

SENATE AMENDMENTS

2nd Printing

By: Middleton, Hunter, Lozano, Dominguez,
et al.

H.B. No. 769

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the administration of the Texas Windstorm Insurance
3 Association.

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

5 SECTION 1. Subchapter B, Chapter 2210, Insurance Code, is
6 amended by adding Section 2210.063 to read as follows:

7 Sec. 2210.063. LOCATION OF ASSOCIATION HEADQUARTERS. The
8 headquarters of the association must be located in a first tier
9 coastal county or second tier coastal county.

10 SECTION 2. Section 2210.351, Insurance Code, is amended by
11 amending Subsection (d) and adding Subsection (f) to read as
12 follows:

13 (d) The association may use a rate filed by the association
14 without prior commissioner approval if:

15 (1) the filing is made not later than the 30th day
16 before the date of any use or delivery for use of the rate;

17 (2) the filed rate does not exceed [~~105 percent of~~] the
18 rate in effect on the date on which the filing is made; and

19 (3) [~~the filed rate does not reflect a rate change for~~
20 ~~an individual rating class that is 10 percent higher than the rate~~
21 ~~in effect for that rating class on the date on which the filing is~~
22 ~~made, and~~

23 [~~4~~] the commissioner has not disapproved the filing
24 in writing, advising of the reasons for the disapproval and the

1 criteria the association is required to meet to obtain approval.

2 (f) The association may not file a rate under this section
3 that exceeds the rate in effect on the date on which the filing is
4 made unless two-thirds of the board of directors votes to approve
5 the rate.

6 SECTION 3. Subchapter H, Chapter 2210, Insurance Code, is
7 amended by adding Section 2210.3512 to read as follows:

8 Sec. 2210.3512. REQUIREMENT FOR VOTE ON RATE FILING. The
9 board of directors may not vote on a proposed rate filing if there
10 is a vacancy on the board.

11 SECTION 4. Section 2210.352, Insurance Code, is amended by
12 amending Subsection (a-1) and adding Subsection (a-3) to read as
13 follows:

14 (a-1) The association may use a rate filed by the
15 association under this section without prior commissioner approval
16 if:

17 (1) the filing is made not later than the 30th day
18 before the date of any use or delivery for use of the rate; and

19 (2) the filed rate does not exceed [~~105 percent of~~] the
20 rate used by the association in effect on the date on which the
21 filing is made[~~, and~~

22 [~~(3) the filed rate does not reflect a rate change for~~
23 ~~an individual rating class that is 10 percent higher than the rate~~
24 ~~in effect for that rating class on the date on which the filing is~~
25 ~~made].~~

26 (a-3) The association may not file a rate under this section
27 that exceeds the rate in effect on the date on which the filing is

1 made unless two-thirds of the board of directors votes to approve
2 the rate.

3 SECTION 5. Section 2210.452(c), Insurance Code, is amended
4 to read as follows:

5 (c) At the end of each calendar year or policy year, the
6 association shall use the net gain from operations of the
7 association, including all premium and other revenue of the
8 association in excess of incurred losses, operating expenses,
9 public security obligations, and public security administrative
10 expenses, to make payments to the trust fund or pay public security
11 obligations, giving priority to the obligations with the highest
12 interest rates~~[, procure reinsurance, or use alternative risk~~
13 ~~financing mechanisms, or to make payments to the trust fund and~~
14 ~~procure reinsurance or use alternative risk financing mechanisms]~~.

15 SECTION 6. Section 2210.453, Insurance Code, is amended by
16 adding Subsections (b-1), (b-2), and (f) to read as follows:

17 (b-1) In determining the probable maximum loss under
18 Subsection (b), the association:

19 (1) may not consider the cost of providing loss
20 adjustments;

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

24 (3) shall, if the association is unable to contract
25 for the execution of a hurricane risk simulation model described by
26 Subdivision (2), contract with any disinterested third party
27 necessary to execute a hurricane risk simulation model that is

1 substantially similar to the model for which the association is
2 unable to contract under Subdivision (2);

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

6 (5) shall provide to a third party executing a
7 hurricane risk simulation model any information necessary to comply
8 with this subsection;

9 (6) may not use a combination of hurricane risk
10 simulation models to determine the probable maximum loss; and

11 (7) may use only the hurricane risk simulation model
12 that produces the lowest probable maximum loss.

13 (b-2) Any information produced in compliance with
14 Subsection (b-1) shall be made publicly available on the Internet
15 website of the association.

16 (f) The association may not purchase reinsurance under this
17 section from an insurer or broker involved in the execution of the
18 hurricane risk simulation model on which the association relies in
19 determining the probable maximum loss applicable for the period
20 covered by the reinsurance.

21 SECTION 7. Section 2210.611, Insurance Code, is amended to
22 read as follows:

23 Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT
24 EARNINGS. Revenue collected in any calendar year from a premium
25 surcharge under Sections 2210.612, 2210.613, and 2210.6131 that
26 exceeds the amount of the public security obligations and public
27 security administrative expenses payable in that calendar year and

1 interest earned on the funds may, in the discretion of the
2 association, be:

3 (1) used to pay public security obligations payable in
4 the subsequent calendar year, offsetting the amount of the premium
5 surcharge that would otherwise be required to be levied for the year
6 under this subchapter; or

7 (2) used to redeem or purchase outstanding public
8 securities[~~;~~ ~~or~~

9 [~~(3) deposited in the catastrophe reserve trust fund~~].

10 SECTION 8. Section 2210.664(b), Insurance Code, is amended
11 to read as follows:

12 (b) Not later than November 15, 2022 [~~2020~~], the board shall
13 deliver a a [~~the~~] report prepared under Subsection (a) to:

14 (1) the governor;

15 (2) the lieutenant governor; and

16 (3) the speaker of the house of representatives.

17 SECTION 9. Section 2210.665, Insurance Code, is amended to
18 read as follows:

19 Sec. 2210.665. EXPIRATION. This subchapter expires
20 September 1, 2023 [~~2021~~].

21 SECTION 10. Sections 14(c) and (d), Chapter 790 (H.B.
22 1900), Acts of the 86th Legislature, Regular Session, 2019, are
23 amended to read as follows:

24 (c) Not later than January 1, 2023 [~~2021~~], the windstorm
25 insurance legislative oversight board shall submit to the governor,
26 the lieutenant governor, the speaker of the house of
27 representatives, and the Texas Department of Insurance a written

1 report of a [~~the~~] study conducted under this section. The report
2 must include the findings and legislative recommendations of the
3 board.

4 (d) This section expires January 1, 2024 [~~2022~~].

5 SECTION 11. Section 2210.063, Insurance Code, as added by
6 this Act, applies to the Texas Windstorm Insurance Association
7 beginning January 1, 2023.

8 SECTION 12. Sections 2210.351 and 2210.352, Insurance Code,
9 as amended by this Act, apply only to a rate filed by the Texas
10 Windstorm Insurance Association with the Texas Department of
11 Insurance on or after the effective date of this Act. A rate filed
12 with the Texas Department of Insurance before the effective date of
13 this Act is governed by the law as it existed immediately before
14 that date, and that law is continued in effect for that purpose.

15 SECTION 13. The Texas Department of Insurance shall amend
16 the Texas Windstorm Insurance Association's plan of operation to
17 conform to the changes in law made by this Act not later than the
18 60th day after the effective date of this Act.

19 SECTION 14. This Act takes effect September 1, 2021.

By: Larry Taylor H .B. No. 769

Substitute the following for .B. No. _____:

By: J. J. Henry MAY 25 2021 C.S. .B. No. _____

ADOPTED

Lately Spaul
Secretary of the Senate

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the administration of the Texas Windstorm Insurance
3 Association.

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

5 SECTION 1. Subchapter H, Chapter 2210, Insurance Code, is
6 amended by adding Section 2210.3512 to read as follows:

7 Sec. 2210.3512. REQUIREMENT FOR VOTE ON RATE FILING. The
8 board of directors may not vote on a proposed rate filing if there
9 is a vacancy on the board.

10 SECTION 2. The heading to Section 2210.453, Insurance Code,
11 is amended to read as follows:

12 Sec. 2210.453. FUNDING LEVELS; REINSURANCE AND ALTERNATIVE
13 RISK FINANCING MECHANISMS; REINSURANCE FROM CERTAIN INSURER OR
14 BROKER PROHIBITED.

15 SECTION 3. Section 2210.453, Insurance Code, is amended by
16 adding Subsection (f) to read as follows:

17 (f) The association may not purchase reinsurance under this
18 section from an insurer or broker involved in the execution of a
19 catastrophe model on which the association relies in:

20 (1) determining the probable maximum loss applicable for
21 the period covered by the reinsurance; or

22 (2) adopting rates under Section 2210.355.

23 SECTION 4. The Texas Department of Insurance shall amend the
24 Texas Windstorm Insurance Association's plan of operation to

1 conform to the changes in law made by this Act not later than the
2 60th day after the effective date of this Act.

3 SECTION 5. This Act takes effect September 1, 2021.

ADOPTED

✓✓
MAY 25 2021

FLOOR AMENDMENT NO. 1

BY:

Larry Taylor

Lacey Soaw
Secretary of the Senate

1 Amend C.S.H.B. No. 769 (senate committee printing) in SECTION
2 1 of the bill, in added Section 2210.3512, Insurance Code (page 1,
3 lines 24-25), by striking "filing if there is a vacancy on the
4 board" and substituting the following:

5 increase if:

6 (1) there is a vacancy on the board; and

7 (2) the vacancy has existed for at least 60 days at the
8 time the vote is to be taken

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 27, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB769 by Middleton (Relating to the administration of the Texas Windstorm Insurance Association.),
As Passed 2nd House

No significant fiscal implication to the State is anticipated.

The bill would amend the Insurance Code relating to the administration of the Texas Windstorm Insurance Association (TWIA). It is assumed that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: JMc, LBO, MB, MPUK, SLE, AAL, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 21, 2021

TO: Honorable Joan Huffman, Chair, Senate Committee on Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB769 by Middleton (relating to the administration of the Texas Windstorm Insurance 3 Association.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Insurance Code relating to the administration of the Texas Windstorm Insurance Association (TWIA). It is assumed that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: JMc, SLE, MB, MPUK, AAL, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 19, 2021

TO: Honorable Joan Huffman, Chair, Senate Committee on Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB769 by Middleton (Relating to the administration of the Texas Windstorm Insurance Association.),
As Engrossed

Provisions of the bill could decrease deposits made to the Catastrophe Reserve Trust Fund, but the amount and timing of any decrease is unknown. Therefore, the fiscal implications of the bill cannot be determined at this time.

The bill would amend the Insurance Code relating to the administration of the Texas Windstorm Insurance Association (TWIA). The bill would prohibit TWIA from depositing certain excess revenue in the Catastrophe Reserve Trust Fund (CRTF). The CRTF is a fund outside the Treasury held by the Texas Treasury Safekeeping Trust Company. Provisions of the bill could decrease deposits made to the CRTF, but the amount and timing of any decrease is unknown.

Based on information provided by the Comptroller of Public Accounts, the fiscal impact to the State cannot be estimated at this time.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: JMc, SLE, MB, MPUK, AAL, SD

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 12, 2021

TO: Honorable Tom Oliverson, Chair, House Committee on Insurance

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB769 by Middleton (relating to the administration of the Texas Windstorm Insurance Association.),
Committee Report 1st House, Substituted

Provisions of the bill could decrease deposits made to the Catastrophe Reserve Trust Fund, but the amount and timing of any decrease is unknown. Therefore, the fiscal implications of the bill cannot be determined at this time.

The bill would amend the Insurance Code relating to the administration of the Texas Windstorm Insurance Association (TWIA). The bill would prohibit TWIA from depositing certain excess revenue in the Catastrophe Reserve Trust Fund (CRTF). The CRTF is a fund outside the Treasury held by the Texas Treasury Safekeeping Trust Company. Provisions of the bill could decrease deposits made to the CRTF, but the amount and timing of any decrease is unknown.

Based on information provided by the Comptroller of Public Accounts, the fiscal impact to the State cannot be estimated at this time.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: JMc, AAL, MB, MPUK, SD

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 29, 2021

TO: Honorable Tom Oliverson, Chair, House Committee on Insurance

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB769 by Middleton (Relating to the administration of the Texas Windstorm Insurance Association.),
As Introduced

Provisions of the bill could decrease deposits made to the Catastrophe Reserve Trust Fund, but the amount and timing of any decrease is unknown. Therefore, the fiscal implications of the bill cannot be determined at this time.

The bill would amend the Insurance Code relating to the administration of the Texas Windstorm Insurance Association (TWIA). The bill would prohibit TWIA from depositing certain excess revenue in the Catastrophe Reserve Trust Fund (CRTF). The CRTF is a fund outside the Treasury held by the Texas Treasury Safekeeping Trust Company. Provisions of the bill could decrease deposits made to the CRTF, but the amount and timing of any decrease is unknown.

Based on information provided by the Comptroller of Public Accounts, the fiscal impact to the State cannot be estimated at this time.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: JMc, AAL, MB, MPUK, SD