

BILL ANALYSIS

Senate Research Center

H.B. 769
By: Middleton et al. (Taylor)
Jurisprudence
5/19/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

It has been noted that previous reforms of the Texas Windstorm Insurance Association's (TWIA) operations to control rates and assert greater accountability have greatly improved its administration. However, interested parties contend additional reforms to TWIA are needed to ensure that it fulfills its role as the insurer of last resort along the Texas Gulf Coast as efficiently and effectively as possible. H.B. 769, as engrossed, seeks to implement several reforms aimed at improving the administration of TWIA.

H.B. 769 amends current law relating to the administration of the Texas Windstorm Insurance Association.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 2210, Insurance Code, by adding Section 2210.063, as follows:

Sec. 2210.063. LOCATION OF ASSOCIATION HEADQUARTERS. Requires that the headquarters of the Texas Windstorm Insurance Association (TWIA) be located in a first tier coastal county or second tier coastal county.

SECTION 2. Amends Section 2210.351, Insurance Code, by amending Subsection (d) and adding Subsection (f), as follows:

(d) Deletes existing text authorizing TWIA to use a rate filed by TWIA without prior commissioner of insurance (commissioner) approval if the filed rate does not exceed 105 percent of the rate in effect on the date on which the filing is made and if the filed rate does not reflect a rate change for an individual rating class that is 10 percent higher than the rate in effect for that rating class on the date on which the filing is made. Makes nonsubstantive changes.

(f) Prohibits TWIA from filing a rate under Section 2210.351 (Association Filings) that exceeds the rate in effect on the date on which the filing is made unless two-thirds of the board of directors of TWIA (board of directors) votes to approve the rate.

SECTION 3. Amends Subchapter H, Chapter 2210, Insurance Code, by adding Section 2210.3512, as follows:

Sec. 2210.3512. REQUIREMENT FOR VOTE ON RATE FILING. Prohibits the board of directors from voting on a proposed rate filing if there is a vacancy on the board.

SECTION 4. Amends Section 2210.352, Insurance Code, by amending Subsection (a-1) and adding Subsection (a-3), as follows:

(a-1) Makes conforming changes to this subsection.

(a-3) Prohibits TWIA from filing a rate under Section 2210.352 (Manual Rate Filings: Annual Filing) that exceeds the rate in effect on the date on which the filing is made unless two-thirds of the board of directors votes to approve the rate.

SECTION 5. Amends Section 2210.452(c), Insurance Code, as follows:

(c) Requires TWIA, at the end of each calendar year or policy year, to use the net gain from certain operations of TWIA to make payments to the catastrophe reserve trust fund (trust fund) or pay public security obligations, giving priority to the obligations with the highest interest rates.

Deletes existing text requiring TWIA, at the end of each calendar year or policy year, to use the net gain from certain operations of TWIA to procure reinsurance, or use alternative risk financing mechanisms, or to make payments to the trust fund and procure reinsurance or use alternative risk financing mechanisms.

SECTION 6. Amends Section 2210.453, Insurance Code, by adding Subsections (b-1), (b-2), and (f), as follows:

(b-1) Provides that in determining the probable maximum loss under Subsection (b) (relating to requiring TWIA to maintain total available loss funding in an amount not less than the probable maximum loss for TWIA for a catastrophe year), TWIA:

(1) is prohibited from considering the cost of providing loss adjustments;

(2) is required, to the extent possible, to contract with any disinterested third parties necessary to execute any hurricane risk simulation models that were executed in the preceding storm season;

(3) is required, if TWIA is unable to contract for the execution of a hurricane risk simulation model described by Subdivision (2), to contract with any disinterested third party necessary to execute a hurricane risk simulation model that is substantially similar to the model for which TWIA is unable to contract under Subdivision (2);

(4) is authorized to contract with any disinterested third parties to execute hurricane risk simulation models in addition to the models required by Subdivisions (2) and (3);

(5) is required to provide to a third party executing a hurricane risk simulation model any information necessary to comply with this subsection;

(6) is prohibited from using a combination of hurricane risk simulation models to determine the probable maximum loss; and

(7) is authorized to use only the hurricane risk simulation model that produces the lowest probable maximum loss.

(b-2) Requires that any information produced in compliance with Subsection (b-1) be made publicly available on the Internet website of TWIA.

(f) Prohibits TWIA from purchasing reinsurance under Section 2210.453 (Funding Levels; Reinsurance and Alternative Risk Financing Mechanisms) from an insurer or broker involved in the execution of the hurricane risk simulation model on which TWIA relies in determining the probable maximum loss applicable for the period covered by the reinsurance.

SECTION 7. Amends Section 2210.611, Insurance Code, as follows:

Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Deletes existing text authorizing revenue collected in any calendar year from a premium surcharge under certain sections that exceeds the amount of the public security obligations and public security administrative expenses payable in that calendar year and interest earned on the funds to, in the discretion of TWIA, be deposited in the trust fund. Makes nonsubstantive changes.

SECTION 8. Amends Section 2210.664(b), Insurance Code, as follows:

(b) Requires the windstorm insurance legislative funding and funding structure oversight board (board), not later than November 15, 2022, rather than 2020, to deliver a report prepared under Subsection (a) (relating to requiring the board to prepare a report for the legislature regarding the current funding and funding structure of TWIA) to the governor, the lieutenant governor, and the speaker of the Texas House of Representatives (house).

SECTION 9. Amends Section 2210.665, Insurance Code, as follows:

Sec. 2210.665. EXPIRATION. Provides that Subchapter N-1 (Legislative Funding and Funding Structure Oversight Board) expires September 1, 2023, rather than 2021.

SECTION 10. Amends Sections 14(c) and (d), Chapter 790 (H.B. 1900), Acts of the 86th Legislature, Regular Session, 2019, as follows:

(c) Requires the board, not later than January 1, 2023, rather than 2021, to submit to the governor, the lieutenant governor, the speaker of the house, and the Texas Department of Insurance (TDI) a written report of a study conducted under this section. Makes a nonsubstantive change.

(d) Provides that this section expires January 1, 2024, rather than 2022.

SECTION 11. Provides that Section 2210.063, Insurance Code, as added by this Act, applies to TWIA beginning January 1, 2023.

SECTION 12. Makes application of Sections 2210.351 and 2210.352, Insurance Code, as amended by this Act, prospective.

SECTION 13. Requires TDI to amend TWIA's plan of operation to conform to the changes in law made by this Act not later than the 60th day after the effective date of this Act.

SECTION 14. Effective date: September 1, 2021.