

AN ACT

relating to inspections and other activities conducted by engineers in connection with the issuance of certain windstorm and hail insurance; authorizing a fee.

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

SECTION 1. The heading to Section 2210.251, Insurance Code, is amended to read as follows:

Sec. 2210.251. PLAN OF OPERATION COMPLIANCE [~~INSPECTION~~] REQUIREMENTS.

SECTION 2. Sections 2210.251(a), (f), and (g), Insurance Code, are amended to read as follows:

(a) Except as provided by this section, to be considered insurable property eligible for windstorm and hail insurance coverage from the association, a structure that is constructed, altered, remodeled, enlarged, or repaired or to which additions are made on or after January 1, 1988, must comply [~~be inspected or approved by the department for compliance~~] with the plan of operation.

(f) Notwithstanding any other provision of this subchapter [~~section~~], insurance coverage for a residential structure may be issued or renewed through the association subject to the inspection requirements imposed under Section 2210.258, if applicable. This subsection expires December 31, 2015.

(g) A [~~The department shall issue a~~] certificate of

1 compliance issued by the department or association under Section  
2 2210.2515 demonstrates compliance with the applicable building  
3 code under the plan of operation [~~for each structure that qualifies~~  
4 ~~for coverage~~]. The certificate is evidence of insurability of the  
5 structure by the association. [~~The decision whether to issue a~~  
6 ~~certificate of compliance for a structure is wholly within the~~  
7 ~~discretion of the department and is not dependent on the actions of~~  
8 ~~the Texas Board of Professional Engineers or any other regulatory~~  
9 ~~agency.~~]

10 SECTION 3. Subchapter F, Chapter 2210, Insurance Code, is  
11 amended by adding Section 2210.2515 to read as follows:

12 Sec. 2210.2515. ISSUANCE OF CERTIFICATES OF COMPLIANCE.

13 (a) In this section:

14 (1) "Completed improvement" means:

15 (A) an improvement in which the original transfer  
16 of title from the builder to the initial owner of the improvement  
17 has occurred; or

18 (B) if a transfer under Paragraph (A) is not  
19 contemplated, an improvement that is substantially completed.

20 (2) "Improvement" means the construction of or repair,  
21 alteration, remodeling, or enlargement of a structure to which the  
22 plan of operation applies.

23 (3) "Ongoing improvement" means:

24 (A) an improvement in which the original transfer  
25 of title from the builder to the initial owner of the improvement  
26 has not occurred; or

27 (B) if a transfer under Paragraph (A) is not

1 contemplated, an improvement that is not substantially completed.

2 (b) A person shall provide written notice on a form  
3 prescribed by and submitted to the department of the person's  
4 intent to construct, repair, alter, remodel, or enlarge a structure  
5 for which the person is seeking coverage under this chapter before  
6 the person begins to construct, repair, alter, remodel, or enlarge  
7 the structure.

8 (c) A person may apply to the association on a form  
9 prescribed by the department for a certificate of compliance for a  
10 completed improvement. The association shall issue a certificate  
11 of compliance for a completed improvement if a professional  
12 engineer licensed by the Texas Board of Professional Engineers:

13 (1) has designed the improvement, has affixed the  
14 engineer's seal on the design, and submits to the association on a  
15 form prescribed by the department an affirmation of compliance with  
16 the applicable building code under the plan of operation; or

17 (2) completes a sealed post-construction evaluation  
18 report that confirms compliance with the applicable building code  
19 under the plan of operation.

20 (d) A person may apply to the department on a form  
21 prescribed by the department for a certificate of compliance for an  
22 ongoing improvement. Except as provided by Subsection (e), the  
23 department shall issue a certificate of compliance for an ongoing  
24 improvement if a qualified inspector under Section [2210.254](#)  
25 inspects the ongoing improvement in accordance with commissioner  
26 rule and affirms that the improvement:

27 (1) conforms to a design of the improvement that has a

1 seal affixed by a professional engineer licensed by the Texas Board  
2 of Professional Engineers and complies with the applicable building  
3 code under the plan of operation; or

4 (2) complies with the applicable building code under  
5 the plan of operation.

6 (e) Except as otherwise provided by this subchapter, the  
7 department may not issue a certificate of compliance under  
8 Subsection (d) if within six months after the date of the final  
9 inspection of the structure that is the subject of the application,  
10 the department has not received:

11 (1) fully completed forms prescribed by the department  
12 demonstrating that the improvement satisfies the requirements  
13 under Subsection (d)(1) or (2); and

14 (2) payment in full of all inspection fees, including  
15 fees for prior department inspections, owed to the department.

16 (f) If the department determines not to issue a certificate  
17 of compliance under Subsection (e), a person may apply for a  
18 certificate of compliance under Subsection (c).

19 (g) The department may enter into contracts as necessary to  
20 implement this section.

21 (h) The department may charge a reasonable fee to cover the  
22 cost of making building requirements and inspection standards  
23 available to the public. The department shall charge a reasonable  
24 fee for each inspection of each structure under this section in an  
25 amount set by the commissioner.

26 SECTION 4. Section 2210.254(a), Insurance Code, is amended  
27 to read as follows:

1 (a) For purposes of this chapter, a "qualified inspector"  
2 includes:

3 (1) a person determined by the department to be  
4 qualified because of training or experience to perform building  
5 inspections;

6 (2) a licensed professional engineer [~~who is on the~~  
7 ~~roster described by Section 1001.652, Occupations Code, and meets~~  
8 ~~the requirements specified by commissioner rule for appointment to~~  
9 ~~conduct windstorm inspections~~]; and

10 (3) an inspector who:

11 (A) is certified by the International Code  
12 Council, the Building Officials and Code Administrators  
13 International, Inc., the International Conference of Building  
14 Officials, or the Southern Building Code Congress International,  
15 Inc.;

16 (B) has certifications as a buildings inspector  
17 and coastal construction inspector; and

18 (C) complies with other requirements specified  
19 by commissioner rule.

20 SECTION 5. Section 2210.2551, Insurance Code, is amended by  
21 amending Subsections (a) and (b) and adding Subsection (f) to read  
22 as follows:

23 (a) The department has exclusive authority over all matters  
24 relating to the appointment and oversight of qualified inspectors  
25 for purposes of this chapter and to the physical inspection of  
26 structures for the purposes of determining whether to issue a  
27 certificate of compliance under Section 2210.2515(d) [~~this~~

1 ~~chapter~~], including the submission of documents to the department  
2 or association regarding the physical inspection of structures.

3 (b) The commissioner by rule shall establish criteria to  
4 ensure that a person seeking appointment as a qualified inspector  
5 under this subchapter [~~, including an engineer seeking appointment~~  
6 ~~under Section 2210.255,~~] possesses the knowledge, understanding,  
7 and professional competence to perform windstorm inspections for  
8 the issuance of a certificate of compliance under Section  
9 2210.2515(d) [under this chapter] and to comply with other  
10 requirements of this chapter.

11 (f) The commissioner may not adopt or enforce a rule that  
12 requires an engineer to affix the engineer's seal to an inspection  
13 form submitted under this subchapter.

14 SECTION 6. Section 2210.256(a-1), Insurance Code, is  
15 amended to read as follows:

16 (a-1) In addition to any other action authorized under this  
17 section, the commissioner ex parte may enter an emergency cease and  
18 desist order under Chapter 83 against a qualified inspector, or a  
19 person acting as a qualified inspector, if:

20 (1) the commissioner believes that:

21 (A) the qualified inspector has:

22 (i) through submitting or failing to submit  
23 to the department [~~sealed plans, designs, calculations, or other~~]  
24 substantiating information, failed to demonstrate that a structure  
25 or a portion of a structure subject to inspection is built to a  
26 design that conforms to the requirements described by Section  
27 2210.2515(d) [meets the requirements of this chapter and department

1 ~~rules~~]; or

2 (ii) refused to comply with requirements  
3 imposed under this chapter or department rules; or

4 (B) the person acting as a qualified inspector is  
5 acting without appointment as a qualified inspector under Section  
6 2210.254 [~~or 2210.255~~]; and

7 (2) the commissioner determines that the conduct  
8 described by Subdivision (1) is fraudulent or hazardous or creates  
9 an immediate danger to the public.

10 SECTION 7. Section 2210.258(b), Insurance Code, is amended  
11 to read as follows:

12 (b) Except as provided by Subsection (c), the association  
13 may not insure a structure described by Subsection (a) until[+

14 ~~(1) the structure has been inspected for compliance~~  
15 ~~with the plan of operation in accordance with Section 2210.251(a);~~  
16 ~~and~~

17 ~~(2)]~~ a certificate of compliance has been issued for  
18 the structure in accordance with Section 2210.2515 [~~2210.251(g)~~].

19 SECTION 8. Section 83.002(c), Insurance Code, is amended to  
20 read as follows:

21 (c) This chapter also applies to:

22 (1) a person appointed as a qualified inspector under  
23 Section 2210.254 [~~or 2210.255~~]; and

24 (2) a person acting as a qualified inspector under  
25 Section 2210.254 [~~or 2210.255~~] without being appointed as a  
26 qualified inspector under either of those sections.

27 SECTION 9. The following laws are repealed:

1           (1) Sections 2210.251(c), (h), (i), (j), (k), (l), and  
2 (m), Insurance Code;

3           (2) Section 2210.255, Insurance Code;

4           (3) Sections 2210.2551(d) and (e), Insurance Code;

5           (4) Section 2210.256(f), Insurance Code; and

6           (5) Subchapter N, Chapter 1001, Occupations Code.

7           SECTION 10. The commissioner of insurance shall adopt rules  
8 to implement this Act not later than December 31, 2016.

9           SECTION 11. The changes in law made by this Act apply only  
10 to a Texas Windstorm Insurance Association policy delivered, issued  
11 for delivery, or renewed on or after January 1, 2017. An association  
12 policy delivered, issued for delivery, or renewed before January 1,  
13 2017, is governed by the law in effect immediately before the  
14 effective date of this Act, and that law is continued in effect for  
15 that purpose.

16          SECTION 12. This Act takes effect September 1, 2015.



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President of the Senate

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Speaker of the House

I certify that H.B. No. 2439 was passed by the House on April 16, 2015, by the following vote: Yeas 146, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2439 on May 28, 2015, by the following vote: Yeas 146, Nays 1, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2439 was passed by the Senate, with amendments, on May 26, 2015, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor