

Suspending limitations on conference committee
jurisdiction, H.B. No. 3

By: Carona

S.R. No. 113

SENATE RESOLUTION

BE IT RESOLVED by the Senate of the State of Texas, 82nd Legislature, 1st Called Session, 2011, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on House Bill 3 (the operation of the Texas Windstorm Insurance Association, the resolution of certain disputes concerning claims made to that association, and the issuance of windstorm and hail insurance policies in the private insurance market by certain insurers; providing penalties) to consider and take action on the following matters:

(1) Senate Rules 12.03(1) and (3) are suspended to permit the committee to change and add text on a matter which is not in disagreement in added Section 2210.260(d), Insurance Code, to read as follows:

(d) Except as provided by Sections 2210.251(d), (e), and (f), a person who has an insurable interest in a residential structure that is insured by the association as of August 31, 2012, but for which the person has not obtained a certificate of compliance under Section 2210.251(g), must obtain an alternative certification under this section before the association, on or after August 31, 2013, may renew coverage for the structure.

Explanation: The change and addition of text are necessary to clarify the structures to which Section 2210.260(d), Insurance Code, does not apply and to change the date on which compliance with that section becomes mandatory

before the Texas Windstorm Insurance Association may renew coverage for an insured structure.

(2) Senate Rule 12.03(2) is suspended to permit the committee to omit text adding Section 2210.502(e), Insurance Code, by striking the section of the bill that added that subsection.

Explanation: The omission of the text is necessary to avoid statutorily establishing a maximum liability limit for windstorm and hail insurance policies issued by the Texas Windstorm Insurance Association.

(3) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter that is not included in either the house or senate version of the bill in added Section 2210.573(d), Insurance Code, to read as follows:

(d) Unless the applicable 60-day period described by this subsection is extended by the commissioner under Section 2210.581, not later than the later of the 60th day after the date the association receives a claim or the 60th day after the date the association receives information requested under Subsection (b), the association shall provide the claimant, in writing, notification that:

(1) the association has accepted coverage for the claim in full;

(2) the association has accepted coverage for the claim in part and has denied coverage for the claim in part; or

(3) the association has denied coverage for the claim in full.

Explanation: The addition of the text is necessary to ensure that any commissioner extension of the 60-day period described by Section 2210.573(d) is included in the 120-day aggregated total of commissioner extensions under Section 2210.581, Insurance Code, as proposed in the bill.

(4) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter that is not included in either the house or senate version of the bill in added Section 2210.575(d), Insurance Code, to read as follows:

(d) Alternative dispute resolution under this section must be completed not later than the 60th day after the date a request for alternative dispute resolution is made under Subsection (c). The 60-day period described by this subsection may be extended by the commissioner by rule in accordance with Section 2210.581 or by the association and a claimant by mutual consent.

Explanation: The addition of the text is necessary to ensure that any commissioner extension of the 60-day period described by Section 2210.575(d) is included in the 120-day aggregated total of commissioner extensions under Section 2210.581, Insurance Code, as proposed in the bill.

(5) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter that is not included in either the house or senate version of the bill by adding Sections 2210.581 and 2210.582, Insurance Code, to read as follows:

Sec. 2210.581. COMMISSIONER EXTENSION OF DEADLINES.
(a) Subject to Subsection (b), the commissioner, on a showing of

good cause, may by rule extend any deadline established under this subchapter.

(b) With reference to claims filed during a particular catastrophe year, the extension of deadlines under Subsection (a) may not exceed 120 days in the aggregate.

(c) For the purposes of Subsection (a), "good cause" includes military deployment.

Sec. 2210.582. OMBUDSMAN PROGRAM. (a) The department shall establish an ombudsman program to provide information and educational programs to assist persons insured under this chapter with the claim processes under this subchapter.

(b) Not later than March 1 of each year, the department shall prepare and submit to the commissioner a budget for the ombudsman program, including approval of all expenditures incurred in administering and operating the program. The commissioner shall adopt or modify and adopt the budget not later than April 1 of the year in which the budget is submitted.

(c) Not later than May 1 of each year, the association shall transfer to the ombudsman program money in an amount equal to the amount of the budget adopted under Subsection (b). The ombudsman program, not later than April 30 of each year, shall return to the association any unexpended funds that the program received from the association in the previous year.

(d) The department shall, not later than 60 days after the date of a catastrophic event, prepare and submit an amended budget to the commissioner for approval and report to the commissioner the approximate number of claimants eligible for

ombudsman services. The commissioner shall adopt rules as necessary to implement an amended budget submitted under this section, including rules regarding the transfer of additional money from the association to the program.

(e) The ombudsman program may provide to persons insured under this chapter information and educational programs through:

- (1) informational materials;
- (2) toll-free telephone numbers;
- (3) public meetings;
- (4) outreach centers;
- (5) the Internet; and
- (6) other reasonable means.

(f) The ombudsman program is administratively attached to the department. The department shall provide the staff, services, and facilities necessary for the ombudsman program to operate, including:

- (1) administrative assistance and service, including budget planning and purchasing;
- (2) personnel services;
- (3) office space; and
- (4) computer equipment and support.

(g) The ombudsman program shall prepare and make available to each person insured under this chapter information describing the functions of the ombudsman program.

(h) The association, in the manner prescribed by the commissioner by rule, shall notify each person insured under this chapter concerning the operation of the ombudsman program.

(i) The commissioner may adopt rules as necessary to implement this section.

Explanation: The addition of Section 2210.581, Insurance Code, is necessary to grant the commissioner of insurance limited authority to extend by rule any deadline under Subchapter L-1, Chapter 2210, Insurance Code, as proposed in the bill. The addition of Section 2210.582, Insurance Code, is necessary to establish an ombudsman program to provide information and educational programs to persons insured under Chapter 2210, Insurance Code, to assist those persons with the claims processes established under Subchapter L-1, Chapter 2210, Insurance Code, as proposed in the bill.

(6) Senate Rule 12.03(2) is suspended to permit the committee to omit text that is not in disagreement in amended Section 2210.613(c)(1)(E), Insurance Code, so that Subsection (c) reads as follows:

(c) The premium surcharge under Subsection (b) shall be assessed on all policyholders of policies that cover ~~[who reside or have operations in, or whose]~~ insured property that is located in a catastrophe area, including automobiles principally garaged in a catastrophe area. The premium surcharge shall be assessed on ~~[for]~~ each Texas windstorm and hail insurance policy and each property and casualty insurance policy, including an automobile insurance policy, issued for automobiles and other property located in the catastrophe area. A premium surcharge under Subsection (b) applies to:

(1) all policies written under the following lines

of insurance:

(A) fire and allied lines;

(B) farm and ranch owners;

(C) residential property insurance;

(D) private passenger automobile liability and physical damage insurance; and

(E) commercial automobile liability and physical damage insurance; and

(2) the property insurance portion of a commercial multiple peril insurance policy [~~that provide coverage on any premises, locations, operations, or property located in the area described by this subsection for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance~~].

Explanation: The omission of the text is necessary to clarify the lines of commercial automobile insurance to which a premium surcharge under Section 2210.613, Insurance Code, applies.

(7) Senate Rule 12.03(1) is suspended to permit the committee to change text on a matter which is not in disagreement in proposed SECTION 60(a) of the bill to read as follows:

(a) A legislative interim study committee shall conduct a study of alternative ways to provide insurance to the seacoast territory of this state, including through a quasi-governmental entity.

Explanation: The addition of the text is necessary to

allow the legislative interim study committee established under SECTION 60 of the bill to study a broader range of alternative ways in which windstorm and hail insurance may be provided in the seacoast territory of this state.

(8) Senate Rule 12.03(1) is suspended to permit the committee to change text on a matter which is not in disagreement in proposed SECTION 60(d)(1) of the bill so that Subsection (d) reads as follows:

(d) The committee shall:

(1) examine alternative ways to provide insurance to the seacoast territory of this state, including through a quasi-governmental entity or by providing insurance coverage through a system or program in which insurers in this state provide insurance in the seacoast territory of this state in proportion to the percentage of insurance coverage provided in geographic areas of this state other than the seacoast territory;

(2) study the residual markets for windstorm and hail insurance in other states to determine if those markets operate more efficiently and effectively than the residual market for windstorm and hail insurance coverage in this state;

(3) study windstorm-related building codes and mitigation strategies to determine which codes or strategies are most effective;

(4) recommend:

(A) the appropriate scope of authority and responsibility for the entity to provide insurance to the seacoast territory of this state;

(B) an organizational structure to exercise authority and responsibility over the provision of insurance to the seacoast territory of this state;

(C) a timetable for implementation; and

(D) specific amendments to state laws and rules that are necessary to implement the committee's recommendations under this subdivision; and

(5) estimate funding requirements to implement the recommendations.

Explanation: The addition of the text is necessary to allow the legislative interim study committee established under SECTION 60 of the bill to study a broader range of alternative ways in which windstorm and hail insurance may be provided in the seacoast territory of this state.

President of the Senate

I hereby certify that the above Resolution was adopted by the Senate on June 28, 2011, by the following vote: Yeas 19, Nays 11.

Secretary of the Senate