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By:  Hunter H.B. No. 3809

A BILL TO BE ENTITLED

AN ACT

relating to the setting of premium rates for Texas Windstorm Insurance Association policies by the commissioner of insurance.

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

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

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

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

(2)  [~~the Texas Windstorm Insurance Association established under Chapter 2210;~~

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

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

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

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

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

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

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

Sec. 2210.331.  SETTING OF PREMIUM RATES. (a) The commissioner shall set and adopt the premium rates to be charged for:

(1)  association policies, including reinsured policies;

(2)  reinsurance to cover an assessment purchased by a member insurer under Section 2210.075; and

(3)  reinsurance purchased by the association to maintain required funding levels under Section 2210.453.

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

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

(b)  The premium rates set by the commissioner must be:

(1)  reasonable as to the public; and

(2)  nonconfiscatory as to the association and member insurers.

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

(1)  loss experience;

(2)  expense of operation; and

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

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

Sec. 2210.334.  HEARING REQUIRED FOR SETTING PREMIUM RATE. (a) A premium rate previously set by the commissioner may not be changed until after the commissioner holds a public hearing.

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

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

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

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

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

(b)  If the commissioner fails to comply with the requirements of Section 2210.334(d), the association may petition a district court in Travis County to adopt a premium rate based on the record made in the hearing before the commissioner under Section 2210.334.

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

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

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

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

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

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

(1)  sent directly to the association; and

(2)  published in the Texas Register and on the department's Internet website.

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

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

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

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

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

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

SECTION 6.  The following provisions of the Insurance Code are repealed:

(1)  Section 2210.004(f);

(2)  Sections 2210.351(a), (c), (d), and (e); and

(3)  Sections 2210.3511, 2210.352, 2210.353, 2210.354, 2210.355, 2210.357, 2210.358, and 2210.359.

SECTION 7.  The rates for Texas Windstorm Insurance Association insurance policies on the effective date of this Act remain in effect until the commissioner of insurance holds a hearing to change the rates under Subchapter H, Chapter 2210, Insurance Code, as amended by this Act.

SECTION 8.  This Act takes effect September 1, 2021.