

By: Smith

H.B. No. 2439

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to inspections and other activities conducted by engineers  
3 in connection with the issuance of certain windstorm and hail  
4 insurance.

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

6 SECTION 1. Section 2210.254(a), Insurance Code, is amended  
7 to read as follows:

8 (a) For purposes of this chapter, a "qualified inspector"  
9 includes:

10 (1) a person determined by the department to be  
11 qualified because of training or experience to perform building  
12 inspections;

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

17 (3) an inspector who:

18 (A) is certified by the International Code  
19 Council, the Building Officials and Code Administrators  
20 International, Inc., the International Conference of Building  
21 Officials, or the Southern Building Code Congress International,  
22 Inc.;

23 (B) has certifications as a buildings inspector  
24 and coastal construction inspector; and

1 (C) complies with other requirements specified  
2 by commissioner rule.

3 SECTION 2. Section 2210.2551, Insurance Code, is amended by  
4 amending Subsection (b) and adding Subsection (f) to read as  
5 follows:

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

12 (f) The commissioner may not adopt or enforce a rule that  
13 requires an inspection to be performed by an engineer licensed by  
14 the Texas Board of Professional Engineers or requires an engineer  
15 to affix the engineer's seal to a document related to an inspection  
16 conducted under this subchapter.

17 SECTION 3. Section 2210.256(a-1), Insurance Code, is  
18 amended to read as follows:

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

23 (1) the commissioner believes that:

24 (A) the qualified inspector has[+  
25 [~~(i) through submitting or failing to~~  
26 ~~submit to the department sealed plans, designs, calculations, or~~  
27 ~~other substantiating information, failed to demonstrate that a~~

1 ~~structure or a portion of a structure subject to inspection meets~~  
2 ~~the requirements of this chapter and department rules; or~~

3 [~~(ii)~~] refused to comply with requirements  
4 imposed under this chapter or department rules; or

5 (B) the person acting as a qualified inspector is  
6 acting without appointment as a qualified inspector under Section  
7 2210.254 [~~or 2210.255~~]; and

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

11 SECTION 4. Section 2210.258(a), Insurance Code, is amended  
12 to read as follows:

13 (a) Except as provided by Subsection (c) and Section  
14 2210.2581 and notwithstanding any other provision of this chapter,  
15 to be eligible for insurance through the association, all  
16 construction, alteration, remodeling, enlargement, and repair of,  
17 or addition to, any structure located in the catastrophe area that  
18 is begun on or after the effective date of Sections 5 through 49,  
19 H.B. No. 4409, Acts of the 81st Legislature, Regular Session, 2009,  
20 must be performed in compliance with the applicable building code  
21 standards, as set forth in the plan of operation, unless the  
22 construction, alteration, remodeling, enlargement, and repair of,  
23 or addition to, the structure is an enhancement to the current  
24 applicable building code standards and has been designed and sealed  
25 by a professional engineer licensed by the Texas Board of  
26 Professional Engineers.

27 SECTION 5. Section 83.002(c), Insurance Code, is amended to

1 read as follows:

2 (c) This chapter also applies to:

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

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

8 SECTION 6. The following laws are repealed:

9 (1) Section 2210.255, Insurance Code;

10 (2) Sections 2210.2551(d) and (e), Insurance Code;

11 (3) Section 2210.256(f), Insurance Code; and

12 (4) Subchapter N, Chapter 1001, Occupations Code.

13 SECTION 7. The commissioner of insurance shall adopt rules  
14 to implement this Act not later than December 31, 2015.

15 SECTION 8. This Act takes effect September 1, 2015.