

AN ACT

relating to certain operations and functions of the Texas Windstorm Insurance Association and studies relating to the Texas Windstorm Insurance Association and the Fair Access to Insurance Requirements Plan; authorizing a penalty; authorizing an assessment.

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

1 ~~[available]~~ reserves of the association available before or accrued
2 during that catastrophe year and ~~[available]~~ amounts in the
3 catastrophe reserve trust fund available before or accrued during
4 that catastrophe year.

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

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

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

19 SECTION 4. Sections 2210.207(c) and (d), Insurance Code,
20 are amended to read as follows:

21 (c) If, on the effective date of an association policy ~~at~~
22 ~~the time of loss~~, the total amount of insurance applicable to a
23 dwelling is equal to 80 percent or more of the full replacement cost
24 of the dwelling or equal to the maximum amount of insurance
25 otherwise available through the association, coverage applicable
26 to the dwelling under the policy is extended to include the full
27 cost of repair or replacement, without a deduction for

1 depreciation.

2 (d) If, on the effective date of an association policy [~~at~~
3 ~~the time of loss~~], the total amount of insurance applicable to a
4 dwelling is equal to less than 80 percent of the full replacement
5 cost of the dwelling and less than the maximum amount of insurance
6 available through the association, liability for loss under the
7 policy may not exceed the replacement cost of the part of the
8 dwelling that is damaged or destroyed, less depreciation.

9 SECTION 5. Section [2210.251\(g\)](#), Insurance Code, is amended
10 to read as follows:

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

16 SECTION 6. Section [2210.2515](#), Insurance Code, is amended by
17 amending Subsection (c) and adding Subsections (c-1), (i), (j), and
18 (k) to read as follows:

19 (c) A person may apply to the department [~~association~~] on a
20 form prescribed by the department for a certificate of compliance
21 for a completed improvement. The department [~~association~~] shall
22 issue a certificate of compliance for a completed improvement if a
23 professional engineer licensed by the Texas Board of Professional
24 Engineers:

25 (1) has designed the improvement, has affixed the
26 engineer's seal on the design, and submits to the department
27 [~~association~~] on a form prescribed by the department an affirmation

1 that the design complies [~~of compliance~~] with the applicable
2 building code under the plan of operation and that the improvement
3 was constructed in accordance with the design; or

4 (2) completes and submits to the department a sealed
5 post-construction evaluation report that:

6 (A) confirms the improvement's compliance with
7 the applicable building code under the plan of operation; and

8 (B) includes documentation supporting the
9 engineer's post-construction evaluation report on a form
10 prescribed by the department on which the engineer has affixed the
11 engineer's seal.

12 (c-1) The department may deny an application for a
13 certificate of compliance under Subsection (c) if the evaluation
14 report or the form prescribed by the department under Subsection
15 (c)(1) is not fully documented as required under Subsection (c).

16 (i) The department is authorized to submit a formal
17 complaint under Chapter 1001, Occupations Code, to the Texas Board
18 of Professional Engineers related to the engineering work of a
19 professional engineer as reflected in the sealed post-construction
20 evaluation report or other materials submitted by an engineer under
21 Subsection (c).

22 (j) If the department finds that a person acting as a
23 qualified inspector under Section 2210.254 has failed to provide
24 complete and accurate information in connection with an inspection
25 for a certificate of compliance under this section, the department
26 may impose a reasonable penalty on the inspector, including by
27 prohibiting the inspector from applying for certificates of

1 compliance under this section. The commissioner may adopt rules as
2 necessary to implement this subsection.

3 (k) The department may rescind a certificate of compliance
4 issued under this section if the department finds that the
5 improvement does not comply with the applicable building code under
6 the plan of operation. The commissioner may adopt rules as
7 necessary to implement this subsection.

8 SECTION 7. Subchapter H, Chapter 2210, Insurance Code, is
9 amended by adding Section 2210.3511 to read as follows:

10 Sec. 2210.3511. PUBLIC ACCESS TO RATE ADEQUACY ANALYSIS.

11 (a) The association shall make the association's rate adequacy
12 analysis publicly available on its Internet website for at least 14
13 days before the date the board of directors votes on the submission
14 of a proposed rate filing based on the analysis to the department.
15 The rate adequacy analysis must include:

16 (1) all user selected hurricane model input
17 assumptions; and

18 (2) output data:

19 (A) with the same content and in the same format
20 that is customarily provided to:

21 (i) the association by hurricane modelers;

22 and

23 (ii) the department by the association; and

24 (B) in a searchable electronic format that allows
25 for efficient analysis and is sufficiently detailed to allow the
26 historical experience in this state to be compared to results
27 produced by the model.

1 (b) The association shall accept public comment with
2 respect to the association's rate adequacy analysis at a public
3 meeting of the board of directors before the board of directors
4 votes on the submission of a proposed rate filing to the department.

5 SECTION 8. Section [2210.453](#), Insurance Code, is amended by
6 adding Subsections (d) and (e) to read as follows:

7 (d) The cost of the reinsurance purchased or alternative
8 financing mechanisms used under this section in excess of the
9 minimum funding level required by Subsection (b) shall be paid by
10 assessments as provided by this subsection. The association, with
11 the approval of the commissioner, shall notify each member of the
12 association of the amount of the member's assessment under this
13 subsection. The proportion of the cost to each insurer under this
14 subsection shall be determined in the manner used to determine each
15 insurer's participation in the association for the year under
16 Section [2210.052](#).

17 (e) A member of the association may not recoup an assessment
18 paid under Subsection (d) through a premium surcharge or tax
19 credit.

20 SECTION 9. Subchapter L-1, Chapter [2210](#), Insurance Code, is
21 amended by adding Section 2210.5741 to read as follows:

22 Sec. 2210.5741. REPLACEMENT COST COVERAGE CLAIM
23 PROCESSING. (a) After the association accepts coverage for a claim
24 in full or in part, a claimant whose association policy includes
25 replacement cost coverage for the claim may request the replacement
26 cost payment by submitting to the association documentation of the
27 cost and completion of the repairs related to the claim not later

1 than the 545th day after the date the claimant receives a
2 notification under Section 2210.573(d)(1) or (2).

3 (b) Not later than the 30th day after the date the
4 association receives documentation under Subsection (a), the
5 association shall provide the claimant, in writing, notification
6 of:

7 (1) the amount of the replacement cost payment the
8 association will make; and

9 (2) the deadline to request appraisal under this
10 section.

11 (c) The association shall pay the amount described by
12 Subsection (b)(1) not later than the 10th day after the date
13 notification is provided under Subsection (b).

14 (d) If a claimant has not demanded appraisal with respect to
15 a claim under Section 2210.574 and the claimant disputes the
16 replacement cost amount the association will pay with respect to
17 the claim, the claimant may demand appraisal of the replacement
18 cost amount not later than the 30th day after the date the claimant
19 receives the notification under Subsection (b). A claimant may
20 demand appraisal under this section without regard to whether all
21 repairs related to the claim are complete.

22 (e) Except with respect to the deadlines applicable to an
23 appraisal under this section, the appraisal under this section
24 shall be conducted in the same manner as an appraisal demanded under
25 Section 2210.574.

26 (f) If a claimant's association policy includes replacement
27 cost coverage, the written notification provided to the claimant

1 under Section 2210.573(d)(1) or (2) must notify the claimant of the
2 deadlines under this section for:

3 (1) completing repairs and submitting documentation
4 under Subsection (a); and

5 (2) demanding appraisal under this section.

6 SECTION 10. Section 2210.581, Insurance Code, is amended by
7 amending Subsections (a) and (b) and adding Subsection (d) to read
8 as follows:

9 (a) Subject to Subsection (b), the commissioner, on a
10 showing of good cause, may by rule extend any deadline established
11 under this subchapter and set the number of days by which the
12 deadline is extended.

13 (b) The [~~With reference to claims filed during a particular~~
14 ~~catastrophe year, the~~] extension of deadlines under Subsection (a)
15 related to claims arising from an occurrence may not exceed 120 days
16 in the aggregate for deadlines applicable only to the association.
17 The limitation on extensions under this subsection does not apply
18 to the extension of a deadline imposed on a claimant, or on both a
19 claimant and the association.

20 (d) The commissioner shall adopt rules as necessary to
21 implement this section. Section 2001.0045, Government Code, does
22 not apply to rules adopted under this section.

23 SECTION 11. Chapter 2210, Insurance Code, is amended by
24 adding Subchapter N-1 to read as follows:

25 SUBCHAPTER N-1. LEGISLATIVE FUNDING AND FUNDING STRUCTURE

26 OVERSIGHT BOARD

27 Sec. 2210.661. DEFINITION. In this subchapter, "board"

1 means the windstorm insurance legislative funding and funding
2 structure oversight board.

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

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

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

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

13 (1) gather information regarding:

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

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

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

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

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

27 (1) the department;

1 (2) the association; and

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

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

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

13 (2) recommendations for legislative action necessary
14 to:

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

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

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

21 (1) the governor;

22 (2) the lieutenant governor; and

23 (3) the speaker of the house of representatives.

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

26 SECTION 12. Section [2210.2515\(f\)](#), Insurance Code, is
27 repealed.

1 SECTION 13. (a) Section 2210.251(g), Insurance Code, as
2 amended by this Act, does not affect the status of a certificate of
3 compliance issued by the Texas Windstorm Insurance Association
4 before June 1, 2020, or after June 1, 2020, in response to an
5 application made before that date for purposes of establishing
6 evidence of insurability.

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

13 (c) Section 2210.3511, Insurance Code, as added by this Act,
14 applies only to a rate adequacy analysis made in relation to a rate
15 filing made on or after the effective date of this Act.

16 SECTION 14. (a) The windstorm insurance legislative
17 oversight board established under Subchapter N, Chapter 2210,
18 Insurance Code, shall conduct a study to evaluate a merger of the
19 Texas Windstorm Insurance Association established under Chapter
20 2210, Insurance Code, and the Fair Access to Insurance Requirements
21 Plan established under Chapter 2211, Insurance Code.

22 (b) The evaluation must consider:

23 (1) the affordability and availability of windstorm
24 and hail insurance throughout this state and, in particular, in the
25 seacoast territory as defined by Section 2210.003, Insurance Code;

26 (2) the affordability and availability of residential
27 property insurance throughout this state and, in particular, in

1 underserved areas as defined by Section [2211.001](#), Insurance Code;

2 (3) the advisability of merging the Texas Windstorm
3 Insurance Association and the Fair Access to Insurance Requirements
4 Plan to provide windstorm and hail and residential property
5 insurance in this state;

6 (4) any efficiencies or inefficiencies from a merger
7 of the Texas Windstorm Insurance Association and the Fair Access to
8 Insurance Requirements Plan;

9 (5) the funding necessary to ensure that windstorm and
10 hail and residential property insurance are available after the
11 merger of the Texas Windstorm Insurance Association and the Fair
12 Access to Insurance Requirements Plan; and

13 (6) any other items the windstorm insurance
14 legislative oversight board determines are relevant to a merger of
15 the Texas Windstorm Insurance Association and the Fair Access to
16 Insurance Requirements Plan.

17 (c) Not later than January 1, 2021, the windstorm insurance
18 legislative oversight board shall submit to the governor, the
19 lieutenant governor, the speaker of the house of representatives,
20 and the Texas Department of Insurance a written report of the study
21 conducted under this section. The report must include the findings
22 and legislative recommendations of the board.

23 (d) This section expires January 1, 2022.

24 SECTION 15. Sections [2210.207](#) and [2210.581](#), Insurance Code,
25 as amended by this Act, and Section [2210.5741](#), Insurance Code, as
26 added by this Act, apply only to an insurance policy delivered,
27 issued for delivery, or renewed on or after January 1, 2020. A

1 policy delivered, issued for delivery, or renewed before January 1,
2 2020, is governed by the law as it existed immediately before the
3 effective date of this Act, and that law is continued in effect for
4 that purpose.

5 SECTION 16. This Act takes effect immediately if it
6 receives a vote of two-thirds of all the members elected to each
7 house, as provided by Section 39, Article III, Texas Constitution.
8 If this Act does not receive the vote necessary for immediate
9 effect, this Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I certify that H.B. No. 1900 was passed by the House on April 18, 2019, by the following vote: Yeas 147, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1900 on May 23, 2019, by the following vote: Yeas 143, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1900 was passed by the Senate, with amendments, on May 20, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor