the association; and

(3) two members who are property and casualty agents, each of whom must:

(A) have demonstrated experience in the association;

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

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

(c) To be eligible to serve on the board of directors as a representative of insurers, a person must be a full-time employee of an authorized insurer that is a member of the association.

SECTION 4. Section 2210.103, Insurance Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Members of the board of directors serve three-year staggered terms, with the terms of three or four members expiring on the third Tuesday of March of each year.

(c) A member of the board of directors serves at the pleasure of the commissioner. The commissioner shall appoint a replacement for a member who leaves or is removed from the board of directors in the manner provided by Section 2210.102.

SECTION 5. Sections 2210.452(a), (c), and (d), Insurance Code, are amended to read as follows:

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

(1) the obligations of the trust fund under Section 2210.058 (a); and

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

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

(d) The commissioner by rule shall establish the procedure relating to the disbursement of money from the trust fund [~~to policyholders in the event of an occurrence or series of occurrences within a catastrophe area that results in a disbursement under Section 2210.058(a)~~]. (3) Section 2210.506, Insurance Code.

SECTION 6. (a) The board of directors of the Texas Windstorm Insurance Association established under Section 2210.102, Insurance Code, as that section existed before amendment by this Act, is abolished on the 30th day after the effective date of this Act.

(b) The commissioner of insurance shall appoint the members of the board of directors of the Texas Windstorm Insurance Association under Section 2210.102, Insurance Code, as amended by this Act, for terms beginning on the 31st day after the effective date of this Act.

(c) The term of a person who is serving as a member of the board of directors of the Texas Windstorm Insurance Association immediately before the abolition of that board under Subsection (a) of this section expires on the 30th day after the effective date

of this Act. Such a person is eligible for appointment by the commissioner of insurance to the new board of directors of the Texas Windstorm Insurance Association under Section 2210.102, Insurance Code, as amended by this Act.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.