

Amend CSSB 615 (house committee report) as follows:

(1) On page 2, line 12, before "adding Subsection", insert "amending Subsection (b) and".

(2) On page 2, between lines 12 and 13, insert the following:

(b) Three members must be representatives of the insurance industry who actively write and renew tornado insurance or wildfire insurance or write and renew windstorm and hail insurance in the first tier coastal counties.

(3) On page 6, line 9, between "counties" and the period, insert "or tornado insurance or wildfire insurance in this state".

(4) On page 6, line 11, between "windstorm and hail" and "and", insert ", tornado, or wildfire".

(5) On page 6, line 13, between "windstorm and hail" and the period, insert ", tornado, or wildfire".

(6) On page 7, line 4, between "Subsection (a)" and "and proof", insert ", with respect to windstorm and hail insurance,".

(7) On page 7, line 7, between "(a)" and "and (c)", insert ", (a-1),".

(8) On page 7, between lines 14 and 15, insert the following:

(a-1) This subsection applies only to windstorm and hail insurance and a structure constructed, altered, remodeled, or enlarged on or after September 1, 2009, and only for insurable property located in areas designated by the commissioner. Notwithstanding Subsection (a), if all or any part of the property to which this subsection applies is located in Zone V or another similar zone with an additional hazard associated with storm waves, as defined by the National Flood Insurance Program, and if flood insurance under that federal program is available, the association may not issue an insurance policy for initial or renewal coverage unless evidence that the property is covered by a flood insurance policy is submitted to the association. An agent offering or selling a Texas windstorm and hail insurance policy in any area designated by the commissioner under this subsection shall offer flood insurance coverage to the prospective insured, if that coverage is available.

(9) On page 8, line 22, between "policy" and "issued", insert ", tornado insurance policy, or wildfire insurance policy".

(10) On page 9, line 16, strike "(c) and (d)" and substitute "(b), (c), (d), and (e)".

(11) On page 9, between lines 17 and 18, insert the following:

(b) Subject to any applicable deductibles and the limits for the coverage purchased by the insured, a windstorm and hail insurance policy, tornado insurance policy, or wildfire insurance policy issued by the association may include replacement cost coverage for one- and two-family dwellings, including outbuildings, as provided under the dwelling extension coverage in the policy.

(12) On page 10, between lines 5 and 6, insert the following:

(e) Notwithstanding this chapter or any other law, the commissioner, after notice and hearing, may adopt rules to:

(1) authorize the association to provide actual cash value coverage instead of replacement cost coverage on the roof covering of a building insured by the association; and

(2) establish:

(A) the conditions under which the association may provide that actual cash value coverage;

(B) the appropriate premium reductions when coverage for the roof covering is provided on an actual cash value basis; and

(C) the disclosure that must be provided to the policyholder, prominently displayed on the face of the windstorm and hail insurance policy, tornado insurance policy, or wildfire insurance policy.

(13) On page 11, line 27, strike "The" and substitute "As applicable, the".

(14) On page 13, line 3, strike "a windstorm and hail insurance" and substitute "an insurance".

(15) On page 13, line 16, strike "The" and substitute "With respect to windstorm and hail insurance policies, the".

(16) Add the following appropriately numbered SECTIONS to

the bill and renumber the subsequent SECTIONS accordingly:

SECTION _____. Section 2210.001, Insurance Code, is amended to read as follows:

Sec. 2210.001. PURPOSE. The primary purpose of the Texas Windstorm Insurance Association is the provision of an adequate market for windstorm and hail insurance in the seacoast territory of this state and tornado insurance and wildfire insurance statewide. The legislature finds that the provision of adequate windstorm and hail insurance, tornado insurance, and wildfire insurance is necessary to the economic welfare of this state, and without that insurance, the orderly growth and development of this state would be severely impeded. This chapter provides a method by which adequate windstorm and hail insurance may be obtained in certain designated portions of the seacoast territory of this state and tornado insurance and wildfire insurance may be obtained statewide. The association is intended to serve as a residual insurer of last resort for windstorm and hail insurance in the seacoast territory and tornado insurance and wildfire insurance statewide. The association shall:

(1) function in such a manner as to not be a direct competitor in the private market; and

(2) provide windstorm and hail insurance coverage, tornado insurance coverage, and wildfire insurance coverage to those who are unable to obtain [~~that~~] coverage in the private market.

SECTION _____. Section 2210.003, Insurance Code, is amended by amending Subdivision (6) and adding Subdivisions (14), (15), and (16) to read as follows:

(6) "Insurance" means:

(A) Texas windstorm and hail insurance;

(B) tornado insurance; and

(C) wildfire insurance.

(14) "Tornado insurance" means insurance against:

(A) direct loss to insurable property incurred as a result of a tornado, as those terms are defined and limited in policies and forms approved by the department; and

(B) indirect losses resulting from the direct

loss.

(15) "Wildfire" means an uncontrolled blaze fueled by weather, wind, and dry underbrush, trees, grasses, and other flammable material.

(16) "Wildfire insurance" means insurance against:

(A) direct loss to insurable property incurred as a result of wildfire, as those terms are defined and limited in policies and forms approved by the department; and

(B) indirect losses resulting from the direct loss.

SECTION _____. Sections 2210.004(a), (b), (c), and (d), Insurance Code, are amended to read as follows:

(a) Except as provided by Subsection (h), for purposes of this chapter and subject to this section, "insurable property" means immovable property at a fixed location in a catastrophe area or corporeal movable property located in that immovable property, as designated in the plan of operation, that is determined by the association according to the criteria specified in the plan of operation to be in an insurable condition against windstorm and hail, tornado, and wildfire, as determined by normal underwriting standards. The term includes property described by Section 2210.209.

(b) A structure located in a catastrophe area, construction of which began on or after the 30th day after the date of publication of the plan of operation, that is not built in compliance with building specifications set forth in the plan of operation or continued in compliance with those specifications, does not constitute an insurable risk for purposes of windstorm and hail insurance, tornado insurance, or wildfire insurance except as otherwise provided by this chapter.

(c) A structure, or an addition to a structure, that is constructed in conformity with plans and specifications that comply with the specifications set forth in the plan of operation at the time construction begins may not be declared ineligible for windstorm and hail insurance, tornado insurance, or wildfire insurance as a result of subsequent changes in the building specifications set forth in the plan of operation.

(d) Except as otherwise provided by this section, if repair of damage to a structure involves replacement of items covered in the building specifications set forth in the plan of operation, the repairs must be completed in a manner that complies with those specifications for the structure to continue to be insurable property for windstorm and hail insurance, tornado insurance, and wildfire insurance.

SECTION _____. Sections 2210.005(a) and (c), Insurance Code, are amended to read as follows:

(a) After at least 10 days' notice and a hearing, the commissioner may designate, with respect to windstorm and hail insurance, an area of the seacoast territory of this state as a catastrophe area or, with respect to tornado insurance and wildfire insurance, any area of this state as a catastrophe area if the commissioner determines, unless such a determination results in an adverse impact to the exposure of the association, that windstorm and hail insurance, tornado insurance, or wildfire insurance is not reasonably available to a substantial number of the owners of insurable property located in the area [~~that territory~~] because the area [~~territory~~] is subject to unusually frequent and severe damage resulting from windstorms, ~~[or]~~ hailstorms, tornadoes, or wildfires.

(c) If the association determines that windstorm and hail insurance, tornado insurance, or wildfire insurance is no longer reasonably unavailable to a substantial number of owners of insurable property in a territory designated as a catastrophe area, the association may request in writing that the commissioner revoke the designation. After at least 10 days' notice and a hearing, but not later than the 30th day after the date of the hearing, the commissioner shall:

- (1) approve the request and revoke the designation; or
- (2) reject the request.

SECTION _____. Section 2210.015(a), Insurance Code, is amended to read as follows:

(a) Each biennium, the department shall conduct a study of market incentives to promote participation in the voluntary windstorm and hail insurance, tornado insurance, and wildfire

insurance markets [~~market~~] in [~~the seacoast territory of~~] this state. The study must address as possible incentives the mandatory or voluntary issuance of windstorm and hail insurance, tornado insurance, and wildfire insurance in conjunction with the issuance of a homeowners policy [~~in the seacoast territory~~].

SECTION _____. Section 2210.053(b), Insurance Code, is amended to read as follows:

(b) The department may develop programs to improve the efficient operation of the association, including a program for approving policy forms under Section 2301.010 and a program designed to create incentives for insurers to write windstorm and hail insurance, tornado insurance, and wildfire insurance voluntarily to cover property located in a catastrophe area, especially property located on the barrier islands of this state.

SECTION _____. Section 2210.151, Insurance Code, is amended to read as follows:

Sec. 2210.151. ADOPTION OF PLAN OF OPERATION. With the advice of the board of directors, the commissioner by rule shall adopt the plan of operation to provide Texas windstorm and hail insurance, tornado insurance, and wildfire insurance in a catastrophe area.

SECTION _____. Section 2210.152(a), Insurance Code, is amended to read as follows:

(a) The plan of operation must:

(1) provide for the efficient, economical, fair, and nondiscriminatory administration of the association; and

(2) include:

(A) a plan for the equitable assessment of the members of the association to defray losses and expenses;

(B) underwriting standards;

(C) procedures for accepting and ceding reinsurance;

(D) procedures for obtaining and repaying amounts under any financial instruments authorized under this chapter;

(E) procedures for determining the amount of insurance to be provided to specific risks;

(F) time limits and procedures for processing applications for insurance;

(G) a requirement that a nonresident agent licensed under Section 4056.052 may not offer or sell a Texas windstorm and hail insurance policy, tornado insurance policy, or wildfire insurance policy under this chapter unless the nonresident agent's state of residence authorizes a resident agent licensed in this state to act in the nonresident agent's state as an agent for that state's residual insurer of last resort for windstorm and hail insurance, tornado insurance, or wildfire insurance; and

(H) other provisions as considered necessary by the department to implement the purposes of this chapter.

SECTION _____. The heading to Section 2210.207, Insurance Code, is amended to read as follows:

Sec. 2210.207. WINDSTORM AND HAIL INSURANCE, TORNADO INSURANCE, AND WILDFIRE INSURANCE: REPLACEMENT COST COVERAGE.

SECTION _____. The heading to Section 2210.208, Insurance Code, is amended to read as follows:

Sec. 2210.208. WINDSTORM AND HAIL INSURANCE, TORNADO INSURANCE, AND WILDFIRE INSURANCE: COVERAGE FOR CERTAIN INDIRECT LOSSES.

SECTION _____. Sections 2210.208(a) and (b), Insurance Code, are amended to read as follows:

(a) Except as provided by Subsections (e) and (f), a windstorm and hail insurance policy, tornado insurance policy, or wildfire insurance policy issued by the association for a dwelling, as that term is defined by the department or a successor to the department, must include coverage for:

(1) with respect to a windstorm and hail insurance policy, wind-driven rain damage, regardless of whether an opening is made by the wind;

(2) loss of use; and

(3) consequential losses.

(b) A windstorm and hail insurance policy, tornado insurance policy, or wildfire insurance policy issued by the association for tenant contents of a dwelling or other residential building must include coverage for loss of use and consequential

losses.

SECTION _____. The heading to Subchapter F, Chapter 2210, Insurance Code, is amended to read as follows:

SUBCHAPTER F. PROPERTY INSPECTIONS [~~FOR WINDSTORM AND HAIL~~
~~INSURANCE~~]

SECTION _____. Section 2210.253, Insurance Code, is amended to read as follows:

Sec. 2210.253. INITIAL INSURER ASSESSMENT[~~:- FIRST TIER COASTAL COUNTY~~]. (a) In this section, "property insurance" means a commercial or residential insurance policy prescribed or approved by the department that provides coverage for windstorm and hail damage, including a Texas windstorm and hail insurance policy, or loss from tornado or wildfire.

(b) The department shall assess each insurer that provides property insurance in [~~a first tier coastal county in~~] accordance with this section.

(c) The total assessment under this section in a state fiscal year must be in the amount estimated by the department as necessary to cover the administrative costs of the [~~windstorm~~] inspection program under Section 2210.251 to be incurred in [~~the first tier coastal counties in~~] that fiscal year.

(d) The assessment must be based on each insurer's proportionate share of the total extended coverage and other allied lines premium received by all insurers for property insurance in the state [~~first tier coastal counties~~] in the calendar year preceding the year in which the assessment is made.

(e) The commissioner shall adopt rules to implement the assessment of insurers under this section.

SECTION _____. Section 2210.2551(b), Insurance Code, is amended to read as follows:

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

SECTION _____. Section 2210.258, Insurance Code, is amended

by adding Subsection (a-1) to read as follows:

(a-1) This section applies only to windstorm and hail insurance.

SECTION _____. Section 2210.355(g), Insurance Code, is amended to read as follows:

(g) A commission paid to an agent for a windstorm and hail insurance policy, tornado insurance policy, or wildfire insurance policy issued by the association must comply with the commission structure approved by the commissioner under Section 2210.203(d) and be reasonable, adequate, not unfairly discriminatory, and nonconfiscatory.

SECTION _____. Section 2210.359(a), Insurance Code, is amended to read as follows:

(a) Except as otherwise provided by this subsection, a rate approved by the commissioner under this subchapter may not reflect an average rate change that is more than 10 percent higher or lower than the rate for commercial windstorm and hail insurance, commercial tornado insurance, or commercial wildfire insurance or 10 percent higher or lower than the rate for noncommercial windstorm and hail insurance, noncommercial tornado insurance, or noncommercial wildfire insurance in effect on the date the filing is made. The rate may not reflect a rate change for an individual rating class that is 15 percent higher or lower than the rate for that individual rating class in effect on the date the filing is made. This subsection does not apply to a rate filed under Sections 2210.351(a)-(d).

SECTION _____. Section 2210.455(b), Insurance Code, is amended to read as follows:

(b) The catastrophe plan must:

(1) describe the manner in which the association will, during the period covered by the plan, evaluate losses and process claims after the following windstorms affecting an area of maximum exposure to the association:

(A) a windstorm with a four percent chance of occurring during the period covered by the plan;

(B) a windstorm with a two percent chance of occurring during the period covered by the plan; and

(C) a windstorm with a one percent chance of occurring during the period covered by the plan; ~~and~~

(2) include, if the association does not purchase reinsurance under Section 2210.453 for the period covered by the plan, an actuarial plan for paying losses in the event of a catastrophe with estimated damages of \$2.5 billion or more; and

(3) describe the manner in which the association will, during the period covered by the plan, evaluate losses and process claims after tornadoes or wildfires affecting an area of maximum exposure to the association.

SECTION _____. Section 2210.501(a), Insurance Code, is amended to read as follows:

(a) The board of directors shall propose the maximum liability limits under a windstorm and hail insurance policy, tornado insurance policy, and wildfire insurance policy issued by the association under this chapter. The maximum liability limits must be approved by the commissioner.

SECTION _____. Section 2210.502(b), Insurance Code, is amended to read as follows:

(b) An adjustment to the maximum liability limits that is approved by the commissioner applies to each windstorm and hail insurance policy, tornado insurance policy, and wildfire insurance policy delivered, issued for delivery, or renewed on or after January 1 of the year following the date of the approval. The indexing of the limits shall adjust for changes occurring on and after January 1, 1997.

SECTION _____. Section 2210.505(a), Insurance Code, is amended to read as follows:

(a) Notwithstanding any other law, the association may issue a windstorm and hail insurance policy, tornado insurance policy, or wildfire insurance policy that includes coverage for an amount in excess of a maximum liability limit established under Sections 2210.501-2210.504 if the association first obtains from a reinsurer approved by the commissioner reinsurance for the full amount of policy exposure above that limit.

SECTION _____. Section 2210.571(1), Insurance Code, is amended to read as follows:

(1) "Association policy" means a windstorm and hail insurance policy, tornado insurance policy, or wildfire insurance policy issued by the association.

SECTION _____. Section 2210.601, Insurance Code, is amended to read as follows:

Sec. 2210.601. PURPOSE. The legislature finds that authorizing the issuance of public securities to provide a method to raise funds to provide [~~windstorm and hail insurance~~] through the association windstorm and hail insurance in certain designated portions of the state and tornado insurance and wildfire insurance statewide is for the benefit of the public and in furtherance of a public purpose.

SECTION _____. Section 2210.6132(c), Insurance Code, is amended to read as follows:

(c) The premium surcharge under this section shall be assessed on all policyholders of policies that cover insured property that is located in a catastrophe area, including automobiles principally garaged in a catastrophe area. The premium surcharge shall be assessed on each Texas windstorm and hail insurance policy, each tornado insurance policy, and each wildfire insurance policy issued by the association and each property and casualty policy, including an automobile insurance policy, issued for automobiles and other property located in the catastrophe area. A premium surcharge under Subsection (b) applies to:

(1) all policies written under the following lines of insurance:

(A) fire and allied lines;

(B) farm and ranch owners;

(C) residential property insurance;

(D) private passenger automobile liability and physical damage insurance; and

(E) commercial automobile liability and physical damage insurance; and

(2) the property insurance portion of a commercial multiple peril insurance policy.

SECTION _____. Section 2210.652, Insurance Code, is amended to read as follows:

Sec. 2210.652. COMPOSITION OF BOARD. The [~~windstorm insurance legislative oversight~~] board is composed of eight members as follows:

(1) four members of the senate appointed by the lieutenant governor, including the chairperson of the Senate Business and Commerce Committee, who shall serve as co-chairperson of the board; and

(2) four members of the house of representatives appointed by the speaker of the house of representatives.

SECTION _____. Section 2210.653(a), Insurance Code, is amended to read as follows:

(a) The board shall:

(1) receive information about rules proposed by the department relating to windstorm and hail insurance, tornado insurance, and wildfire insurance, and may submit comments to the commissioner on the proposed rules;

(2) monitor windstorm and hail insurance, tornado insurance, and wildfire insurance in this state, including:

(A) the adequacy of rates;

(B) the operation of the association; and

(C) the availability of coverage; and

(3) review recommendations for legislation proposed by the department or the association.

SECTION _____. Section 2210.654(b), Insurance Code, is amended to read as follows:

(b) The report must include:

(1) an analysis of any problems identified; and

(2) recommendations for any legislative action necessary to address those problems and to foster stability, availability, and competition within the windstorm and hail insurance, tornado insurance, and wildfire insurance industries [~~industry~~].

SECTION _____. (a) The plan of operation adopted under Chapter 2210, Insurance Code, as amended by this Act, must provide that the Texas Windstorm Insurance Association issue tornado insurance policies and wildfire insurance policies under that chapter not later than January 1, 2020.

(b) The commissioner of insurance shall adopt rules necessary to ensure that the Texas Windstorm Insurance Association issues tornado insurance policies and wildfire insurance policies under Chapter 2210, Insurance Code, as amended by this Act, not later than January 1, 2020.