

By: Smithee

H.B. No. 3694

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the operation and oversight of the Texas Windstorm
3 Insurance Association and other insurance entities; increasing a
4 surcharge.

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

6 SECTION 1. Section 441.105(c), Insurance Code, is amended
7 to read as follows:

8 (c) The commissioner shall [~~may~~] release the insurer from
9 supervision if, after the hearing, it is determined that the
10 insurer:

11 (1) has been rehabilitated; or

12 (2) is no longer in a condition that makes the
13 insurer's continuation in business hazardous to the public or to
14 the insurer's policyholders or certificate holders.

15 SECTION 2. Section 2210.107(b), Insurance Code, is amended
16 to read as follows:

17 (b) Each month [~~Every two months~~], the general manager of
18 the association shall submit to the board a report evaluating the
19 extent to which the association met the objectives described by
20 Subsection (a) in the two-month period immediately preceding the
21 date of the report.

22 SECTION 3. Section 2210.204, Insurance Code, is amended by
23 adding Subsection (f) to read as follows:

24 (f) An insured who without cause cancels or allows to lapse

1 insurance coverage issued by the association may not subsequently
2 obtain coverage from the association for the previously insured
3 property until on or after the anniversary of the date the policy
4 was canceled or lapsed.

5 SECTION 4. Section 2210.259(a), Insurance Code, is amended
6 to read as follows:

7 (a) A noncompliant residential structure insured by the
8 association as of September 1, 2009, under Section 2210.251(f) that
9 had been approved for insurability under the approval process
10 regulations in effect on September 1, 2009, is subject to an annual
11 premium surcharge in an amount equal to 20 [~~15~~] percent of the
12 premium for insurance coverage obtained through the association.
13 The surcharge under this subsection applies to each policy issued
14 or renewed by the association on or after the effective date of
15 Sections 5 through 49, H.B. No. 4409, Acts of the 81st Legislature,
16 Regular Session, 2009, and is due on the issuance or renewal of the
17 policy.

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

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

25 (1) the construction, alteration, remodeling,
26 enlargement, or repair of, or an addition to, insurable property
27 exceeds applicable building code standards set forth in the plan of

1 operation; or

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

4 SECTION 6. Section 2210.576(b), Insurance Code, is amended
5 to read as follows:

6 (b) Except as provided by Subsections (c) and (d), a
7 claimant that brings an action against the association under
8 Section 2210.575 may recover only:

9 (1) the covered loss payable under the terms of the
10 association policy less, if applicable, the amount of loss already
11 paid by the association for any portion of a covered loss for which
12 the association accepted coverage;

13 (2) prejudgment interest from the first day after the
14 date specified in Section 2210.5731 by which the association was or
15 would have been required to pay an accepted claim or the accepted
16 portion of a claim, at the prejudgment interest rate provided in
17 Subchapter B, Chapter 304, Finance Code; and

18 (3) court costs and reasonable and necessary
19 attorney's fees and expert witness fees.

20 SECTION 7. Sections 2152.004, 2210.005, 2210.0081, and
21 2211.156, Insurance Code, are repealed.

22 SECTION 8. (a) Section 441.105(c), Insurance Code, as
23 amended by this Act, applies to a determination by the commissioner
24 of insurance made on or after the effective date of this Act. A
25 determination made before the effective date of this Act is
26 governed by the law as it existed immediately before the effective
27 date of this Act, and that law is continued in effect for that

1 purpose.

2 (b) Section 2210.204(f), Insurance Code, as added by this
3 Act, applies to a cancellation or lapse of a policy on or after the
4 effective date of this Act. A cancellation or lapse before the
5 effective date of this Act is governed by the law as it existed
6 immediately before the effective date of this Act, and that law is
7 continued in effect for that purpose.

8 (c) Sections 2210.259(a) and 2210.363(a), Insurance Code,
9 as amended by this Act, apply only to an insurance policy that is
10 delivered, issued for delivery, or renewed on or after January 1,
11 2014. A policy delivered, issued for delivery, or renewed before
12 January 1, 2014, is governed by the law as it existed immediately
13 before the effective date of this Act, and that law is continued in
14 effect for that purpose.

15 (d) Section 2210.576(b), Insurance Code, as amended by this
16 Act, applies only to an action filed on or after the effective date
17 of this Act. An action filed before the effective date of this Act
18 is covered by the law in effect on the date the action was filed, and
19 that law is continued in effect for that purpose.

20 SECTION 9. This Act takes effect September 1, 2013.