

**SUMMARY OF HOUSE BILL 3
82nd LEGISLATURE, 1st CALLED SPECIAL SESSION**

Section 1.

Cease and desist provisions are now applicable to individuals performing windstorm building code compliance inspections.

Section 2.

Treble damages cannot be awarded against TWIA under Chapter 541, Insurance Code.

Section 3.

The Sunset review process is not applicable to TWIA until 2015.

Section 4.

“Catastrophe year” is defined.

Section 5.

The inability of TWIA to satisfy the obligations of any public securities issued is a condition hazardous to the public or to the insurer's policyholders pursuant to Chapter 441¹. Allows up to three years for TWIA to comply with any requirements of supervision or for the conservator to complete its duties, and requires TWIA to demonstrate its ability to satisfy the obligations of public securities issued.

Requires the disclosure of certain information by a presiding officer in a dispute between TWIA and a policyholder. Allows the commissioner of insurance to assign a new presiding officer in certain situations. Creates new standards of conduct for TWIA Board of Director (“Board”) members and employees. Specifically requires the board members and employees to report suspected fraud within 30 days. Nepotism provisions in state law are applicable to board members and employees. Chapters 541 and 542 are not applicable to TWIA, its agents, or representatives in regard to private causes of action. Chapter 542 does not apply to TWIA claim processing and settlement. The Office of the Attorney General may only bring a class action suit against TWIA.

Section 6.

Allows TDI to approve certain forms for use by insurers to write policies in the catastrophe area. In addition, TWIA may not be considered a debtor in a Chapter 11 bankruptcy proceeding.

Section 7.

Requires TWIA to file annual financial statements with TDI and the State Auditor’s office.

Section 8.

Upon dissolution of TWIA, its assets revert to the state except for assets pledged for the repayment of public securities.

Section 9.

Allows TWIA to be audited by the State Auditor and pay for the costs of that audit. Allows the commissioner to perform random claim audits, and report to the Board any deficiencies and how

¹ All statutory references are to the Insurance Code unless otherwise noted.

TWIA should correct them. Requires TWIA to post on its website the salaries and any related compensation of individuals or entities paid more than \$100,000 in a calendar year.

Section 10.

Losses not paid from available reserves of TWIA and available amounts in the catastrophe reserve trust fund (“CRTF”) are to be paid by public securities including pre-event bonds.

Section 11.

Losses not paid from available reserves of TWIA and the CRTF may be paid using up to \$1 billion in Class 1 public securities. The entire \$1 billion may be issued as pre-event bonds if requested by the TWIA board of directors and approved by the Commissioner. Public securities may be issued in one or more issuances during the calendar year. Repayment of these securities must be paid within 14 years. Any pre-event bonds must be depleted before the proceeds of any securities issued after an occurrence or series of occurrences may be used. Outstanding securities previously issued when depleted will count against the \$1 billion limit per catastrophe year.

Sections 12 and 13.

Class 2 and Class 3 public securities may be issued per catastrophe year, and may be issued in one or more issuances during the calendar year. Class 2 and Class 3 public securities not sold during the calendar year may be issued during the following calendar year.

Section 14.

Conforming change.

Section 15.

Allows the commissioner to appoint temporary members to the board for the lesser of 120 days or until a vacancy is filled. This section expires 12/31/12.

Section 16.

Requires TWIA to post notice of its meetings on the TWIA and TDI websites not later than the 7th day before a board meeting. Allows the commissioner or the commissioner’s designated representative to attend certain closed sessions. Requires TWIA to broadcast board meetings live on its website and maintain an archive of each meeting for up to two years.

Section 17.

Expands the current board objectives to include the establishment of a code of conduct and performance standards for TWIA employees and persons with which TWIA contracts, and review of TWIA management. Requires the General Manager every two months to report to the board on how TWIA has met its primary objectives. Also requires an annual report due before June 1 of how the board met the primary objectives. This report is sent to the commissioner, the legislative oversight board (“LOB”), the governor, lieutenant governor, and speaker of the House.

Section 18.

Clarifies that TWIA is subject to the Texas Public Information Act and the Texas Open Meetings Act. Settlement agreements are public information and must contain the name of any attorney or adjuster representing a claimant or TWIA.

Section 19.

Requires TWIA to use any claim settlement guidelines published by the commissioner in evaluating a loss incurred as a result of wind, waves, tidal surges, or rising waters.

Section 20.

Requires evidence of a declination every three calendar years to obtain or maintain coverage with TWIA. An agent must submit an application for initial coverage, but TWIA shall develop a simplified process that allows for the acceptance of a renewal application and payment of premium from either an agent or person insured by TWIA. An application for initial or renewal coverage must contain a statement that the agent acting possesses proof of the declination, proof of flood coverage, or unavailability of flood coverage if applicable.

Section 21.

Upon a recommendation by the board, requires the Commissioner to approve a commission structure for an agent submitting an application for coverage. The commission structure must be fair and reasonable, taking into consideration the amount of work performed and the prevailing commission structure in the private market.

Section 22.

Minimum retained premium is reduced from 180 days to 90 days. For any canceled policy, the agent receiving a commission shall also refund a portion of the commission.

Section 23.

Requires a policy provision stating that a TWIA policy must (1) require an insured to file a claim not later than the first anniversary of the date on which the damage occurs; and (2) contain, in boldface type, a conspicuous notice concerning the resolution of disputes under the policy, including the processes and deadlines for appraisal and alternative dispute resolution; the binding effect of appraisal; and the necessity of complying with the requirements of Subchapter L-1 to seek relief, including judicial relief. The deadline for filing the claim may be extended for a period not to exceed 180 days. TWIA cannot issue coverage on a wind turbine.

Section 24.

States TDI has the discretion to issue a certificate of compliance for a structure; not the Texas Board of Professional Engineers (“TBPE”).

Sections 25 and 26.

Conforming reference to a roster described by Section 1001.652, Occupations Code for qualified inspectors and appointed licensed engineers for the performance of windstorm inspections. TDI may establish an annual renewal period for qualified inspectors.

Section 27.

Establishes new authority for the TDI related to the appointment and oversight of qualified inspectors including possessing knowledge, understanding, and professional competence to perform windstorm inspections. Requires certain reporting of engineers to the TBPE for certain behavior or performance. Requires biennial reporting by TDI to the Legislature on referrals to the TBPE of engineers.

Sections 28 and 29.

Allows the commissioner to enter ex parte emergency cease and desist orders against a qualified inspector or qualified engineer under certain circumstances.

Section 30.

Allows certain noncompliant structures approved for coverage by TWIA may have the 15 percent surcharge offset by a discount or credit against the surcharge if one structural building component complies with the applicable building code.

Section 31.

Establishes an alternative eligibility coverage program for certain structures to obtain coverage from TWIA. On or after 8/31/11, a person may obtain coverage from TWIA without a WPI-8 certificate of compliance in accordance with rules adopted for an alternative certification program for residential structures if one structural component has been inspected by a TDI inspector or qualified inspector and the component is in compliance with the applicable building code. Rules will determine which component may be considered qualifying structural building components. For a person not obtaining alternative eligibility by 8/31/12, the person must obtain the alternative eligibility for his structure before 8/31/13 to renew coverage with TWIA. Alternative structures must also meet TWIA's underwriting standards.

TWIA shall develop and implement an actuarially sound rate, credit, or surcharge that reflects the risks presented by alternative eligibility structures. A rate, credit, or surcharge may vary based on the number of qualifying structural building components included in a structure. A surcharge must be developed and implemented in an amount that does not exceed 15 percent.

Sections 32 and 33.

The payment of any outstanding Class 1 public securities must be taken into consideration when establishing TWIA rates. Agent commissions must comply with any commission structure approved by the commissioner.

Section 34.

TWIA may offer a premium discount or credit against a surcharge not to exceed 10 percent of the premium, if the construction or related action exceeds the applicable building code or a person elects to purchase a binding arbitration endorsement. The commissioner may adopt rules.

Section 35.

Allows for payments into the CRTF and/or purchase of reinsurance with net gains in excess of incurred losses, operating expenses, public security obligations, and public security administrative expenses.

Section 36.

If TWIA does not purchase reinsurance, a report containing an actuarial plan for paying losses in the event of a catastrophe with estimated damages of \$2.5 billion or more shall be submitted by June 1 to the commissioner, the LOB, the governor, the lieutenant governor, and the speaker. The report must contain certain financial and claims paying criteria but is for informational purposes only.

Section 37.

Not later than June 1 of each year, the board shall submit to the commissioner, the LOB, the governor, the lieutenant governor, and the speaker a catastrophe plan covering the period

beginning on the date the plan is submitted and ending on the following May 31. The catastrophe plan must describe the manner in which TWIA will, during the period covered by the plan, evaluate losses and process claims after a four, two, and one percent chance of occurrence event affecting an area of maximum exposure to TWIA. The plan shall include an actuarial plan for paying losses in the event of a catastrophe with estimated damages of \$2.5 billion or more. The catastrophe plan must include a description of how losses under association policies will be paid, and how claims under association policies will be administered and adjusted, during the period covered by the plan. The catastrophe plan submitted under this section is for informational purposes only and does not bind TWIA to a particular course of action.

Sections 38 and 39.

States that the appeals language in §2210.551 is not applicable to a person resolving a dispute under new Subchapter L-1 or a person who elected to purchase a binding arbitration endorsement.

Section 40.

A person insured under this chapter may elect to purchase a binding arbitration endorsement in a form prescribed by the commissioner. A person who elects to purchase an endorsement under this section must arbitrate a dispute involving an act, ruling, or decision of TWIA relating to the payment of, the amount of, or the denial of the claim. Arbitration shall be conducted in the manner and under rules and deadlines prescribed by the commissioner.

Section 41.

Creates new Subchapter L-1 regarding claims practices, settlement, and dispute resolution. New Subchapter L-1 applies to policies issued on or after 11/27/11 for the filing of claims, settlement and dispute resolution. New definitions are “Association Policy”, “Claim”, and “Claimant”.

Sec. 2210.572. This subchapter provides the exclusive remedies for a claim against TWIA, including an agent or representative of TWIA. Except for specific actions or inactions, TWIA is not liable for an amount other than covered losses payable under the terms of TWIA policy. The Texas Deceptive Trade Practices Act is not applicable to TWIA.

Sec. 2210.573. A claimant must file a claim not later than one year from the date on which the damage to property occurs. The claimant may submit information to TWIA relating to the claim. If the claimant fails to submit information in the claimant's possession that is necessary for TWIA to determine whether to accept or reject a claim, TWIA may request in writing the necessary information from the claimant within 30 days of the claim being filed. Upon request, TWIA shall, provide a claimant reasonable access to all information relevant to the decision regarding a claim. Unless extended, not later than 60 days after the date TWIA receives a claim or the 60th day after the date TWIA receives information requested, TWIA shall provide the claimant, in writing, notification that:

1. TWIA has accepted coverage for the claim in full;
2. TWIA has accepted coverage for the claim in part\denied coverage for the claim in part; or
3. TWIA has denied coverage for the claim in full.

Under full acceptance of a claim, TWIA must inform the claimant of the amount of loss it will pay and of the time limit to request appraisal to dispute that amount. Under a full denial, partial denial, or partial acceptance of a claim, TWIA must provide a form to the claimant that may be used to provide notice to bring a lawsuit against TWIA, and inform the claimant:

1. The part of the loss that TWIA accepts coverage for and the amount of loss TWIA will pay;

2. The part of the loss for which TWIA denies coverage and a detailed summary of the manner in which TWIA determined to deny coverage for that part of the claim; and
3. The time limit to request appraisal for the part of the loss for which TWIA accepts coverage; and to provide notice of the intent to bring suit for the denied part of the loss.

Sec. 2210.5731. If TWIA has accepted coverage for a claim in full or has accepted coverage for a claim in part, TWIA shall pay the accepted amount of loss within 10 days. If payment is conditioned on the performance of an act, TWIA shall pay the claim not later than the 10th day after the date the act is performed.

Sec. 2210.574. On a full or partial acceptance of a claim, the claimant may request from TWIA a detailed summary of the manner in which TWIA determined the amount of loss paid. If a claimant disputes the amount of loss paid, the claimant, not later than the 60th day after the date the claimant receives the notice of payment, may demand appraisal. If requested within 15 days after the expiration of the 60-day period, a claimant may obtain an additional 30-days added to the 60-day deadline.

If a claimant demands appraisal, the appraisal must be conducted as provided by TWIA policy. The claimant and TWIA are responsible in equal shares for paying any costs incurred or charged in connection with the appraisal. The two appraisers may agree to an appraisal umpire to participate in the resolution of the dispute. If there is disagreement, the commissioner shall select an appraisal umpire from a roster of qualified umpires maintained by TDI. Appraisers may register with TDI as a condition of being placed on a roster of umpires and charge a reasonable registration fee to defray the cost incurred by TDI in maintaining the roster.

The appraisal decision is binding on the claimant and TWIA as to the amount of loss TWIA will ultimately pay on the accepted part of a claim. A claimant that does not demand appraisal before the expiration of the deadlines waives the right to contest the amount of loss paid.

Not later than two years from the date of an appraisal decision, either party may file an action in a district court in the county of the loss to vacate the decision and begin a new appraisal process if:

1. The appraisal decision was obtained by corruption, fraud, or other undue means;
2. The rights of the claimant or TWIA were prejudiced by evident partiality by an appraisal umpire, corruption in an appraiser or appraisal umpire, or misconduct or willful misbehavior of an appraiser or appraisal umpire; or
3. An appraiser or appraisal umpire exceeded the appraiser's or appraisal umpire's powers, refused to postpone the appraisal after a showing of sufficient cause for the postponement, refused to consider evidence material to the claim, or conducted the appraisal in a manner that substantially prejudiced the rights of the claimant or TWIA.

Sec. 2210.575. If TWIA denies coverage for a claim in part or in full and the claimant disputes that determination, the claimant may file suit, but it must be filed no later than two years after receiving notice of the denial, and after the claimant has provided notice to TWIA that the claimant intends to file suit.

If a claimant provides notice of intent to bring an action, TWIA may require the claimant, as a prerequisite to filing suit against TWIA, to submit the dispute to alternative dispute resolution (“ADR”) by mediation or moderated settlement conference. A claimant that does not provide

notice of intent to bring an action within two years from receiving notice of the denial, waives the claimant's right to contest TWIA's denial of coverage and is barred from bringing suit.

TWIA must request ADR of a dispute not later than the 60th day after the date TWIA receives notice from the claimant of the intent to bring suit. ADR must be completed not later than the 60th day after the date a request is made. The 60-day period may be extended by rule or by mutual consent.

If the claimant is not satisfied after completion of ADR, or if ADR is not completed before the expiration of the 60-day period or any extension, the claimant may bring a suit action against TWIA in a district court in the county in which the loss occurred.

An action brought under this subsection shall be presided over by a judge appointed by the judicial panel on multidistrict litigation. A judge appointed under this section must be an active judge who is a resident of the county in which the loss occurred or of a first tier coastal county or a second tier coastal county adjacent to the county in which that loss occurred. If a claimant brings an action against TWIA without providing the 60-day notice to TWIA, the court shall abate the action until the notice has been provided and, if requested by TWIA, the dispute submitted to ADR. A moderated settlement conference may be conducted by a panel consisting of one or more impartial third parties.

If TWIA requests mediation, the claimant and TWIA are responsible in equal shares for paying any costs incurred or charged in connection with the mediation. The parties may agree on a mediator, but upon disagreement of the parties, the commissioner shall select a mediator from a roster of qualified mediators maintained by TDI. TDI may require mediators to register with TDI as a condition of being placed on the roster, and charge a reasonable registration fee to defray the cost incurred by TDI in maintaining the roster. The commissioner shall establish rules to implement ADR, including provisions for expediting ADR, facilitating the ability of a claimant to appear with or without counsel, establishing qualifications necessary for mediators to be placed on the roster maintained by TDI, and providing that formal rules of evidence shall not apply to the proceedings.

Sec. 2210.576. The only issues a claimant may raise in a suit brought against TWIA are whether TWIA's denial of coverage was proper, and what amount of the damages the claimant is entitled, if any. There are no limitations on the amount of consequential damages that a claimant may recover under common law in an action against TWIA. In addition to consequential damages, a claimant may recover double damages if the claimant proves by clear and convincing evidence that TWIA mishandled the claimant's claim by:

1. Failing to meet the deadlines or timelines without good cause;
2. Disregarding applicable guidelines published by the commissioner of insurance;
3. Failing to provide written notice that a claim was accepted or rejected;
4. Rejecting a claim without conducting a reasonable investigation; and
5. Denying coverage for a claim, if liability has become reasonably clear.

A claimant that brings an action against TWIA may recover only the covered loss payable under the terms of TWIA policy minus the amount of loss already paid by TWIA; prejudgment interest from the first day after the date TWIA was or would have been required to pay an accepted claim or the accepted portion of a claim, at the prejudgment interest rate provided in Subchapter B, Chapter 304, Finance Code; and any court costs and reasonable and necessary attorney's fees.

Sec. 2210.577. A claimant must bring the action not later than the second anniversary of the date on which the person receives a notice of denial or partial denial. This is a statute of repose and controls over any other applicable limitations period.

Sec. 2210.578. The commissioner shall appoint a panel of experts to advise TWIA concerning the extent to which a loss to insurable property was incurred as a result of wind, waves, tidal surges, or rising waters not caused by waves or surges. The panel shall consist of a number of experts to be decided by the commissioner. The commissioner shall appoint one member of the panel to serve as the presiding officer of the panel. Members of the panel must have professional expertise in, and be knowledgeable concerning, the geography and meteorology of the Texas seacoast territory, as well as the scientific basis for determining the extent to which damage to property is caused by wind, waves, tidal surges, or rising waters not caused by waves or surges. The panel shall meet at the request of the commissioner or the call of the presiding officer of the panel. The cost and expense incurred by the panel associated with the work of the panel under this section shall be paid or reimbursed by TWIA.

At the request of the commissioner, the panel shall recommend to the commissioner methods or models for determining the extent to which a loss to insurable property may be or was incurred as a result of wind, waves, tidal surges, or rising waters. After consideration of the recommendations made by the panel, the commissioner shall publish guidelines that TWIA will use to settle claims. A member of the panel is not individually liable for an act or failure to act in the performance of the official duties in connection with the individual's work on the panel. In any review of a claim, and in any suit brought against TWIA, the guidelines published by the commissioner shall govern the claim and are presumed to be accurate and correct, unless clear and convincing evidence supports a deviation from the guidelines.

Sec. 2210.579. When there is conflict between a provision of this subchapter and any other law, the provision of this subchapter prevails. TWIA may not bring an action against a claimant, for declaratory or other relief, before the 180th day after the date an appraisal, or alternate dispute resolution is completed.

Sec. 2210.580. The commissioner shall adopt rules concerning qualifications and selection of appraisers for the appraisal procedure, mediators for the mediation process, and members of the expert panel; procedures and deadlines for the payment and handling of claims by TWIA as well as the procedures and deadlines for a review of a claim by TWIA; notice of expert panel meetings and the transparency of deliberations of the panel; and any other matters regarding the handling of claims that are not inconsistent with this subchapter. All rules adopted by the commissioner under this section shall promote the fairness of the process, protect the rights of aggrieved policyholders, and ensure that policyholders may participate in the claims review process without the necessity of engaging legal counsel.

Sec. 2210.581. The commissioner, on a showing of good cause, may by rule extend any deadline established under subchapter L-1. The extension of deadlines may not exceed 120 days in the aggregate. "Good cause" includes military deployment.

Sec. 2210.582. TDI shall establish an ombudsman program to provide information and educational programs to assist persons with the claim processes. TDI shall prepare and submit to the commissioner a budget for the ombudsman program not later than March 1. The

commissioner shall adopt or modify and adopt the budget not later than April 1. TWIA shall transfer to the ombudsman program money in an amount equal to the amount of the budget adopted by May 1.

TDI shall, not later than 60 days after the date of a catastrophic event, prepare and submit an amended budget to the commissioner for approval and report to the commissioner the approximate number of claimants eligible for ombudsman services. The commissioner shall adopt rules as necessary to implement an amended budget submitted under this section, including rules regarding the transfer of additional money from TWIA to the program. The ombudsman program may provide to persons insured under this chapter information and educational programs through informational materials; toll-free telephone numbers; public meetings; outreach centers; the Internet; and other reasonable means. TDI shall provide the staff, services, and facilities necessary for the ombudsman program to operate. The ombudsman program shall prepare and make available to each person insured under this chapter information describing the functions of the ombudsman program. By rule, TWIA shall notify each person insured under this chapter concerning the operation of the ombudsman program.

Section 42.

Under the public securities funding subchapter, the terms "Authority", "Board", "Catastrophic event", "Class 1 public securities", "Gross premium", "Member assessment trust fund", and "Premium surcharge trust fund" are defined.

Section 43.

At the time of requesting the issuance of public securities, TWIA shall submit to the commissioner a cost-benefit analysis of various financing methods and funding structures when requesting the issuance of public securities. The principal amount of the public securities may be increased to include an amount sufficient to provide debt service coverage for public securities required for the issuance of marketable public securities.

Sections 44 and 45.

Public securities issued under Section 2210.6136 are eligible obligations under Section 404.027, Government Code. Public security proceeds may be used to pay private financial agreements entered into by TWIA as temporary sources of payment of losses and operating expenses of TWIA and reimburse TWIA for any cost paid by TWIA before issuance of the public securities. The proceeds from pre-event bonds may not be used to purchase reinsurance for TWIA.

Section 46.

If any public securities issued are outstanding, TPFA shall 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, to permit TWIA to determine the availability of funds, assess members of TWIA under Sections 2210.613 and 2210.6135, and assess a premium surcharge if necessary. TWIA shall deposit all revenue collected in the public security obligation revenue trust fund or in the member assessment trust fund. TWIA may direct the Texas Treasury Safekeeping Trust Company to transfer from the public security obligation revenue fund, the premium surcharge trust fund, or the member assessment trust fund to the appropriate account the amount necessary to pay any public security obligation. TWIA shall provide for the payment of the public security obligations, administrative expenses, and credit agreements by irrevocably

pledging revenues received from premiums, member assessments, premium surcharges, and amounts on deposit in the public security obligation revenue fund, the premium surcharge trust fund, and the member assessment trust fund.

Section 47.

Conforming change.

Section 48.

Excess revenue collected in any calendar year from a premium surcharge and member assessments may be used to pay public security obligations payable in the subsequent calendar year, offsetting the amount of the premium surcharge and member assessments, as applicable.

Section 49.

TWIA shall pay Class 1 public securities from its net premium and other revenue. Nothing in this subsection shall prevent the authorization and creation of programs for the issuance of commercial paper before the date of an occurrence or series of occurrences that results in losses.

Section 50.

The collection of premium surcharges is applicable 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. The premium surcharge must be set in an amount sufficient to pay, for the duration of the issued public securities, and 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. The premium surcharge applies to all policies written under the following lines of insurance: fire and allied lines; farm and ranch owners; residential property insurance; private passenger automobile liability and physical damage insurance; and commercial automobile liability and physical damage insurance. The property surcharge also applies to the property insurance portion of a commercial multiple peril policy.

Section 51.

Conforming change relating to the issuance of Class 3 public securities.

Section 52.

On a finding by the commissioner that all or any portion of the total principal amount of Class 1 public securities authorized to be issued cannot be issued, the commissioner may cause the issuance of Class 2 public securities in a principal amount not to exceed \$1 billion. The commissioner shall order the repayment of a portion of Class 2 public securities issued in this manner as though they were issued as Class 1 public securities, in an amount up to \$500 million. If Class 2 public securities are issued in the manner, Class 3 public securities may be issued only after Class 2 public securities have been issued up to \$1 billion.

Section 53.

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 member assessments and premium surcharges or the deposit of those funds into the member assessment trust fund or premium surcharge trust fund; or reduce, alter, or impair the member assessments or premium surcharges to be imposed, collected, and remitted to financing parties until the principal, interest, and premium, and any other charges incurred and contracts to be performed in connection with

the related public securities, have been paid and performed in full. A party issuing public securities under this subchapter may include the pledge in related documents for those securities.

Section 54.

If public securities issued under this subchapter are outstanding, the rights and interests of TWIA, a successor to TWIA, any member of TWIA, or any member of the Texas FAIR Plan Association, including the right to impose, collect, and receive a premium surcharge or a member assessment are only contract rights until those revenues are first pledged for the repayment of TWIA's public security obligations.

Section 55.

This section applies only to an insurer that issues windstorm and hail insurance in the catastrophe area, as defined by Section 2210.003. A policy form or printed endorsement form for residential or commercial property insurance that is filed by an insurer or adopted by TDI for use by an insurer may provide for a contractual limitations period for filing suit on a first-party claim under the policy. The contractual limitations period may not end before the earlier of two years from the date the insurer accepts or rejects the claim, or three years from the date of the loss that is the subject of the claim. A policy or endorsement may also contain a provision requiring that a claim be filed with the insurer not later than one year after the date of the loss that is the subject of the claim. A provision under this subsection must include a provision allowing the filing of claims after the first anniversary of the date of the loss for good cause.

Any voided policy provision does not affect the validity of other provisions of a contract that may be given effect without the voided provision to the extent those provisions are severable. To encourage the authorized insurers to write windstorm and hail insurance in the catastrophe area, and in other areas of the state, TDI may approve policy or contractual provisions that are consistent with sound underwriting and insurance principles, provided that the policy or contractual provisions meet the requirements of Sections 2301.007(a) and 2301.053. An insurer using these policy forms or endorsement forms shall, at the time the policy or endorsement is issued or renewed, disclose in writing to an applicant or insured the contractual limitations or claims filing period, as applicable, in the policy or endorsement.

Section 56.

New Chapter 1001, Occupations Code, Windstorm Related Design Services is created.

Section 57.

Repealer clauses.

Section 58.

Section 2301.010, Insurance Code, as added by this Act, applies only to an insurance policy that is delivered, issued for delivery, or renewed on or after 1/1/12. A policy delivered, issued for delivery, or renewed before 1/1/12, is governed by the law as it existed before 9/28/11, and that law is continued in effect for that purpose.

Section 59.

Not later than 12/1/11, the TBPE shall adopt rules to implement Subchapter N, Chapter 1001, Occupations Code, as added by this Act.

Section 60.

A 12-member legislative interim study committee shall conduct a study of alternative ways to provide insurance to the seacoast territory and shall report to the governor and the legislature the recommendations made under this section not later than 12/1/12. The committee shall:

1. Examine alternative ways to provide insurance to the seacoast territory of this state;
2. Study the residual markets for windstorm and hail insurance in other states;
3. Study windstorm-related building codes and mitigation strategies to determine which codes or strategies are most effective;
4. Recommend the appropriate scope of authority and responsibility for the entity to provide insurance to the seacoast territory of this state including its organizational structure; a timetable for implementation; and specific amendments to state laws and rules that are necessary to implement the committee's recommendations; and
5. Estimate funding requirements to implement the recommendations.

Section 61.

TDI and TWIA shall jointly study a single adjuster program. The commissioner shall study the feasibility of TWIA writing policies directly and the impact TWIA writing policies directly would have on rates for policies issued by TWIA. The commissioner shall submit the finding of the study conducted under this subsection to the board of directors of TWIA. The results of both studies shall be included in the 2012 biennial report submitted to the legislature by TWIA.

Section 62.

After 9/28/11, unless stated otherwise, old law continues on existing policies until 11/27/11. For policies delivered, issued for delivery, or renewed on or after 9/28/11, the deadline to file a claim is not later than one year of the date on which the damage to property occurs (good cause provides additional 180 days).

For policies delivered, issued for delivery, or renewed before 11/27/11, the claimant **MUST** use the appraisal process in the current policy for partially or fully accepted claims before any suit can be filed against TWIA. Parties may agree to make appraisal binding. If a lawsuit is filed without use of appraisal process, then lawsuit is abated until the appraisal process is completed. For a cause of action that accrues (coverage denial on new, reopened, or supplemental claims) on or after 9/28/11.

Section 63.

TWIA's plan of operation shall be amended to conform to the changes in law by 11/27/2011.

Section 64.

Severability Clause.

Section 65.

Effective Date - All non-policy provisions become effective on 9/28/11.