

## **BILL ANALYSIS**

C.S.H.B. 769  
By: Middleton  
Insurance  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

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. C.S.H.B. 769 seeks to implement several reforms aimed at improving the administration of TWIA.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 769 amends the Insurance Code to do the following with respect to the administration of the Texas Windstorm Insurance Association (TWIA):

- require the TWIA headquarters to be located in a first or second tier coastal county beginning January 1, 2023; and
- prohibit the TWIA board of directors from voting on a proposed rate filing if there is a vacancy on the board.

C.S.H.B. 769 prohibits TWIA, in determining the probable maximum loss that governs required minimum TWIA funding levels, from considering the cost of providing loss adjustments. The bill does the following with respect to TWIA's use of hurricane risk simulation models in making that determination:

- requires TWIA, 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;
- requires TWIA, if unable to contract for the execution of such a simulation model, to contract with any disinterested third party necessary to execute a simulation model that is substantially similar to the model for which TWIA is unable to contract;
- authorizes TWIA to contract with any disinterested third parties to execute any additional simulation models;
- requires TWIA to provide any necessary information to a third party executing a simulation model;
- prohibits TWIA from using a combination of simulation models to determine the probable maximum loss; and

- restricts TWIA to using only the simulation model that produces the lowest probable maximum loss.

The bill requires TWIA to make any information produced in compliance with these provisions publicly available on the TWIA website. The bill prohibits TWIA from purchasing reinsurance from an insurer or broker involved in the execution of the simulation model on which TWIA relies in determining the probable maximum loss applicable for the period covered by the reinsurance.

C.S.H.B. 769 gives TWIA the option, at the end of each calendar or policy year, to use the net gain from its operations to pay public security obligations, giving priority to the obligations with the highest interest rates. The bill removes the option for TWIA to use that net gain to procure reinsurance or use alternative risk financing mechanisms. The bill also removes the option for TWIA to use the excess revenue collected in a calendar year from the premium surcharges assessed for the following purposes in combination: procuring reinsurance, using alternative risk financing mechanisms, and depositing funds in the catastrophe reserve trust fund.

C.S.H.B. 769 continues the windstorm insurance legislative funding and funding structure oversight board and provisions governing the board until September 1, 2023, and postpones the deadline for the board's report to November 15, 2022.

C.S.H.B. 769 amends Sections 14(c) and (d), Chapter 790 (H.B. 1900), Acts of the 86th Legislature, Regular Session, 2019, to postpone to January 1, 2023, the deadline by which the windstorm insurance legislative oversight board is required to submit a report of its study on whether to merge TWIA and the FAIR Plan. The bill postpones the expiration of provisions relating to that study to January 1, 2024.

C.S.H.B. 769 requires the Texas Department of Insurance (TDI) to amend TWIA's plan of operation to conform to the changes in law made by the bill not later than the 60th day after the bill's effective date.

### **EFFECTIVE DATE**

September 1, 2021.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 769 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute omits the provisions of the original that required TWIA member insurers to provide TWIA reinsurance at no cost to TWIA and the repealed provisions relating to the imposition of member assessments for paying the cost of reinsurance or alternative financing mechanisms.

The original included a prohibition against TWIA considering the cost of providing loss adjustments in determining the probable maximum loss. The substitute retains this prohibition but also includes provisions relating to TWIA's use of hurricane risk simulation models in making that determination as set out in the bill's provisions. The substitute includes a provision not in the original requiring corresponding information to be made publicly available on the TWIA website.

Whereas the original prohibited a TWIA member insurer from purchasing reinsurance from an insurer that has prepared the risk model on which TWIA relies in determining the probable maximum loss applicable for the period covered by the reinsurance, the substitute applies this

prohibition to TWIA itself and extends the prohibition to apply to a broker involved in the execution of the risk model on which TWIA relies in determining maximum probable loss.

The substitute includes provisions not in the original that do the following:

- continue the windstorm insurance legislative funding and funding structure oversight board and provisions governing the board and postpone the deadline for the board's report; and
- postpone the deadline by which the windstorm insurance legislative oversight board is required to submit a report on a certain study and the expiration of provisions relating to that study.

The substitute delays the deadline for TWIA to comply with the requirement to have its headquarters in a first or second tier coastal county from January 1, 2022, as in the original, to January 1, 2023.

The substitute replaces the original's requirement for TWIA to amend its plan of operations to conform to the bill's changes with a requirement for TDI to amend the plan.