86R28275 JES-D

By:  Lucio III H.B. No. 4534

Substitute the following for H.B. No. 4534:

By:  Lucio III C.S.H.B. No. 4534

A BILL TO BE ENTITLED

AN ACT

relating to the rates and other funding of the Texas Windstorm Insurance Association.

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

SECTION 1.  Section 2210.071, Insurance Code, is amended to read as follows:

Sec. 2210.071.  PAYMENT OF EXCESS LOSSES. (a) If, in a catastrophe year, an occurrence or series of occurrences in a catastrophe area results in insured losses and operating expenses of the association in excess of premium and other revenue of the association, the excess losses and operating expenses shall be paid as provided by this subchapter.

(b)  The association may not pay insured losses and operating expenses resulting from an occurrence or series of occurrences in a catastrophe year with premium and other revenue earned in a subsequent year.

SECTION 2.  Section 2210.0715, Insurance Code, is amended to read as follows:

Sec. 2210.0715.  PAYMENT FROM RESERVES AND TRUST FUND. (a) The association shall pay losses resulting from an occurrence or series of occurrences in a catastrophe year in excess of premium and other revenue of the association for that catastrophe year from [~~available~~] reserves of the association available before or accrued during that catastrophe year and [~~available~~] amounts in the catastrophe reserve trust fund available before or accrued during that catastrophe year.

(b)  Proceeds of [~~Class 1~~] public securities issued or assessments made before or as a result [~~the date~~] of any occurrence or series of occurrences in a catastrophe year that results in insured losses may not be included in [~~available~~] reserves available for a subsequent catastrophe year for purposes of this section.

SECTION 3.  Subchapter C, Chapter 2210, Insurance Code, is amended by adding Section 2210.1052 to read as follows:

Sec. 2210.1052.  EMERGENCY MEETING. If the final estimate of losses for an occurrence or series of occurrences made by the chief financial officer or chief actuary of the association indicates member insurers may be subject to an assessment under Subchapter B-1, the board of directors shall call an emergency meeting of the members of the association to notify the members about the assessment.

SECTION 4.  (a) Effective December 1, 2019, Section 2210.351(d), Insurance Code, is amended to read as follows:

(d)  The association may use a rate filed by the association without prior commissioner approval if:

(1)  the filing is made not later than the 30th day before the date of any use or delivery for use of the rate;

(2)  the filed rate does not exceed [~~105 percent of~~] the rate in effect on the date on which the filing is made;

(3)  the filed rate does not reflect a rate [~~change~~] for an individual rating class that is [~~10 percent~~] higher than the rate in effect for that rating class on the date on which the filing is made; and

(4)  the commissioner has not disapproved the filing in writing, advising of the reasons for the disapproval and the criteria the association is required to meet to obtain approval.

(b)  Effective September 1, 2021, Section 2210.351(d), Insurance Code, is amended to read as follows:

(d)  The association may use a rate filed by the association without prior commissioner approval if:

(1)  the filing is made not later than the 30th day before the date of any use or delivery for use of the rate;

(2)  the filed rate does not exceed 105 percent of the rate in effect on the date on which the filing is made;

(3)  the filed rate does not reflect a rate change for an individual rating class that is 10 percent higher than the rate in effect for that rating class on the date on which the filing is made; and

(4)  the commissioner has not disapproved the filing in writing, advising of the reasons for the disapproval and the criteria the association is required to meet to obtain approval.

SECTION 5.  (a) Effective December 1, 2019, Section 2210.352(a-1), Insurance Code, is amended to read as follows:

(a-1)  The association may use a rate filed by the association under this section without prior commissioner approval if:

(1)  the filing is made not later than the 30th day before the date of any use or delivery for use of the rate;

(2)  the filed rate does not exceed [~~105 percent of~~] the rate used by the association in effect on the date on which the filing is made; and

(3)  the filed rate does not reflect a rate [~~change~~] for an individual rating class that is [~~10 percent~~] higher than the rate in effect for that rating class on the date on which the filing is made.

(b)  Effective September 1, 2021, Section 2210.352(a-1), Insurance Code, is amended to read as follows:

(a-1)  The association may use a rate filed by the association under this section without prior commissioner approval if:

(1)  the filing is made not later than the 30th day before the date of any use or delivery for use of the rate;

(2)  the filed rate does not exceed 105 percent of the rate used by the association in effect on the date on which the filing is made; and

(3)  the filed rate does not reflect a rate change for an individual rating class that is 10 percent higher than the rate in effect for that rating class on the date on which the filing is made.

SECTION 6.  Section 2210.452, Insurance Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c)  In addition to the payment required by Subsection (c-1), at [~~At~~] the end of each calendar year or policy year, the association shall use the net gain from operations of the association, including all premium and other revenue of the association in excess of incurred losses, operating expenses, public security obligations, and public security administrative expenses, to make payments to the trust fund, procure reinsurance, or use alternative risk financing mechanisms, or to make payments to the trust fund and procure reinsurance or use alternative risk financing mechanisms.

(c-1)  The association shall annually pay to the catastrophe reserve trust fund 20 percent of net earned premium of the association.

SECTION 7.  Chapter 2210, Insurance Code, is amended by adding Subchapter N-1 to read as follows:

SUBCHAPTER N-1. LEGISLATIVE FUNDING AND FUNDING STRUCTURE OVERSIGHT BOARD

Sec. 2210.661.  DEFINITION. In this subchapter, "board" means the windstorm insurance legislative funding and funding structure oversight board.

Sec. 2210.662.  COMPOSITION OF BOARD. The board is composed of eight members as follows:

(1)  four members of the senate appointed by the lieutenant governor; and

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

Sec. 2210.663.  POWERS AND DUTIES OF BOARD. (a) The board shall:

(1)  gather information regarding:

(A)  how the association's current funding and funding structure operate;

(B)  how the catastrophic risk pools of other states operate; and

(C)  other information that the board considers necessary to prepare the report required by Section 2210.664; and

(2)  hold public meetings to hear testimony from experts, stakeholders, and other interested parties regarding recommendations and proposals for establishing and implementing sustainable funding and a sustainable funding structure for the association.

(b)  The board may request reports and other information as necessary to implement this subchapter from:

(1)  the department;

(2)  the association; and

(3)  experts, stakeholders, and other interested parties described by Subsection (a)(2).

Sec. 2210.664.  REPORT. (a) The board shall prepare a report of the board's findings regarding the current funding and funding structure of the association, problems with the funding and funding structure, and recommendations for legislative action related to the funding, funding structure, and sustainability of the association. The report must include:

(1)  an analysis of the current funding, funding structure, and sustainability of the association, including the association's reliance on debt and reinsurance; and

(2)  recommendations for legislative action necessary to:

(A)  address problems with the current funding and funding structure of the association; and

(B)  foster the stability and sustainability of the association.

(b)  Not later than November 15, 2020, the board shall deliver the report prepared under Subsection (a) to:

(1)  the governor;

(2)  the lieutenant governor; and

(3)  the speaker of the house of representatives.

Sec. 2210.665.  EXPIRATION. This subchapter expires September 1, 2021.

SECTION 8.  As soon as practicable after the effective date of this Act, the Texas Windstorm Insurance Association, through the board of directors of that association, shall propose to the commissioner of insurance amendments to the association's plan of operation to be effective before the hurricane season of 2020 as necessary under Chapter 2210, Insurance Code, as amended by this Act.

SECTION 9.  (a) Sections 2210.351(d) and 2210.352(a-1), Insurance Code, as amended by this Act effective December 1, 2019, apply only to a rate filed by the Texas Windstorm Insurance Association with the Texas Department of Insurance on or after December 1, 2019. A rate filed with the Texas Department of Insurance before December 1, 2019, is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

(b)  Sections 2210.351(d) and 2210.352(a-1), Insurance Code, as amended by this Act effective September 1, 2021, apply only to a rate filed by the Texas Windstorm Insurance Association with the Texas Department of Insurance on or after September 1, 2021. A rate filed with the Texas Department of Insurance before September 1, 2021, is governed by the law applicable to the rate immediately before that date, and that law is continued in effect for that purpose.

SECTION 10.  Except as otherwise provided by this Act, this Act takes effect December 1, 2019.