

By: Hunter

H.B. No. 100

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the setting of premium rates for Texas Windstorm
3 Insurance Association policies by the commissioner of insurance.

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

5 SECTION 1. Section 560.001, Insurance Code, is amended to
6 read as follows:

7 Sec. 560.001. DEFINITION OF INSURER. In this chapter,
8 "insurer" means an insurance company, reciprocal or interinsurance
9 exchange, mutual insurance company, farm mutual insurance company,
10 capital stock insurance company, county mutual insurance company,
11 Lloyd's plan, surplus lines insurer, or other legal entity engaged
12 in the business of insurance in this state. The term includes:

13 (1) an affiliate described by Section 823.003(a);

14 (2) ~~[the Texas Windstorm Insurance Association~~
15 ~~established under Chapter 2210,~~

16 ~~(3)]~~ the FAIR Plan Association established under
17 Chapter 2211; and

18 (3) (4) ~~(4)]~~ the Texas Automobile Insurance Plan
19 Association established under Chapter 2151.

20 SECTION 2. Section 2210.259(a-1), Insurance Code, is
21 amended to read as follows:

22 (a-1) For a policy insuring a noncompliant residential
23 structure eligible for coverage under Section 2210.258(c), the
24 association shall charge:

1 (1) a premium set by the commissioner that is based on
2 the rate charged in the voluntary market for the portion of the
3 canceled or nonrenewed policy that provides windstorm and hail
4 insurance coverage for the applicable risk; and

5 (2) an annual premium surcharge in an amount equal to
6 10 percent of that premium.

7 SECTION 3. Subchapter H, Chapter 2210, Insurance Code, is
8 amended by adding Sections 2210.331, 2210.332, 2210.333, 2210.334,
9 2210.335, 2210.336, 2210.337, and 2210.338 to read as follows:

10 Sec. 2210.331. SETTING OF PREMIUM RATES. (a) The
11 commissioner shall set and adopt the premium rates to be charged for
12 association policies.

13 (b) A premium may not be charged for an association policy
14 at a rate different from the rate set and adopted by the
15 commissioner.

16 Sec. 2210.332. FACTORS CONSIDERED IN SETTING PREMIUM RATES.
17 (a) In setting premium rates, the commissioner shall consider all
18 relevant revenue and expenses of the association.

19 (b) The premium rates set by the commissioner must be:
20 (1) reasonable as to the public; and
21 (2) nonconfiscatory as to the association and member
22 insurers.

23 Sec. 2210.333. SUBMISSION OF DATA. (a) The association
24 shall annually submit to the department a report containing
25 information relating to:

26 (1) loss experience;
27 (2) expense of operation; and

1 (3) other matters material to premium rates as
2 determined by the department.

3 (b) The information must be submitted in the form and manner
4 prescribed by the department.

5 Sec. 2210.334. HEARING REQUIRED FOR SETTING PREMIUM RATE.

6 (a) A premium rate previously set by the commissioner may not be
7 changed until after the commissioner holds a public hearing.

8 (b) The commissioner shall order a public hearing to
9 consider changing a premium rate, including setting a new premium
10 rate, in response to a written request by the association. The
11 association may not request more than one hearing in a 12-month
12 period.

13 (c) A public hearing held under Subsection (a) shall be
14 conducted by the commissioner as a rulemaking hearing held under
15 Subchapter B, Chapter 2001, Government Code.

16 (d) The commissioner shall render a decision and issue a
17 final order not later than the 120th day after the date the
18 commissioner receives a written request under Subsection (b).

19 (e) The commissioner shall consider each matter presented
20 in a hearing under this section and announce in a public hearing all
21 decisions on all matters considered.

22 Sec. 2210.335. COURT PETITION. (a) The association may
23 petition a district court in Travis County to enter an order
24 requiring the commissioner to comply with the deadline described by
25 Section 2210.334(d).

26 (b) If the commissioner fails to comply with the
27 requirements of Section 2210.334(d), the association may petition a

1 district court in Travis County to adopt a premium rate based on the
2 record made in the hearing before the commissioner under Section
3 2210.334.

4 (c) If the record made in the hearing before the
5 commissioner is not complete before the request for the court to
6 adopt a premium rate under Subsection (b), the court shall hold an
7 evidentiary hearing to establish a record before adopting the
8 premium rate.

9 (d) After a petition has been filed under Subsection (b),
10 the commissioner may not issue findings or an order related to the
11 subject matter of the petition until after the date the court enters
12 a final judgment.

13 (e) A district court may appoint a magistrate to adopt a
14 premium rate under this section.

15 Sec. 2210.336. PERIODIC HEARING. The commissioner shall
16 hold a public hearing not earlier than July 1 after the fifth
17 anniversary of the closing of a hearing held under this subchapter
18 and not later than December 31 following that July 1 to consider the
19 setting of premium rates for the association under this subchapter.

20 Sec. 2210.337. COMMISSIONER AUTHORITY TO HOLD HEARINGS AS
21 NECESSARY. At any time, the commissioner may order a public hearing
22 to consider adoption of premium rates for the association under
23 this subchapter.

24 Sec. 2210.338. NOTICE OF CERTAIN HEARINGS. Not later than
25 the 60th day before the date of a hearing under Section 2210.334,
26 2210.336, or 2210.337, notice of the hearing and of each item to be
27 considered at the hearing shall be:

- 1 (1) sent directly to the association; and
2 (2) published in the Texas Register and on the
3 department's Internet website.

4 SECTION 4. Section 2210.351(b), Insurance Code, is amended
5 to read as follows:

6 (b) The association must file with the department each [A
7 filing under this section must indicate the character and the
8 extent of the coverage contemplated and must be accompanied by the]
9 policy and endorsement form [~~forms~~] proposed to be used. The forms
10 may be designed specifically for use by the association without
11 regard to other forms filed with, approved by, or prescribed by the
12 department for use in this state.

13 SECTION 5. Section 2210.363(a), Insurance Code, is amended
14 to read as follows:

15 (a) The commissioner may authorize the association to [~~may~~]
16 offer a person insured under this chapter an actuarially justified
17 premium discount on a policy issued by the association, or an
18 actuarially justified credit against a surcharge assessed against
19 the person, other than a surcharge assessed under Subchapter M, if:

20 (1) the construction, alteration, remodeling,
21 enlargement, or repair of, or an addition to, insurable property
22 exceeds applicable building code standards set forth in the plan of
23 operation; or

24 (2) the person elects to purchase a binding
25 arbitration endorsement under Section 2210.554.

26 SECTION 6. Section 2210.453(f), Insurance Code, is amended
27 to read as follows:

1 (f) The association may not purchase reinsurance under this
2 section from an insurer or broker involved in the execution of a
3 catastrophe model on which the association relies in [+
4 ~~[(1)]~~ determining the probable maximum loss applicable
5 for the period covered by the reinsurance [~~+-~~
6 ~~[(2) adopting rates under Section 2210.355]~~].

7 SECTION 7. The following provisions of the Insurance Code
8 are repealed:

- 9 (1) Section 2210.004(f);
10 (2) Sections 2210.351(a), (c), (d), (e), and (f); and
11 (3) Sections 2210.3511, 2210.3512, 2210.352,
12 2210.353, 2210.354, 2210.355, 2210.357, 2210.358, and 2210.359.

13 SECTION 8. The rates for Texas Windstorm Insurance
14 Association insurance policies on the effective date of this Act
15 remain in effect until the commissioner of insurance holds a
16 hearing to change the rates under Subchapter H, Chapter 2210,
17 Insurance Code, as amended by this Act.

18 SECTION 9. This Act takes effect on the 91st day after the
19 last day of the legislative session.