

**SUBJECT:** Catastrophic property insurance pool

**COMMITTEE:** Insurance — committee substitute recommended

**VOTE:** 8 ayes — Smithee, Averitt, Counts, De La Garza, Driver, Dutton, G. Lewis, Shields

0 nays

1 absent — Duncan

**WITNESSES:** For — Lee Otis Zapp, Jr., Galveston Windstorm Action Committee, Inc.

Against — None

**BACKGROUND:** The Catastrophic Property Insurance Pool (CATPOOL) Act governs the availability and issuance of insurance coverage for areas subject to frequent and severe windstorm or hail damage.

The CATPOOL Association is composed of most property and casualty insurers doing business in Texas and is charged with developing a plan of operation for windstorm and hail insurance in catastrophic areas, issuing policies, proposing rates within statutory guidelines, reinsuring and ceding reinsurance. Association rating plans must be filed with the Texas Department of Insurance (TDI) and are subject to approval by the TDI commissioner.

Residential windstorm and hail insurance rates written until December 31, 1995, are calculated using the voluntary homeowner's insurance benchmark market rate as a base. After 1995 they are to be calculated through a promulgated ratesetting proceeding.

Commercial windstorm and hail insurance rates are calculated specifically for CATPOOL insureds through a contested case hearing process arbitrated by the State Office of Administrative Hearings.

DIGEST: CSHB 2593 would change the ratesetting process for commercial property CATPOOL insurance and maintain the current process for residential insurance. The act would take effect September 1, 1995, and apply to policies issued or renewed on or after January 1, 1996.

CSHB would require the CATPOOL Association to file with TDI a rate for commercial risks by August 1 of each year. The rate would have to be 90 percent of the rate for extended coverage for commercial risks and could only be filed once a year.

Until January 1, 2001, a filing could not reflect an annual premium rate change that is more than 15 percent above or below the rate for commercial windstorm and hail insurance in effect on September 1, 1995. The commissioner could, after notice and hearing, suspend this provision upon finding that a catastrophic occurrence resulted in losses to justify the increase.

Before approving, modifying or disapproving a filing the commissioner would be required to provide opportunity for public review and comment and to hold an open meeting within 45 days of the filing submission. TDI would be required to file in the *Texas Register* that a filing had been made not later than the seventh day after the date the filing was received. The commissioner would be required to approve or disapprove the filing on or before November 1 of the year in which the filing was made. The commissioner would be required to state in writing the reasons for disapproval and the criteria to be met by the association to obtain approval.

The association would have 10 days to submit an amended filing. A public comment and review period would be required and a hearing held within 20 days of the receipt of the amended filing. The commissioner would have 30 days after the amended filing is received, and 10 days after the hearing, to approve or disapprove an amended filing, or the filing would be deemed approved.

The commissioner could request additional information from the association and an interested person could file a written request with the commissioner for additional supporting information directly related to the filing or amended filing. All requests for additional information would be submitted

to the association, which would be required to provide the information by the fifth day after the date the requests were delivered to the association.

**SUPPORTERS  
SAY:**

CSHB 2593 would streamline and reduce the costs of the commercial CATPOOL ratesetting process and at the same time allow for adequate public input. Any potential for unduly increased rates from the changes would be eliminated by the 15 percent cap placed on rate increases in each of the next five years.

The current ratesetting process takes nine to 10 months from start to finish, requiring the extended participation of actuaries, economists and attorneys in pre-filing testimony, responding to testimony, cross examination and defense and other hearing procedures. It has been estimated that the contested case hearing process adds about \$75,000 to \$100,000 to the cost of annual filing.

Consumers would have ample opportunity for input by requesting information from the Association and by expressing their concerns to the commissioner during the open meeting. Open meetings provide better opportunities than contested hearings for average citizens to express their concerns, which would be heard by the commissioner and not presented through a lawyer or another expert. Now, only the Office of Public Insurance Counsel has the expertise and the resources to adequately participate in a contested case hearing.

Commissioner ratesetting authority would not be diminished by CSHB 2593 because the commissioner would be granted the authority to modify proposed rates, which would mean the commissioner could essentially propose another rate. The CATPOOL is required to issue insurance to area applicants, so businesses would be covered under existing rates if proposed rates were still being considered or were disapproved.

**OPPONENTS  
SAY:**

CSHB 2593 would reduce public input and scrutiny of proposed rates and would result in higher rates than necessary. Removing commercial ratesetting from contested case proceedings would cost public interest advocates time and opportunity to obtain and study relevant data, cross-examine expert witnesses, challenge assumptions and propose alternative

rates. Ratesetting would be essentially in the hands of the insurance industry, and the public would lose their active role.

CASHB 2593 provisions regarding requests for information include limitations that may not provide sufficient time to review the vast quantity of data and complex assumptions and calculations that go into rate proposals. The department and interested parties are put at a disadvantage when incorrect or incomplete information is provided by the association. Discovery procedures used in contested case hearings allow sufficient due process for all parties and provide timely access to needed data.

CASHB 2593 also neglects to address the consequences of a disapproved rate proposal. The commissioner could only modify, but not set, proposed rates. Currently, the commissioner can change the rate set by the hearing officer if the commissioner finds fault with the hearing officer's findings. Under the proposal, the state would have no choice but to wait for the association to submit an amended filing, but the association would not be required to amend a disapproved filing to meet department criteria. State options would be limited to filings submitted by the association.

OTHER  
OPPONENTS  
SAY:

Commercial rate increases should not be capped at 15 percent. The association should be allowed to charge premiums at adequate rates to cover potential losses. Businesses, unlike homeowners, have the option of recuperating all or part of any rate increase from charges to customers.

NOTES:

The original version would have made only the changes to noncommercial windstorm and hail insurance that are included in the committee substitute.