

Suspending limitations on conference committee  
jurisdiction, H.B. No. 3 (Smithee/Carona)

By: Carona

S.R. No. 113

R E S O L U T I O N

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

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

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

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

1 that section becomes mandatory before the Texas Windstorm Insurance  
2 Association may renew coverage for an insured structure.

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

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

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

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

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

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

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

27 Explanation: The addition of the text is necessary to ensure

1 that any commissioner extension of the 60-day period described by  
2 Section 2210.573(d) is included in the 120-day aggregated total of  
3 commissioner extensions under Section 2210.581, Insurance Code, as  
4 proposed in the bill.

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

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

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

20 (5) Senate Rule 12.03(4) is suspended to permit the  
21 committee to add text on a matter that is not included in either the  
22 house or senate version of the bill by adding Sections 2210.581 and  
23 2210.582, Insurance Code, to read as follows:

24 Sec. 2210.581. COMMISSIONER EXTENSION OF DEADLINES. (a)  
25 Subject to Subsection (b), the commissioner, on a showing of good  
26 cause, may by rule extend any deadline established under this  
27 subchapter.

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

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

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

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

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

22       (d) The department shall, not later than 60 days after the  
23 date of a catastrophic event, prepare and submit an amended budget  
24 to the commissioner for approval and report to the commissioner the  
25 approximate number of claimants eligible for ombudsman services.  
26 The commissioner shall adopt rules as necessary to implement an  
27 amended budget submitted under this section, including rules

1 regarding the transfer of additional money from the association to  
2 the program.

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

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

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

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

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

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

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

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

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

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

25 (1) all policies written under the following lines of  
26 insurance:

27 (A) fire and allied lines;

1                   (B) farm and ranch owners;  
2                   (C) residential property insurance;  
3                   (D) private passenger automobile liability and  
4 physical damage insurance; and

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

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

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

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

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

24           Explanation: The addition of the text is necessary to allow  
25 the legislative interim study committee established under SECTION  
26 60 of the bill to study a broader range of alternative ways in which  
27 windstorm and hail insurance may be provided in the seacoast

1 territory of this state.

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

6 (d) The committee shall:

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

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

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

21 (4) recommend:

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

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

- 1                   (C) a timetable for implementation; and  
2                   (D) specific amendments to state laws and rules  
3 that are necessary to implement the committee's recommendations  
4 under this subdivision; and  
5                   (5) estimate funding requirements to implement the  
6 recommendations.

7           Explanation: The addition of the text is necessary to allow  
8 the legislative interim study committee established under SECTION  
9 60 of the bill to study a broader range of alternative ways in which  
10 windstorm and hail insurance may be provided in the seacoast  
11 territory of this state.