

House Bill 1900
Senate Amendments
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HOUSE VERSION

SECTION 1. Sections 2210.207(c) and (d), Insurance Code, are amended to read as follows:

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

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

SECTION 2. Subchapter L-1, Chapter 2210, Insurance Code, is amended by adding Section 2210.5741 to read as follows:

Sec. 2210.5741. REPLACEMENT COST COVERAGE CLAIM PROCESSING. (a) After the association accepts coverage for a claim in full or in part, a claimant whose association policy includes replacement cost coverage for the claim may request the replacement cost payment by submitting to the association documentation of the cost and completion of the repairs related to the claim not later than the 545th day after the date the claimant receives a notification under Section 2210.573(d)(1) or (2).

SENATE VERSION (IE)

SECTION 1. Same as House version.

SECTION 2. Same as House version.

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

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

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

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

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

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

(f) If a claimant's association policy includes replacement cost coverage, the written notification provided to the claimant under Section 2210.573(d)(1) or (2) must notify the claimant of the deadlines under this section for:

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

(2) demanding appraisal under this section.

SENATE VERSION (IE)

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SECTION 3. Section 2210.581, Insurance Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

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

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

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

SECTION 4. The changes in law made by this Act apply only to an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2020. A policy delivered, issued for delivery, or renewed 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.

SENATE VERSION (IE)

SECTION 3. Section 2210.581, Insurance Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

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

(b) ~~The [With reference to claims filed during a particular catastrophe year, the]~~ extension of deadlines under Subsection (a) related to claims arising from an occurrence may not exceed 120 days in the aggregate for deadlines applicable only to the association. The limitation on extensions under this subsection does not apply to the extension of a deadline imposed on a claimant, or on both a claimant and the association. [FA1(1)]

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

SECTION 4. Sections 2210.207 and 2210.581, Insurance Code, as amended by this Act, and Section 2210.5741, Insurance Code, as added by this Act, apply only to an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2020. A policy delivered, issued for delivery, or renewed 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. [FA3(1)]

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No equivalent provision.

SENATE VERSION (IE)

SECTION __. 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. [FA1(3)]

CONFERENCE

No equivalent provision.

SECTION __. 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 4]~~ 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. [FA1(3)]

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No equivalent provision.

SENATE VERSION (IE)

SECTION __. Subchapter C. Chapter 2210, Insurance Code, is amended by adding Section 2210.1052 to read as follows:
Sec. 2210.1052. EMERGENCY MEETING. If the ultimate loss estimate 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 to notify the member insurers about the assessment. [FA1(3)]

CONFERENCE

No equivalent provision.

SECTION __. Section 2210.453, Insurance Code, is amended by adding Subsections (d) and (e) to read as follows:
(d) The cost of the reinsurance purchased or alternative financing mechanisms used under this section in excess of the minimum funding level required by Subsection (b) shall be paid by assessments as provided by this subsection. The association, with the approval of the commissioner, shall notify each member of the association of the amount of the member's assessment under this subsection. The proportion of the cost to each insurer under this subsection shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052.
(e) A member of the association may not recoup an assessment paid under Subsection (d) through a premium surcharge or tax credit. [FA1(3)]

No equivalent provision.

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

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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 including the chairperson of the Senate Business and Commerce Committee, who shall serve as co-chairperson of the board; 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

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(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. [FA1(3)]

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

No equivalent provision.

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- (b) The evaluation must consider:
- (1) the affordability and availability of windstorm and hail insurance throughout this state and, in particular, in the seacoast territory as defined by Section 2210.003, Insurance Code;
 - (2) the affordability and availability of residential property insurance throughout this state and, in particular, in underserved areas as defined by Section 2211.001, Insurance Code;
 - (3) the advisability of merging the Texas Windstorm Insurance Association and the Fair Access to Insurance Requirements Plan to provide windstorm and hail and residential property insurance in this state;
 - (4) any efficiencies or inefficiencies from a merger of the Texas Windstorm Insurance Association and the Fair Access to Insurance Requirements Plan;
 - (5) the funding necessary to ensure that windstorm and hail and residential property insurance are available after the merger of the Texas Windstorm Insurance Association and the Fair Access to Insurance Requirements Plan; and
 - (6) any other items the windstorm insurance legislative oversight board determines are relevant to a merger of the Texas Windstorm Insurance Association and the Fair Access to Insurance Requirements Plan.
- (c) Not later than January 1, 2021, the windstorm insurance legislative oversight board shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the Texas Department of Insurance a written report of the study conducted under Subsection (a) of this section. The report must include the findings and legislative recommendations of the board.
- (d) This section expires January 1, 2022. [FA1(3)]

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No equivalent provision.

SECTION __. 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. [FA3(2)]

No equivalent provision.

SECTION __. Section 2210.2515, Insurance Code, is amended by amending Subsection (c) and adding Subsections (c-1), (i), (j), and (k) 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. 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:

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

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

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

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

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

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

(j) If the department finds that a person acting as a qualified inspector under Section 2210.254 has failed to provide complete and accurate information in connection an inspection for a certificate of compliance under this section, the department may impose a reasonable penalty on the inspector, including by prohibiting the inspector from applying for certificates of compliance under this section. The commissioner may adopt rules as necessary to implement this subsection.

(k) The department may rescind a certificate of compliance issued under this section if the department finds that the improvement does not comply with the applicable building code under the plan of operation. The commissioner may adopt rules as necessary to implement this subsection.
[FA3(2)]

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No equivalent provision.

SENATE VERSION (IE)

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

Sec. 2210.3511. PUBLIC ACCESS TO RATE ADEQUACY ANALYSIS. (a) The association shall make the association's rate adequacy analysis publicly available on its Internet website for at least 14 days before the date the board of directors votes on the submission of a proposed rate filing based on the analysis to the department. The rate adequacy analysis must include:

(1) all user selected hurricane model input assumptions; and
(2) output data:

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

(i) the association by hurricane modelers; and
(ii) the department by the association; and

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

(b) The association shall accept public comment with respect to the association's rate adequacy analysis at a public meeting of the board of directors before the board of directors votes on the submission of a proposed rate filing to the department. [FA3(2)]

CONFERENCE

No equivalent provision.

SECTION __. (a) The windstorm insurance legislative oversight board established under Subchapter N, Chapter 2210, Insurance Code, shall conduct a study to evaluate a merger of the Texas Windstorm Insurance Association established under Chapter 2210, Insurance Code, and the

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Fair Access to Insurance Requirements Plan established under Chapter 2211, Insurance Code.

(b) The evaluation must consider:

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

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

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

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

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

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

(c) Not later than January 1, 2021, the windstorm insurance legislative oversight board shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the Texas Department of Insurance a written report of the study conducted under this section. The

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report must include the findings and legislative recommendations of the board.

(d) This section expires January 1, 2022. [FA3(2)]

No equivalent provision.

SECTION __. Section 2210.2515(f), Insurance Code, is repealed. [FA3(2)]

No equivalent provision.

SECTION __. (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 June 1, 2020, or after June 1, 2020, 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 June 1, 2020. An application for a certificate of compliance made before June 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.

(c) Section 2210.3511, Insurance Code, as added by this Act, applies only to a rate adequacy analysis made in relation to a rate filing made on or after the effective date of this Act. [FA3(2)]

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

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If

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this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019. [FA1(2)]