

By: Fraser, et al.

S.B. No. 44

A BILL TO BE ENTITLED

AN ACT

relating to the cessation of operations of the Texas Windstorm Insurance Association and the provision of windstorm and hail insurance in the seacoast territory of this state.

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

ARTICLE 1. CESSATION OF OPERATIONS OF TEXAS WINDSTORM INSURANCE

ASSOCIATION

SECTION 1.01. Chapter 2210, Insurance Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. CESSATION OF OPERATIONS OF ASSOCIATION

Sec. 2210.701. CESSATION OF OPERATIONS.

(a) Notwithstanding any other law, the commissioner, as soon as practicable after the effective date of this section, shall by rule adopt and implement a transition plan for the cessation of all operations of the association.

(b) The plan adopted under Subsection (a) must:

(1) provide for the repayment of the association's public security obligations, public security administrative expenses, and other lawful obligations in the manner provided by Section 2210.609;

(2) permit the continued operation of the association, including the continued issuance of policies and collection of premiums and premium surcharges, for an amount of time and to the extent reasonably necessary to satisfy the requirement of

1 Subdivision (1);
2 (3) be consistent with Section 2210.616; and
3 (4) on repayment of all obligations of the
4 association, provide for the transfer of any remaining assets of
5 the catastrophe reserve trust fund, as defined by Section 2210.003,
6 to the department for use in the development and implementation of a
7 mitigation and preparedness plan, in order to:
8 (A) improve preparedness for windstorm and hail
9 catastrophes in the seacoast territory;
10 (B) reduce potential losses in the event of such
11 a catastrophe; and
12 (C) provide research into the means to:
13 (i) reduce those losses;
14 (ii) educate or inform the public in
15 determining the appropriateness of particular upgrades to
16 structures; and
17 (iii) protect infrastructure from
18 potential damage from those catastrophes.

19 ARTICLE 2. WINDSTORM AND HAIL INSURANCE IN SEACOAST TERRITORY

20 SECTION 2.01. Subtitle G, Title 10, Insurance Code, is
21 amended by adding Chapter 2214 to read as follows:

22 CHAPTER 2214. WINDSTORM AND HAIL INSURANCE IN SEACOAST TERRITORY

23 Sec. 2214.001. DEFINITIONS. In this chapter:

24 (1) "First tier coastal county" means:

25 (A) Aransas County;

26 (B) Brazoria County;

27 (C) Calhoun County;

- 1 (D) Cameron County;
- 2 (E) Chambers County;
- 3 (F) Galveston County;
- 4 (G) Jefferson County;
- 5 (H) Kenedy County;
- 6 (I) Kleberg County;
- 7 (J) Matagorda County;
- 8 (K) Nueces County;
- 9 (L) Refugio County;
- 10 (M) San Patricio County; or
- 11 (N) Willacy County.

12 (2) "Seacoast territory" means the territory of this
13 state composed of the first tier coastal counties and the second
14 tier coastal counties.

15 (3) "Second tier coastal county" means:

- 16 (A) Bee County;
- 17 (B) Brooks County;
- 18 (C) Fort Bend County;
- 19 (D) Goliad County;
- 20 (E) Hardin County;
- 21 (F) Harris County;
- 22 (G) Hidalgo County;
- 23 (H) Jackson County;
- 24 (I) Jim Wells County;
- 25 (J) Liberty County;
- 26 (K) Live Oak County;
- 27 (L) Orange County;

1 (M) Victoria County; or

2 (N) Wharton County.

3 (4) "Windstorm and hail insurance" means deductible
4 insurance against:

5 (A) direct loss to insurable property incurred as
6 a result of windstorm or hail, as those terms are defined and
7 limited in policies and forms approved by the department; and

8 (B) indirect losses resulting from the direct
9 loss.

10 Sec. 2214.002. APPLICABILITY. (a) Except as provided by
11 Subsection (b), this chapter applies to each insurer authorized to
12 engage in the business of property insurance in this state,
13 including a county mutual insurance company, a Lloyd's plan, and a
14 reciprocal or interinsurance exchange.

15 (b) This chapter does not apply to:

16 (1) a farm mutual insurance company operating under
17 Chapter 911;

18 (2) a nonaffiliated county mutual fire insurance
19 company described by Section 912.310 that is writing exclusively
20 industrial fire insurance policies as described by Section
21 912.310(a)(2); or

22 (3) a mutual insurance company or a statewide mutual
23 assessment company engaged in business under Chapter 12 or 13,
24 Title 78, Revised Statutes, respectively, before those chapters'
25 repeal by Section 18, Chapter 40 (S.B. 37), Acts of the 41st
26 Legislature, 1st Called Session, 1929, as amended by Section 1,
27 Chapter 60 (S.B. 106), General Laws, Acts of the 41st Legislature,

1 2nd Called Session, 1929, that retains the rights and privileges
2 under the repealed law to the extent provided by those sections.

3 Sec. 2214.003. REQUIREMENT TO ISSUE WINDSTORM AND HAIL
4 INSURANCE IN SEACOAST TERRITORY; PHASE-IN PERIOD AUTHORIZED.

5 (a) As a condition of the insurer's authority to engage in the
6 business of insurance in this state, each insurer to which this
7 chapter applies shall issue windstorm and hail insurance policies
8 to applicants in the seacoast territory of this state, in an amount
9 such that the insurer's share of the market for windstorm and hail
10 insurance in the aggregated first tier coastal counties and
11 aggregated second tier coastal counties, respectively, is in
12 proportion to the insurer's statewide market share, exclusive of
13 the seacoast territory.

14 (b) For purposes of satisfying the requirement of
15 Subsection (a), each insurer's market share is determined in a
16 manner provided by Section 2210.052 for determining an insurer's
17 participation in the Texas Windstorm Insurance Association.

18 (c) An insurer's duty to comply with this section begins on
19 the date specified in the transition plan adopted by the
20 commissioner under Section 2210.701. To the extent consistent with
21 Sections 2210.701(b)(2) and (3), the transition plan may provide
22 for a reasonable schedule during which the duty to comply with this
23 section becomes effective in increments.

24 Sec. 2214.004. ORDERS AND RULES. (a) The commissioner may
25 issue any orders that the commissioner considers necessary to
26 implement this chapter.

27 (b) The commissioner may adopt rules in the manner

1 prescribed by Subchapter A, Chapter 36, as reasonable and necessary
2 to implement this chapter.

3 Sec. 2214.005. RATES. Rates for windstorm and hail
4 insurance issued as required by this chapter are determined in the
5 manner provided by Chapter 2251.

6 ARTICLE 3. EFFECTIVE DATE

7 SECTION 3.01. This Act takes effect on the 91st day after
8 the last day of the legislative session.