

By: Taylor  
(Bonnen of Galveston)

S.B. No. 2305

Substitute the following for S.B. No. 2305:

By: Lucio III

C.S.S.B. No. 2305

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain functions of the Texas Windstorm Insurance  
3 Association and a study regarding a merger of the Texas Windstorm  
4 Insurance Association and the Fair Access to Insurance Requirements  
5 Plan; authorizing a penalty.

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

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

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

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

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

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

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

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

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

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

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

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

1 section, the department may submit a formal complaint to the Texas  
2 Board of Professional Engineers recommending license revocation.  
3 If the Texas Board of Professional Engineers finds that the  
4 engineer provided complete and accurate information in connection  
5 with the application for a certificate of compliance, the  
6 department may not refuse to issue the certificate of compliance  
7 solely on the basis of that engineer's conduct.

8 SECTION 3. 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 4. (a)        The windstorm insurance legislative  
6 oversight board established under Subchapter N, Chapter 2210,  
7 Insurance Code, shall conduct a study to evaluate a merger of the  
8 Texas Windstorm Insurance Association established under Chapter  
9 2210, Insurance Code, and the Fair Access to Insurance Requirements  
10 Plan established under Chapter 2211, Insurance Code.

11        (b)        The evaluation must consider:

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

15                (2)        the affordability and availability of residential  
16 property insurance throughout this state and, in particular, in  
17 underserved areas as defined by Section 2211.001, Insurance Code;

18                (3)        the advisability of merging the Texas Windstorm  
19 Insurance Association and the Fair Access to Insurance Requirements  
20 Plan to provide windstorm and hail and residential property  
21 insurance in this state;

22                (4)        any efficiencies or inefficiencies from a merger  
23 of the Texas Windstorm Insurance Association and the Fair Access to  
24 Insurance Requirements Plan;

25                (5)        the funding necessary to ensure that windstorm and  
26 hail and residential property insurance are available after the  
27 merger of the Texas Windstorm Insurance Association and the Fair

1 Access to Insurance Requirements Plan; and

2 (6) any other items the windstorm insurance  
3 legislative oversight board determines are relevant to a merger of  
4 the Texas Windstorm Insurance Association and the Fair Access to  
5 Insurance Requirements Plan.

6 (c) Not later than January 1, 2021, the windstorm insurance  
7 legislative oversight board shall submit to the governor, the  
8 lieutenant governor, the speaker of the house of representatives,  
9 and the Texas Department of Insurance a written report of the study  
10 conducted under this section. The report must include the findings  
11 and legislative recommendations of the board.

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

13 SECTION 5. Section [2210.2515\(f\)](#), Insurance Code, is  
14 repealed.

15 SECTION 6. (a) Section [2210.251\(g\)](#), Insurance Code, as  
16 amended by this Act, does not affect the status of a certificate of  
17 compliance issued by the Texas Windstorm Insurance Association  
18 before January 1, 2019, or after January 1, 2019, in response to an  
19 application made before that date for purposes of establishing  
20 evidence of insurability.

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

27 (c) Section [2210.3511](#), Insurance Code, as added by this Act,

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1 applies only to a rate adequacy analysis made in relation to a rate  
2 filing made on or after the effective date of this Act.

3 SECTION 7. This Act takes effect September 1, 2019.