

SUBCHAPTER S. CATASTROPHE RESERVE TRUST FUND 28 TAC §§5.9901- 5.9906

1. INTRODUCTION. The Commissioner of Insurance (Commissioner) adopts the repeal of Subchapter S, §§5.9901- 5.9906, concerning the Catastrophe Reserve Trust Fund (CRTF) used by the Texas Windstorm Insurance Association (Association). The repeal is adopted without changes to the proposal published in the July 23, 2010 issue of the *Texas Register* (35 TexReg 6489).

2. REASONED JUSTIFICATION. The repeal is necessary to incorporate the requirements set forth in these sections and the Insurance Code §2210.452 and §2210.453 into new §§5.4101, 5.4102, and 5.4111 – 5.4114 of this chapter. The Legislature has determined that the provision of windstorm and hail insurance is necessary for the economic welfare of the state and its inhabitants, and that the lack of such insurance would severely impede the orderly growth and development of the state. The Association was created by the Legislature and serves as a residual insurer of last resort for windstorm and hail insurance coverage (insurance coverage) in the catastrophe area designated by the Commissioner of Insurance under the Insurance Code §2210.005. The CRTF is a primary source for funding Association losses in excess of premium and other revenue. The repeal is necessary to update and incorporate the operation and use of the CRTF into the Association's plan of operation, and to create a more efficient rule structure by grouping these requirements with other

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related Association loss funding mechanisms in new §§5.4101, 5.4102, and 5.4111 - 5.4114. In conjunction with this adoption, the Department is adopting new §§5.4101, 5.4102, 5.4111 – 5.4114, 5.4121, 5.4131 – 5.4134, and 5.4141 – 5.4147 of this chapter, also published in this edition of the *Texas Register*.

3. HOW THE SECTIONS WILL FUNCTION. The adoption of the repeal will allow for rules related to the operation and use of the CRTF to be updated and incorporated into the Association's plan of operation. This will create a more efficient rule structure by grouping these requirements with other related Association loss funding mechanisms in new §§5.4101, 5.4102, and 5.4111 - 5.4114.

4. SUMMARY OF COMMENTS AND AGENCY RESPONSE. The Department did not receive any comments on the published proposal.

5. STATUTORY AUTHORITY. The repeal is adopted pursuant to the Insurance Code Chapter 2210 and §36.001. The Insurance Code §2210.008 authorizes the Commissioner to adopt rules necessary to carry out the purposes of Insurance Code Chapter 2210. Section 2210.151 requires the Commissioner to adopt the Association's plan of operation as a rule. Section §2210.152(a)(1) requires the Association's plan of operation to provide for the efficient, economical, fair and nondiscriminatory administration of the Association. Section §2210.152(a)(2)(G) provides that the plan of operation may include other provisions considered necessary by the Department to

implement the purposes of Chapter 2210. Section 2210.452 requires the Commissioner to adopt rules under which the Association makes payments to the CRTF including the net gain from operations of the Association at the end of each calendar year or policy year; and the procedure relating to the disbursement of money from the CRTF to the Association to fund the obligations of the CRTF under Subchapter B-1, Chapter 2210, Insurance Code. Section 2210.452(b) further provides that the comptroller, as custodian of the CRTF, shall administer the CRTF strictly and solely as provided by Chapter 2210, Insurance Code and Commissioner rules. Section 2210.452(d) provides that the CRTF may be terminated only by law and that on termination of the CRTF, all assets of the CRTF revert to the state to provide funding for the mitigation and preparedness plan established under the Insurance Code §2210.454. Section 2210.453 provides that the Association may purchase reinsurance that operates in addition to or in concert with the CRTF, public securities, financial instruments, and assessments authorized by Chapter 2210, Insurance Code. Section 36.001 authorizes the Commissioner of Insurance to adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

6. TEXT.

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§5.9901. Purpose and Scope.

§5.9902. Definitions.

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§5.9903. Operation of the Trust Fund.

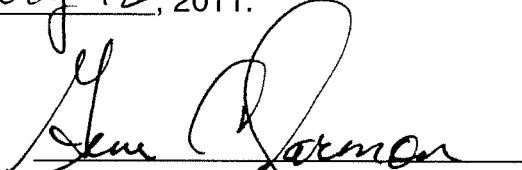
§5.9904. Termination of Trust Fund.

§5.9905. Investments of Trust Fund.

§5.9906 Duties and Responsibilities.

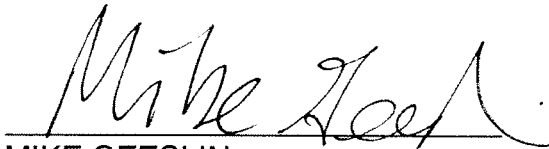
CERTIFICATION. This agency hereby certifies that the adopted repeal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on January 12, 2011.


Gene C. Jarmon
General Counsel and Chief Clerk
Texas Department of Insurance

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that the repeal of §§5.9901- 5.9906 specified herein, concerning the Catastrophe Reserve Trust Fund used by the Texas Windstorm Insurance Association, is adopted.

AND IT IS SO ORDERED.

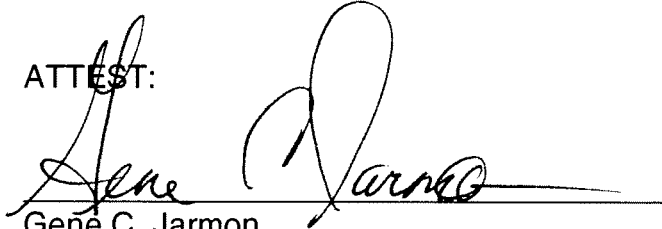

MIKE GEESLIN
COMMISSIONER OF INSURANCE

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ATTEST:

A handwritten signature in black ink, appearing to read "Gene Jarmon", written over a horizontal line.

Gene C. Jarmon
General Counsel and Chief Clerk

COMMISSIONER'S ORDER NO. **11-0030**
JAN 13 2011