

## **BILL ANALYSIS**

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S.B. 1089  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 1971, the Texas Legislature created the Texas Catastrophe Property Insurance Association Act, now known as the Texas Windstorm Insurance Association (TWIA), to address the lack of available windstorm insurance in a specified territory along the Texas Gulf Coast. Designed to serve as the insurer of last resort for property owners who want to obtain basic wind and hail insurance coverage, TWIA is a critical component for coastal residents and business owners.

For over thirty years, the 14 Texas counties that are on the Gulf of Mexico have had to rely on TWIA for insurance protection against hurricane and wind damage. Because the shared risk and shared premium is only in the 14 counties, TWIA has had a serious financial struggle particularly after losses incurred from Hurricane Ike. As a result, TWIA is continually considering large rate increases to coastal residents.

The current structure of TWIA is unsustainable. S.B. 1089 focuses on how TWIA raises revenue before and after a storm, creating a way for TWIA to raise as much as \$7 billion, including \$ 1 billion for the Catastrophic Reserve Trust Fund (CRTF) and \$6 billion for post-event bonds, which is enough to pay for a 250-year storm.

Additionally, S.B. 1089 addresses windstorm resistant standards, claims resolution, depopulation, the TWIA board composition, administrative oversight, alternative certification, and wind resistance improvement grants. Overall, S.B. 1089 creates a financially sound, reliable source of windstorm insurance coverage for the residents and property owners on the Texas Coast.

As proposed, S.B. 1089 amends current law relating to the operation of the Texas Windstorm Insurance Association and to catastrophe preparedness in the seacoast territories of this state.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of insurance (commissioner) in SECTION 1.03 (Sections 2210.083 and 2210.084, Insurance Code), SECTION 1.06 (Section 2210.456, Insurance Code), SECTION 2.01 (Section 2210.0081, Insurance Code), SECTION 3.01 (Sections 2210.480, 2210.481, and 2210.482, Insurance Code), and SECTION 4.01 (Section 233.205, Local Government Code) of this bill.

Rulemaking authority previously granted to the commissioner is modified in SECTION 1.05 (Section 2210.452, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### **ARTICLE 1. PAYMENT OF INSURED LOSSES OF THE TEXAS WINDSTORM INSURANCE ASSOCIATION; FUNDING THE CATASTROPHE RESERVE TRUST FUND**

SECTION 1.01. (a) Amends Subchapter B-1, Chapter 2210, Insurance Code, by adding Section 2210.076, as follows:

Sec. 2210.076. **TERMINATION OF PUBLIC SECURITIES PROGRAM; EXPIRATION OF SUBCHAPTER.** (a) Prohibits public securities described by

this subchapter (Payment of Losses), notwithstanding any other law, from being issued on or after September 1, 2013.

(b) Provides that this subchapter expires September 1, 2027.

(b) Provides that, notwithstanding Section 2210.076, Insurance Code, as added by this section, Subchapter B-1, Chapter 2210 (Texas Windstorm Insurance Association), Insurance Code, is continued in effect on and after September 1, 2027, only to the extent necessary to avoid the impairment of a public security obligation under Chapter 2210, Insurance Code, if any, that exists on or after that date.

SECTION 1.02. (a) Amends Subchapter M, Chapter 2210, Insurance Code, by adding Section 2210.621, as follows:

Sec. 2210.621. TERMINATION OF PUBLIC SECURITIES PROGRAM; EXPIRATION OF SUBCHAPTER. (a) Prohibits public securities described by this subchapter (Public Securities Program), notwithstanding any other law, from being issued on or after September 1, 2013.

(b) Provides that this subchapter expires September 1, 2027.

(b) Provides that notwithstanding Section 2210.621, Insurance Code, as added by this section, Subchapter M, Chapter 2210, Insurance Code, is continued in effect on and after September 1, 2027, only to the extent necessary to avoid the impairment of a public security obligation under Chapter 2210, Insurance Code, if any, that exists on or after that date.

SECTION 1.03. Amends Chapter 2210, Insurance Code, by adding Subchapter B-2, as follows:

#### SUBCHAPTER B-2. PAYMENT OF LOSSES

Sec. 2210.081. DEFINITION. Defines "insurer" in this subchapter.

Sec. 2210.082. PAYMENT OF EXCESS LOSSES; PAYMENT FROM RESERVES AND TRUST FUND. (a) Requires that the excess losses and operating expenses, if, on or after September 1, 2013, an occurrence or series of occurrences in a catastrophe area results in insured losses and operating expenses of the Texas Windstorm Insurance Association (TWIA) in excess of premium and other revenue of TWIA, be paid as provided by this subchapter.

(b) Requires TWIA to pay losses in excess of premium and other revenue of TWIA from available reserves of TWIA and available amounts in the catastrophe reserve trust fund.

(c) Requires that losses not paid under Subsection (b) be paid from the proceeds of public securities issued in accordance with this subchapter and Subchapter M-1 and insurer assessments assessed in accordance with this subchapter after the occurrence or series of occurrences that results in the losses.

Sec. 2210.083. PAYMENT FROM CLASS A PUBLIC SECURITIES AND INSURER ASSESSMENT. (a) Requires that any losses TWIA determines cannot be paid from available reserves or available amounts in the catastrophe reserve trust fund as provided by Section 2210.082(b) on or after the date of an occurrence or series of occurrences that results in insured losses be paid as provided by this section from:

(1) the proceeds of Class A public securities authorized to be issued in accordance with Subchapter M-1; and

(2) an assessment against all insurers that provide property insurance in this state in accordance with this section.

(b) Provides that public securities issued as described by this section:

(1) are required to be issued as necessary in a principal amount not to exceed \$1 billion, whether for a single occurrence or a series of occurrences, and outstanding public securities are prohibited from exceeding a principal amount of \$1 billion at any one time, regardless of the calendar year or years in which outstanding public securities were issued;

(2) subject to the \$1 billion maximum described by Subdivision (1), are authorized to be issued, in one or more issuances or tranches; and

(3) are required to be repaid in the manner and from the sources prescribed by Subchapter M-1 within a period not to exceed 10 years, and are authorized to be repaid sooner if the board of directors of TWIA (board of directors) elects to do so and the commissioner of insurance (commissioner) approves.

(c) Requires the Texas Department of Insurance (TDI), if public securities are issued as described by this section, to assess each insurer that provides property insurance in this state in accordance with this section.

(d) Provides that the total amount of an assessment under this section is required to equal one-half of the principal amount of the public securities issued under this section, and each insurer's share of the assessment is required to be based on the insurer's proportionate share of the total extended coverage and other allied lines premium received by all insurers for property insurance in this state in the calendar year preceding the year in which the assessment is made.

(e) Requires that the proceeds of an assessment under this section be deposited in the catastrophe reserve trust fund.

(f) Requires the commissioner to adopt rules to implement the assessment of insurers under this section.

Sec. 2210.084. PAYMENT FROM CLASS B PUBLIC SECURITIES AND INSURER ASSESSMENT. (a) Requires that any losses TWIA determines cannot be paid in the manner provided by Sections 2210.082 and 2210.083 on or after the date of an occurrence or series of occurrences that results in insured losses be paid as provided by this section from:

(1) the proceeds of Class B public securities authorized to be issued in accordance with Subchapter M-1; and

(2) an assessment against all insurers that provide property insurance in this state in accordance with this section.

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

(1) are required to be issued as necessary in a principal amount not to exceed \$900 million, whether for a single occurrence or a series of occurrences, and outstanding public securities are prohibited from exceeding a principal amount of \$900 million at any one time, regardless of the calendar year or years in which outstanding public securities were issued;

(2) subject to the \$900 million maximum described by Subdivision (1), are authorized to be issued, in one or more issuances or tranches; and

(3) are required to be repaid in the manner and from the sources prescribed by Subchapter M-1 within a period not to exceed 10 years, and are authorized to be repaid sooner if the board of directors elects to do so and the commissioner approves.

(c) Requires TDI, if public securities are issued as described by this section, to assess each insurer that provides property insurance in this state in accordance with this section.

(d) Provides that the total amount of an assessment under this section is required to be equal to the principal amount of the public securities issued under this section, and each insurer's share of the assessment is required to be based on the insurer's proportionate share of the total extended coverage and other allied lines premium received by all insurers for property insurance in this state in the calendar year preceding the year in which the assessment is made.

(e) Requires that the proceeds of an assessment under this section be deposited in the catastrophe reserve trust fund.

(f) Requires the commissioner to adopt rules to implement the assessment of insurers under this section.

Sec. 2210.085. PAYMENT FROM CLASS C PUBLIC SECURITIES. (a) Requires that any losses TWIA determines cannot be paid in the manner provided by Sections 2210.082, 2210.083, and 2210.084 on or after the date of an occurrence or series of occurrences that results in insured losses be paid as provided by this section from the proceeds of Class C public securities authorized to be issued in accordance with Subchapter M-1.

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

(1) are required to be issued as necessary in a principal amount not to exceed \$2.75 billion, whether for a single occurrence or a series of occurrences, and outstanding public securities are prohibited from exceeding a principal amount of \$2.75 billion at any one time, regardless of the calendar year or years in which outstanding public securities were issued;

(2) subject to the \$2.75 billion maximum described by Subdivision (1), are authorized to be issued, in one or more issuances or tranches; and

(3) are required to be repaid in the manner and from the sources prescribed by Subchapter M-1 within a period not to exceed 14 years, and are authorized to be repaid sooner if the board of directors elects to do so and the commissioner approves.

Sec. 2210.086. PAYMENT FROM CLASS D PUBLIC SECURITIES. (a) Requires that any losses TWIA determines cannot be paid in the manner provided by Sections 2210.082, 2210.083, 2210.084, and 2210.085 on or after the date of an occurrence or series of occurrences that results in insured losses be paid as provided by this section from the proceeds of Class D public securities authorized to be issued in accordance with Subchapter M-1.

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

(1) are required to be issued as necessary in a principal amount and with terms and maturities necessary to pay insured losses described by Subsection (a) as determined under Section 2210.629; and

(2) are required to be repaid in the manner and from the sources prescribed by Subchapter M-1.

Sec. 2210.087. AUTHORIZATION TO ENTER INTO FINANCING ARRANGEMENTS. 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 available to TWIA to enable TWIA to pay losses under this subchapter or to obtain public securities under this subchapter. Defines "financial instruments" to include commercial paper for purposes of this section.

Sec. 2210.088. REINSURANCE. (a) Authorizes an insurer, before an occurrence or series of occurrences described by this subchapter, to purchase reinsurance to cover an assessment for which the insurer would otherwise be liable under this subchapter.

(b) Requires an insurer that elects to purchase reinsurance to notify the board of directors of the election in the form and manner prescribed by TWIA. Provides that, if an insurer does not elect to purchase reinsurance under this section, the insurer remains liable for any assessment imposed under this subchapter.

SECTION 1.04. Amends Section 2210.451, Insurance Code, as follows:

Sec. 2210.451. New heading: DEFINITIONS. Defines "insurer" and "trust fund" in this subchapter. Makes nonsubstantive changes.

SECTION 1.05. Amends Sections 2210.452(a), (c), and (d), Insurance Code, as follows:

(a) Requires the commissioner to adopt rules under which TWIA makes payments to the catastrophe reserve trust fund. Authorizes the trust fund to be used only to fund the obligations of the trust fund under Subchapters B-1 and B-2, rather than under Subchapter B-1.

(c) Requires TWIA, following each calendar year, to pay the total net gain from operations of TWIA in that year, including all premium and other revenue of TWIA in excess of incurred losses, operating expenses, public security obligations, and public security administrative expenses, to the trust fund except as provided by this subsection, rather than requiring 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, to procure reinsurance, or to make payments to the trust fund and to procure reinsurance. Requires TWIA for that year, if at the end of the calendar year the available balance in the trust fund is greater than or equal to 1.5 percent of TWIA's direct exposure, as determined under Section 2210.456, to pay to the trust fund an amount equal to at least three-tenths of one percent of TWIA's total exposure, as determined under Section 2210.456, and is authorized to use any net gain remaining after that payment to procure reinsurance or to make additional payments to the trust fund.

(d) Requires the commissioner by rule to 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 Subchapters B-1 and B-2, rather than under Subchapter B-1.

SECTION 1.06. Amends Subchapter J, Chapter 2210, Insurance Code, by adding Section 2210.456, as follows:

Sec. 2210.456. CONTINGENT ADDITIONAL FUNDING; PREMIUM SURCHARGE AND INSURER ASSESSMENT. (a) Requires TWIA, not later than January 31 of each year, to submit to the commissioner in a form and manner, and using a method or formula determined by the commissioner by rule, a statement that reports TWIA's total exposure for the previous calendar year, TWIA's direct exposure for the previous calendar year,

and the current balance in the trust fund available to pay any losses under Subchapter B-2.

(b) Requires TDI, in a calendar year in which the commissioner determines based on information reported in the statement required by Subsection (a) that the available balance in the trust fund is less than 1.5 percent of TWIA's total exposure for the previous calendar year, or in which any class of public security issued under Subchapter M-1 remains outstanding in any amount, in accordance with this section, to assess each insurer that provides property insurance in this state and assess a premium surcharge on each policyholder of a policy that covers insured property in a first tier coastal county.

(c) Requires that the total amount of the insurer assessment under Subsection (b) in a calendar year equal 0.15 percent of TWIA's direct exposure for the previous calendar year, as reported in the statement required by Subsection (a), and each insurer's assessment is required to be based on the insurer's proportionate share of the total extended coverage and other allied lines premium received by all insurers for property insurance in this state in the previous calendar year. Prohibits an insurer from recouping an assessment paid under this section through a premium surcharge or tax credit.

(d) Requires that the premium surcharge described by Subsection (b) equal 3.9 percent of premium and is required to be assessed on each policyholder of a policy that covers insured property that is located in a first tier coastal county, including an automobile principally garaged in a first tier coastal county. Requires 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 an automobile or other property located in the first tier coastal county. Provides that the premium surcharge 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.

(e) 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.

(f) Requires that the proceeds of an insurer assessment or premium surcharge under this section be deposited in the catastrophe reserve trust fund.

(g) Requires the commissioner to adopt rules to implement the assessment of insurers and policyholders under this section.

SECTION 1.07. Amends Chapter 2210, Insurance Code, by adding Subchapter M-1, as follows:

## SUBCHAPTER M-1. PUBLIC SECURITIES PROGRAM

Sec. 2210.625. FINDINGS AND PURPOSE. Provide that the legislature finds that authorizing the issuance of public securities to raise funds to provide windstorm and hail insurance through TWIA is for the benefit of the public and in furtherance of a public purpose.

Sec. 2210.626. DEFINITIONS. Defines "authority," "board," "Class A public securities," "Class B public securities," "Class B public security trust fund," "Class C public securities," "Class C public security trust fund," "Class D public securities," "Class D public security trust fund," "credit agreement," "insurer," "public security," "public security administrative expenses," "public security obligations," and "public security obligation revenue fund" in this subchapter.

Sec. 2210.627. APPLICABILITY OF OTHER LAWS. (a) Requires the board of directors of the Texas Public Finance Authority (board) (authority) to issue the public securities described by Section 2210.628 in accordance with and subject to the requirements of Chapter 1232 (Texas Public Finance Authority), Government Code, other than Section 1232.108 (Legislative Authorization Required) of that chapter, and in accordance with and subject to other provisions of Title 9 (Public Securities), Government Code, that apply to issuance of a public security by a state agency. Provides that, in the event of a conflict, this subchapter controls.

(b) Provides that a purpose for which public securities are issued under this chapter constitutes an eligible project for purposes of Chapter 1371 (Obligations for Certain Public Improvements), Government Code.

Sec. 2210.628. ISSUANCE OF PUBLIC SECURITIES AUTHORIZED. (a) Requires the authority, at the request of TWIA and with the approval of the commissioner, to issue Class A, Class B, Class C, or Class D public securities. Requires TWIA to submit to the commissioner a cost-benefit analysis of various financing methods and funding structures when requesting the issuance of public securities under this subsection.

(b) Requires TWIA to specify in TWIA's request to the board the maximum principal amount of the public securities and the maximum term of the public securities.

(c) Authorizes the principal amount determined by TWIA under Subsection (b) to be increased to include an amount sufficient to pay the costs related to issuance of the public securities; provide a public security reserve fund; capitalize interest for the period determined necessary by TWIA, not to exceed two years; and provide the amount of debt service coverage for public securities determined by TWIA, in consultation with the authority, to be required for the issuance of marketable public securities.

(d) Provides that an increase in the principal amount made under Subsection (c) is not included for purposes of determining the total amount of an assessment under Section 2210.083 or 2210.084.

Sec. 2210.629. TERMS OF ISSUANCE. (a) Requires the board to determine the method of sale, type and form of public security, maximum interest rates, and other terms of the public securities that, in the board's judgment, best achieve the goals of TWIA and effect the borrowing at the lowest practicable cost. Authorizes the board to enter into a credit agreement in connection with the public securities.

(b) Requires that public securities be issued by the board on behalf of TWIA.

Sec. 2210.630. ADDITIONAL COVENANTS. Authorizes the board to make additional covenants with respect to the public securities and the designated income and receipts of

TWIA pledged to their payment, and provide for the flow of funds and the establishment, maintenance, and investment of funds and accounts with respect to the public securities, and the administration of those funds and accounts, as provided in the proceedings authorizing the public securities.

Sec. 2210.631. PUBLIC SECURITY PROCEEDS. Authorizes the proceeds of public securities issued by the board under this subchapter to be deposited with the Texas Treasury Safekeeping Trust Company in accordance with procedures established by the comptroller of public accounts of the State of Texas (comptroller). Requires the comptroller to account to TWIA for the deposited money separately from all other money.

Sec. 2210.632. USE OF PUBLIC SECURITY PROCEEDS. (a) Requires that public security proceeds, including investment income, be held in trust for the exclusive use and benefit of TWIA. Authorizes TWIA to use the proceeds to:

- (1) pay incurred claims and operating expenses of TWIA;
- (2) purchase reinsurance for TWIA;
- (3) pay the costs of issuing the public securities and public security administrative expenses, if any;
- (4) provide a public security reserve;
- (5) pay capitalized interest and principal on the public securities for the period determined necessary by TWIA under Section 2210.628;
- (6) pay private financial agreements entered into by TWIA as temporary sources of payment of losses and operating expenses of TWIA; and
- (7) reimburse TWIA for any cost described by Subdivisions (1)-(6) paid by TWIA before issuance of the public securities.

(b) Authorizes any excess public security proceeds that remain after the purpose for which the public securities were issued is satisfied to be used to purchase or redeem outstanding public securities or pay public security administrative expenses. Requires that any excess public security proceeds that remain after all outstanding public securities are purchased or redeemed and all public security administrative expenses are paid be transferred to the catastrophe reserve trust fund.

Sec. 2210.633. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY OBLIGATIONS. (a) Requires TWIA to provide for the payment of all public security obligations from available funds collected by TWIA and 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 2210.636, 2210.637, 2210.638, and 2210.639, as applicable.

(b) Requires the authority, if any public securities issued under this subchapter 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, if necessary, assess a premium surcharge under Section 2210.637 or 2210.638, as applicable.

(c) Requires TWIA to deposit all revenue collected under Section 2210.636 in the public security obligation revenue fund; all money collected from a premium surcharge assessed under Section 2210.637 in the Class B public security trust

fund; all money collected from a premium surcharge assessed under Section 2210.638 in the Class C public security trust fund; and all money received from any source for the purpose of repaying Class D public securities under Section 2210.639 in the Class D public security trust fund.

(d) Authorizes money deposited in a fund under this section to be invested as permitted by general law. Requires that money in a fund required to be used to pay public security obligations and public security administrative expenses, if any, be transferred to the appropriate funds in the manner and at the time specified in the proceedings authorizing the public securities in order to ensure timely payment of obligations and expenses. Authorizes the board to establish funds and accounts with the comptroller that the board determines are necessary to administer and repay the public security obligations. 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 public security obligation revenue fund, or the Class B, Class C, or Class D public security trust fund, to the appropriate account the amount necessary to pay the public security obligation.

(e) 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, assessments, premium surcharges, and amounts on deposit in the public security obligation revenue fund, and the Class B, Class C, and Class D public security trust fund, together with any public security reserve fund, as provided in the proceedings authorizing the public securities and related credit agreements.

(f) Requires an amount owed by the board under a credit agreement to be payable from and secured by a pledge of revenues received by TWIA or amounts from the public security obligation trust fund or the Class B, Class C, or Class D public security trust fund to the extent provided in the proceedings authorizing the credit agreement.

Sec. 2210.634. PUBLIC SECURITY PAYMENTS. (a) Authorizes revenue received from a premium surcharge under Section 2210.637 or 2210.638 to be applied only as provided by this subchapter.

(b) Authorizes TWIA to pay public security obligations with other legally available funds.

(c) Provides that public security obligations are payable only from sources provided for payment in this subchapter.

Sec. 2210.635. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Authorizes revenue collected in any calendar year from a premium surcharge under Section 2210.637 or 2210.638 that exceeds the amount of the public security obligations and public security administrative expenses payable in that calendar year and interest earned on the public security obligation fund, in the discretion of TWIA, to be used to pay public security obligations payable in the subsequent calendar year, offsetting the amount of the premium surcharge that would otherwise be required to be levied for that year under this subchapter; used to redeem or purchase outstanding public securities; or deposited in the catastrophe reserve trust fund.

Sec. 2210.636. PAYMENT OF CLASS A PUBLIC SECURITIES. Requires TWIA to pay Class A public securities issued as described by Section 2210.083 from net premium and other revenue.

Sec. 2210.637. PAYMENT OF CLASS B PUBLIC SECURITIES. (a) Requires TWIA to pay Class B public securities issued as described by Section 2210.084 from net

premium and other revenue and a first tier coastal county premium surcharge collected in accordance with this section.

(b) Requires TWIA and each insurer that provides insurance in a first tier coastal county to assess, on approval by the commissioner, as provided by this section, a premium surcharge to each policyholder of a policy described by Subsection (c) that is in effect on or after the 180th day after the date the commissioner issues notice of the approval of the public securities. 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 each policyholder of a policy that covers insured property that is located in a first tier coastal county, including an automobile principally garaged in a first tier coastal county. Requires 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 an automobile or other property located in the first tier coastal county. Provides that the premium surcharge 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.

(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. 2210.638. PAYMENT OF CLASS C PUBLIC SECURITIES. (a) Requires TWIA to pay Class C public securities issued as described by Section 2210.085 from net premium and other revenue and a statewide premium surcharge collected in accordance with this section.

(b) Requires TWIA and each insurer that provides insurance in this state to assess, as provided by this section, on approval by the commissioner, a premium surcharge to each policyholder of a policy described by Subsection (c) that is in effect on or after the 180th day after the date the commissioner issues notice of the approval of the public securities. 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 each policyholder of a policy that covers insured property that is located in this state, including an automobile registered in this state. Requires 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 an automobile or other property located in this state. Provides that the premium surcharge 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.

(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. 2210.639. PAYMENT OF CLASS D PUBLIC SECURITIES. (a) Requires TWIA to pay Class D public securities issued as described by Section 2210.086 from net premium and other revenue and money received from any source for the purpose of repaying Class D public securities.

(b) Authorizes TWIA to accept for the use and benefit of the Class D public security trust fund any donation, contribution, gift, grant, or bequest of money or securities from any source.

Sec. 2210.640. AUTHORIZATION TO ENTER INTO FINANCING ARRANGEMENTS. Authorizes TWIA to enter into financing arrangements as described by Section 2210.087 as necessary to obtain public securities issued under this subchapter.

Sec. 2210.641. REFINANCING PUBLIC SECURITIES. Authorizes TWIA to request the board to refinance any public securities issued under this subchapter, whether Class A, Class B, Class C, or Class D public securities, with public securities payable from the same sources as the original public securities. Authorizes Class A, Class B, Class C, or Class D public securities to be issued on a parity or subordinate lien basis with other Class A, Class B, Class C, or Class D public securities, respectively.

Sec. 2210.642. SOURCE OF PAYMENT; STATE DEBT NOT CREATED. (a) Provides that a public security or credit agreement is payable solely from revenue as provided by this subchapter.

(b) Provides that a public security issued under this subchapter, and any related credit agreement, is not a debt of this state or any state agency or political subdivision of this state, and does not constitute a pledge of the faith and credit of this state or any state agency or political subdivision of this state.

(c) Requires that each public security, and any related credit agreement, issued under this subchapter state on the security's face that:

(1) neither the state nor a state agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the public security except as provided by this subchapter; and

(2) neither the faith and credit nor the taxing power of the state or any state agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of or interest on the public security.

**Sec. 2210.643. STATE NOT TO IMPAIR PUBLIC SECURITY OBLIGATIONS.**

(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 impair the collection of premium surcharges or the deposit of those funds into the Class B or Class C public security trust fund; reduce, alter, or impair the 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 in any way impair the rights and remedies of the public security owners until the public securities are fully discharged.

(b) Authorizes a party issuing public securities under this subchapter to include the pledge described by Subsection (a) in any documentation relating to those securities.

**Sec. 2210.644. ENFORCEMENT BY MANDAMUS.** Provides that a writ of mandamus and any other legal and equitable remedies are available to a party in interest to require TWIA or another party to fulfill an agreement and to perform functions and duties under this subchapter, the Texas Constitution, or a public security resolution or order authorizing public securities to be issued under this subchapter.

**Sec. 2210.645. EXEMPTION FROM TAXATION.** Provides that a public security issued under this subchapter, any transaction relating to the public security, and profits made from the sale of the public security are exempt from taxation by this state or by a municipality or other political subdivision of this state.

**Sec. 2210.646. NO PERSONAL LIABILITY.** Provides that the members of TWIA, members of TWIA board of directors, TWIA employees, the board, the employees of the authority, the commissioner, and TDI employees are not personally liable as a result of exercising the rights and responsibilities granted under this subchapter.

**Sec. 2210.647. AUTHORIZED INVESTMENTS.** Provides that public securities issued under this subchapter are authorized investments under:

(1) Subchapter B (Investment of Funds in Excess of Minimum Capital and Surplus), Chapter 424 (Investments for Certain Insurers);

(2) Subchapter C (Authorized Investments and Transactions for Capital Stock Life, Health, and Accident Insurers), Chapter 425 (Reserves and Investments for Life Insurance Companies and Related Entities); and

(3) Sections 425.203 (Limitation on Funds and Other Assets), 425.204 (Approval of Investments and Loans Required), 425.205 (Authorized Investments for All Funds: Government Bonds), 425.206 (Authorized Investments for All Funds: Corporate Bonds, Notes, and Debentures), 425.207 (Authorized Investments for All Funds: Shares of Savings and Loan Associations), 425.208 (Authorized Investments for All Funds: Bank and Bank Holding Company Stocks), 425.209 (Authorized Investments for All Funds: Debentures of Public Utility Corporations), 425.210 (Authorized Investments for All Funds: Preferred Stock of Public Utility Corporations), 425.211 (Authorized Investments for All Funds: Bonds Issued, Assumed, or Guaranteed in International Market), 425.212

(Authorized Investments for All Funds: Securities or Investments Authorized or Described by Specific Statutory Provision), and 425.213 (Authorized Investments for All Funds: Other Securities Specifically Authorized by Law).

## ARTICLE 2. ASSOCIATION OPERATIONS

SECTION 2.01. Amends Section 2210.0081, Insurance Code, as follows:

Sec. 2210.0081. CERTAIN ACTIONS BROUGHT AGAINST ASSOCIATION BY COMMISSIONER. (a) Creates this subsection from existing text. Provides that, in an action brought by the commissioner against TWIA under Chapter 441 (Supervision and Conservatorship):

(1) TWIA's inability to satisfy obligations under Subchapters M and M-1, rather than under Subchapter M, related to the issuance of public securities under this chapter constitutes a condition that makes TWIA's continuation in business hazardous to the public or to TWIA's policyholders for the purposes of Section 441.052 (Circumstances Constituting Insurer Exceeding Powers);

(2) a conservator is required to complete the conservator's duties as required by Chapter 441 not later than six months after the date of the appointment, rather than the time for TWIA to comply with the requirements of supervision or for the conservator to complete the conservator's duties, as applicable, is limited to three years from the date the commissioner commences the action against TWIA; and

(3) unless the commissioner takes further action against TWIA under Chapter 441, as a condition of release from supervision, TWIA is required to demonstrate to the satisfaction of the commissioner that TWIA is able to satisfy obligations under Subchapters M and M-1, rather than under Subchapter M, related to the issuance of public securities under this chapter, and has met the criteria established under Subsection (b).

(b) Requires the commissioner by rule to establish specific criteria for the release of TWIA from conservatorship.

(c) Requires the conservator to provide a written report that states the release status of TWIA and explains in detail all efforts undertaken to meet the criteria established under Subsection (b) to TWIA on a monthly basis and to the legislature on a quarterly basis.

(d) Authorizes the commissioner, after notice and hearing, to extend the conservatorship for one additional period not to exceed six months.

SECTION 2.02. Amends Section 2210.102, Insurance Code, as follows:

Sec. 2210.102. COMPOSITION. (a) Provides that the board of directors is composed of 11 members appointed by the governor in accordance with this section, rather than provides that the board of directors is composed of nine members appointed by the commissioner in accordance with this section.

(b) Requires three members to be representatives of the insurance industry who actively write and renew windstorm and hail insurance in the seacoast territory, rather than requires four members to be representatives of the insurance industry.

(c) Requires six members, rather than four members, as of the date of the appointment, to reside in the first tier coastal counties. Provides that, of the six members appointed under this subsection, two are required to be property and casualty agents who are licensed under this code and are not captive agents; one is

required to be a representative of the construction industry; one is required to be a coastal engineer; and two are required to be policyholders of TWIA and not agents. Deletes existing text requiring at least one of the members appointed under this subsection to be a property and casualty agent who is licensed under this code and is not a captive agent.

(d) Requires one member to 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.

(d-1) Requires one member to be a representative of the financial industry.

(e) Requires all members to have demonstrated experience in insurance, general business, actuarial principles, finance, engineering, or construction 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 board of director seats, rather than in the 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 governor, rather than to the commissioner. Requires that the nominee slate submitted to the governor, rather than to the commissioner, under this subsection include at least three more names than the number of vacancies. Requires the governor, rather than the commissioner, to appoint replacement insurance industry representatives from the nominee slate.

(g) Requires the governor to appoint three persons to serve as nonvoting members of the board of directors, each of whom must, as of the date of the appointment, be a public official of a first tier coastal county, with each of the following regions represented by one nonvoting member:

(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.

Deletes existing text requiring the commissioner to appoint one person to serve as a nonvoting member of the board of directors to advise the board regarding issues relating to the inspection process. Deletes existing text authorizing the commissioner to give preference in an appointment under this subsection to a person who is a qualified inspector under Section 2210.254 (Qualified Inspectors). Deletes existing text requiring the nonvoting member appointed under this section to be an engineer licensed by, and in good standing with, the Texas Board of Professional Engineers; reside in a first tier coastal county; and be knowledgeable of, and have professional expertise in, wind-related design and construction practices in coastal areas that are subject to high winds and hurricanes.

(h) Requires the persons appointed under Subsection (c) to be from different counties with each of the regions listed in Subsection (g) represented by at least one person.

SECTION 2.03. Amends Section 2210.202, Insurance Code, by adding Subsection (c), to require TWIA to develop and implement an automated initial application and renewal process that allows for the acceptance of an application for initial or renewal coverage, and payment of premiums, from a property and casualty agent or a person insured under this chapter.

SECTION 2.04. Amends Subchapter E, Chapter 2210, Insurance Code, by adding Section 2210.2031, as follows:

Sec. 2210.2031. PREMIUM SURCHARGE TO REINSTATE PREVIOUS COVERAGE. Authorizes an insured who without cause cancels or allows to lapse insurance coverage issued by TWIA to subsequently obtain coverage from TWIA for the previously insured property only by paying a premium surcharge of 20 percent.

SECTION 2.05. Amends Section 2210.363(a), Insurance Code, as follows:

(a) Requires TWIA to offer a person insured under this chapter an actuarially justified premium discount on a policy issued by TWIA, or an actuarially justified credit against a surcharge assessed against the person, other than a surcharge assessed under Subchapters M and M-1, if:

(1) the construction, alteration, remodeling, enlargement, or repair of, or an addition to, insurable property:

(A) exceeds applicable building code standards set forth in the plan of operation; or

(B) includes roof strapping designed and manufactured to withstand a wind load as required by the plan of operation; window and door coverings designed and manufactured to withstand a wind load as required by the plan of operation; a roof designed and constructed to withstand a wind load as required by the plan of operation; or a secondary roof seal; or

(2) the person elects to purchase a binding arbitration endorsement under Section 2210.554 (Voluntary Arbitration of Certain Coverage and Claim Disputes).

Deletes existing text authorizing TWIA to offer a person insured under this chapter an actuarially justified premium discount on a policy issued by TWIA, or an actuarially justified credit against a surcharge assessed against the person, other than a surcharge assessed under Subchapter M, if 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, or the person elects to purchase a binding arbitration endorsement under Section 2210.554.

SECTION 2.06. Provides that Section 2210.0081, Insurance Code, as amended by this article, applies to an action by the commissioner against TWIA under Chapter 441, Insurance Code, brought before, on, or after the effective date of this Act. Requires the conservator, for a conservatorship pending on the effective date of this Act, to complete the conservator's duties as required by Chapter 441, Insurance Code, not later than six months after the effective date of this Act.

SECTION 2.07. (a) Provides that the board of directors established under Section 2210.102, Insurance Code, as that section existed before amendment by this article, is abolished effective December 31, 2013.

(b) Requires the governor to appoint the members of the board of directors under Section 2210.102, Insurance Code, as amended by this article, not later than December 31, 2013.

(c) Provides that the term of a person who is serving as a member of the board of directors immediately before the abolition of that board under Subsection (a) of this section expires on December 31, 2013. Provides that such a person is eligible for

appointment by the governor to the new board of directors, subject to the requirements of Section 2210.102, Insurance Code, as amended by this article.

SECTION 2.08. Provides that Section 2210.2031, Insurance Code, as added by this article, applies only to a reinstatement of an insurance policy that is canceled or lapses on or after the effective date of this Act. Provides that a reinstatement of a policy that is canceled or lapses before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 2.09. Provides that the change in law made by this article to Section 2210.363(a) (relating to authorizing TWIA to offer a person insured under this chapter an actuarially justified premium discount on a policy issued by TWIA, or an actuarially justified credit against a surcharge assessed against the person, other than a surcharge assessed under Subchapter M, under certain circumstances), Insurance Code, applies only to an insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2014. Provides that a policy delivered, issued for delivery, or renewed before January 1, 2014, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

### ARTICLE 3. MARKET INCENTIVES

SECTION 3.01. Amends Chapter 2210, Insurance Code, by adding Subchapter J-1, as follows:

#### SUBCHAPTER J-1. MARKET INCENTIVES

Sec. 2210.477. ASSUMED REINSURANCE PROGRAM. (a) Authorizes TWIA to establish a reinsurance program under which TWIA, on a quota share or excess of loss basis or otherwise, assumes reinsurance ceded by insurers included on the list maintained under Section 2210.476 for a portion of the losses incurred by the ceding insurers by writing windstorm and hail insurance coverage for property in the seacoast territory.

(b) Requires that a program established under this section:

(1) is required to be administered under the plan of operation and operate in a manner consistent with sound insurance practices; provide for efficient, economical, fair, and nondiscriminatory administration of the program; and allow reasonable flexibility to accommodate insurers in situations of an unusual nature or in which undue hardship may result; and

(2) is prohibited from in any way impairing, overriding, superseding, or constraining the public purpose of TWIA.

(c) Authorizes the plan of operation to provide for various levels of assumption of risk and retention in a program established under this section.

(d) Requires that a program established under this section provide reimbursement to the insurer in the manner provided by the reinsurance contract for covered events in exchange for the reinsurance premium paid to TWIA as specified by the plan of operation. Requires that each reinsurance contract contain:

(1) a promise to pay the ceding insurer for the insurer's losses from each covered event in excess of the insurer's retention, if any, required by the plan of operation;

(2) a requirement that amounts due to the insurer not be reduced by reinsurance paid or payable to the insurer from other sources;

(3) a requirement that all contracts covering a particular contract year is prohibited from exceeding TWIA's actual capacity to pay claims, up to a limit defined in the plan of operation;

(4) a requirement of interim quarterly reporting to TWIA from each insurer of losses from each covered event; and

(5) a requirement that, if the insurer becomes insolvent, TWIA is required to pay the net amount owed to the insurer directly to the conservator, receiver, or other statutory successor for the benefit of the insurer's policyholders in this state.

(e) Requires that a premium paid by an insurer to TWIA under a reinsurance contract be treated as a premium paid by the insurer for approved reinsurance for all accounting and regulatory purposes.

Sec. 2210.478. **INFORMATION SHARING.** (a) Requires TWIA to maintain an electronic database composed of information designed to assist an insurer in participating in or entering the voluntary windstorm and hail insurance market in the seacoast territory; and provide access to the database to insurers that engage in the business of property insurance in this state.

(b) Authorizes the database to include information on TWIA's business that may be disclosed under Chapter 552 (Public Information), Government Code, or other information as determined by the board of directors, that relates to underwriting; the issuance of policies; loss control services; the investigation or reporting of actual or potential fraud, misrepresentation, or criminal activity; ratemaking; reinsurance or excess loss insurance; the administration of consumer disputes and inquiries; and claims administration, adjustment, and management.

(c) Requires that the database be designed to protect private information about TWIA's policyholders or from which a policyholder is identifiable; information considered to be confidential by constitutional or statutory law or by judicial decision; and information relating to litigation of a civil or criminal nature to which TWIA is or may be a party or to which an officer or employee of TWIA, as a consequence of the person's office or employment, is or may be a party.

Sec. 2210.479. **STUDY OF MARKET INCENTIVES; REPORTING.** (a) Requires TDI to conduct a study of market incentives to promote participation in the voluntary windstorm and hail insurance market in the seacoast territory. 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 and the establishment of an assigned risk pool.

(b) Requires TDI to deliver to the legislature a biennial report on the results of the study.

Sec. 2210.480. **WINDSTORM AND HAIL INSURANCE ISSUED BY PRIVATE MARKET: CLAIMS SETTLEMENT AND DISPUTE RESOLUTION.** (a) Provides that, except as otherwise provided by this section, windstorm and hail insurance coverage voluntarily issued by an insurer that is comparable to Texas windstorm and hail insurance issued by TWIA as determined by the commissioner by rule and that is issued for a structure located in the seacoast territory or corporeal movable property contained in the structure is subject to the claims settlement and dispute resolution provisions of Subchapter L-1 as if the insurer were TWIA and the windstorm and hail insurance coverage issued by the insurer were a TWIA policy.

(b) Provides that the claims settlement and dispute resolution provisions applicable under this section apply only with respect to a claim that is a request for payment under the windstorm and hail insurance coverage issued by the insurer.

(c) Provides that Sections 2210.572(a) (relating to providing that this subchapter (Claims: Settlement and Dispute Resolution) provides the exclusive remedies for a claim against TWIA, including an agent or representative of TWIA) and (b) (relating to prohibiting TWIA, subject to Section 2210.576 (Issues Brought to Suit; Limitations on Recovery), from being held liable for any amount other than covered losses payable under the terms of TWIA policy) apply to an insurer that issues windstorm and hail insurance coverage to which this section applies only with respect to a claim described by Subsection (b). Provides that Section 2210.572(c) (relating to prohibiting TWIA, and an agent or representative of TWIA, from being held liable for certain damages) limits the insurer's liability for damages under Chapter 17 (Deceptive Trade Practices), Business & Commerce Code, or any other provision of law providing for additional damages, punitive damages, or a penalty only to the extent the damages arise in connection with windstorm and hail insurance coverage to which this section applies.

(d) Requires an insurer to use the guidelines published under Section 2210.578 (Expert Panel) to settle claims under windstorm and hail insurance coverage to which this section applies.

(e) Provides that this section does not affect the terms for the submission, settlement, payment, or dispute resolution of any claim made under any other type of coverage provided in the same policy as the windstorm and hail insurance coverage.

Sec. 2210.481. WINDSTORM AND HAIL INSURANCE ISSUED BY PRIVATE MARKET: REQUIRED POLICY PROVISIONS. (a) Requires that a policy issued by an insurer that includes windstorm and hail insurance coverage described by Section 2210.480(a) include provisions that comply with the requirements of Section 2210.205 (Required Policy Provisions: Deadline for Filing Claim; Notice Concerning Resolution of Certain Disputes) with respect to that coverage. Provides that the time period for bringing a claim under the policy provision required by Section 2210.205(a)(1) (relating to requiring a windstorm and hail insurance policy issued by TWIA to require an insured to file a claim under the policy not later than the first anniversary of the date on which the damage to property that is the basis of the claim occurs) is subject to extension by the commissioner in accordance with Section 2210.205(b) (relating to authorizing the commissioner, on a showing of good cause by a person insured under this chapter, to extend the one-year period described by Subsection (a)(1) for a period not to exceed 180 days).

(b) Requires that a policy that provides windstorm and hail insurance coverage that is subject to this section, to the extent the claims settlement and dispute resolution procedures prescribed by Subchapter L-1 are dependent on terms included in a TWIA policy, include comparable provisions applicable to the coverage as prescribed by the commissioner by rule.

Sec. 2210.482. WINDSTORM AND HAIL INSURANCE ISSUED BY PRIVATE MARKET: ACCESSIBILITY OF OMBUDSMAN PROGRAM. (a) Entitles a person insured under windstorm and hail insurance coverage described by Section 2210.480(a) to assistance and information from the ombudsman program established under Section 2210.582 (Ombudsman Program) to the same extent as a person insured by TWIA under this chapter.

(b) Requires an insurer that issues windstorm and hail insurance coverage described by Section 2210.480(a) to notify the insured, in the manner prescribed by the commissioner by rule, concerning the operation of the ombudsman program.

SECTION 3.02. Transfers Section 2210.009, Insurance Code, to Subchapter J-1, Chapter 2210, Insurance Code, as added by this article, redesignates it as Section 2210.476, Insurance Code, and amends it, as follows:

Sec. 2210.476. LIST OF PRIVATE INSURERS; INCENTIVE PLAN. (a) Requires TDI to maintain a list of all insurers that engage in the business of property and casualty insurance in the voluntary market in the seacoast territory.

(b) Requires TDI to develop incentive programs that include the market incentives described by this subchapter to encourage authorized insurers to write windstorm and hail insurance on a voluntary basis to cover property located in the seacoast territory and to minimize the use of TWIA as a means to obtain that insurance, rather than requiring TDI to develop incentive programs in the manner described by Section 2210.053(b) to encourage authorized insurers to write insurance on a voluntary basis and to minimize the use of TWIA as a means to obtain insurance.

SECTION 3.03. Amends Section 2210.053(b), Insurance Code, as follows:

(b) Authorizes TDI to develop programs to improve the efficient operation of TWIA, including a program for approving policy forms under Section 2301.010 (Contractual Limitations Period and Claim Filing Period in Certain Property Insurance Forms), rather than authorizes TDI to develop programs to improve the efficient operation of TWIA, including a program for approving policy forms under Section 2301.010 and a program designed to create incentives for insurers to write windstorm and hail insurance voluntarily to cover property located in a catastrophe area, especially property located on the barrier islands of this state.

SECTION 3.04. Provides that Sections 2210.480, 2210.481, and 2210.482, Insurance Code, as added by this article, apply only to windstorm and hail insurance coverage under an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2014. Provides that coverage under a policy delivered, issued for delivery, or renewed before that date is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

#### ARTICLE 4. BUILDING STANDARDS

SECTION 4.01. Amends Chapter 233, Local Government Code, by adding Subchapter G, as follows:

##### SUBCHAPTER G. RESIDENTIAL BUILDING CODE STANDARDS APPLICABLE TO UNINCORPORATED AREAS OF COASTAL COUNTIES

Sec. 233.201. DEFINITIONS. Defines "first tier coastal county," "residential," and "windstorm certificate" in this subchapter.

Sec. 233.202. APPLICABILITY. Provides that this subchapter applies only to a first tier coastal county.

Sec. 233.203. WINDSTORM BUILDING CODE STANDARDS APPLICABLE. (a) Requires that residential construction, including an alteration, remodel, enlargement, or repair involving one or more structural building components, in the unincorporated area of a county conform to the residential building code standards required to obtain a windstorm certificate.

(b) Provides that standards required under this subchapter apply only to residential construction in the unincorporated area of a county that begins after September 1, 2013.

(c) Provides that, if a municipality located in a county to which this subchapter applies has adopted a residential building code that conforms to the standards required to obtain a windstorm certificate and that applies in the municipality's

extraterritorial jurisdiction, the requirements of this subchapter have no effect in the municipality's extraterritorial jurisdiction.

(d) Prohibits this subchapter from being construed to require prior approval by the county before the beginning of residential construction, or from authorizing the commissioners court of a county to adopt or enforce zoning regulations.

(e) Provides that, to the extent of a conflict between this subchapter and Subchapter F (Residential Building Code Standards Applicable to Unincorporated Areas of Certain Counties), this subchapter controls.

Sec. 233.204. CERTIFICATE OF OCCUPANCY. Requires a county to issue a certificate of occupancy for a residential structure located in the unincorporated area of the county if the owner of the structure presents a copy of a windstorm certificate for the structure with the application for the certificate of occupancy.

Sec. 233.205. RULES; FORMS; FEES. (a) Requires the commissioners court of a county to by order adopt the rules and forms necessary to implement this section.

(b) Authorizes the commissioners court to by order adopt a reasonable fee for the issuance of a certificate of occupancy under this section.

Sec. 233.206. UTILITY CONNECTION. (a) Prohibits an entity described by Subsection (b) from serving or connecting a residential structure located in the unincorporated area of a county and for which construction began after September 1, 2013, with water, sewer, electricity, gas, or other utility service unless the county has issued the structure a certificate of occupancy under this subchapter.

(b) Provides that this section applies to any entity that provides water, sewer, electricity, gas, or other utility service, including a municipality or county, a municipally owned or operated utility, a public utility, a water supply or sewer service corporation operating under Chapter 67 (Nonprofit Water Supply or Sewer Service Corporations), Water Code, or a special district or authority created under state law.

SECTION 4.02. Amends Chapter 250, Local Government Code, by adding Section 250.007, as follows:

Sec. 250.007. MANDATORY INSPECTION OF RESIDENTIAL CONSTRUCTION IN SEACOAST TERRITORY. (a) Defines "seacoast territory" in this section.

(b) Provides that this section applies to any residential construction, including an alteration, remodel, enlargement, or repair, involving one or more structural building components and located in the seacoast territory. Provides that this section applies without regard to whether an application for insurance for the property under Chapter 2210, Insurance Code, has been or will be made.

(c) Prohibits a municipality or county from issuing a certificate of occupancy or completion for residential construction unless the roof of the construction has been designed for compliance with uniform static wind pressure requirements of 140 miles per hour, for construction seaward of the intercoastal waterway, or 130 miles per hour, for construction inland of the intercoastal waterway; and the construction has been inspected and certified by TDI under Subchapter F, Chapter 32, Insurance Code.

SECTION 4.03. Amends Chapter 32, Insurance Code, by adding Subchapter F, as follows:

#### SUBCHAPTER F. RESIDENTIAL CONSTRUCTION INSPECTIONS

Sec. 32.201. DEFINITION. Defines "seacoast territory" in this subchapter.

Sec. 32.202. APPLICABILITY. Provides that this subchapter applies to any residential construction to which Section 250.007, Local Government Code, applies.

Sec. 32.203. MANDATORY WIND RESISTANT STANDARDS. (a) Requires TDI to conduct inspections for compliance with the standards established under Section 250.007, Local Government Code.

(b) Requires TDI to issue a certificate of compliance if the construction meets the standards established under Section 250.007, Local Government Code.

Sec. 32.204. WINDSTORM INSURANCE APPLICATION NOT REQUIRED. Requires TDI to inspect property for compliance with standards established under Chapter 2210 without regard to whether an application has been or will be made under that chapter for insurance for the property.

SECTION 4.04. Provides that Section 250.007, Local Government Code, and Subchapter F, Chapter 32, Insurance Code, as added by this article, apply only with respect to residential construction commenced on or after the effective date of this Act. Provides that residential construction commenced before the effective date of this Act is governed by the law applicable to the construction immediately before the effective date of this Act. Provides that, for the purposes of this section, construction commenced before the effective date of this Act if the application for a building permit under which the construction commences was submitted before the effective date of this Act.

#### ARTICLE 5. EFFECTIVE DATE

SECTION 5.01. Effective date: September 1, 2013.