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H.B. No. 4534

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

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

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

1 catastrophe reserve trust fund available before or accrued during
2 that catastrophe year.

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

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

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

18 SECTION 4. (a) Effective December 1, 2019, Section
19 2210.351(d), Insurance Code, is amended to read as follows:

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

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

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

26 (3) the filed rate does not reflect a rate [~~change~~] for
27 an individual rating class that is [~~10 percent~~] higher than the rate

1 in effect for that rating class on the date on which the filing is
2 made; and

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

6 (b) Effective September 1, 2021, Section [2210.351\(d\)](#),
7 Insurance Code, is amended to read as follows:

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

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

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

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

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

21 SECTION 5. (a) Effective December 1, 2019, Section
22 [2210.352\(a-1\)](#), Insurance Code, is amended to read as follows:

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

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

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

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

8 (b) Effective September 1, 2021, Section [2210.352\(a-1\)](#),
9 Insurance Code, is amended to read as follows:

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

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

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

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

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

25 (c) In addition to the payment required by Subsection (c-1),
26 at [~~At~~] the end of each calendar year or policy year, the
27 association shall use the net gain from operations of the

1 association, including all premium and other revenue of the
2 association in excess of incurred losses, operating expenses,
3 public security obligations, and public security administrative
4 expenses, to make payments to the trust fund, procure reinsurance,
5 or use alternative risk financing mechanisms, or to make payments
6 to the trust fund and procure reinsurance or use alternative risk
7 financing mechanisms.

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

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

13 SUBCHAPTER N-1. LEGISLATIVE FUNDING AND FUNDING STRUCTURE

14 OVERSIGHT BOARD

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

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

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

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

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

26 (1) gather information regarding:

27 (A) how the association's current funding and

1 funding structure operate;

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

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

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

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

13 (1) the department;

14 (2) the association; and

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

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

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

26 (2) recommendations for legislative action necessary
27 to:

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

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

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

7 (1) the governor;

8 (2) the lieutenant governor; and

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

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

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

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

27 (b) Sections 2210.351(d) and 2210.352(a-1), Insurance Code,

1 as amended by this Act effective September 1, 2021, apply only to a
2 rate filed by the Texas Windstorm Insurance Association with the
3 Texas Department of Insurance on or after September 1, 2021. A rate
4 filed with the Texas Department of Insurance before September 1,
5 2021, is governed by the law applicable to the rate immediately
6 before that date, and that law is continued in effect for that
7 purpose.

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