

By: Smithee

H.B. No. 3023

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the institution of a formal delinquency proceeding
3 against the Texas Windstorm Insurance Association.

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

5 SECTION 1. In this Act:

6 (1) "Association" means the Texas Windstorm Insurance
7 Association established under Chapter 2210, Insurance Code.

8 (2) "Commissioner" means the commissioner of
9 insurance.

10 (3) "Formal delinquency proceeding" and
11 "receivership" have the meanings assigned by Section 443.004,
12 Insurance Code.

13 (4) "First tier coastal county" and "second tier
14 coastal county" have the meanings assigned by Section 2210.003,
15 Insurance Code.

16 SECTION 2. The commissioner of insurance shall, as soon as
17 practicable after the effective date of this Act and in accordance
18 with Chapter 443, Insurance Code, petition a court for an order to
19 liquidate the business of the Texas Windstorm Insurance
20 Association.

21 SECTION 3. Notwithstanding any contrary provision of
22 Chapter 2210, Insurance Code, on the date that the commissioner
23 files the petition for an order to liquidate the business of the
24 Texas Windstorm Insurance Association, the board of the association

1 is dissolved. Persons described by Section 443.010, Insurance
2 Code, shall cooperate with the commissioner in the manner required
3 by that section during the pendency of the formal delinquency
4 proceeding against the association.

5 SECTION 4. In accordance with Section 443.015(i), Insurance
6 Code, the Texas Windstorm Insurance Association shall pay all
7 expenses of the receivership initiated against the association.

8 SECTION 5. The commissioner shall appoint an advisory
9 committee as authorized by Section 443.154, Insurance Code.
10 Notwithstanding any contrary provision of Chapter 443, Insurance
11 Code, the committee shall be composed of:

12 (1) five members, appointed from a list of names
13 submitted to the commissioner by the governor, all of whom must have
14 experience in the business of insurance, loss adjustment, business
15 management, or finance and no more than two of whom are residents of
16 a first tier coastal county;

17 (2) two members, appointed from a list of names
18 submitted to the commissioner by the speaker of the house of
19 representatives, both of whom must be members of the house of
20 representatives and only one of whom may be a resident of a first or
21 second tier coastal county; and

22 (3) two members, appointed from a list of names
23 submitted to the commissioner by the lieutenant governor, both of
24 whom must be members of the senate and only one of whom may be a
25 resident of a first or second tier coastal county.

26 SECTION 6. (a) The advisory committee appointed by the
27 commissioner under Section 5 of this Act shall, as soon as

1 practicable after the effective date of this Act, develop and
2 recommend to the commissioner a plan of liquidation to govern the
3 liquidation of the association. After consideration of the
4 recommendations of the advisory committee, the commissioner shall
5 adopt a plan of liquidation.

6 (b) The plan of liquidation adopted under Subsection (a) of
7 this section must include provisions concerning:

8 (1) the transfer of the association's policy
9 obligations to a solvent assuming insurer authorized to write
10 windstorm and hail insurance in this state; and

11 (2) the establishment of a program that will replace
12 the association and provide a residual market for windstorm and
13 hail insurance in first tier coastal counties.

14 (c) The program described by Subsection (b) of this section:

15 (1) must, if possible, operate in the private
16 windstorm and hail insurance market in this state;

17 (2) must be actuarially sound and have proper internal
18 controls and safeguards to ensure accurate, efficient, and timely
19 adjustment of claims; and

20 (3) may, if necessary, include a source of funding to
21 support the program.

22 SECTION 7. (a) The commissioner shall take all steps
23 necessary to ensure that the liquidation of the association is
24 finalized not later than September 1, 2014, or if possible, by
25 September 1, 2013.

26 (b) On the date that the liquidation is final, the program
27 to replace the association must be fully operational and capable of

1 issuing, or causing the issuance of, windstorm and hail insurance
2 policies in first tier coastal counties.

3 SECTION 8. If necessary to accomplish the purposes of this
4 Act or to effect a specific action required by this Act, the
5 commissioner may, before commencing the formal delinquency
6 proceeding against the association or at the time the formal
7 delinquency proceeding is commenced, petition a court for a seizure
8 order under Section 443.051, Insurance Code, to allow the
9 commissioner to take possession and control of the Texas Windstorm
10 Insurance Association in the same manner that the commissioner
11 could take possession and control of an insurer under that section.

12 SECTION 9. The commissioner may adopt rules necessary to
13 implement this Act.

14 SECTION 10. This Act takes effect immediately if it
15 receives a vote of two-thirds of all the members elected to each
16 house, as provided by Section 39, Article III, Texas Constitution.
17 If this Act does not receive the vote necessary for immediate
18 effect, this Act takes effect September 1, 2011.