

By: Hunter

H.B. No. 3809

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the setting of premium rates for Texas Windstorm  
3 Insurance Association policies by the commissioner of insurance.

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

5 SECTION 1. Section 560.001, Insurance Code, is amended to  
6 read as follows:

7 Sec. 560.001. DEFINITION OF INSURER. In this chapter,  
8 "insurer" means an insurance company, reciprocal or interinsurance  
9 exchange, mutual insurance company, farm mutual insurance company,  
10 capital stock insurance company, county mutual insurance company,  
11 Lloyd's plan, surplus lines insurer, or other legal entity engaged  
12 in the business of insurance in this state. The term includes:

13 (1) an affiliate described by Section 823.003(a);

14 (2) ~~[the Texas Windstorm Insurance Association~~  
15 ~~established under Chapter 2210,~~

16 ~~(3)]~~ the FAIR Plan Association established under  
17 Chapter 2211; and

18 (3) (4) ~~(4)]~~ the Texas Automobile Insurance Plan  
19 Association established under Chapter 2151.

20 SECTION 2. Section 2210.259(a-1), Insurance Code, is  
21 amended to read as follows:

22 (a-1) For a policy insuring a noncompliant residential  
23 structure eligible for coverage under Section 2210.258(c), the  
24 association shall charge:

1           (1) a premium set by the commissioner that is based on  
2 the rate charged in the voluntary market for the portion of the  
3 canceled or nonrenewed policy that provides windstorm and hail  
4 insurance coverage for the applicable risk; and

5           (2) an annual premium surcharge in an amount equal to  
6 10 percent of that premium.

7           SECTION 3. Subchapter H, Chapter 2210, Insurance Code, is  
8 amended by adding Sections 2210.331, 2210.332, 2210.333, 2210.334,  
9 2210.335, 2210.336, 2210.337, and 2210.338 to read as follows:

10           Sec. 2210.331. SETTING OF PREMIUM RATES. (a) The  
11 commissioner shall set and adopt the premium rates to be charged  
12 for:

13           (1) association policies, including reinsured  
14 policies;

15           (2) reinsurance to cover an assessment purchased by a  
16 member insurer under Section 2210.075; and

17           (3) reinsurance purchased by the association to  
18 maintain required funding levels under Section 2210.453.

19           (b) A premium may not be charged for an association policy  
20 at a rate different from the rate set and adopted by the  
21 commissioner.

22           Sec. 2210.332. FACTORS CONSIDERED IN SETTING PREMIUM RATES.

23           (a) In setting premium rates, the commissioner shall consider all  
24 relevant revenue and expenses of the association.

25           (b) The premium rates set by the commissioner must be:

26           (1) reasonable as to the public; and

27           (2) nonconfiscatory as to the association and member

1 insurers.

2 Sec. 2210.333. SUBMISSION OF DATA. (a) The association  
3 shall annually submit to the department a report containing  
4 information relating to:

5 (1) loss experience;

6 (2) expense of operation; and

7 (3) other matters material to premium rates as  
8 determined by the department.

9 (b) The information must be submitted in the form and manner  
10 prescribed by the department.

11 Sec. 2210.334. HEARING REQUIRED FOR SETTING PREMIUM RATE.

12 (a) A premium rate previously set by the commissioner may not be  
13 changed until after the commissioner holds a public hearing.

14 (b) The commissioner shall order a public hearing to  
15 consider changing a premium rate, including setting a new premium  
16 rate, in response to a written request by the association. The  
17 association may not request more than one hearing in a 12-month  
18 period.

19 (c) A public hearing held under Subsection (a) shall be  
20 conducted by the commissioner as a rulemaking hearing held under  
21 Subchapter B, Chapter 2001, Government Code.

22 (d) The commissioner shall render a decision and issue a  
23 final order not later than the 120th day after the date the  
24 commissioner receives a written request under Subsection (b).

25 (e) The commissioner shall consider each matter presented  
26 in a hearing under this section and announce in a public hearing all  
27 decisions on all matters considered.

1       Sec. 2210.335. COURT PETITION. (a) The association may  
2 petition a district court in Travis County to enter an order  
3 requiring the commissioner to comply with the deadline described by  
4 Section 2210.334(d).

5       (b) If the commissioner fails to comply with the  
6 requirements of Section 2210.334(d), the association may petition a  
7 district court in Travis County to adopt a premium rate based on the  
8 record made in the hearing before the commissioner under Section  
9 2210.334.

10       (c) If the record made in the hearing before the  
11 commissioner is not complete before the request for the court to  
12 adopt a premium rate under Subsection (b), the court shall hold an  
13 evidentiary hearing to establish a record before adopting the  
14 premium rate.

15       (d) After a petition has been filed under Subsection (b),  
16 the commissioner may not issue findings or an order related to the  
17 subject matter of the petition until after the date the court enters  
18 a final judgment.

19       (e) A district court may appoint a magistrate to adopt a  
20 premium rate under this section.

21       Sec. 2210.336. PERIODIC HEARING. The commissioner shall  
22 hold a public hearing not earlier than July 1 after the fifth  
23 anniversary of the closing of a hearing held under this subchapter  
24 and not later than December 31 following that July 1 to consider the  
25 setting of premium rates for the association under this subchapter.

26       Sec. 2210.337. COMMISSIONER AUTHORITY TO HOLD HEARINGS AS  
27 NECESSARY. At any time, the commissioner may order a public hearing

1 to consider adoption of premium rates for the association under  
2 this subchapter.

3 Sec. 2210.338. NOTICE OF CERTAIN HEARINGS. Not later than  
4 the 60th day before the date of a hearing under Section 2210.334,  
5 2210.336, or 2210.337, notice of the hearing and of each item to be  
6 considered at the hearing shall be:

- 7 (1) sent directly to the association; and  
8 (2) published in the Texas Register and on the  
9 department's Internet website.

10 SECTION 4. Section 2210.351(b), Insurance Code, is amended  
11 to read as follows:

12 (b) The association must file with the department each [A  
13 filing under this section must indicate the character and the  
14 extent of the coverage contemplated and must be accompanied by the]  
15 policy and endorsement form [forms] proposed to be used. The forms  
16 may be designed specifically for use by the association without  
17 regard to other forms filed with, approved by, or prescribed by the  
18 department for use in this state.

19 SECTION 5. Section 2210.363(a), Insurance Code, is amended  
20 to read as follows:

21 (a) The commissioner may authorize the association to [may]  
22 offer a person insured under this chapter an actuarially justified  
23 premium discount on a policy issued by the association, or an  
24 actuarially justified credit against a surcharge assessed against  
25 the person, other than a surcharge assessed under Subchapter M, if:

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

1 exceeds applicable building code standards set forth in the plan of  
2 operation; or

3 (2) the person elects to purchase a binding  
4 arbitration endorsement under Section 2210.554.

5 SECTION 6. The following provisions of the Insurance Code  
6 are repealed:

7 (1) Section 2210.004(f);

8 (2) Sections 2210.351(a), (c), (d), and (e); and

9 (3) Sections 2210.3511, 2210.352, 2210.353, 2210.354,  
10 2210.355, 2210.357, 2210.358, and 2210.359.

11 SECTION 7. The rates for Texas Windstorm Insurance  
12 Association insurance policies on the effective date of this Act  
13 remain in effect until the commissioner of insurance holds a  
14 hearing to change the rates under Subchapter H, Chapter 2210,  
15 Insurance Code, as amended by this Act.

16 SECTION 8. This Act takes effect September 1, 2021.