

By: Lozano

H.B. No. 1587

A BILL TO BE ENTITLED

AN ACT

relating to the appeal of decisions by the Texas Department of Insurance regarding issuance of certain certificates of compliance under the Texas Windstorm Insurance Association Act.

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

SECTION 1. Section 2210.003, Insurance Code, is amended by amending Subdivision (1-a) and adding Subdivision (1-b) to read as follows:

(1-a) "Appeals panel" means the appeals panel established under Section 2210.262.

(1-b) "Association" means the Texas Windstorm Insurance Association.

SECTION 2. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Sections 2210.261 through 2210.268 to read as follows:

Sec. 2210.261. REQUEST FOR APPEAL; RESPONSE. (a) A person whose request for a certificate of compliance is rejected may appeal the decision rejecting the request by filing a written request for appeal with the appeals panel established under Section 2210.262, and contemporaneously providing a copy of the request for appeal to the department. The request for appeal must be made not later than the 90th day after the date the department issued a decision rejecting the request for certification.

(b) The department shall file a written response with the

1 appeals panel not later than the 15th day after the date on which
2 the request for appeal is filed and shall on the same date serve a
3 copy of the response on the appellant.

4 Sec. 2210.262. APPEALS PANEL: COMPOSITION. (a) The
5 appeals panel is composed of seven members appointed by the
6 governor.

7 (b) Three members must:

8 (1) be engineers licensed by, and in good standing
9 with, the Texas Board of Professional Engineers; and

10 (2) have knowledge of and professional expertise in
11 wind-related design and construction practices in coastal areas
12 subject to high winds and hurricanes.

13 (c) Two members must be public members who, at the time of
14 each appointment, reside in different first tier coastal counties.

15 (d) One member must be a licensed general property and
16 casualty agent who is not a captive agent.

17 (e) One member must represent the construction industry and
18 have knowledge of and professional expertise in wind-related design
19 and construction practices in coastal areas subject to high winds
20 and hurricanes.

21 (f) All members of the appeals panel must reside or have
22 employment in a first tier coastal county.

23 (g) Each appointment to the appeals panel must be made
24 without regard to the race, color, disability, sex, religion, age,
25 or national origin of the appointee.

26 Sec. 2210.263. APPEALS PANEL: TERMS; VACANCY. (a) Members
27 of the appeals panel serve two-year staggered terms, with terms of

1 either three or four members expiring on January 1 of each year.

2 (b) The governor shall fill a vacancy on the appeals panel
3 in accordance with Section 2210.262.

4 Sec. 2210.264. APPEALS PANEL: POWERS AND DUTIES. (a)
5 Within a reasonable time after receipt of a request for appeal, the
6 appeals panel shall conduct a hearing on the request and determine
7 whether the requested certificate of compliance should be issued.

8 (b) In making its determination, the appeals panel shall
9 consider the written request for appeal and the department's
10 response.

11 (c) The appeals panel may require the head engineer of the
12 unit responsible for certification of windstorm inspections at the
13 department to advise the appeals panel on issues relating to the
14 inspection process.

15 Sec. 2210.265. APPEALS PANEL: CONFLICT OF INTEREST. The
16 appeals panel shall determine if a member of the appeals panel has a
17 conflict of interest regarding a request for appeal. The member
18 with the conflict of interest shall recuse himself or herself from
19 all proceedings relating to that request.

20 Sec. 2210.266. APPEALS PANEL: HEARING PROCEDURES. (a)
21 Each party to a hearing conducted by the appeals panel may be
22 represented by an attorney licensed to practice law in this state.

23 (b) The standard of review for an appeal filed under Section
24 2210.261 is de novo.

25 (c) All appeals panel proceedings shall be conducted in
26 Travis County.

27 Sec. 2210.267. APPEALS PANEL: DECISION. (a) Within a

1 reasonable time after the conclusion of the hearing, the appeals
2 panel shall issue a written decision reflecting the appeals panel's
3 determination under Section 2210.264.

4 (b) If the appeals panel is unable to reach a decision, the
5 appeals panel shall affirm the decision of the department.

6 (c) The appeals panel shall mail a copy of the appeals
7 panel's decision to each party not later than the seventh day after
8 the date the appeals panel renders its decision.

9 (d) Subject to Subsection (e), if the appeals panel
10 determines that a certificate of compliance should be issued, the
11 department shall promptly issue the certificate.

12 (e) A decision made by the appeals panel under this
13 subchapter is subject to judicial review under Chapter 2001,
14 Government Code.

15 Sec. 2210.268. APPEALS PANEL: ADMINISTRATION. The appeals
16 panel is administratively attached to the department. The
17 department shall provide the staff, services, and facilities
18 necessary for the appeals panel to operate, including:

19 (1) administrative assistance and services, including
20 budget planning and purchasing;

21 (2) personnel services;

22 (3) office space; and

23 (4) computer equipment and support.

24 SECTION 3. The changes in law made by this Act apply only to
25 a decision by the Texas Department of Insurance to reject a request
26 for a certificate of compliance issued on or after the effective
27 date of this Act. A decision issued before the effective date of

1 this Act is governed by the law as it existed immediately before the
2 effective date of this Act, and that law is continued in effect for
3 that purpose.

4 SECTION 4. This Act takes effect September 1, 2017.