BILL ANALYSIS

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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Following Hurricane Celia in 1970, Texas established a coastal windstorm insurer of last resort known today as the Texas Windstorm Insurance Association (TWIA). TWIA offers windstorm insurance coverage to those who are unable to obtain coverage from a private insurer in the 14 counties along the Gulf Coast, known as Tier I counties. In 1995, the Texas FAIR Plan Association (FAIR Plan) was established to act as the statewide residential property insurer of last resort. The FAIR Plan offers coverage for both windstorm and other perils such as theft and fire, except that FAIR Plan policies in Tier I counties leave windstorm coverage to TWIA.

In the 30 years since TWIA's inception, private insurers have increasingly withdrawn from the coastal windstorm insurance market based largely on the significant risk of loss associated with hurricanes along the coast. This has resulted in increasing numbers of coastal residents turning to TWIA for coverage. Over time, this trend caused TWIA's outstanding risk of loss to grow rapidly and significantly, from less than $13 billion in the year 2000, to now over $75 billion. The trend has also had the unintended consequence of placing TWIA in a competitive position with private insurance carriers, which has further exacerbated the exodus of private insurers from the coastal market. TWIA now carries approximately 60 percent of the residential property insurance market along the Gulf Coast. The combination of TWIA's growth, structural funding problems, and significant losses resulting from Hurricanes Dolly and Ike in 2008, it has become financially unsustainable. Today, if even a minor weather event occurred in a populated area within the Tier I counties, TWIA would not have sufficient funds to pay the resulting claims. Moreover, its fall back funding mechanisms are unlikely to be effective, leaving TWIA's policyholders without any means of reimbursement for their losses.

During each of the past two legislative sessions, the legislature has made significant reforms to the TWIA program in an attempt to address these troubling circumstances. Unfortunately, despite the reforms, TWIA remains financially unprepared to meet its obligations should a hurricane hit the Texas coast. The billions of dollars in potential losses above what TWIA could cover in the event of a major storm event pose a significant risk not only for businesses and residents along the Gulf Coast, but also for the state as a whole.

S.B. 18 addresses these circumstances by taking measures to bring the voluntary insurance market back to the Texas coast while at the same time providing a safety net for policyholders to move into a new program over time. S.B. 18 accomplishes this by taking a statewide approach that eliminates the FAIR Plan altogether and removes residential property coverage from TWIA between 2015 and 2016. The bill establishes a new plan—the Texas Property Insurance Program (TPIP)—to act as the state's property insurer of last resort. Under TPIP, residents unable to obtain homeowners insurance coverage in the private market would be placed with private carriers based on each carrier's statewide market share. A clearinghouse would be established to provide a marketplace for policies and to promote participation by private carriers. The clearinghouse would help to facilitate competition in the market by providing all property insurers with the ability to compete for policies available in TPIP. Additionally, S.B. 18 would ensure that TPIP policyholders would obtain all of their property coverage from a single insurer and, in the event of a loss, would work with a single adjuster.

The provisions in S.B. 18, in conjunction with the property mitigation program that will be established through separate legislation, provide a permanent solution to Texans' need for a property insurer of last resort.

As proposed, S.B. 18 amends current law relating to the establishment of the Texas Property Insurance Program and the operation of the FAIR Plan Association and the Texas Windstorm Insurance Association.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 18 (Sections 2214.003 and 2214.357, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2210.0081, Insurance Code, as follows:

> Sec. 2210.0081. CERTAIN ACTIONS BROUGHT AGAINST ASSOCIATION BY COMMISSIONER. Provides that in an action brought by the commissioner of insurance (commissioner) against the Texas Windstorm Insurance Association (TWIA) under Chapter 441 (Supervision and Conservatorship), 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. Deletes text of existing Subdivision (1) providing that TWIA's inability to satisfy obligations under Subchapter M (Public Securities Program) 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 the TWIA's policyholders for the purposes of Section 441.052 (Circumstances Constituting Insurer Exceeding Powers), and text of existing Subdivision (3) providing that 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 Subchapter M related to the issuance of public securities under this chapter.

SECTION 2. Amends Section 2210.014(b), Insurance Code, to provide that Chapter 542 (Processing and Settlement of Claims) does not apply to the processing and settlement of claims by TWIA or to an agent or representative of TWIA.

SECTION 3. Amends Sections 2210.056(b) and (c), Insurance Code, as follows:

> (b) Prohibits TWIA's assets from being used for or diverted to any purpose other than for certain enumerated purposes, including to satisfy, in whole or in part, the obligations of TWIA incurred in connection with Subchapter J, including reinsurance, rather than Subchapters B-1 (Payment of Losses), J, and M, including reinsurance, public securities, and financial instruments.
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> (c) Provides that, on dissolution of TWIA, all assets of TWIA revert to this state, rather than all assets of TWIA other than assets pledged for the repayment of public securities issued under this chapter, revert to this state.

SECTION 4. Amends Subchapter B, Chapter 2210, Insurance Code, by adding Section 2210.0561, as follows:

> Sec. 2210.0561. PAYMENT OF EXCESS LOSSES; PAYMENT FROM RESERVES AND TRUST FUND. (a) Requires the excess losses and operating expenses, if, in a catastrophe year, an occurrence or series of occurrences in a catastrophe area results in insured losses and operating expenses of TWIA in excess of premium and other revenue of TWIA, to be paid as provided by this section.
>
> > (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 losses not paid under Subsection (b) to be paid as follows:

(1) requires that $2 billion be assessed against the members of TWIA as provided by Subsection (d); and

(2) requires that losses in excess of those paid under Subdivision (1) be paid by reinsurance purchased as provided in Section 2210.453.

(d) Requires that the proportion of the losses allocable to each insurer under Subsection (c)(1) be determined in the manner used to determine each insurer's participation in TWIA for the year under Section 2210.052 (Member Participation in Association).

(e) Authorizes an insurer to credit an amount paid in accordance with Subsection (c)(1) in a calendar year against the insurer's premium tax under Chapter 221. Requires that the tax credit authorized under this subsection be allowed at a rate not to exceed 20 percent per year for five or more successive years following the year of payment of the claims. Authorizes the balance of payments made by the insurer and not claimed as a premium tax credit to be reflected in the books and records of the insurer as an admitted asset of the insurer for all purposes, including exhibition in an annual statement under Section 862.001 (Annual Statement).

SECTION 5. Amends Subchapter B, Chapter 2210, Insurance Code, by adding Section 2210.062, as follows:

Sec 2210.062. ADMINISTRATION BY MANAGING GENERAL AGENT. Requires the managing general agent contracted to administer the Texas Property Insurance Program (TPIP) under Chapter 2214, notwithstanding any other law, to manage TWIA and administer the plan of operation beginning January 1, 2014.

SECTION 6. Amends Section 2210.152(a), Insurance Code, to delete existing text requiring that the plan of operation include procedures for obtaining and repaying amounts under any financial instruments authorized under this chapter and to make nonsubstantive changes.

SECTION 7. Amends Subchapter E, Chapter 2210, Insurance Code, by adding Sections 2210.2022, 2210.211, 2210.212, and 2210.213, as follows:

Sec. 2210.2022. INFORMATION REQUIRED FOR CERTAIN APPLICATIONS. Requires that an application for TWIA policy, including an application to renew a policy, submitted after the later of the date the TPIP clearinghouse established under Chapter 2214 (clearinghouse) becomes operational or January 1, 2014, to include information on the applicant's policy, if any, that covers perils other than windstorm and hail, if any, including:

(1) the total premium for that policy, including a policy number for coverage issued by the FAIR Plan Association under Chapter 2211 (Fair Plan), if applicable, and the amount of insurance on the dwelling or if the policy is a tenant's or condominium owner's policy, the insured amount for the contents coverage;

(2) for liability coverage, liability limits for personal liability coverage, medical payments coverage, and additional living expenses coverage when the structure is uninhabitable due to damage resulting from an incurred insured loss; and

(3) the deductibles applicable for each policy.

Sec. 2210.211. MANDATORY MIGRATION OF CERTAIN INSUREDS TO TEXAS PROPERTY INSURANCE PROGRAM. (a) Requires the managing general agent contracted to administer the clearinghouse under that chapter (managing general agent), on the later of the date the clearinghouse of becomes operational or January 1, 2014, to make a database of TWIA policies available to all insurers through the clearinghouse for the purpose of soliciting offers of coverage.

(b) Requires that the database include information on each insured's TWIA policy and any policy that covers other perils, if known, including:

(1) the insured's total premium amount on the TWIA policy; and

(2) for coverage for perils other than windstorm and hail:

(A) the total premium for that policy, including a policy issued by the FAIR Plan Association under Chapter 2211, if applicable, and the amount of insurance on the dwelling or if the policy is a tenant's or condominium owner's policy, the insured amount for the contents coverage;

(B) liability limits for liability coverage for personal liability coverage, medical payments coverage, and additional living expenses coverage when the structure is uninhabitable due to damage resulting from an incurred insured loss; and

(C) the deductibles applicable for each policy.

(c) Requires the managing general agent, if the insured does not have coverage for perils other than windstorm and hail to provide the information required under Subsection (b), to use the applicable rate for FAIR Plan Association coverage.

(d) Requires TWIA to assign TWIA's rights and duties under TWIA policy to an insurer that makes an offer of coverage through the clearinghouse that provides the same or greater limits for coverages listed in Subsection (b) than are provided by those coverages, deductibles for coverages that are listed in Subsection (b) that are not greater than the deductibles on those coverages, and a premium per dollar of coverage that is not greater than the insured's current combined premium per dollar of coverage for coverages listed in Subsection (b).

(e) Requires the rate calculation method described by Section 2214.402 to be used to calculate premium per dollar of coverage in this section.

Sec. 2210.212. RESIDENTIAL INSURANCE PROHIBITED. Prohibits TWIA, notwithstanding any other law, from, on or after April 1, 2015, issuing any form of coverage on a residential structure or corporeal movable property contained in or about a dwelling that TWIA has not continuously insured for the 12-month period immediately preceding the date of application and, on or after October 1, 2015, issue any form of coverage on a residential structure or corporeal movable property contained in or about a dwelling.

Sec. 2210.213. RESIDENTIAL INSURANCE RENEWAL. (a) Prohibits TWIA, notwithstanding any other law, from, after April 1, 2015, renewing any form of coverage on a residential structure or corporeal movable property in or about a dwelling unless an application is first made through the clearinghouse.

(b) Requires that the information and other materials required under Section 2214.351 be submitted to the managing general agent, as provided by that section, at least 30 days but not more than 45 days before the expiration of TWIA policy and comply with all requirements for an application under that section, except that the applicant is required to submit the premium required for renewal of TWIA coverage in lieu of the premium required by that section.

(c) Requires an applicant's agent to submit each offer of coverage received from the clearinghouse to the applicant.

(d) Requires the application to include information on the applicant's TWIA policy and any policy that covers other perils, including:

(1) the applicant's TWIA policy number and total premium amount on that policy; and

(2) for coverage for perils other than windstorm and hail:

(A) the total premium for that policy, including a policy number for coverage issued by the FAIR Plan Association under Chapter 2211, if applicable, and the amount of insurance on the dwelling or if the policy is a tenant's or condominium owner's policy, the insured amount for the contents coverage;

(B) liability limits for liability coverage for personal liability coverage, medical payments coverage, and additional living expenses coverage when the structure is uninhabitable due to damage resulting from an incurred insured loss; and

(C) the deductibles applicable for each policy.

(e) Requires the managing general agent, if the applicant does not have coverage for perils other than windstorm and hail to provide the information required under Subsection (d), to use the applicable rate for FAIR Plan Association coverage that would have applied except for Section 2211.1515.

(f) Provides that, notwithstanding Section 2214.352, assigned coverage is not bound on the submission of an application under this section.

(g) Prohibits the applicant from renewing TWIA coverage if the applicant receives an offer for TPIP coverage that provides the same or greater limits for coverages listed in Subsection (d) than are provided by those coverages, deductibles for coverages that are listed in Subsection (d) that are not greater than the deductibles on those coverages, and a premium per dollar of coverage that is not greater than 110 percent of the applicant's current combined premium per dollar of coverage for coverages listed in Subsection (d).

(h) Requires that the rate calculation method described by Section 2214.402 be used to calculate premium per dollar of coverage in this section.

(i) Provides that if the applicant accepts an offer of coverage placed through the clearinghouse under this section, the applicant's agent has exclusive use of expirations on the business as provided by Section 2214.551.

SECTION 8. Amends Section 2210.355(b), Insurance Code, to delete existing text requiring that, in adopting rates under this chapter, payment of public security obligations for Class 1 public securities issued under this chapter, including the additional amount of any debt service coverage determined by TWIA to be required for the issuance of marketable public securities, be considered.

SECTION 9. Amends Section 2210.363(a), Insurance Code, to authorize TWIA to offer a person insured under this chapter an actuarially justified premium discount on a policy issued by the association, or an actuarially justified credit against a surcharge assessed against the person, rather than an actuarially justified premium discount on a policy issued by the association, or an actuarially justified credit against a surcharge assessed against the person other than a surcharge assessed under Subchapter M, if certain conditions are met.

SECTION 10. Amends Subchapter H, Chapter 2210, Insurance Code, by adding Section 2210.364, as follows:

Sec. 2210.364. RATES FOR CERTAIN POLICIES. Requires that any new coverage issued by TWIA on a residential structure and corporeal movable property located in or about a dwelling, notwithstanding any other provision of this subchapter, on or after the later of the date the clearinghouse becomes operational or January 1, 2014, use rates that, as closely as practicable, reflect the market rate for each rating class or territory. Requires that the market rate be calculated in accordance with the rate calculation method required by Section 2214.402.

SECTION 11. Amends Section 2210.452(c), Insurance Code, to require 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 and operating expenses, rather than incurred losses, operating expenses, public security obligations, and public security administrative expenses, to make payments to the catastrophe reserve trust fund, to procure reinsurance, or to make payments to the trust fund and to procure reinsurance.

SECTION 12. Amends Subchapter J, Chapter 2210, Insurance Code, by adding Section 2210.4521, as follows:

Sec. 2210.4521. TRUST FUND ASSESSMENT. (a) Requires that the trust fund, in addition to other funding sources, be funded by a surcharge assessed on all policyholders of policies that cover insured property that is located in this state, including automobiles. 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 or renewed on or after January 1, 2014.

(b) Provides that the premium surcharge under Subsection (a) applies to:

(1) 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; and

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

(c) 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 a failure by a policyholder to pay the surcharge constitutes failure to pay premium for purposes of policy cancellation.

(d) Requires that the amount of the surcharge for property and automobiles located in the catastrophe area be five percent.

(e) Requires that the amount of the surcharge for property and automobiles not located in the catastrophe area be one percent.

(f) Requires that the surcharge be collected on all policies issued or renewed on or after January 1, 2014, through September 30, 2016, except the commissioner may order that surcharges cease prior to September 30, 2016, if the commissioner determines that TWIA has sufficient funds in the catastrophe reserve trust fund.

(g) Requires insurers, including TWIA, the Texas FAIR Plan Association, and insurers issuing policies for the Texas Automobile Insurance Plan Association, to collect the surcharge under this section.

SECTION 13. Amends Section 2210.453, Insurance Code, as follows:

Sec. 2210.453. REINSURANCE. (a) Requires TWIA, except as provided by Subsection (b), to annually purchase reinsurance in the amount of $2 billion.

(b) Prohibits the amount of reinsurance purchased under Subsection (a) from raising the funding sources available to TWIA under Sections 2210.0561(b) and (c)(1) to an amount greater than $5 billion.

(c) Requires TWIA to assess member insurers the cost of reinsurance purchased under this section. Requires that the proportion of the reinsurance cost allocable to each insurer under this section be determined in the manner used to determine each insurer's participation in TWIA for the year under Section 2210.052. Deletes existing text authorizing TWIA to make payments into the trust fund and purchase reinsurance.

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

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

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

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

SECTION 14. Amends Subchapter K, Chapter 2210, Insurance Code, by adding Section 2210.507, as follows:

Sec. 2210.507. LIABILITY LIMITS AND DEDUCTIBLES ON CERTAIN POLICIES. (a) Prohibits the maximum liability limit for coverage issued on a residential structure and the corporeal movable property located in or about a dwelling, notwithstanding any other provision of this subchapter, on or after the later of the date the clearinghouse becomes operational or January 1, 2014, from exceeding $500,000.

(b) Requires that a TWIA policy described by Subsection (a) have a standard deductible of five percent of the dwelling coverage amount for losses due to a covered peril.

SECTION 15. Amends Subchapter L-1, Chapter 2210, Insurance Code, by adding Section 2210.5725, as follows:

Sec. 2210.5725. ASSOCIATION CLAIMS PROCESSING. (a) Requires an insurer that has primary coverage on property for loss by fire to adjust all claims made on or after June 1, 2013, on a TWIA policy covering the same property if the insurer excludes coverage for the perils of windstorm and hail on more than 10 percent of the insurance policies the insurer writes in the catastrophe area.

(b) Authorizes an insurer not subject to Subsection (a) to adjust claims made after June 1, 2013, on a TWIA policy covering the property that the insurer covers for loss by fire.

(c) Provides that an insurer acting under this section is an agent of TWIA for purposes of Sections 2210.014 (Applicability of Certain Other Law) and 2210.572 (Exclusive Remedies and Limitation on Award) and requires an insurer to process claims as prescribed by this chapter and the plan of operation.

(d) Provides that an insurer acting under this section is not liable for any amount payable under the terms of TWIA policy.

SECTION 16. Amends Subchapter B, Chapter 2211, Insurance Code, by adding Sections 2211.0522 and 2211.0555, as follows:

Sec. 2211.0522. ADMINISTRATION BY MANAGING GENERAL AGENT. Requires the managing general agent contracted to administer TPIP under Chapter 2214 (managing general agent), notwithstanding Section 2211.052 (Administration of Fair Plan; Composition of Governing Committee) or any other law, to manage TWIA and administer the plan of operation beginning January 1, 2014.

Sec. 2211.0555. ASSOCIATION CLAIMS PROCESSING. (a) Requires the managing general agent to adjust claims made on or after January 1, 2014, on a TWIA policy.

(b) Provides that the managing general agent is not liable for any amount payable under the terms of a TWIA policy.

SECTION 17. Amends Subchapter D, Chapter 2211, Insurance Code, by adding Sections 2211.1514, 2211.1515, and 2211.1516, as follows:

Sec. 2211.1514. MANDATORY MIGRATION OF CERTAIN POLICYHOLDERS TO TEXAS PROPERTY INSURANCE PROGRAM. (a) Requires the managing general agent contracted to administer the clearinghouse under that chapter, on the later of the date the TPIP clearinghouse established under Chapter 2214 becomes operational or January 1, 2014, to make a database of TWIA policies available to all insurers through the clearinghouse for the purpose of soliciting offers of coverage.

(b) Requires that the database include information on each insured's TWIA policy and any policy that covers other perils, if known, including:

(1) the insured's total premium amount on the TWIA policy;

(2) the total premium for a policy that covers losses due to windstorm and hail, if any, including a policy issued by TWIA under Chapter 2210 (Texas Windstorm Insurance Association), if applicable, and the amount of insurance on the dwelling or if the policy is a tenant's or condominium owner's policy, the insured amount for the contents coverage;

(3) for any policy providing applicable liability coverage, liability limits for personal liability coverage, medical payments coverage, and additional living expenses coverage when the structure is uninhabitable due to damage resulting from an incurred insured loss; and

(4) the deductibles applicable for each policy.

(c) Requires TWIA to assign TWIA's rights and duties under TWIA policy to an insurer that makes an offer of coverage through the clearinghouse that provides the same or greater limits for coverages listed in Subsection (b) than are provided by those coverages, deductibles for coverages that are listed in Subsection (b) that are not greater than the deductibles on those coverages, and a premium per dollar of coverage that is not greater than the insured's current combined premium per dollar of coverage for coverages listed in Subsection (b).

(d) Requires that the rate calculation method described by Section 2214.402 be used to calculate premium per dollar of coverage in this section.

Sec. 2211.1515. RESIDENTIAL PROPERTY INSURANCE PROHIBITED. Prohibits TWIA, notwithstanding any other law, from, on or after April 15, 2015, issuing any form of coverage on residential real or tangible personal property that TWIA has not continuously insured for the 12-month period immediately preceding the date of application and, on or after October 1, 2015, from issuing any form of coverage on residential real or tangible personal property.

Sec. 2211.1516. RESIDENTIAL PROPERTY INSURANCE RENEWAL. (a) Prohibits TWIA, notwithstanding any other law, after April 15, 2015, from renewing any form of coverage on residential real or tangible personal property unless an application is first made through the TPIP clearinghouse.

(b) Requires that the information required under Section 2214.351 be submitted to the managing general agent, as provided by that section, at least 30 days but not more than 45 days before the expiration of TWIA policy, and comply with all requirements for an application under that section, except that the applicant is authorized to submit the premium required for renewal of TWIA coverage in lieu of the premium required under that section.

(c) Requires an applicant's agent to submit each offer of coverage received from the clearinghouse to the applicant.

(d) Requires that the application include information on the applicant's TWIA policy and any policy that covers other perils, including:

(1) the applicant's TWIA policy number and total premium amount on that policy;

(2) for coverage for windstorm and hail, if not covered by TWIA policy, the total premium for that policy, including a policy number for coverage issued by the TWIA under Chapter 2210, if any, and the amount of insurance on the dwelling or if the policy is a tenant's or condominium owner's policy, the insured amount for the contents coverage;

(3) for liability coverage, liability limits for personal liability coverage, medical payments coverage, and additional living expenses coverage when the structure is uninhabitable due to damage resulting from an incurred insured loss; and

(4) the deductibles applicable for each policy.

(e) Requires the managing general agent, if an applicant does not have windstorm and hail coverage to provide the information required under Subsection (d), to use the applicable rate for TWIA coverage that would have applied except for Section 2210.364.

(f) Provides that, notwithstanding the requirements of Section 2214.352, assigned coverage is not bound upon the submission of an application under this section.

(g) Prohibits an applicant from renewing TWIA coverage if the applicant receives an offer for coverage that provides the same or greater limits for coverages listed in Subsection (d) than are provided by those coverages, deductibles for coverages that are listed in Subsection (d) that are greater than the deductibles on those coverages, and a premium per dollar of coverage that is not greater than 110 percent of the applicant's current combined premium per dollar of coverage for coverages listed in Subsection (d).

(h) Requires that the method described by Section 2214.402 be used to calculate premium per dollar of coverage in this section.

(i) Requires the applicant's agent, if the applicant accepts an offer of coverage placed through the TPIP clearinghouse under this section, to have exclusive use of expirations on the business as provided by Section 2214.551.

SECTION 18. Amends Subtitle G, Title 10, Insurance Code, by adding Chapter 2214, as follows:

CHAPTER 2214. TEXAS PROPERTY INSURANCE PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2214.001. DEFINITIONS. Defines "affiliated group of insurers," "applicant," "clearinghouse," "insurer," "managing general agent," "program," "program policy," and "residential property insurance" in this section.

Sec. 2214.002. STATEWIDE APPLICATION. Provides that TPIP applies throughout the state and is not limited to any particular geographic region.

Sec. 2214.003. COMMISSIONER IMPLEMENTATION AUTHORITY. (a) Authorizes the commissioner to issue any order that the commissioner considers necessary to implement this chapter.

(b) Authorizes the commissioner to adopt rules in the manner prescribed by Subchapter A (Rules), Chapter 36, as reasonable and necessary to implement this chapter.

Sec. 2214.004. APPEALS TO COMMISSIONER AND JUDICIAL REVIEW. (a) Authorizes an applicant or affected insurer to appeal an action of the managing general agent to the managing general agent. Authorizes the managing general agent's decision to be appealed to the commissioner not later than the 30th day after the date of the managing general agent's decision.

(b) Authorizes the commissioner to refer an appeal under this section to the State Office of Administrative Hearings.

(c) Provides that an order or decision issued by the commissioner under this chapter is subject to judicial review in accordance with Subchapter D (Judicial Review), Chapter 36.

Sec. 2214.005. DATA COLLECTION. Authorizes the commissioner to require each insurer to submit information necessary to implement this chapter, including information necessary to establish the assignment algorithm described by Section 2214.052.

Sec. 2214.006. PREMIUM AND OTHER CHARGES EXCLUSIVE. Prohibits an agent or insurer from charging an applicant or insured any fee or other amount not authorized by this chapter.

SUBCHAPTER B. INSURER PARTICIPATION

Sec. 2214.051. PARTICIPATION REQUIREMENT. (a) Requires each insurer, as a condition of the insurer's authority to engage in the business of residential property insurance in this state, except as otherwise provided by this section, on or after April 1, 2015, to participate in TPIP as provided by this chapter, including accepting TPIP policy assignments through the clearinghouse in accordance with this chapter.

(b) Prohibits an insurer from being assigned an insurance policy through the clearinghouse if:

(1) the insurer has a surplus of less than $10 million; or

(2) the insurer or, if applicable, the affiliated group of insurers to which the insurer belongs, has statewide residential property insurance premium of less than $25 million and the insurer is independently operating as a farm mutual insurance company operating under Chapter 911 (Farm Mutual Insurance Companies); a nonaffiliated county mutual fire insurance company described by Section 912.310 (Certain Companies Exempt) that is writing exclusively industrial fire insurance policies as described by Section 912.310(a)(2) (relating to legislative Acts that do not apply to a county mutual insurance company the business of which is devoted exclusively to the writing of industrial fire insurance policies); or a mutual insurance company or a statewide mutual assessment company engaged in business under Chapter 12 or 13, Title 78, Revised Statutes, respectively, before those chapters' repeal by Section 18, Chapter 40, Acts of the 41st Legislature, 1st Called Session, 1929, as amended by Section 1, Chapter 60, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, that retains the rights and privileges under the repealed law to the extent provided by those sections.

(c) Prohibits TWIA, established by Chapter 2210, and the FAIR Plan Association, established by Chapter 2211, from participating in TPIP for any purpose.

Sec. 2214.052. ASSIGNMENT ALGORITHM. (a) Requires the managing general agent to develop an algorithm to determine the assignment of coverage under Section 2214.352 in accordance with this section. Provides that the assignment algorithm is subject to approval by the commissioner and is required to be included in the plan of operation.

(b) Requires that the assignment algorithm developed under this section provide that each insurer's participation in TPIP be based on the insurer's risk-adjusted exposure in this state during the preceding relevant period as determined under Section 2214.053, in the proportion that the insurer's risk-adjusted exposure bears to the aggregate risk-adjusted exposure in this state of all participating insurers for that period as determined under Section 2214.053.

(c) Requires an insurer, for purposes of determining risk-adjusted exposure under Subsection (b), to receive a risk-based exposure credit for residential property insurance voluntarily written.

(d) Provides that, for purposes of determining TPIP participation requirements, an affiliated group of insurers are treated as a single insurer.

(e) Requires the managing general agent to review the assignment algorithm at least once every three years.

Sec. 2214.053. COMPUTATION OF ASSIGNMENT RATIOS. (a) Requires the managing general agent, not later than January 1 of each year, to compute each insurer's risk-adjusted exposure based on information the Texas Department of Insurance (TDI) provides to the managing general agent. Requires TDI to provide the information necessary to comply with this section not later than September 30 of the preceding year.

(b) Requires the managing general agent, if the managing general agent determines, in accordance with the plan of operation, that a participating insurer can no longer participate in TPIP, to immediately:

(1) recompute the risk-adjusted exposure assignment ratios to exclude from the ratios assignment to that insurer; and

(2) redistribute assignments among the remaining participating insurers.

(c) Requires the managing general agent, at least quarterly, to recompute the risk-adjusted exposure assignment ratios to adjust for assignments and other insurer writings.

(d) Requires the managing general agent to review the formula and method for determining the risk-adjusted exposure assignment ratios and assigning policies at least once every three years.

Sec. 2214.054. MANDATORY OFFER OF COVERAGE. (a) Requires an insurer to offer a TPIP policy to each person who applies to the insurer for residential property insurance on or after April 1, 2014, if the person meets the insurer's underwriting guidelines for a TPIP policy voluntarily written by the insurer.

(b) Provides that the insurer's underwriting guidelines for a TPIP policy voluntarily written by the insurer must not differ substantially from the insurer's other residential property insurance underwriting guidelines, unless the differences are actuarially justified and substantially commensurate with the contemplated risk as a result of differences in coverage offered under TPIP policy.

(c) Requires each insurer to submit the insurer's TPIP policy underwriting guidelines for a TPIP policy voluntarily written by the insurer under Section 38.002 (Underwriting Guidelines for Personal Automobile and Residential Property Insurance; Filing; Confidentiality).

(d) Provides that Subsection (a) does not apply to applications submitted through the clearinghouse.

Sec. 2214.055. CLAIMS. Requires each insurer to adjust and pay each claim made on a TPIP policy assigned to or voluntarily written by the insurer.

SUBCHAPTER C. ELECTRONIC PROPERTY INSURANCE CLEARINGHOUSE

Sec. 2214.101. ELECTRONIC PROPERTY INSURANCE CLEARINGHOUSE. Requires the Texas Department of Insurance (TDI) to establish and maintain an electronic property insurance clearinghouse through which an agent is authorized to submit a residential property insurance application, including a TPIP policy application, to insurers to solicit offers of coverage.

Sec. 2214.102. CONTRACT WITH VENDOR. Authorizes the commissioner to enter into a contract with a vendor to establish the clearinghouse, including a contract for the purchase of hardware or the development of software and technology.

Sec. 2214.103. ASSESSMENT TO ESTABLISH CLEARINGHOUSE. (a) Requires the commissioner, after notice and opportunity for hearing, to assess insurers participating in TWIA, under Chapter 2210, for the necessary cost to establish the clearinghouse. Requires each insurer's proportion of the assessment to be based on the insurer's participation level as determined in Section 2210.052.

(b) Authorizes the commissioner to make one or more assessments under this section.

(c) Requires TDI to return to the insurers assessed under this section any money collected under this section that is not used to establish the clearinghouse.

Sec. 2214.104. COMMISSIONS, FEES, AND ASSESSMENTS TO MAINTAIN AND ADMINISTER CLEARINGHOUSE. (a) Authorizes the managing general agent to charge an applicant a fee or collect a commission, as necessary, to provide for the cost of administering and maintaining the clearinghouse. Requires that the fee and commission rates be specified in the managing general agent's contract with TDI.

(b) Authorizes the commissioner, if the amount of the fees and commissions collected by the managing general agent is not sufficient to meet the minimum costs of maintaining and administering the clearinghouse, to assess insurers for the amount necessary to maintain and administer the clearinghouse based on the insurer's participation level as determined under Section 2214.052.

Sec. 2214.105. HARDWARE AND PROPRIETARY INFORMATION. (a) Provides that any hardware purchased under this subchapter and any information, analyses, programs, or data acquired or created by a vendor under a contract under this subchapter are property of the state.

(b) Provides that information, analyses, programs, or data described by Subsection (a) are confidential and exempt from public disclosure under Chapter 552 (Public Information), Government Code.

SUBCHAPTER D. MANAGING GENERAL AGENT

Sec. 2214.151. MANAGING GENERAL AGENT CONTRACT. (a) Authorizes TDI to contract with a managing general agent to administer the TPIP plan of operation, including administering and maintaining the clearinghouse.

(b) Requires the commissioner to supervise the managing general agent in the function of the agent's duties and the implementation of this chapter. Authorizes the commissioner to require the managing general agent to:

(1) correspond directly with insurers, agents, and applicants with regard to the administration of the clearinghouse;

(2) collect and remit premiums for policies processed through the clearinghouse directly from and to insurers, agents, and applicants;

(3) collect fees and commissions for administration of TPIP directly from insurers, agents, and applicants;

(4) provide for the administration and maintenance of the clearinghouse;

(5) provide reports concerning risks insured under this chapter as the commissioner considers necessary; and

(6) perform any other duties required under this chapter.

(c) Prohibits the managing general agent, except as provided by Sections 2210.062 and 2211.0555, from adjusting or processing claims or complaints related to TPIP policies or coverage.

(d) Prohibits the term of the managing general agent contract from exceeding five years.

(e) Requires the commissioner, in awarding a contract to a managing general agent under this section, to the extent the commissioner considers practicable, to consider the effect of any affiliation, common ownership or control, or other potential conflict of interest between the managing general agent and a participating insurer.

Sec. 2214.152. COMPENSATION OF MANAGING GENERAL AGENT. Requires that the contract between the commissioner and the managing general agent specify the managing general agent's minimum compensation. Requires that the compensation be based in part on reasonable projections of the cost to administer and maintain the clearinghouse.

Sec. 2214.153. PROPRIETARY INFORMATION. (a) Provides that any information, analyses, programs, or data acquired or created by the managing general agent under a contract under this subchapter are property of the state.

(b) Provides that information, analyses, programs, or data described by Subsection (a) are confidential and exempt from public disclosure under Chapter 552, Government Code.

Sec. 2214.154. OFFICE; RECORDS. (a) Requires the managing general agent to maintain an office in Austin, Texas.

(b) Requires records and other information relating to the operation of TPIP to be maintained in the managing general agent's Austin office.

Sec. 2214.155. AUDIT. Provides that the managing general agent is subject to audit by the commissioner and is required to pay the costs incurred by the commissioner in performing an audit under this section.

Sec. 2214.156. ANNUAL REPORT TO COMMISSIONER. Requires the managing general agent, not later than March 1 of each year, to submit a report to the commissioner regarding the operation of TPIP. Requires that the report be made in accordance with the terms of the managing general agent's contract with TDI.

SUBCHAPTER E. PLAN OF OPERATION

Sec. 2214.201. PLAN OF OPERATION; AMENDMENTS. (a) Requires the managing general agent to administer TPIP under a plan of operation approved by the commissioner after notice and opportunity for hearing.

(b) Requires that the plan of operation provide for the efficient, economical, fair, and nondiscriminatory administration of TPIP and automated electronic insurance transactions between insurers, agents, and the managing general agent, including the clearinghouse.

(c) Authorizes the commissioner to amend the plan of operation, as necessary, after notice and opportunity for hearing.

SUBCHAPTER F. ELIGIBLE PROPERTY

Sec. 2214.251. ELIGIBILITY REQUIREMENTS. (a) Prohibits the managing general agent from assigning or binding TPIP coverage and prohibits an insurer from issuing or renewing assigned TPIP coverage for a risk, unless the risk is insurable property; the property is covered by a flood insurance policy if all or any part of the property is located in Zone V or another similar zone with an additional hazard associated with storm waves, as defined by the National Flood Insurance Program, and if flood insurance under that federal program is available, except that the flood insurance coverage policy need not exceed the lesser of the amount of TPIP coverage applied for or the maximum amount of available National Flood Insurance Program flood insurance; and after diligent efforts, the applicant and the applicant's agent are unable to obtain residential property insurance through the voluntary market, as evidenced by one declination from an insurer authorized to engage in the business of, and writing, residential property insurance in this state.

(b) Provides that an insurer's refusal to offer, or an applicant's inability to obtain, insurance coverage that is substantially equivalent to insurance coverage available through a TPIP policy constitutes a declination for purposes of this section.

Sec. 2214.252. CONFIRMATION OF DECLINATION. (a) Requires an applicant's agent to document and maintain evidence of the declination required by Section 2214.251, including the name of the insurer that provided the declination, for review and audit by the managing general agent on request.

(b) Requires the agent to submit an electronic certification with the electronic program application under Section 2214.351 confirming the declination and providing the name of the insurer.

Sec. 2214.253. CONFIRMATION OF FLOOD INSURANCE. (a) Requires an agent submitting an application for new or renewal program residential property insurance coverage, for an applicant that must provide the proof of flood insurance required under Section 2214.251, to document and maintain evidence of the required flood insurance policy for review and audit by the managing general agent on request, submit an electronic certification with the electronic program application under Section 2214.351 that flood insurance, if required, is in force, and submit for review and audit the policy or binder for flood insurance coverage to the managing general agent not later than the 10th day after the date of notice of a request by the managing general agent.

(b) Authorizes the assigned insurer to cancel a TPIP policy after 10 days' written notice to the managing general agent, insured's agent, and policyholder if the flood insurance coverage required under Section 2214.251 is not in force, is not renewed, or is canceled.

Sec. 2214.254. DEFINITION OF INSURABLE PROPERTY. (a) Defines "insurable property" in this section.

(b) Provides that, for purposes of this chapter, a residential structure located within an area designated as a unit under the Coastal Barrier Resources Act (16 U.S.C. Section 3501) is insurable property if:

(1) the residential structure is not a condominium, apartment, duplex, or other multifamily residence or a hotel or resort facility;

(2) a building permit or plat for the residential structure was filed with the municipality, the county, or the United States Army Corps of Engineers before June 11, 2003; and

(3) the residential structure is insured by the TWIA as of December 31, 2014.

(c) Provides that, for purposes of this chapter, a residential structure that is built wholly or partly over water, including the corporeal movable property contained in the structure, is insurable property if it is insured by the TWIA as of December 31, 2014.

(d) Provides that, for purposes of this chapter, a structure is not insurable property if the commissioner of the General Land Office notifies the managing general agent of a determination that the structure is located on the public beach under procedures established under Section 61.011 (Policy and Rules), Natural Resources Code, and that the structure constitutes an imminent hazard to safety, health, or public welfare, or substantially interferes with the free and unrestricted right of the public to enter or leave the public beach or traverse any part of the public beach.

Sec. 2214.255. UNDERWRITING GUIDELINES. (a) Requires the managing general agent to develop TPIP policy underwriting guidelines for coverage assigned through the clearinghouse. Requires the guidelines to be consistent with this chapter and consider prior conduct of the applicant, including fraud or arson.

(b) Provides that TPIP policy underwriting guidelines become effective on approval of the commissioner and are included in the plan of operation.

SUBCHAPTER G. INSPECTIONS

Sec. 2214.301. PROPERTY INSPECTIONS FOR INSURABILITY. (a) Requires an agent submitting an application for TPIP insurance through the clearinghouse to provide an inspection report to the managing general agent certifying that the structure meets TPIP policy underwriting guidelines and is insurable property.

(b) Requires that the inspection be completed by a person determined by the managing general agent to be qualified because of training or experience to perform building inspections, determine that the structure meets the minimum requirements for coverage set forth in the plan of operation, and take place not earlier than the 90th day before the effective date of the policy.

(c) Authorizes the managing general agent, or the agent's designee, to inspect any property with assigned TPIP coverage for compliance with TPIP policy underwriting guidelines.

SUBCHAPTER H. ASSIGNMENT PROCESS

Sec. 2214.351. APPLICATION FOR NEW AND RENEWAL COVERAGE. (a) Requires an application for new and renewal TPIP coverage through the clearinghouse to be submitted by a licensed property and casualty agent who is appointed by at least one insurer and has consented to the managing general agent's agent agreement.

(b) Requires that the request for new or renewal coverage include a completed electronic application; the required payment; the inspection report described by Section 2214.301; a report of a building code inspection, if required by the protocol described by Section 2214.502; an electronic certification of a declination of coverage providing the name of the declining insurer; and an electronic certification of flood insurance, if required under Section 2214.251.

(c) Requires that the request for renewal of assigned TPIP coverage be submitted not later than the 30th day, but not before the 45th day, before the date the existing policy expires.

Sec. 2214.352. BINDER AND ISSUANCE OF NEW POLICY. (a) Requires the managing general agent, on receipt of an application for a new assigned TPIP policy and the information and payment required by Section 2214.351, to immediately bind eligible coverage with an assigned insurer selected using the assignment algorithm required to be included in the plan of operation by Section 2214.052.

(b) Provides that a binder issued under Subsection (a) provides the coverage of a TPIP policy except that the binder does not provide coverage for a wildfire or weather event that occurs within 72 hours of the time the binder is issued.

(c) Requires the managing general agent to make the request for coverage available to all insurers through the clearinghouse until the 20th day after the date the binder is issued. Authorizes an insurer, during the 20-day period, to offer the applicant coverage through the managing general agent and the applicant's agent.

(d) Requires the agent to present each offer received from the managing general agent to the applicant. Authorizes the applicant to accept any offer of coverage at any time.

(e) Provides that on the first business day after the expiration of the 20-day period described by Subsection (c):

(1) if the applicant has not received a qualifying offer of coverage as defined by Section 2214.355, the binder converts into a TPIP policy; or

(2) if the applicant receives a qualifying offer of coverage as defined by Section 2214.355, the binder continues in effect until the 30th day after the date the binder is issued, at which time the binder terminates and the applicant becomes ineligible to apply for coverage through the clearinghouse as described by Section 2214.354.

(f) Provides that if the applicant accepts a qualifying offer of TPIP coverage or other offer of coverage, the coverage is effective as of the date the assigned coverage was bound under Subsection (a), except as provided in Subsection (g).

(g) Provides that the assigned carrier is responsible for all claims incurred during the binder period. Provides that if a claim is incurred during the binder period, the assigned carrier is entitled to premium for the binder period and the managing general agent is required to credit the assigned carrier with that premium in the assignment algorithm under Section 2214.052.

Sec. 2214.353. CLEARINGHOUSE RENEWAL COVERAGE. (a) Requires an insurer assigned a policy under this chapter to renew the policy on the first and second anniversary of the date the binder is issued under Section 2214.352, even if the insurer withdraws from the business of insurance in the state, unless the insured accepts a voluntary offer of coverage, the structure to be insured is determined to be ineligible for coverage under Section 2214.251, the insured cancels the coverage, the insured does not pay any portion of premium when due, the insured submits a fraudulent claim, there is an increase in the hazard covered by the policy that is within the control of the insured that would result in an increase in the premium rate of the policy, or the insurer becomes insolvent.

(b) Requires the assigned insurer, at least 45 days before renewal, to notify the managing general agent, the insured's agent, and the insured of the coverage renewal date.

(c) Requires the managing general agent, on receipt of an application for renewal coverage and the information and payment required by Section 2214.351, to make the request for coverage available to all insurers through the clearinghouse until the 20th day after the date the request is made available. Authorizes an insurer, during the 20-day period, to offer the applicant coverage through the managing general agent and the applicant's agent.

(d) Requires the agent to present each offer received from the managing general agent to the applicant. Authorizes the applicant to accept any offer of coverage at any time.

(e) Provides that if on termination of an applicant's assigned TPIP policy the applicant has not received a qualifying offer of coverage as defined by Section 2214.355, the assigned insurer is required to renew the assigned TPIP policy, unless the assigned insurer has twice previously renewed coverage as required by Subsection (a) or the managing general agent is required to assign the policy to another insurer in a manner consistent with the requirements of this subchapter if the assigned insurer has twice previously renewed coverage as required by Subsection (a).

(f) Provides that, if on termination of an applicant's assigned TPIP policy the applicant has received a qualifying offer of coverage as defined by Section 2214.355, the assigned insurer is not required to renew TPIP policy, the managing general agent is prohibited from assigning the policy to another insurer, and the applicant becomes ineligible to apply for coverage through the clearinghouse as provided by Section 2214.354.

Sec. 2214.354. ACCEPTANCE OF OTHER COVERAGE; REAPPLICATION TO CLEARINGHOUSE. (a) Provides that, except as provided by Sections 2214.352(f) and (g), if an applicant accepts another offer of coverage, an assigned TPIP policy is canceled without notice on the date the other coverage becomes effective.

(b) Prohibits an applicant, except for a renewal application under Section 2214.351, from applying to the clearinghouse for coverage on the same property more than once in a 12-month period unless the assigned insurer becomes insolvent.

Sec. 2214.355. QUALIFYING OFFER OF COVERAGE. Defines "qualifying offer of coverage" in this section.

Sec. 2214.356. EARNED PREMIUM. Provides that a premium on a binder issued under this subchapter and the assigned TPIP policy is earned on a pro rata basis beginning on the date the binder is issued.

Sec. 2214.357. ASSIGNMENT DISTRIBUTION PLAN. (a) Authorizes an insurer to contract with a servicing carrier to accept the insurer's assignments under Sections 2214.352 and 2214.353.

(b) Requires that a contract under this section be approved by the commissioner in writing before an assignment is authorized to be transferred under the contract. Requires the commissioner, in reviewing the contract for approval or disapproval, to consider each insurer's risk-based exposure, including the number of assignments that are expected and the number that would be transferred under the agreement; surplus; location and concentration of risk; claims handling capacity and history; and compliance with rules adopted under this section.

(c) Requires that the contract described by Subsection (a) determine which insurer will recognize the assignment as the insurer's writing for the purpose of calculating TPIP participation.

(d) Authorizes the commissioner to adopt reasonable rules for the conduct of business under a contract described by this section and establish reasonable standards of eligibility for servicing carriers.

(e) Authorizes the commissioner, after notice and opportunity for hearing, to prohibit an insurer from acting as a servicing carrier.

SUBCHAPTER I. RATES

Sec. 2214.401. RATES FOR CERTAIN POLICIES. (a) Requires each insurer to file with the commissioner all rates, rating factors, and supplementary rating information used to determine the premium charged for TPIP policies the insurer is required to offer under Section 2214.054.

(b) Provides that rates and rate filings under this section are governed by Chapter 2251 (Rates).

Sec. 2214.402. RATE CALCULATION METHOD FILING. (a) Requires the managing general agent to submit to the commissioner a rate calculation method filing that specifies the complete list of all rating classes the managing general agent proposes to use to determine the premium for assigned TPIP policies, the territories that the managing general agent proposes to use to determine the premium for assigned TPIP policies, and the precise method the managing general agent proposes to use to calculate the market rate for each rating class and rating territory.

(b) Prohibits the managing general agent from using a method filed under Subsection (a) without prior approval by the commissioner as provided by this subchapter.

(c) Requires that the rating classes, territories, and method used to determine the market rate be designed in a manner to ensure that the assigned TPIP rating manual is as compatible as possible with the voluntary market's rating method.

(d) Requires that the assigned TPIP rates, except as provided by Section 2214.501, use rating classes used by more than 50 percent of the residential property insurance market in this state.

(e) Prohibits assigned TPIP rates, notwithstanding Subsections (c) and (d), from:

(1) providing a renewal discount or a multiline discount; or

(2) resulting in a lower premium based on how long the insured has been assigned through the clearinghouse or whether the insured has had another policy assigned through the clearinghouse.

(f) Requires rating territories used for assigned TPIPs, notwithstanding Subsection (c), to consist of a single, undivided zip code or a collection of undivided zip codes and be based on sound actuarial principles.

(g) Requires that market rates developed by the managing general agent be based on rates filed under Section 2214.401 by the insurers that constitute at least 80 percent of the market in each rating territory, but not more than the 10 largest insurers in each rating territory. Requires that the rate calculation method use an average that excludes the highest and lowest rate for each combination of rating class and territory, unless there are fewer than four insurers for a given combination of rating class and territory.

(h) Requires that a rate calculation method approved under this section use actuarial assumptions that, for each rating class and territory, produce reasonable estimates of the average rate charged by voluntary insurers.

(i) Requires the managing general agent, each year, to review the rates, rating classes, territories, and rating method used in the voluntary residential property insurance market to determine whether a change in the rate calculation method established under this section is reasonable and appropriate.

(j) Requires the managing general agent to submit a rate calculation method filing under this section at least once every four years.

Sec. 2214.403. NOTICE OF RATE CALCULATION METHOD FILING. Requires TDI, not later than the 10th day after the date the managing general agent submits a rate calculation method filing under this subchapter, to post on its Internet website a notice that the managing general agent has submitted a rate calculation method filing for TPIP.

Sec. 2214.404. HEARING ON RATE CALCULATION METHOD FILING. (a) Prohibits the commissioner from approving or disapproving a managing general agent's rate calculation method filing under this subchapter without notice and opportunity for hearing. Requires the commissioner to schedule a hearing on the filing at the request of the managing general agent or a member of the public.

(b) Provides that a hearing under this section is not a contested case under Chapter 2001 (Administrative Procedure), Government Code.

Sec. 2214.405. ACTION OF COMMISSIONER ON RATE CALCULATION METHOD FILING. Requires the commissioner, not later than the 60th day after the date a rate calculation method filing under this subchapter is received, to approve or disapprove the filing. Requires the commissioner, if the commissioner disapproves the filing, to specify the reasons for disapproval and the changes to the rate calculation method the managing general agent must make in order for the commissioner to approve the filing.

Sec. 2214.406. ASSIGNED PROGRAM RATE FILING. (a) Requires the managing general agent, not later than August 15 of each year, to file with the commissioner a manual of rates and rating factors for all classes of risks and territories for TPIP policies assigned through the clearinghouse. Requires the filing to contain the data and calculations used to establish each manual rate and rating factor used to determine the premium for a TPIP policy assigned through the clearinghouse.

(b) Requires that the rate filing reflect rates that are 25 percent greater than the market rate for each class and territory. Requires that the market rate for each class and territory be calculated using the rate calculation method approved under Section 2214.405.

(c) Authorizes TDI to review the rate filing only to determine whether the filing contains a computational error and to verify that the filing reflects a correct application of the rate calculation method approved under Section 2214.405.

(d) Requires TDI, if, not later than the 30th day after the date of the filing, TDI determines that the filing contains a computational error or is not a correct application of the rate calculation method approved under Section 2214.405, to provide a notice to the managing general agent identifying the computational error and any necessary correction. Requires the managing general agent, not later than the 10th day after the date the notice from TDI is received, to submit a corrected filing. Provides that the corrected filing is subject to the standard of review described by Subsection (c).

(e) Provides that rates filed under Subsection (a), or a corrected filing described by Subsection (d), take effect January 1 of the year following the year in which the filing is made. Provides that rates resulting from a correct application of the rate calculation method approved under Section 2214.405 are presumed to be adequate, not excessive, and not unfairly discriminatory.

(f) Authorizes the managing general agent to submit an interim rate filing as reasonably necessary following the occurrence of an extraordinary event or any significant change in the residential property insurance market in this state. Authorizes the commissioner to direct the managing general agent to submit an interim rate filing, and the public insurance counsel, or an insurer with a statewide residential property market share of five percent or more, is authorized to request the managing general agent to submit an interim rate filing.

(g) Prohibits an interim rate filing under Subsection (f) from being used without commissioner approval. Requires the commissioner to approve or disapprove the interim filing after notice and opportunity for hearing. Authorizes the commissioner to disapprove an interim filing only if the commissioner determines that the filing is not reasonably necessary due to an extraordinary event or significant change in the residential property insurance market in this state or contains a computational error or does not reflect a correct application of the rate calculation method approved under Section 2214.405.

(h) Provides that a rate in effect under this section continues in effect until a subsequent rate takes effect.

Sec. 2214.407. RATE CHALLENGE. (a) Authorizes an interested person or the managing general agent to bring an action in the district court of Travis County to vacate rates approved under Section 2214.406 and to seek an order directing the managing general agent to recalculate the rates. Authorizes the district court to grant relief under this section only on finding that the filed rates contain a computational error or the filed rates result from an incorrect application of the rate calculation method approved under Section 2214.405.

(b) Requires that an action under Subsection (a) be brought not later than, as applicable, the 30th day after the date the 30-day period under Section 2214.406(d) expires, the date the managing general agent submits corrected rates under Section 2214.406(d), or the date the commissioner approves or disapproves rates under Section 2214.406(g).

SUBCHAPTER J. TRANSITION PERIOD RATES

Sec. 2214.451. DEFINITIONS. Defines "starting transition rate," "ending transition rate," "transition premium rate," and "transition premium" in this section.

Sec. 2214.452. TRANSITION RATE ELIGIBILITY. (a) Provides that an applicant is eligible for a transition rate on a TPIP policy that covers a residential property that is occupied as the applicant's primary residence and is insured through the TWIA under Chapter 2210 or the FAIR Plan Association under Chapter 2211, if:

(1) the applicant's FAIR Plan Association or TWIA policy is being nonrenewed effective January 1, 2014, or later;

(2) the applicant has been continuously insured through the FAIR Plan Association or TWIA for the 12 months immediately preceding the nonrenewal date described by Subdivision (1);

(3) the replacement cost value of the applicant's insured dwelling is less than $250,000, if the applicant seeks a homeowners policy or a residential dwelling fire and allied lines policy;

(4) the replacement cost value of the applicant's insured contents is less than $80,000, if the applicant seeks a tenant policy or a condominium owners policy; and

(5) the applicant submits the information required under this section.

(b) Requires an insured, to maintain eligibility for transition rates under this section, to be continuously insured under an assigned TPIP policy or by a TPIP policy from a voluntary insurer through the clearinghouse. Provides that a TPIP policy that is otherwise eligible for transition rates under this section does not become ineligible due to a change in the name on the policy due to marriage, divorce, or death of the named insured.

Sec. 2214.453. REQUIRED INFORMATION. Requires an applicant seeking a transition rate under this subchapter, or the applicant's agent, not later than the 30th day before the effective date of a TPIP policy assigned through the clearinghouse, to provide to the managing general agent the following information, as applicable:

(1) if the FAIR Plan Association provided coverage for perils other than windstorm and hail, the insured location and the policy number assigned by the FAIR Plan Association;

(2) if TWIA provided windstorm and hail coverage, and no insurer provided coverage of other perils, the insured location and the policy number assigned by the Texas Windstorm Insurance Association; or

(3) if TWIA provided windstorm and hail coverage and the FAIR Plan Association or an insurer voluntarily provided coverage of other perils the insured location and the policy number assigned by TWIA and the FAIR Plan Association, if applicable; for homeowners policies and residential dwelling fire and allied lines policies, the insured amount for the dwelling on the voluntary policy in effect immediately before the effective date of TPIP policy; for tenant policies and condominium owners policies, the insured amount for the contents on the voluntary policy in effect immediately before the effective date of the TPIP policy; and for any policy that covered perils other than windstorm and hail, the total premium on the policy in effect immediately before the effective date of TPIP policy.

Sec. 2214.454. STARTING TRANSITION RATE CALCULATION. (a) Requires the managing general agent to determine the starting transition rate for each applicant eligible for transition rates under this subchapter.

(b) Provides that, for a homeowners or residential dwelling fire and allied lines policy with respect to which windstorm and hail coverage was provided by TWIA and coverage of other perils was voluntarily provided by an insurer or provided by the FAIR Plan Association, the starting transition rate is calculated as the total annual premium on the policy issued by the TWIA divided by the amount of dwelling coverage provided on that policy plus the total annual premium on the policy that covered other perils divided by the amount of dwelling coverage provided on that policy.

(c) Provides that, for a homeowners or residential dwelling fire and allied lines policy with respect to which windstorm and hail coverage was provided by TWIA and coverage of other perils was not purchased, the starting transition rate is calculated as the total annual premium on the policy issued by the TWIA divided by the amount of dwelling coverage provided on that policy, plus 0.004.

(d) Provides that, for a homeowners or residential dwelling fire and allied lines policy with respect to which both windstorm and hail coverage and coverage of other perils were provided by the FAIR Plan Association, the starting transition rate is calculated as the total annual premium on the policy issued by the FAIR Plan Association divided by the amount of dwelling coverage provided on that policy.

(e) Provides that, for a tenant and condominium owners policy with respect to which windstorm and hail coverage was provided by TWIA and coverage of other perils was voluntarily provided by an insurer or provided by the FAIR Plan Association, the starting transition rate is calculated as the total premium on the policy issued by TWIA divided by the amount of contents coverage provided on that policy plus the total annual premium on the policy that covered other perils divided by the amount of contents coverage provided on that policy.

(f) Provides that, for a tenant and condominium owners policy with respect to which windstorm and hail coverage was provided by TWIA and coverage of other perils was not purchased, the starting transition rate is calculated as the total premium on the policy issued by TWIA divided by the amount of contents coverage provided on that policy, plus 0.0055.

(g) Provides that, for a tenant and condominium owners policy with respect to which both windstorm and hail coverage and coverage of other perils were provided by the FAIR Plan Association, the starting transition rate is calculated as the total annual premium on the policy issued by the FAIR Plan Association divided by the amount of contents coverage provided on that policy.

Sec. 2214.455. ENDING TRANSITION RATE CALCULATION. (a) Requires the managing general agent to determine the ending transition rate for each applicant eligible for transition rates under this section.

(b) Provides that, for policies assigned under this chapter, the ending transition rate is the applicant's assigned TPIP policy premium, as determined by the rates filed pursuant to Section 2214.406, on the policy to become effective, divided by the amount of dwelling coverage on a homeowners or residential dwelling fire and allied lines policy or the amount of contents coverage on a tenant and condominium owners policy.

(c) Provides that, for a policy voluntarily written through the clearinghouse, the ending transition rate is the premium charged by the insurer, as determined by the rates filed by the insurer pursuant to Chapter 2251, on the policy to become effective, divided by the amount of dwelling coverage on a homeowners or residential dwelling fire and allied lines policy or the amount of contents coverage on a tenant and condominium owners policy.

Sec. 2214.456. TRANSITION PREMIUM RATE CALCULATION. (a) Requires the managing general agent to determine the transition premium rate for each applicant eligible for transition rates under this subchapter. Provides that the transition premium is determined based on the applicant's amount of insurance.

(b) Provides that, during the first year of the transition period, the transition premium rate is equal to the starting transition rate calculated under Section 2214.454.

(c) Provides that, for any policy year during the transition period other than the first year of the transition period, the transition premium rate is equal to the greater of:

(1) five percent more than the transition premium rate that applied during the immediately preceding policy term; or

(2) the transition premium rate used during the immediately preceding policy term, plus an amount equal to a fraction with respect to which:

(A) the numerator is the difference between the ending transition rate and the starting transition rate; and

(B) the denominator is 10, for a homeowners policy or residential dwelling fire and allied lines policy in which the dwelling has a replacement cost value of $100,000 or less; five, for a homeowners policy or residential dwelling fire and allied lines policy in which the dwelling has a replacement cost value of greater than $100,000 and less than or equal to $150,000; three, for a homeowners policy or residential dwelling fire and allied lines policy in which the dwelling has a replacement cost value of greater than $150,000 and less than $250,000; or three, for a tenant and condominium owners policy.

(d) Prohibits the transition premium rate from exceeding the ending transition rate calculated under Section 2214.455.

Sec. 2214.457. TRANSITION PREMIUM CALCULATION. (a) Provides that, for each policy eligible for transition rates under this subchapter, the premium on the applicant's policy each year is determined as provided by this section.

(b) Provides that, for homeowners policies and residential dwelling fire and allied lines policies, the transition premium is equal to the transition premium rate multiplied by the dwelling coverage amount on TPIP policy.

(c) Provides that, for tenant and condominium owners policies, the transition premium is equal to the transition premium rate multiplied by the contents coverage amount on TPIP policy.

Sec. 2214.458. RECOVERY OF TRANSITION PERIOD RATES. (a) Requires the managing general agent, on or before February 1 of each year, to report to each insurer writing residential property insurance in this state the total transition premium written by the insurer during the previous calendar year. Requires the managing general agent, on or before February 1 of each year, to report to the comptroller of public accounts the total transition premium written by each insurer during the previous calendar year. Provides that the total transition premium for each insurer is equal to the difference between the premium determined by the assigned TPIP rates filed under Section 2214.406, or the insurer's rates filed under Chapter 2251, as applicable, and the transition premium charged under this subchapter.

(b) Authorizes an insurer to include a provision in its residential property insurance rates to recoup up to 50 percent of the transition premiums not collected by the insurer in the previous calendar year.

(c) Authorizes a rate provision permitted under this section to vary by policy type, class, or geographic region.

(d) Provides that residential property insurance rates that include a rate provision permitted under this section are subject to the rate standards established by Chapter 2251.

(e) Authorizes an insurer to claim, as a premium tax credit for a calendar year, an amount up to 50 percent of the transition premiums not collected by the insurer in the previous calendar year.

Sec. 2214.459. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires December 31, 2025.

SUBCHAPTER K. BUILDING CODE SURCHARGE

Sec. 2214.501. BUILDING CODE SURCHARGE. (a) Authorizes an insurer to assess an actuarially justified premium surcharge on an assigned TPIP policy issued if the insured structure does not meet building code standards set forth in TPIP plan of operation.

(b) Authorizes building code surcharges to vary by location.

(c) Requires the managing general agent to periodically evaluate building codes and construction specifications to maintain the rating system and standards to ensure that the plan of operation reflects current industry standards.

Sec. 2214.502. BUILDING CODE INSPECTIONS REQUIRED. (a) Requires that the plan of operation provide for an inspection protocol for determining a building code surcharge. Requires that the protocol to address which structures inspect to determine whether a surcharge is applicable.

(b) Requires that the protocol rely on documentation and physical inspection, and is authorized to include inspections certified by qualified inspectors appointed by the managing general agent, prior department certifications, and physical inspections by a qualified inspector of exterior components, including roofing, external openings, and siding.

Sec. 2214.503. INSPECTORS. (a) Defines "qualified inspector" for purposes of this chapter.

(b) Requires that an inspection under this subchapter be performed by a qualified inspector. Requires that the plan of operation identify the qualifications required to perform particular types of inspections.

(c) Requires the qualified inspector, before performing a building inspection under this subchapter, to be approved and appointed or employed by the managing general agent.

(d) Authorizes the managing general agent to appoint or employ qualified inspectors on an at-will basis.

Sec. 2214.504. BUILDING CODE INSPECTION INFORMATION. Requires the managing general agent to collect and maintain information developed from inspections under this subchapter and report the information to TDI. Provides that information developed under this section is property of the state under Section 2214.153.

SUBCHAPTER L. AGENTS

Sec. 2214.551. EXCLUSIVE USE OF EXPIRATIONS. (a) Provides that, except as otherwise provided by this section, an agent has the exclusive use of expirations, records, or other written or electronic information directly related to an application submitted to, or a residential property insurance policy written through, the clearinghouse on a voluntary or assignment basis for purposes of soliciting, selling, or negotiating the renewal or sale of residential property insurance coverage.

(b) Provides that, if the agent has, by contract, entered into an agreement with an insurer or a group of affiliated insurers concerning the use of expirations, the parties' rights to the use of the expirations described by Subsection (a) are determined by the terms of the agent's contract with that insurer or group. Provides that an agent, insurer, or group does not have greater rights than those otherwise provided by this section.

(c) Provides that expirations, records, or other written or electronic information provided to the managing general agent or otherwise created by the managing general agent are the property of the state under Section 2214.153.

(d) Authorizes the managing general agent and an insurer to use any information described by Subsection (a) to review an application or issue a policy, or for any other purpose necessary for placing business through the clearinghouse or reporting, or a purpose otherwise authorized in this chapter.

(e) Provides that the rights set forth in Subsections (a) and (b) terminate:

(1) on the date the second renewal of any residential property insurance policy written through the clearinghouse by the insurer terminates, except that if the insurance coverage is again written through the clearinghouse after the second renewal, the exclusive use of expirations period continues;

(2) on the date the insured notifies the insurance company that the insured has selected another agent, submits a renewal application to the clearinghouse through another agent, or obtains coverage outside of the clearinghouse;

(3) on the date the agent is in default for nonpayment of premiums or other money owed under the agent's agreement with the managing general agent, unless a legitimate dispute exists as to the money owed; or

(4) on the date the managing general agent terminates the agent's agreement, in which case the insurer is required to continue coverage for the insured.

(f) Prohibits an agent or insurer from entering into a contract with an applicant or insured that is inconsistent with this section.

Sec. 2214.552. AGENT COMMISSIONS. (a) Requires an insurer, unless an insurer and an agent enter into an agreement for a different commission rate on TPIP coverage written through the clearinghouse on a voluntary basis, to pay the commission rate specified in the plan of operation for that coverage.

(b) Requires an assigned insurer to pay the commission rate in the plan of operation for TPIP coverage written through the clearinghouse on an assignment basis.

(c) Requires that the commission rate be reasonable, adequate, not unfairly discriminatory, and nonconfiscatory, taking into consideration the amount of work performed by an agent in submitting a TPIP application, the prevailing commission structure in the residential property insurance market, the uniform electronic filing procedures of the clearinghouse, and the exclusive use of expirations provided by Section 2214.551.

(d) Requires an agent to earn a commission at the same rate policy premium is earned in accordance with Section 2214.356.

SUBCHAPTER M. PROGRAM POLICY FORMS

Sec. 2214.601. PROGRAM POLICY FORMS. (a) Requires the commissioner to promulgate forms and endorsements necessary to implement this chapter.

(b) Requires that the promulgated forms include coverage based on the coverage in nonprogram policies used by more than 50 percent of the insurance market in this state for homeowners, condominium owners, tenants, and residential dwelling fire and allied lines.

(c) Requires that the promulgated forms provide actual cash value coverage, with the option to separately purchase replacement cost coverage for dwelling and contents and coverage for sudden and accidental discharge, leakage, or overflow of water or steam from or within a plumbing, heating, or air conditioning system or household appliance up to a per-occurrence limit of 10 percent of the dwelling coverage, or 20 percent of the contents coverage for a tenant and condominium owners policy.

(d) Requires that the policy provide coverage for fire and lightning, sudden and accidental damage from smoke, wind and hail, explosion, aircraft and vehicles, vandalism and malicious mischief, riot and civil commotion, and theft.

(e) Requires that the policy exclude coverage for damage resulting from flood, including surface water, waves, storm surge, tides, tidal water, tidal waves, tsunami, seiche, overflow of streams or other bodies of water, or spray from any of these, all whether driven by wind or not; earth movement; settling, cracking, bulging, shrinkage, or expansion of foundations; governmental action; war; nuclear hazard; power failure; rain, whether driven by wind or not, unless direct force of wind or hail makes an opening in a roof or wall and rain enters through this opening and causes the damage; electricity; ordinance or law; mold, fungi, or other microorganisms; and asbestos.

(f) Prohibits the promulgated forms from excluding coverage for wind and hail.

(g) Requires each TPIP policy, with the exception of the residential dwelling fire and allied lines form, to also provide personal liability coverage, medical payments coverage, and additional living expense coverage when the structure is uninhabitable due to damage resulting from an insured loss.

Sec. 2214.602. DEDUCTIBLE. (a) Requires that homeowners and residential dwelling fire and allied lines TPIP policies assigned through the clearinghouse have a standard deductible for losses due to a covered peril of three percent of the dwelling coverage amount.

(b) Requires that condominium owners and tenants TPIP policies assigned through the clearinghouse have a standard deductible for losses due to a covered peril of the greater of three percent of the contents coverage amount or $1,500.

(c) Requires the managing general agent, for an additional premium, to make lower deductibles available to applicants as specified in the plan of operation.

(d) Authorizes an insurer to offer other deductibles on TPIP policies issued on a voluntary basis.

Sec. 2214.603. COVERAGE LIMITS. (a) Prohibits the maximum limits for assigned TPIP coverage from exceeding:

(1) $1 million on a single insurable structure used as a dwelling, including an individually owned townhouse unit;

(2) 10 percent of the purchased dwelling coverage limit for other structures; and

(3) either 40 percent of the purchased dwelling coverage limit for individually owned corporeal movable property located in the dwelling that is occupied by the owner of that property as the owner's primary residence and, as an extension of coverage, away from those premises, as provided under the policy, or $80,000 for individually owned corporeal movable property located in an apartment unit, residential condominium unit, or townhouse unit that is occupied by the owner of that property and, as an extension of coverage, away from those premises, as provided under the policy.

(b) Prohibits the maximum limits for coverage for an assigned TPIP homeowners, tenants, or condominium owners, in addition to the limits provided by Subsection (a), from exceeding:

(1) $300,000 liability insurance;

(2) $2,500 medical payments; and

(3) either 20 percent of the purchased dwelling coverage limit for other additional living expense when the dwelling is uninhabitable due to damage resulting from an insured loss or 20 percent of the purchased contents coverage limit under a tenants or condominium owners policy for other additional living expense when the insured location is uninhabitable due to damage resulting from an insured loss.

(c) Requires the commissioner, notwithstanding Subsections (a) and (b), to review the limits set forth in this section not less than once every five years. Authorizes the commissioner, after notice and opportunity for hearing, to revise the limits and coverages based on residential property insurance policies, other than TPIP policies, used by more than 50 percent of the residential property insurance market in this state.

SECTION 19. Repealers: Subchapters B-1 (Payment of Losses) and M (Public Securities Program), Chapter 2210, Insurance Code.

SECTION 20. (a) Requires the managing general agent contracted to administer the plan of operation of TPIP under Chapter 2214, Insurance Code, as added by this Act, to establish the electronic property insurance clearinghouse described by Subchapter C of that chapter as soon as practicable after the effective date of this Act, but not later than January 1, 2014.

(b) Requires an insurer to file all rates, rating factors, and supplementary rating information with the commissioner as required by Subchapter I, Chapter 2214, Insurance Code, as added by this Act, as soon as practicable after the effective date of this Act, but not later than January 1, 2014.

(c) Requires the managing general agent contracted to administer the plan of operation of TPIP under Chapter 2214, Insurance Code, as added by this Act, notwithstanding Section 2214.406(a), Insurance Code, as added by this Act, to make the initial rate filing described by that section not later than January 1, 2014.

(d) Requires the commissioner to promulgate forms and endorsements under Subchapter M, Chapter 2214, Insurance Code, as added by this Act, as soon as practicable after the effective date of this Act, but not later than January 1, 2014.

SECTION 21. Effective date: upon passage or the 91st day after the last day of the legislative session.