By:  Taylor S.B. No. 2305

(In the Senate - Filed March 8, 2019; March 21, 2019, read first time and referred to Committee on Business & Commerce; April 8, 2019, reported favorably by the following vote: Yeas 9, Nays 0; April 8, 2019, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Hancock              X

Nichols              X

Campbell             X

Creighton            X

Menéndez             X

Paxton               X

Schwertner           X

Whitmire             X

Zaffirini            X

A BILL TO BE ENTITLED

AN ACT

relating to the certification of certain improvements by the Texas Department of Insurance in connection with the issuance of insurance by the Texas Windstorm Insurance Association; authorizing a penalty.

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

SECTION 1.  Section 2210.251(g), Insurance Code, is amended to read as follows:

(g)  A certificate of compliance issued by the department [~~or association~~] under Section 2210.2515 demonstrates compliance with the applicable building code under the plan of operation. The certificate is evidence of insurability of the structure by the association.

SECTION 2.  Section 2210.2515, Insurance Code, is amended by amending Subsections (c) and (e) and adding Subsections (i) and (j) to read as follows:

(c)  A person may apply to the department [~~association~~] on a form prescribed by the department for a certificate of compliance for a completed improvement. Except as provided by Subsection (e), the [~~The~~] department [~~association~~] shall issue a certificate of compliance for a completed improvement if a professional engineer licensed by the Texas Board of Professional Engineers inspects the completed improvement in accordance with commissioner rule and affirms the improvement complies[~~:~~

[~~(1)  has designed the improvement, has affixed the engineer's seal on the design, and submits to the association on a form prescribed by the department an affirmation of compliance~~] with the applicable building code under the plan of operation and, if a design of the completed improvement affixed with the seal of a licensed professional engineer was submitted, that the improvement conforms to the design[~~; or~~

[~~(2)  completes a sealed post-construction evaluation report that confirms compliance with the applicable building code under the plan of operation~~].

(e)  Except as otherwise provided by this subchapter, the department may not issue a certificate of compliance under Subsection (c) or (d) if within six months after the date of the final inspection of the structure that is the subject of the application, the department has not received:

(1)  fully completed forms prescribed by the department demonstrating that the improvement satisfies the requirements under Subsection (c) or Subsection (d)(1) or (2), as applicable; and

(2)  payment in full of all inspection fees, including fees for prior department inspections, owed to the department.

(i)  The department may rescind a certificate of compliance issued under this section if the department finds that the certificate was improperly issued.

(j)  If the department finds that a professional engineer has failed to provide complete and accurate information in connection with an application for a certificate of compliance under this section, the department may:

(1)  impose a reasonable penalty on the professional engineer, including prohibiting the engineer from applying for certificates of compliance under this section; or

(2)  submit a formal complaint to the Texas Board of Professional Engineers recommending license revocation.

SECTION 3.  Section 2210.2515(f), Insurance Code, is repealed.

SECTION 4.  (a)  Section 2210.251(g), Insurance Code, as amended by this Act, does not affect the status of a certificate of compliance issued by the Texas Windstorm Insurance Association before January 1, 2019, or after January 1, 2019, in response to an application made before that date for purposes of establishing evidence of insurability.

(b)  Section 2210.2515, Insurance Code, as amended by this Act, applies only to an application for a certificate of compliance made on or after January 1, 2020. An application for a certificate of compliance made before January 1, 2020, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5.  This Act takes effect September 1, 2019.

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