

BILL ANALYSIS

C.S.S.B. 615
By: Buckingham
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Windstorm Insurance Association (TWIA) is a nonprofit insurance provider created by the legislature in 1971 to serve as an insurer of last resort providing windstorm and hail insurance along the Texas coast to those who cannot obtain coverage from the private market. The Sunset Advisory Commission adopted several recommendations that would increase the effectiveness and efficiency of TWIA's operations, improve TWIA's customer service, decrease costs to policyholders, and help ensure TWIA can respond more quickly to legislative changes. TWIA is subject to review but not abolishment under the Sunset Act; however, the commission also adopted a recommendation to require a Sunset review again in 12 years. C.S.S.B. 615 seeks to provide those recommendations.

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 rulemaking authority is expressly granted to the commissioner of insurance in SECTIONS 15 and 18 of this bill.

ANALYSIS

C.S.S.B. 615 amends the Insurance Code to change the period during which the Texas Windstorm Insurance Association (TWIA) is subject to review under the Texas Sunset Act from the period in which state agencies abolished in 2019 are reviewed to the period in which state agencies abolished in 2031 are reviewed.

C.S.S.B. 615 authorizes TWIA to propose a rule for adoption by the commissioner of insurance and establishes procedures for such proposal. The bill sets out provisions relating to public membership on the board of directors of TWIA.

C.S.S.B. 615 sets out provisions relating to board member training; requires TWIA, not later than January 1, 2020, to provide for the training program; and requires an appointee, before the appointee may vote, deliberate, or be counted as a member in attendance at a meeting of the board held on or after January 1, 2020, to complete the training program. A member affected by these provisions who is serving on the board immediately before the effective date of the bill is entitled to continue to serve on the board for the remainder of the term to which the member was appointed. The bill requires public disclosure of conflicts of interest for a member of the board or a member of a subcommittee of the board that relate to underwriting and actuarial matters and sets out matters related to that requirement.

C.S.S.B. 615 requires TWIA to establish a process for automatic renewal of a policy and sets out requirements for the process. The bill requires TWIA to accept payment of premium by credit

card, authorizes TWIA to impose a fee on a policyholder for the use of a credit card, and limits the fee to an amount necessary for cost recovery. The bill requires TWIA to provide to policyholders the option of installment premium payments. A policyholder that pays premiums in accordance with such an installment payment plan and remains current on the payments satisfies the obligation for payment of premium. The bill expressly does not require TWIA to comply with the bill's provisions relating to automatic renewal before January 1, 2020, or the bill's provisions relating to premium payment methods before January 1, 2021.

C.S.S.B. 615 authorizes TWIA to provide for supplemental payments under a TWIA-issued windstorm and hail insurance policy and requires the commissioner to adopt rules clarifying the deadlines related to supplemental payments and to solicit and consider comments from TWIA, TWIA members, and policyholders in adopting the rules. The bill requires the rules to ensure that a request for supplemental payment will not impair a policyholder's right to appraisal under statutory provisions relating to disputes concerning amount of accepted coverage and requires the commissioner to adopt or amend the rules not later than June 1, 2020.

C.S.S.B. 615 requires a TWIA-issued windstorm and hail insurance policy delivered, issued for delivery, or renewed on or after July 1, 2020, and certain notifications provided to claimants with respect to a claim submitted under a policy delivered, issued for delivery, or renewed on or after that date to contain a notice concerning the availability of supplemental payments.

C.S.S.B. 615 changes from at the time of loss to the effective date of a TWIA policy the time for assessing the replacement cost of property for coverage under an applicable policy delivered, issued for delivery, or renewed on or after January 1, 2020.

C.S.S.B. 615 prohibits the rules required to be adopted by the commissioner establishing the procedure for the transfer of policies under the assumption reinsurance depopulation program from containing deadlines that require a property and casualty insurer or agent or a policyholder to take action or make a decision on or after June 1 or before December 1 in any year. The bill changes the program's opt-out period and removes the specified policy commencement date. The bill requires the commissioner to adopt or amend rules as required by these provisions not later than March 31, 2020.

C.S.S.B. 615 transfers from TWIA to the Texas Department of Insurance (TDI) the duties relating to the issuance of certificates of compliance with applicable building codes for a completed improvement to a structure for which coverage is sought under the Texas Windstorm Insurance Association Act, clarifies documentation requirements for an engineer's post-construction evaluation report submitted with a certificate application, and expressly authorizes TDI to deny a certificate application if an engineer's evaluation report does not meet documentation requirements. The certificate is conditional on an engineer affirming the improvement was constructed in accordance with the design. The bill authorizes TDI to submit a formal complaint under The Texas Engineering Practice Act to the Texas Board of Professional Engineers related to the work of a professional engineer as reflected in materials submitted with the certificate application. The bill makes these provisions applicable only to an application for a certificate of compliance made on or after June 1, 2020. The bill establishes that its changes reflecting transfer of the duty to issue a certificate of compliance, for purposes of demonstrating compliance under the plan of operation, do not affect the status of a certificate of compliance issued by TWIA before June 1, 2020, or after June 1, 2020, in response to an application made before that date for purposes of establishing evidence of insurability.

C.S.S.B. 615 requires TWIA to make its rate adequacy analysis publicly available on its website for at least 14 days before the date TWIA's board of directors votes on the submission of a proposed rate filing based on the analysis to TDI and to accept public comment with respect to the analysis at a public meeting of the board before the board votes on the submission. The bill requires the analysis to include all user selected hurricane model input assumptions and certain output data as specified by the bill.

C.S.S.B. 615 repeals Section 2210.107(b), Insurance Code, which requires TWIA's general manager to submit to the board of directors every two months a report evaluating the extent to which TWIA met certain primary objectives of the board in the two-month period immediately preceding the date of the report.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 615 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute clarifies the information required to be provided by the training program.

The substitute does not include a removal of the option to obtain a certificate of compliance based solely on the design of the improvement by a licensed engineer, but does include a provision making the certificate conditional on an engineer affirming the improvement was constructed in accordance with the design.

The substitute includes a provision prohibiting a form prescribed by TDI for documentation supporting an engineer's post-construction evaluation report from requiring a professional engineer to assume liability for the construction of an improvement.

The substitute includes specifications regarding the output data required in the TWIA rate adequacy analysis.

The substitute changes the date by which TWIA must comply with bill provisions relating to premium payment methods from January 1, 2020, to January 1, 2021. The substitute changes the dates on which certain provisions of the bill are applicable.