

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 2530
By: Middleton et al.
Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Over the last several sessions, reforms of the Texas Windstorm Insurance Association's (TWIA) operations to control rates and assert greater accountability over the association greatly improved the administration of the association. However, additional reforms are needed to ensure that the association fulfills its vital public function as the insurer of last resort on the Texas Gulf Coast. S.B. 2530 seeks to address this issue by implementing several reforms that will improve the administration of TWIA.

The reforms included in S.B. 2530 are as follows:

- Exempts TWIA from insurance premium and maintenance taxes and fees.
- Prohibits the use of association funds to lobby the legislature.
- Moves TWIA's headquarters to a first tier or second tier coastal county.
- Instructs the TWIA board of directors to pay off debt early, if the association has the ability to do so and the commissioner of insurance approves.
- Ties the assessment layers of TWIA's funding stack to the growth in the probable maximum loss (PML)
 - Note: TWIA is a residual market, meaning that when TWIA's policy count and exposure grows, it is because the assessed carriers are writing fewer policies along the coast. This ties the assessment layers to the PML to accurately reflect what is driving TWIA's increased exposure.
- Removes a burdensome 100-mile limitation on inland representatives of the TWIA board of directors.
- Clarifies that more than one independent agent may serve as a coastal representative on the board of directors.
- Requires that a meeting of the board of directors to establish the PML and set the annual rate take place in a first tier coastal county.
- Establishes that the only votes that count towards the establishment of the PML and setting of the annual rate filing are the votes cast in person.
- Prohibits TWIA from applying inflation adjusters on premiums, fees, or other costs without a vote of the board of directors.
- Moves the annual rate setting deadline to September 15, after legislation passed during the regular session goes into effect.
- Removes the requirement that factors outside of this state be included in the modeling for the adoption of rates.
- Requires the board of directors to select the lowest modeled PML and requires the commissioner of insurance to approve the PML.
- Lowers the statutorily required minimum funding level to a 1 in 50 probable maximum loss.
- Prohibits the inclusion of loss adjustment expense from the PML.

(Original Author/Sponsor's Statement of Intent)

C.S.S.B. 2530 amends current law relating to the Texas Windstorm Insurance Association and provides an administrative penalty.

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 Section 2210.014, Insurance Code, by adding Subsection (d) to provide that the Texas Windstorm Insurance Association (TWIA) is not subject to any insurance premium tax or insurance maintenance fee or tax.

SECTION 2. Amends Subchapter A, Chapter 2210, Insurance Code, by adding Section 2210.017, as follows:

Sec. 2210.017. LEGISLATIVE LOBBYING. (a) Prohibits TWIA from using any money under its control to attempt to influence the passage or defeat of a legislative measure.

(b) Provides that a TWIA employee or member of the board of directors who violates Subsection (a) is subject to immediate termination and an administrative penalty under Chapter 84 (Administrative Penalties) in the amount of \$10,000 to be deposited in the catastrophe reserve trust fund.

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

SECTION 3. 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 TWIA be located in a first tier coastal county or a second tier coastal county.

SECTION 4. Amends Section 2210.072(a), Government Code, to provide that public securities described by Section 2210.072 (Payment From Class 1 Public Securities; Financial Investments) are required to be paid within a period not to exceed 14 years, and required, rather than authorized, to be paid sooner if the board of directors determines TWIA has the ability, rather than if the board of directors elects, to do so and the commissioner of insurance (commissioner) approves.

SECTION 5. Amends Section 2210.0725(a), Insurance Code, to require that losses in a catastrophe year not paid under Sections 2210.0715 (Payment From Reserves and Trust Fund) and 2210.072 (Payment From Class 1 Public Securities; Financial Instruments) be paid as provided by Section 2210.0725 (Payment From Class 1 Assessments) from Class 1 member assessments of at least, rather than not to exceed, \$500 million, adjusted annually in proportion to the growth in TWIA's probable maximum loss for that catastrophe year.

SECTION 6. Amends Section 2210.073(a), Insurance Code, to provide that public securities issued under Section 2210.073 (Payment From Class 2 Public Securities) are required to be paid within a period not to exceed 10 years and required, rather than authorized, to be paid sooner if the board of directors determines TWIA has the ability, rather than elects, to do so and the commissioner approves.

SECTION 7. Amends Section 2210.074(a), Insurance Code, to require that losses in a catastrophe year not paid under Sections 2210.0715, 2210.072, 2210.0725, and 2210.073 be paid as provided by Section 2210.074 (Payment Through Class 2 Assessments) from Class 2 member assessments of at least, rather than not to exceed, \$250 million, adjusted annually in proportion to the growth in TWIA's probable maximum loss for that catastrophe year.

SECTION 8. Amends Section 2210.0741(a), Insurance Code, to provide that public securities issued under Section 2210.0741 (Payment Through Class 3 Public Securities) are required to be paid within a period not to exceed 10 years and required, rather than authorized, to be paid sooner if the board of directors determines TWIA has the ability, rather than elects, to do so and the commissioner approves.

SECTION 9. Amends Section 2210.0742(a), Insurance Code, to require that losses in a catastrophe year not paid under Sections 2210.0715, 2210.072, 2210.0725, 2210.073, 2210.074, and 2210.0741 be paid as provided by Section 2210.0742 (Payment From Class 3 Assessments) from Class 3 member assessments of at least, rather than not to exceed, \$250 million, adjusted annually in proportion to the growth in TWIA's probable maximum loss for that catastrophe year.

SECTION 10. Amends Sections 2210.102(c), (c-1), and (d), Insurance Code, as follows:

(c) Deletes existing text requiring that each of certain regions be represented by a member residing in the region and appointed under this subsection.

(c-1) Requires at least one, rather than one, of the members appointed under Subsection (c) to be a property and casualty agent who is licensed under this code and is not a captive agent.

(d) Requires three members to reside in an area of this state that is located outside a first tier coastal county, rather than more than 100 miles from the Texas coastline.

SECTION 11. Amends Section 2210.105, Insurance Code, by amending Subsection (d) and adding Subsection (h), as follows:

(d) Creates an exception under Subsection (h).

(h) Requires that a meeting to establish TWIA's probable maximum loss and the annual rate setting meeting be held in person at a location within a first tier coastal county. Authorizes a member of the board of directors, notwithstanding Section 2210.1051 (Meetings of Board of Directors), to only vote for the establishment of the probable maximum loss or the adoption of the annual rate filing in person at a meeting held under this subsection.

SECTION 12. Amends Subchapter E, Chapter 2210, Insurance Code, by adding Section 2210.211, as follows:

Sec. 2210.211. LIMITATIONS ON CERTAIN ADJUSTMENTS. Prohibits TWIA from adjusting premiums, fees, or any other costs to policyholders for inflation without a vote by the board of directors.

SECTION 13. Amends Sections 2210.352(a) and (c), Insurance Code, as follows:

(a) Requires TWIA, not later than September 15, rather than August 15, of each year, to file with the Texas Department of Insurance (TDI) a proposed manual rate for all types and classes of risks written by TWIA.

(c) Requires the commissioner, except as provided by Subsection (a-1) (relating to authorizing TWIA to use a certain rate filed by TWIA without commissioner approval if certain criteria are met), to approve or disapprove the filing in writing not later than November 15, rather than October 15, of the year in which the filing was made.

SECTION 14. Amends Section 2210.355(b), Insurance Code, as follows:

(b) Requires that the following, in adopting rates under Chapter 2210 (Texas Windstorm Insurance Association), be considered:

(1) the past and prospective loss experience within, rather than within and outside, this state of hazards for which insurance is made available through the plan of operation, if any;

(2)-(4) makes no changes to these subdivisions; and

(5) all other relevant factors, within, rather than within and outside this state.

SECTION 15. Amends Section 2210.453, Insurance Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Requires TWIA to maintain total available loss funding in an amount not less than the probable maximum loss for TWIA for a catastrophe year with a probability of one in 50, rather than one in 100.

(b-1) Requires that the probable maximum loss described by Subsection (b) be established as provided by Section 2210.4531.

SECTION 16. Amends Subchapter J, Chapter 2210, Insurance Code, by adding Section 2210.4531, as follows:

Sec. 2210.4531. PROBABLE MAXIMUM LOSS. (a) Requires TWIA to file with TDI a proposed maximum loss to be used for purposes of Section 2210.453(b). Prohibits the association from proposing a probable maximum loss unless two-thirds of the board of directors votes to approve the proposed probable maximum loss in the manner provided by Section 2210.105(h).

(b) Authorizes TWIA to use a probable maximum loss only if the probable maximum loss is approved by the commissioner.

(c) Authorizes the commissioner to reject a proposed probable maximum loss filed with TDI under Subsection (a) and set a probable maximum loss in an amount determined by the commissioner. Requires the commissioner, if TWIA does not timely propose a probable maximum loss, to set a probable maximum loss.

(d) Prohibits the amount of loss adjustment expense adopted by the board of directors for a catastrophe year and used for TWIA's rate indication for purpose of filing a rate under this chapter from being included in the probable maximum loss.

SECTION 17. Provides that Section 2210.063, Insurance Code, as added by this Act, applies to TWIA beginning on January 1, 2027.

SECTION 18. (a) Makes application of Subchapter B-1, Chapter 2210, Insurance Code, as amended by this Act, prospective to January 1, 2026.

(b) Provides that, on January 1, 2026, the minimum amounts of member assessments for purposes of Sections 2210.0725(a), 2210.074(a), and 2210.0742(a), Insurance Code, as amended by this Act, are adjusted in proportion to the growth in TWIA's probable maximum loss between January 1, 2021, and January 1, 2026.

SECTION 19. Effective date: upon passage or September 1, 2025.