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et al.

H.B. No. 769

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the administration of the Texas Windstorm Insurance
3 Association.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter B, Chapter 2210, Insurance Code, is
6 amended by adding Section 2210.063 to read as follows:

7 Sec. 2210.063. LOCATION OF ASSOCIATION HEADQUARTERS. The
8 headquarters of the association must be located in a first tier
9 coastal county or second tier coastal county.

10 SECTION 2. Section 2210.351, Insurance Code, is amended by
11 amending Subsection (d) and adding Subsection (f) to read as
12 follows:

13 (d) The association may use a rate filed by the association
14 without prior commissioner approval if:

15 (1) the filing is made not later than the 30th day
16 before the date of any use or delivery for use of the rate;

17 (2) the filed rate does not exceed [~~105 percent of~~] the
18 rate in effect on the date on which the filing is made; and

19 (3) [~~the filed rate does not reflect a rate change for~~
20 ~~an individual rating class that is 10 percent higher than the rate~~
21 ~~in effect for that rating class on the date on which the filing is~~
22 ~~made, and~~

23 [~~4~~] the commissioner has not disapproved the filing
24 in writing, advising of the reasons for the disapproval and the

1 criteria the association is required to meet to obtain approval.

2 (f) The association may not file a rate under this section
3 that exceeds the rate in effect on the date on which the filing is
4 made unless two-thirds of the board of directors votes to approve
5 the rate.

6 SECTION 3. Subchapter H, Chapter 2210, Insurance Code, is
7 amended by adding Section 2210.3512 to read as follows:

8 Sec. 2210.3512. REQUIREMENT FOR VOTE ON RATE FILING. The
9 board of directors may not vote on a proposed rate filing if there
10 is a vacancy on the board.

11 SECTION 4. Section 2210.352, Insurance Code, is amended by
12 amending Subsection (a-1) and adding Subsection (a-3) to read as
13 follows:

14 (a-1) The association may use a rate filed by the
15 association under this section without prior commissioner approval
16 if:

17 (1) the filing is made not later than the 30th day
18 before the date of any use or delivery for use of the rate; and

19 (2) the filed rate does not exceed [~~105 percent of~~] the
20 rate used by the association in effect on the date on which the
21 filing is made[~~, and~~

22 [~~(3) the filed rate does not reflect a rate change for~~
23 ~~an individual rating class that is 10 percent higher than the rate~~
24 ~~in effect for that rating class on the date on which the filing is~~
25 ~~made].~~

26 (a-3) The association may not file a rate under this section
27 that exceeds the rate in effect on the date on which the filing is

1 made unless two-thirds of the board of directors votes to approve
2 the rate.

3 SECTION 5. Section 2210.452(c), Insurance Code, is amended
4 to read as follows:

5 (c) At the end of each calendar year or policy year, the
6 association shall use the net gain from operations of the
7 association, including all premium and other revenue of the
8 association in excess of incurred losses, operating expenses,
9 public security obligations, and public security administrative
10 expenses, to make payments to the trust fund or pay public security
11 obligations, giving priority to the obligations with the highest
12 interest rates~~[, procure reinsurance, or use alternative risk~~
13 ~~financing mechanisms, or to make payments to the trust fund and~~
14 ~~procure reinsurance or use alternative risk financing mechanisms]~~.

15 SECTION 6. Section 2210.453, Insurance Code, is amended by
16 adding Subsections (b-1), (b-2), and (f) to read as follows:

17 (b-1) In determining the probable maximum loss under
18 Subsection (b), the association:

19 (1) may not consider the cost of providing loss
20 adjustments;

21 (2) shall, to the extent possible, contract with any
22 disinterested third parties necessary to execute any hurricane risk
23 simulation models that were executed in the preceding storm season;

24 (3) shall, if the association is unable to contract
25 for the execution of a hurricane risk simulation model described by
26 Subdivision (2), contract with any disinterested third party
27 necessary to execute a hurricane risk simulation model that is

1 substantially similar to the model for which the association is
2 unable to contract under Subdivision (2);

3 (4) may contract with any disinterested third parties
4 to execute hurricane risk simulation models in addition to the
5 models required by Subdivisions (2) and (3);

6 (5) shall provide to a third party executing a
7 hurricane risk simulation model any information necessary to comply
8 with this subsection;

9 (6) may not use a combination of hurricane risk
10 simulation models to determine the probable maximum loss; and

11 (7) may use only the hurricane risk simulation model
12 that produces the lowest probable maximum loss.

13 (b-2) Any information produced in compliance with
14 Subsection (b-1) shall be made publicly available on the Internet
15 website of the association.

16 (f) The association may not purchase reinsurance under this
17 section from an insurer or broker involved in the execution of the
18 hurricane risk simulation model on which the association relies in
19 determining the probable maximum loss applicable for the period
20 covered by the reinsurance.

21 SECTION 7. Section [2210.611](#), Insurance Code, is amended to
22 read as follows:

23 Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT
24 EARNINGS. Revenue collected in any calendar year from a premium
25 surcharge under Sections [2210.612](#), [2210.613](#), and [2210.6131](#) that
26 exceeds the amount of the public security obligations and public
27 security administrative expenses payable in that calendar year and

1 interest earned on the funds may, in the discretion of the
2 association, be:

3 (1) used to pay public security obligations payable in
4 the subsequent calendar year, offsetting the amount of the premium
5 surcharge that would otherwise be required to be levied for the year
6 under this subchapter; or

7 (2) used to redeem or purchase outstanding public
8 securities[~~;~~ ~~or~~

9 [~~(3) deposited in the catastrophe reserve trust fund~~].

10 SECTION 8. Section [2210.664](#)(b), Insurance Code, is amended
11 to read as follows:

12 (b) Not later than November 15, 2022 [~~2020~~], the board shall
13 deliver a a [~~the~~] report prepared under Subsection (a) to:

14 (1) the governor;

15 (2) the lieutenant governor; and

16 (3) the speaker of the house of representatives.

17 SECTION 9. Section [2210.665](#), Insurance Code, is amended to
18 read as follows:

19 Sec. 2210.665. EXPIRATION. This subchapter expires
20 September 1, 2023 [~~2021~~].

21 SECTION 10. Sections 14(c) and (d), Chapter 790 (H.B.
22 1900), Acts of the 86th Legislature, Regular Session, 2019, are
23 amended to read as follows:

24 (c) Not later than January 1, 2023 [~~2021~~], the windstorm
25 insurance legislative oversight board shall submit to the governor,
26 the lieutenant governor, the speaker of the house of
27 representatives, and the Texas Department of Insurance a written

1 report of a [~~the~~] study conducted under this section. The report
2 must include the findings and legislative recommendations of the
3 board.

4 (d) This section expires January 1, 2024 [~~2022~~].

5 SECTION 11. Section 2210.063, Insurance Code, as added by
6 this Act, applies to the Texas Windstorm Insurance Association
7 beginning January 1, 2023.

8 SECTION 12. Sections [2210.351](#) and [2210.352](#), Insurance Code,
9 as amended by this Act, apply only to a rate filed by the Texas
10 Windstorm Insurance Association with the Texas Department of
11 Insurance on or after the effective date of this Act. A rate filed
12 with the Texas Department of Insurance before the effective date of
13 this Act is governed by the law as it existed immediately before
14 that date, and that law is continued in effect for that purpose.

15 SECTION 13. The Texas Department of Insurance shall amend
16 the Texas Windstorm Insurance Association's plan of operation to
17 conform to the changes in law made by this Act not later than the
18 60th day after the effective date of this Act.

19 SECTION 14. This Act takes effect September 1, 2021.