



FLOOR AMENDMENT NO. _____

BY: 

Amend C.S.S.B. No. 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

1 insurance under that federal program is available, the association
2 may not issue an insurance policy for initial or renewal coverage
3 unless evidence that the property is covered by a flood insurance
4 policy is submitted to the association. An agent offering or
5 selling a Texas windstorm and hail insurance policy in any area
6 designated by the commissioner under this subsection shall offer
7 flood insurance coverage to the prospective insured, if that
8 coverage is available.

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

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

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

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

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

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

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

29 (2) establish:

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

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

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

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

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

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

14 (16) Add the following appropriately numbered SECTIONS to
15 the bill and renumber the subsequent SECTIONS accordingly:

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

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

1 seacoast territory and tornado insurance and wildfire insurance
2 statewide. The association shall:

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

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

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

12 (6) "Insurance" means:

13 (A) Texas windstorm and hail insurance;

14 (B) tornado insurance; and

15 (C) wildfire insurance.

16 (14) "Tornado insurance" means insurance against:

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

20 (B) indirect losses resulting from the direct
21 loss.

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

25 (16) "Wildfire insurance" means insurance against:

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

29 (B) indirect losses resulting from the direct
30 loss.

31 SECTION _____. Sections 2210.004(a), (b), (c), and (d),

1 Insurance Code, are amended to read as follows:

2 (a) Except as provided by Subsection (h), for purposes of
3 this chapter and subject to this section, "insurable property"
4 means immovable property at a fixed location in a catastrophe area
5 or corporeal movable property located in that immovable property,
6 as designated in the plan of operation, that is determined by the
7 association according to the criteria specified in the plan of
8 operation to be in an insurable condition against windstorm and
9 hail, tornado, and wildfire, as determined by normal underwriting
10 standards. The term includes property described by Section
11 2210.209.

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

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

27 (d) Except as otherwise provided by this section, if repair
28 of damage to a structure involves replacement of items covered in
29 the building specifications set forth in the plan of operation, the
30 repairs must be completed in a manner that complies with those
31 specifications for the structure to continue to be insurable

1 property for windstorm and hail insurance, tornado insurance, and
2 wildfire insurance.

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

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

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

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

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

30 (a) Each biennium, the department shall conduct a study of
31 market incentives to promote participation in the voluntary

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

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

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

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

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

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

25 (a) The plan of operation must:

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

28 (2) include:

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

31 (B) underwriting standards;

1 (C) procedures for accepting and ceding
2 reinsurance;

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

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

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

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

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

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

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

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

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

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

31 (a) Except as provided by Subsections (e) and (f), a

1 windstorm and hail insurance policy, tornado insurance policy, or
2 wildfire insurance policy issued by the association for a dwelling,
3 as that term is defined by the department or a successor to the
4 department, must include coverage for:

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

8 (2) loss of use; and

9 (3) consequential losses.

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

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

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

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

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

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

30 (c) The total assessment under this section in a state
31 fiscal year must be in the amount estimated by the department as

1 necessary to cover the administrative costs of the [windstorm]
2 inspection program under Section 2210.251 to be incurred in [the
3 ~~first tier coastal counties in~~] that fiscal year.

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

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

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

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

19 SECTION _____. Section 2210.258, Insurance Code, is amended
20 by adding Subsection (a-1) to read as follows:

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

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

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

31 SECTION _____. Section 2210.359(a), Insurance Code, is

1 amended to read as follows:

2 (a) Except as otherwise provided by this subsection, a rate
3 approved by the commissioner under this subchapter may not reflect
4 an average rate change that is more than 10 percent higher or lower
5 than the rate for commercial windstorm and hail insurance,
6 commercial tornado insurance, or commercial wildfire insurance or
7 10 percent higher or lower than the rate for noncommercial
8 windstorm and hail insurance, noncommercial tornado insurance, or
9 noncommercial wildfire insurance in effect on the date the filing
10 is made. The rate may not reflect a rate change for an individual
11 rating class that is 15 percent higher or lower than the rate for
12 that individual rating class in effect on the date the filing is
13 made. This subsection does not apply to a rate filed under Sections
14 2210.351(a)-(d).

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

17 (b) The catastrophe plan must:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 27 (A) fire and allied lines;
- 28 (B) farm and ranch owners;
- 29 (C) residential property insurance;
- 30 (D) private passenger automobile liability and
- 31 physical damage insurance; and

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

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

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

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

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

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

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

18 (a) The board shall:

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

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

25 (A) the adequacy of rates;

26 (B) the operation of the association; and

27 (C) the availability of coverage; and

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

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

1 (b) The report must include:

2 (1) an analysis of any problems identified; and

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

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

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