

BILL ANALYSIS

Senate Research Center

S.B. 1842
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Windstorm Insurance Association (TWIA) is a quasi-governmental entity and a pool of all property and casualty insurance companies authorized to write coverage in Texas. TWIA is the provider of last resort of basic wind and hail insurance coverage for Gulf Coast property owners who might otherwise be left uninsured.

Since Hurricane Ike made landfall, the legislature and TWIA's regulator, the Texas Department of Insurance (TDI), have identified numerous issues related to the operation, management, and litigation of claims handling that require legislative action.

Chapter 2210 (Texas Windstorm Insurance Association), Insurance Code, defines the structure of TWIA. S.B. 1842 seeks to provide a number of reforms associated with the litigation of claims, including issues relating to damages and the amount of time an insured may file a claim or bring action against TWIA. The bill includes provisions requiring SOAH to hear appeals in a contested case. The bill includes provisions relating to the appointment of an expert panel to determine certain standardized data associated with a storm so the commissioner of insurance can adopt by rule the standardized data that TWIA will use to settle claims following the storm.

S.B. 1842 seeks to clarify certain issues pertaining to TWIA's current statutory funding structure, including issues relating to TWIA's access to certain public securities when public securities at a lower class are considered not marketable or insufficient to pay the excess losses for which they are issued and the types of property and casualty policies located in the catastrophe area that are subject to certain surcharges.

S.B. 1842 seeks to address operational functions administered by TWIA and regulated by TDI and to authorize certain regulatory authority by TDI, such as the authority to regulate and enforce penalties on licensed engineers and qualified inspectors. The bill includes provisions relating to the appointment by the commissioner of an advisory council to address appropriate building code standards to be used by TWIA and to a report of findings to the 83rd Legislature.

As proposed, S.B. 1842 amends current law relating to the operation of the Texas Windstorm Insurance Association and to the resolution of certain disputes concerning claims made to that association.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 3 (Section 2210.010, Insurance Code), SECTION 14 (Section 2210.2551, Insurance Code), and SECTION 21 (Section 2210.363, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 83.002, Insurance Code, by adding Subsection (c), as follows:

(c) Provides that this chapter also applies to:

(1) a person appointed as a qualified inspector under Section 2210.254 (Qualified Inspectors) or 2210.255 (Appointment of Licensed Engineer as Inspector); and

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

SECTION 2. Amends Section 541.152, Insurance Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Authorizes the trier of fact, except as provided by Subsection (c), on a finding by the trier of fact that the defendant knowingly committed the act complained of, to award an amount not to exceed three times the amount of actual damages.

(c) Provides that Subsection (b) does not apply to an action under this subchapter brought against the Texas Windstorm Insurance Association (TWIA) by a person who is insured under Chapter 2210 (Texas Windstorm Insurance Association).

SECTION 3. Amends Subchapter A, Chapter 2210, Insurance Code, by adding Section 2210.010, as follows:

Sec. 2210.010. EXPERT PANEL. (a) Requires the commissioner of insurance (commissioner) to appoint a panel of experts to advise the commissioner concerning the manner in which, following a storm, TWIA should evaluate the extent to which a loss to insurable property was incurred as a result of wind, waves, tidal surges, rising waters not caused by waves or surges, and wind-driven rain associated with the storm. Requires the commissioner to appoint one member of the panel to serve as the presiding officer of the panel.

(b) Requires a person, to be a member of the panel, to have professional expertise in, and be knowledgeable concerning, the geography of the seacoast territory, the meteorological patterns common in the seacoast territory, the scientific basis for meteorological patterns in coastal areas, or the technology necessary to evaluate the geography of, or meteorological patterns common to, the seacoast territory.

(c) Requires the panel to meet at the call of the commissioner or the call of the presiding officer of the panel.

(d) Requires the panel to collect and evaluate the data necessary to perform the panel's general duties under Subsection (a).

(e) Requires the panel, immediately following a storm, for geographic areas or regions designated by the commissioner, to recommend to the commissioner standardized data necessary to evaluate the extent to which a loss to insurable property was incurred as a result of wind, waves, tidal surges, rising waters not caused by waves or surges, and wind-driven rain associated with the storm, including wind speed, total rainfall, and the extent of wave action or tidal surges.

(f) Requires the commissioner, after consideration of the recommendations made by the panel under Subsection (e), by rule to adopt standardized data as part of the formula that TWIA will use to settle claims following the storm from which the standardized data recommendations were derived.

SECTION 4. Amends Section 2210.072(b), Insurance Code, to require that public securities described by Subsection (a) be issued as necessary in a principal amount not to exceed \$1 billion per occurrence or series of occurrences in a calendar year that results in insured losses.

SECTION 5. Amends Section 2210.073(b), Insurance Code, to authorize that public securities described by Subsection (a) be issued as necessary in a principal amount not to exceed \$1 billion per occurrence or series of occurrences in a calendar year that results in insured losses.

SECTION 6. Amends Section 2210.074(b), Insurance Code, to authorize that public securities described by Subsection (a) be issued as necessary in a principal amount not to exceed \$500 million per occurrence or series of occurrences in a calendar year that results in insured losses.

SECTION 7. Amends Section 2210.105, Insurance Code, by amending Subsection (b) and adding Subsections (b-1), (e), and (f), as follows:

(b) Provides that, except for a closed meeting authorized by Subchapter D (Exceptions to Requirement that Meetings Be Open), Chapter 551 (Open Meetings), Government Code, a meeting of the board of directors of TWIA (board) or of the members of TWIA is open to the public, rather than to the commissioner or the commissioner's designated representative and the public.

(b-1) Provides that a meeting of the board of directors or the members of TWIA, including a closed meeting authorized by Subchapter D, Chapter 551, Government Code, is open to the commissioner or the commissioner's designated representative.

(e) Requires TWIA to:

(1) broadcast live on TWIA's Internet website all meetings of the board of directors, other than closed meetings; and

(2) maintain on TWIA's Internet website an archive of meetings of the board of directors.

(f) Requires that a recording of a meeting be maintained in the archive required under Subsection (e) through and including the second anniversary of the meeting.

SECTION 8. Amends Subchapter C, Chapter 2210, Insurance Code, by adding Section 2210.108, as follows:

Sec. 2210.108. OPEN MEETINGS AND OPEN RECORDS. Provides that, except as specifically provided by this chapter or another law, TWIA is subject to Chapters 551 and 552 (Public Information), Government Code.

SECTION 9. Amends Section 2210.152, Insurance Code, by adding Subsection (c) to require that the plan of operation require TWIA to use the standardized data recommendations adopted by the commissioner under Section 2210.010(f) in evaluating the extent to which a loss to insurable property is incurred as a result of wind, waves, tidal surges, rising waters not caused by waves or surges, or wind-driven rain associated with a storm.

SECTION 10. Amends Section 2210.203, Insurance Code, by amending Subsection (a-1) and adding Subsection (a-2), as follows:

(a-1) Prohibits TWIA, notwithstanding Subsection (a) (relating to directing the issuance of an insurance policy as provided by the plan of operation), if all or any part of the property to which this subsection applies is located in Zone V or another similar zone with an additional hazard associated with storm waves, as defined by the National Flood Insurance Program, from issuing an insurance policy for initial or renewal coverage unless evidence is submitted to TWIA that the property to be covered under the policy is also covered by a flood insurance policy issued under the National Flood Insurance Program. Provides that this subsection does not apply to property for which flood insurance is not available under the National Flood Insurance Program. Deletes existing text providing that this subsection applies only to a structure constructed, altered, remodeled, or enlarged on or after September 1, 2009, and only for insurable property located in areas designated by the commissioner. Makes nonsubstantive changes.

(a-2) Creates this subsection from existing text. Requires an agent offering or selling a Texas windstorm and hail insurance policy, rather than a Texas windstorm and hail insurance policy in any area designated by the commissioner under this subsection, to

offer flood insurance coverage required under Subsection (a-1) to a prospective insured, if that coverage is available. Makes a nonsubstantive change.

SECTION 11. Amends Section 2210.204(e), Insurance Code, to require that the minimum retained premium in the plan of operation, for cancellation of insurance coverage under this section, be for a period of not less than 90 days, rather than 180 days, except for events specified in the plan of operation that reflect a significant change in the exposure or the policyholder concerning the insured property, including:

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

SECTION 12. Amends Subchapter E, Chapter 2210, Insurance Code, by adding Section 2210.205, as follows:

Sec. 2210.205. **REQUIRED POLICY PROVISION: DEADLINE FOR FILING CLAIM.** Requires that a windstorm and hail insurance policy issued by TWIA require an insured to file a claim under the policy not later than the first anniversary of the date on which the damage or loss that is the basis of the claim occurs.

SECTION 13. Amends Section 2210.254, Insurance Code, by adding Subsection (e) to authorize the Texas Department of Insurance (TDI) to establish an annual renewal period for persons appointed as qualified inspectors.

SECTION 14. Amends Subchapter F, Chapter 2210, Insurance Code, by adding Section 2210.2551, as follows:

Sec. 2210.2551. **EXCLUSIVE ENFORCEMENT AUTHORITY; RULES.** (a) Provides that TDI has exclusive authority over all matters relating to the appointment and oversight of qualified inspectors for purposes of this chapter.

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

SECTION 15. Amends the heading to Section 2210.256, Insurance Code, to read as follows:

Sec. 2210.256. **DISCIPLINARY PROCEEDINGS REGARDING APPOINTED INSPECTORS AND CERTAIN OTHER PERSONS.**

SECTION 16. Amends Section 2210.256, Insurance Code, by adding Subsection (a-2), as follows:

(a-2) Authorizes the commissioner ex parte, in addition to any other action authorized under this section, to enter an emergency cease and desist order under Chapter 83 (Emergency Cease and Desist Orders) against a qualified inspector, or a person acting as a qualified inspector, if:

- (1) the commissioner believes that:
 - (A) the qualified inspector has:

(i) through submitting or failing to submit to the TDI sealed plans, designs, calculations, or other substantiating information, failed to demonstrate that a structure or a portion of a structure subject to inspection meets the requirements of this chapter and TDI rules; or

(ii) refused to comply with requirements imposed under this chapter or TDI rules; or

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

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

SECTION 17. Amends Section 2210.258(b), Insurance Code, to prohibit TWIA from insuring a structure described by Subsection (a) (relating to the requirement that all construction, alteration, remodeling, enlargement, and repair of, or addition to, any structure located in the catastrophe area be performed in compliance with the applicable building code standards) until certain conditions are met, including, except as provided by Section 2210.260, a certificate of compliance has been issued for the structure in accordance with Section 2210.251(g) (relating to issuing a certificate of compliance for each structure that qualifies for coverage).

SECTION 18. Amends Subchapter F, Chapter 2210, Insurance Code, by adding Section 2210.260, as follows:

Sec. 2210.260. ALTERNATIVE ELIGIBILITY FOR COVERAGE. (a) Authorizes a person who has an insurable interest in insurable property, on and after September 1, 2011, to obtain insurance coverage through TWIA for a residential structure without obtaining a certificate of compliance under Section 2210.251(g) if:

(1) within the 12-month period preceding the date of the application for coverage by TWIA, the structure was insured on an annual basis under a residential property insurance policy that included windstorm and hail coverage;

(2) the insurer that issued the coverage described by Subdivision (1) has ceased to:

(A) provide windstorm and hail insurance under the policy; or

(B) issue residential property insurance policies in the portion of the catastrophe area in which the structure is located; and

(3) the applicant for coverage:

(A) complies with:

(i) the flood insurance requirement of Section 2210.203(a-1), if applicable;

(ii) the mandatory building code requirement of Section 2210.258(a); and

(iii) all other association underwriting requirements, including maintaining the structure in an insurable condition and paying premiums in the manner required by TWIA; and

(B) provides evidence of declination as required by Section 2210.202(a) (relating to an application for coverage).

(b) Authorizes that coverage issued under this section be renewed by TWIA only once.

SECTION 19. Amends Section 2210.355, Insurance Code, by amending Subsection (i) and adding Subsections (j), (k), and (l), as follows:

(i) Requires TWIA to establish rating territories and to vary rates among the territories in accordance with Subsections (j) and (k). Deletes existing text authorizing TWIA to establish rating territories and vary rates among the territories as provided by this subsection. Deletes existing text authorizing a rating territory that subdivides a county to be used only the rate for any subdivision in the county is not more than certain percentages in relation to the ratings.

(j) Authorizes TWIA, notwithstanding Section 2210.351 (Association Filings), to use rate relativities for rating territories that subdivide a county without prior commissioner approval if the resulting rate for any subdivision in the county:

(1) is not more than 15 percent greater than the resulting rate used in any other subdivision in that county for identical coverage for insureds having risk characteristics that are identical except for rating territory; and

(2) is not unfairly discriminatory.

(k) Authorizes TWIA to use rate relativities for rating territories that subdivide a county only with prior commissioner approval if the resulting rate for any subdivision in the county is not described by Subsection (j)(1).

(l) Requires a rate relativity described by Subsection (k) to be based on sound actuarial principles supported by data filed with TDI, including reasonable output from recognized catastrophe models, and to produce rates that comply with the statutory and regulatory requirements of this chapter.

SECTION 20. Amends the heading to Subchapter H, Chapter 2210, Insurance Code, to read as follows:

SUBCHAPTER H. RATES; DISCOUNTS AND CREDITS

SECTION 21. Amends Subchapter H, Chapter 2210, Insurance Code, by adding Section 2210.363, as follows:

Sec. 2210.363. PREMIUM DISCOUNTS; SURCHARGE CREDITS. (a) Authorizes TWIA to offer a person insured under this chapter a premium discount on a policy issued by TWIA, or a credit against any surcharge assessed against the person, if:

(1) the person elects a voluntary binding arbitration endorsement under Section 2210.555; or

(2) the construction, alteration, remodeling, enlargement, or repair of, or an addition to, insurable property exceeds applicable building code standards set forth in the plan of operation.

(b) Requires the commissioner to adopt rules necessary to implement and enforce this section.

SECTION 22. Amends Section 2210.502, Insurance Code, by adding Subsection (e), as follows:

(e) Prohibits the maximum liability limit described by Section 2210.501(b)(1) (relating to maximum liability limits for certain properties), notwithstanding Subsection (a) (relating to inflation adjustments to the maximum liability limits), from exceeding \$500,000 if all or any part of the property on which the dwelling, including an individually owned townhouse, is located in a geographic area with a hazard associated with storm waves.

SECTION 23. Amends Section 2210.551, Insurance Code, as follows:

Sec. 2210.551. New heading: APPEAL BY THE ASSOCIATION. (a) Deletes existing text of Subsection (a) providing that this section applies to a person insured under this chapter or an authorized representative of the person or an affected insurer. Redesignates existing Subsection (c) as Subsection (a). Makes no further changes.

(b) Deletes existing Subsection (b) authorizing a person or entity described by Subsection (a) who is aggrieved by an act, ruling, or decision of TWIA to appeal to the commissioner not later than the 30th day after the date of that act, ruling, or decision. Redesignates existing Subsection (d) as Subsection (b). Makes no further changes.

(c) Redesignates existing Subsection (f) as Subsection (c). Makes no further changes.

(d) Redesignates existing Subsection (g) as Subsection (d). Authorizes TWIA, rather than TWIA or the person or entity aggrieved by the order or decision of the commissioner, to appeal to a district court in the county in which the covered property is located or a district court in Travis County.

(e) Deletes existing Subsection (e) requiring that a hearing on an act, ruling, or decision of TWIA relating to the payment of, the amount of, or the denial of a particular claim be held, at the request of the claimant, in the county in which the insured property is located or in Travis County. Redesignates existing Subsection (h) as Subsection (e). Makes no further changes.

SECTION 24. Amends Section 2210.552, Insurance Code, as follows:

Sec. 2210.552. New heading: DEFINITIONS. Defines "damages." Deletes existing Subsection (a) authorizing a person insured under this chapter who is aggrieved by an act, ruling, or decision of TWIA relating to the payment of, the amount of, or the denial of a claim, except as provided by Sections 2210.007 and 2210.106, to take certain actions. Deletes existing Subsection (b) prohibiting a person from proceeding under both Section 2210.551 and this section for the same act, ruling, or decision. Deletes existing Subsection (c) providing that, except as provided by Subsection (d), venue in an action brought under this section, including an action under Chapter 541 (Unfair Methods of Competition and Unfair or Deceptive Acts or Practices), against TWIA is in the county in which the insured property is located or in a district court in Travis County. Deletes existing Subsection (d) providing that venue in an action, including an action under Chapter 541, brought under this section in which the claimant joins the TDI as a party to the action is only in a district court in Travis County.

SECTION 25. Amends Subchapter L, Chapter 2210, Insurance Code, by adding Sections 2210.553, 2210.554, 2210.555, 2210.556, 2210.557, 2210.558, 2210.559, 2210.560, 2210.561, and 2210.562, as follows:

Sec. 2210.553. APPEALS TO BOARD OF DIRECTORS. Authorizes a person aggrieved by a decision of TWIA relating to eligibility for or amount of benefits payable to the person, or for damages claimed by a person related to the eligibility for or amount of benefits payable to a person to appeal the decision to the executive director. Requires that an appeal to the executive director be filed no more than 30 days after the date of the

decision is made for which review is sought. Provides that this subchapter provides the sole remedy for the aggrieved person.

Sec. 2210.554. HEARING BY STATE OFFICE OF ADMINISTRATIVE HEARINGS. Requires the executive director or a person designated by the executive director to refer an appeal under this section to the State Office of Administrative Hearings (SOAH) to conduct a hearing as provided by Chapter 2001 (Administrative Procedure), Government Code.

Sec. 2210.555. CONTESTED CASE. Provides that an appeal under this section is a contested case as defined by Chapter 2001, Government Code. Provides that an aggrieved person appealing a decision under this section has the burden of proof on all issues, including any affirmative defense.

Sec. 2210.556. FINAL DECISION. Provides that a decision by SOAH is final within the meaning of Sec. 2210.557.

Sec. 2210.557. NEGOTIATED SETTLEMENT. (a) Authorizes TWIA and a person aggrieved by a decision of TWIA, notwithstanding this Section, to at any time informally negotiate a settlement of a claim.

(b) Requires that a negotiated settlement be approved by the board of directors if the settlement amount is in excess of \$25,000, or includes consideration for attorney fees.

(c) Prohibits a settlement negotiated under this section from exceeding the applicable maximum liability limit established under the policy.

Sec. 2210.558. JUDICIAL REVIEW. (a) Entitles a person aggrieved by a final decision of SOAH in a contested case under this section to judicial review in accordance with Chapter 2001, Government Code.

(b) Provides that the venue for appeal from a final decision of SOAH under this section is in district court in Travis County.

(c) Provides that the review on appeal is governed by the substantial evidence rule as described by Section 2001.174 (Review Under Substantial Evidence Rule or Undefined Scope of Review), Government Code.

Sec. 2210.559. PLAN OF OPERATION. Authorizes the board of directors to submit proposed changes to the plan of operation to implement this subchapter.

Sec. 2210.560. NOTICE; INSPECTION. (a) Requires a person covered by a TWIA policy, as a prerequisite to filing an appeal under Sec. 2210.552 of this subchapter, to give written notice to TWIA at least 60 days before filing the appeal advising TWIA in reasonable detail of the person's specific complaint and the amount of damage and expenses, including attorneys' fees, if any, reasonably incurred to date by the person in asserting the claim against TWIA. Authorizes the property that is the subject of the person's action or claim, during the 60-day period a written request to inspect, in a reasonable manner and at a reasonable time and place, to be presented to the person.

(b) Provides that, if the giving of 60 days' written notice is rendered impracticable by reason of the necessity of filing a claim in order to prevent the expiration of the statute of limitations or if the person's claim is asserted by way of counterclaim, the notice provided for in Subsection (a) of this section is not required, but the tender provided for by this subchapter may be made within 60 days after filing the appeal or counterclaim.

(c) Authorizes TWIA, if TWIA does not receive written notice, as required by Subsection (a), to then file a plea in abatement not later than the 30th day after the

date the person files an original answer in the venue in which the appeal is pending. Provides that this subsection does not apply if Subsection (b) applies.

(d) Requires SOAH to abate the appeal if the administrative law judge, after a hearing, finds that TWIA is entitled to an abatement because notice was not provided as required by this section. Provides that an appeal is automatically abated without the order of the administrative law judge beginning on the 11th day after the date a plea in abatement is filed under Subsection (c) if the plea in abatement:

(1) is verified and alleges that TWIA did not receive the written notice as required by Subsection (a); and

(2) is not controverted by an affidavit filed by the person before the 11th day after the date on which the plea in abatement is filed.

(e) Provides that an abatement under Subsection (d) continues until the 60th day after the date that written notice is served in compliance with Subsection (a).

Sec. 2210.561 (a) Requires a person to file an appeal based in whole or in part on a TWIA policy not later than two years after the day the cause of action accrues. Provides that the cause of action accrues on the date of the loss.

(b) Provides that Section 33.004(e) (providing that a claimant is not barred by limitations from seeking to join that person designated as a responsible third party), Civil Practice and Remedies Code, does not apply to a claim, civil action or appeal against or involving TWIA, an officer agent or employee of TWIA, or anyone acting on behalf of TWIA.

(c) Provides that a person is barred from filing an appeal or an original civil action against TWIA, an officer, agent or employee of TWIA, or anyone acting on behalf of TWIA more than four years of the date of the loss. Provides that this subsection is intended as a statute of repose so that all claims of any type or description must be brought within four years or they are time barred.

(d) Requires that an appeal be filed with TWIA within one year of the date the right to file the appeal accrued.

Sec. 2210.562. STATE OF DISASTER. (a) Requires the commissioner, when the governor issues a declaration of state of disaster (declaration) pursuant to Sec. 418.014 (Declaration of State of Disaster), Government Code, to then toll the application of Chapters 541 and 542 (Processing and Settlement of Claims) to TWIA.

(b) Provides that the commissioner's authority under this section is limited to the geographical area identified in the declaration and for the duration of the declaration.

SECTION 26. Amends Section 2210.604, Insurance Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Prohibits the maximum principal requested under this subsection from exceeding the amount of public securities TWIA determines to be marketable.

(d) Authorizes that marketable Class 2 public securities, if the amount of marketable Class 1 public securities is insufficient to pay the excess losses for which the securities are issued, be issued. Authorizes that marketable Class 3 public securities, if the amount of marketable Class 2 public securities is insufficient to pay the excess losses for which the securities are issued, be issued.

SECTION 27. Amends Sections 2210.613(b), (c), and (d), Insurance Code, as follows:

(b) Requires that seventy percent of the cost of the public securities be paid by a premium surcharge, rather than a nonrefundable premium surcharge, collected under this section in an amount set by the commissioner. Requires each insurer, TWIA, and the Texas FAIR Plan Association, on approval by the commissioner, 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 issues notice of the approval of the public securities, rather than to its policyholders as provided by this section. 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 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, rather than on all policyholders who reside or have operations in, or whose property is located in a catastrophe area. Requires that the premium surcharge be assessed on, rather than for, 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. 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 passenger automobile liability and physical damage insurance; and

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

Deletes existing text providing that a premium surcharge applies to all policies that provide coverage on any premises, locations, operations, or property located in the area described by this subsection for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance.

(d) Provides that a premium surcharge under Subsection (b) is a separate charge, rather than a separate nonrefundable charge, in addition to the premiums collected and is not subject to premium tax or commissions.

SECTION 28. Amends Section 2210.6135(a), Insurance Code, to require TWIA, for the payment of the losses, to assess the members of TWIA an amount not to exceed \$500 million per occurrence or series of occurrences that results in insured losses in a calendar year, rather than an amount not to exceed \$500 million per year for the payment of the losses.

SECTION 29. (a) Requires the commissioner to appoint an advisory committee to advise TDI and TWIA concerning appropriate building code standards to be used by TWIA in the performance of its duties under Chapter 2210, Insurance Code. Requires the commissioner to designate one member of the committee to serve as the presiding officer of the committee.

(b) Requires the commissioner to ensure that the following groups or interests are represented on the advisory committee:

(1) insurers that write windstorm insurance in the private windstorm insurance market in this state;

(2) policyholders of windstorm insurance issued both by TWIA and by insurers in the private windstorm insurance market in this state; and

(3) building and construction professionals, including qualified inspectors appointed under Sections 2210.254 and 2210.255, Insurance Code.

(c) Requires the advisory committee to submit a report to TWIA, for inclusion in TWIA's biennial report to be submitted on or before December 31, 2012, under Section 2210.0025 (Biennial Report to Legislature), Insurance Code, containing recommendations concerning appropriate building code standards to be used by TWIA in the performance of its duties under Chapter 2210, Insurance Code.

(d) Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the size, composition, or duration of the advisory committee or to the appointment of the committee's presiding officer.

(e) Requires the advisory committee to meet at least once each year and is authorized to meet at other times at the call of the commissioner or the committee's presiding officer.

(f) Authorizes the advisory committee to meet by telephone conference call, video conference call, or other similar audiovisual telecommunication.

(g) Provides that this section expires January 1, 2013.

SECTION 30. (a) Makes application of the change in law made by this Act only to an appeal from a decision of TWIA prospective to January 1, 2012.

(b) Provides that this Act applies to all claims filed with TWIA on or after the effective date of the Act.

SECTION 31. Requires TWIA, not later than January 1, 2012, to amend TWIA's plan of operation as necessary to conform to the changes in law made by this Act.

SECTION 32. Effective date: upon passage or September 1, 2011.