

By: Middleton, et al.

S.B. No. 1217

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Windstorm Insurance Association.

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

SECTION 1. Section 2210.014, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) The association is not subject to any insurance premium tax or insurance maintenance fee or tax.

SECTION 2. Subchapter A, Chapter 2210, Insurance Code, is amended by adding Section 2210.016 to read as follows:

Sec. 2210.016. LEGISLATIVE LOBBYING. (a) The association may not use any money under its control to attempt to influence the passage or defeat of a legislative measure.

(b) An association employee or member of the board of directors who violates Subsection (a) is subject to:

(1) immediate termination; and

(2) a fine of \$10,000 to be deposited in the catastrophe reserve trust fund.

(c) This section does not prohibit an association employee or member of the board of directors from using money under the association's control to provide public information or to provide information responsive to a request for public information.

SECTION 3. Subchapter B, Chapter 2210, Insurance Code, is amended by adding Section 2210.063 to read as follows:

Sec. 2210.063. LOCATION OF ASSOCIATION HEADQUARTERS. The

1 headquarters of the association must be located in a first tier
2 coastal county or a second tier coastal county.

3 SECTION 4. Section 2210.102, Insurance Code, is amended by
4 amending Subsections (a), (c), (c-1), (d), and (g) and adding
5 Subsection (d-1) to read as follows:

6 (a) The board of directors is composed of eleven [~~nine~~]
7 members appointed by the commissioner in accordance with this
8 section.

9 (c) Five [~~Three~~] members must, as of the date of the
10 appointment, reside in the first tier coastal counties. Each of
11 the following regions must, to the extent possible, be represented
12 by a member residing in the region and appointed under this
13 subsection:

14 (1) the region consisting of Cameron, Kenedy, Kleberg,
15 and Willacy Counties;

16 (2) the region consisting of Aransas, Calhoun, Nueces,
17 Refugio, and San Patricio Counties; and

18 (3) the region consisting of Brazoria, Chambers,
19 Galveston, Jefferson, and Matagorda Counties and any part of Harris
20 County designated as a catastrophe area under Section 2210.005.

21 (c-1) Two [~~One~~] of the members appointed under Subsection
22 (c) must be [~~a~~] property and casualty agents [~~agent~~] who are [~~is~~]
23 licensed under this code and are [~~is~~] not [~~a~~] captive agents
24 [~~agent~~].

25 (d) Three members must reside in an area of this state that
26 is located outside the first tier coastal counties [~~more than 100~~
27 ~~miles from the Texas coastline~~].

1 (d-1) One of the members appointed under Subsection (d) must
2 be the public counsel of the office of public insurance counsel or
3 the counsel's designee.

4 (g) Members appointed to the board of directors under
5 Subsections (c) and (d), other than a [~~the~~] member appointed under
6 Subsection (c-1), must represent the general public in the regions
7 described by those subsections. A person may not be appointed to
8 represent the general public under Subsection (c) or (d) if the
9 person or the person's spouse:

10 (1) is employed by or participates in the management
11 of a business entity or other organization:

12 (A) operating in the property and casualty
13 insurance industry in this state;

14 (B) receiving money from the association, other
15 than insurance claim payments; or

16 (C) receiving money from association
17 policyholders with respect to the policyholders' claims;

18 (2) owns or controls, directly or indirectly, more
19 than a 10 percent interest in a business entity or other
20 organization:

21 (A) operating in the property and casualty
22 insurance industry in this state;

23 (B) receiving money from the association, other
24 than insurance claim payments; or

25 (C) receiving money from association
26 policyholders with respect to the policyholders' claims; or

27 (3) uses or receives a substantial amount of tangible

1 goods, services, or money from the association, other than:

2 (A) insurance claim payments; or

3 (B) compensation or reimbursement authorized by
4 law for the board members' membership, attendance, or expenses.

5 SECTION 5. Section 2210.103(a), Insurance Code, is amended
6 to read as follows:

7 (a) Members of the board of directors serve three-year
8 staggered terms, with the terms of three or four members expiring on
9 the third Tuesday of March of each year.

10 SECTION 6. Section 2210.105(d), Insurance Code, is amended
11 to read as follows:

12 (d) Except for an emergency meeting, a meeting of the board
13 of directors shall be held at a location in a first tier coastal
14 county or a second tier coastal county as determined by the board of
15 directors.

16 SECTION 7. Subchapter E, Chapter 2210, Insurance Code, is
17 amended by adding Section 2210.211 to read as follows:

18 Sec. 2210.211. LIMITATIONS ON CERTAIN ADJUSTMENTS. (a) The
19 association may not automatically adjust the amount of coverage to
20 be purchased by a policyholder.

21 (b) The association may not adjust premiums, fees, or any
22 other costs to policyholders for inflation without a vote by the
23 board of directors.

24 SECTION 8. Section 2210.352(a), Insurance Code, is amended
25 to read as follows:

26 (a) Not later than September [~~August~~] 15 of each year, the
27 association shall file with the department a proposed manual rate

1 for all types and classes of risks written by the association.

2 SECTION 9. Subchapter J, Chapter 2210, Insurance Code, is
3 amended by adding Section 2210.4531 to read as follows:

4 Sec. 2210.4531. DETERMINATION OF PROBABLE MAXIMUM LOSS.

5 (a) The association shall file with the department a proposed
6 probable maximum loss, subject to Section 2210.453.

7 (b) In determining the probable maximum loss, the
8 association:

9 (1) may not consider the cost of providing loss
10 adjustments;

11 (2) shall, to the extent possible, contract with any
12 disinterested third parties necessary to execute any catastrophe
13 models that were executed in the preceding storm season;

14 (3) shall, if the association is unable to contract
15 for the execution of a catastrophe model described by Subdivision
16 (2), contract with any disinterested third party necessary to
17 execute a catastrophe model that is substantially similar to the
18 model for which the association is unable to contract under
19 Subdivision (2);

20 (4) may contract with any disinterested third parties
21 to execute catastrophe models in addition to the models required
22 under Subdivisions (2) and (3);

23 (5) shall provide to a disinterested third party
24 executing a catastrophe model any information necessary to comply
25 with this subsection;

26 (6) may not use a combination of catastrophe models to
27 determine the probable maximum loss; and

1 (7) may use only the catastrophe model that produces
2 the lowest probable maximum loss.

3 (c) The association shall make any information produced in
4 compliance with Subsection (b) publicly available on the
5 association's Internet website.

6 (d) The association may only use a probable maximum loss
7 that is approved by the commissioner. The commissioner may reject a
8 probable maximum loss filed with the department by the association
9 and set a probable maximum loss at any amount determined by the
10 commissioner.

11 (e) The amount of loss adjustment expense, as adopted by the
12 board of directors for a catastrophe year and used for the
13 association's rate indication for purposes of filing a rate under
14 this chapter, must be considered above the probable maximum loss.

15 SECTION 10. Section [2210.102\(f\)](#), Insurance Code, is
16 repealed.

17 SECTION 11. Section [2210.063](#), Insurance Code, as added by
18 this Act, applies to the Texas Windstorm Insurance Association
19 beginning on January 1, 2025.

20 SECTION 12. (a) The commissioner of insurance shall appoint
21 two additional members to the board of directors of the Texas
22 Windstorm Insurance Association as necessary under Sections
23 [2210.102\(c\)](#) and (c-1), Insurance Code, as amended by this Act, not
24 later than December 1, 2023.

25 (b) Notwithstanding Section [2210.103](#), Insurance Code, as
26 amended by this Act, the initial term of one of the board members
27 appointed under Subsection (a) of this section expires on the third

1 Tuesday of March 2026, and the initial term of one of the board
2 members appointed under Subsection (a) of this section expires on
3 the third Tuesday of March 2027.

4 (c) Notwithstanding Section 2210.102(d-1), Insurance Code,
5 as added by this Act, a member of the board of directors serving
6 under Section 2210.102(d), Insurance Code, is not required to be
7 the public insurance counsel or the public insurance counsel's
8 designee until the first vacancy under Section 2210.102(d) that
9 occurs on or after the effective date of this Act.

10 SECTION 13. This Act takes effect immediately if it
11 receives a vote of two-thirds of all the members elected to each
12 house, as provided by Section 39, Article III, Texas Constitution.
13 If this Act does not receive the vote necessary for immediate
14 effect, this Act takes effect September 1, 2023.