

SUBJECT: Texas Windstorm Insurance Association operations and claims resolutions

COMMITTEE: Insurance — committee substitute recommended

VOTE: 6 ayes — Smithee, Hancock, Nash, Sheets, L. Taylor, Torres

3 nays — Eiland, Vo, Walle

WITNESSES: For — (*Registered, but did not testify*: Rolando Gomez)

Against — William King, Greater New Hope Missionary Baptist Church; Steve Mostyn, Texas Trial Lawyers Association and clients; Monte Osburn, Hughen Center, Inc.; Steve Quibodeaux, The Kids Safari, Inc.; Ware Wendell, Texas Watch; and 12 individuals; (*Registered, but did not testify*: Melissa Cubria, Texas Public Interest Research Group (Tex PIRG); Darlyne Dorsey, for Willie M. Prudhomme and Elton Prudhomme); A. Schwartz, Galveston Windstorm Comm.; David Watson, TWIA Lobby; and 255 individuals)

On — Deeia Beck, Office of Public Insurance Counsel; Fred Bosse, American Insurance Association; Beaman Floyd, Texas Coalition for Affordable Insurance Solutions; Mike Geeslin, Gene Jarmon, Texas Department of Insurance; Lee Loftis, Ind. Insurance Agents of Texas; Bill Peacock, Texas Public Policy Foundation; Jay Thompson, AFACT; Joe Woods, Property Casualty Insurers Assn. of America (PCI); (*Registered, but did not testify*: Julie Drenner, Eli Lehrer, The Heartland Institute)

BACKGROUND: Initially called the Texas Catastrophe Property Insurance Association, the Texas Windstorm Insurance Association (TWIA) was established in 1971 to protect consumers after companies ceased to write coverage on the Texas coast following Hurricane Celia in 1970. As a provider of last-resort insurance, TWIA provides basic wind and hail coverage to property owners in 14 coastal counties and parts of Harris County when such coverage is excluded from homeowners and other property policies.

All companies licensed to write property and casualty insurance in Texas are required by law to be members of TWIA. The percentage of each company's participation in the association is based on their statewide sales as well as sales within TWIA's territory. Governed by a 10-member board

of directors that meets quarterly, TWIA operates differently than for-profit insurance carriers with regard to risk assessment, but similarly to other carriers by providing coverage through a written contract which details policy limits and coverage restrictions.

**Payment of losses.** Sec. 2210 of the Insurance Code governs TWIA and outlines its purpose and functions under the law. The Texas Public Finance Authority's board of directors is authorized to issue public securities to raise revenue to provide windstorm and hail coverage through TWIA. Three classes of public securities can be issued on or after an occurrence or series of occurrences in a catastrophe area that result in insured losses. The proceeds from Class 1, Class 2, and Class 3 public securities are used to pay losses. Subch. B-1 governs the payment of losses. Sec. 2210.071 governs losses in excess of premium and other TWIA revenue, and secs. 2210.072-2210.074 address payment of losses apart from those in 2210.071. Each section prescribes the ceiling per calendar year for the principal amount of securities issued.

**TWIA directors and employees.** Subchapter C governs the powers and duties of the TWIA board of directors. Sec. 2210.104 requires the board to elect an executive committee, presiding officer, assistant presiding officer, and secretary-treasurer from the board's membership. TWIA is required to notify the Department of Insurance (TDI) of a board of directors meeting no later than 11 days before the meeting date. Board meetings are open to the commissioner or the public, unless exempted by the Government Code's closed meeting authorization. The primary board objectives require TWIA to operate according to Texas law and commissioner rules, comply with sound insurance principles, and meet all standards imposed under Texas law.

**Plan of operation.** Subchapter D of the TWIA chapter covers the association's plan of operation. The plan is required to provide for the efficient, just, and unbiased administration of the association. It also includes methods for fair assessment of TWIA members and underwriting standards. The plan is required to have procedures to accept and cede reinsurance, obtain and repay legally authorized loans, determine risk, and process insurance applications.

**Coverage and applications.** Subchapter E governs insurance coverage, including applications for coverage, eligible applicants, and cancellation of certain coverage.

**Property inspections and inspectors.** Sec. 2210.254 defines and governs qualified inspectors and lists required certifications and approval processes. Certain licensed engineers can be appointed as qualified inspectors under this provision. 2210.256 covers disciplinary proceedings for appointed inspectors, including revocation of appointment following notice and hearing and sanctions imposed by the commissioner including suspension and fines.

Sec. 2210.259 authorizes TWIA to subject certain noncompliant structures insured as of September 1, 2009, to an annual premium surcharge. The provision places a cap on the amount that can be assessed for the surcharge and mandates the association's use of the revenue. The provision also details the inspection requirements for certain properties according to the age of the structure and its location.

**Rates.** TWIA is required to file information with TDI regarding all classifications, rules, rates, plans, and other factors that the association plans to use to determine rates. The association is required to consider several relevant factors in adopting rates, such as past and prospective loss experience, operation expenses, and reasonable profit and operations margins. The rest of the provision in subch. H outlines requirements for the association to use in setting rates, creating classifications, addressing agents' commissions, and establishing rating territories.

**Trust fund and reinsurance program.** Subchapter J governs TWIA's catastrophe reserve trust fund and reinsurance program, including its establishment and use. 2210.453 specifically addresses reinsurance and allows the association to make payments into the trust fund and purchase reinsurance.

**Appeals.** An insured person or an affected insurer can appeal an action by the association within 30 days following the action. Under 2210.551(e), hearings concerning a TWIA action relating to the payment of, the amount of, or the denial of a particular claim can be held either in the county where the insured property is located or in Travis County, depending on the claimant's request. Procedures for claims disputes as well as the venue in which such disputes can be pursued are listed in this section as well.

**Other provisions of the code and Texas law.** Ch. 83 of the Insurance Code governs cease and desist orders. The provision applies to certain

types of insurance companies, including agents of these types of entities, and entities that are regulated by the commissioner.

Ch. 541 governs unfair or deceptive acts or practices of insurers. This provision allows a prevailing plaintiff to receive actual damages, court costs, and attorney's fees, as well as treble damages. Ch. 542 governs unfair claim settlement practices of insurers.

**DIGEST:**

CSHB 272 would make various revisions to the administration and operation of the Texas Windstorm Insurance Association.

**Payment of losses.** CSHB 272 would amend three provisions in the Insurance Code to change the basis on which public securities would be required to be issued. Under the bill, securities would be issued as necessary in a principal amount not to exceed \$1 billion dollars per occurrence or series of occurrences in a calendar year that resulted in insured losses.

**TWIA directors and employees.** Under CSHB 272, neither a member of the board of directors nor an employee would be allowed to:

- accept or solicit gifts, favors, or services that could influence the member or employee in duties related to TWIA's business or operation, or that the director or employee knew or should have known were offered for those purposes;
- accept other employment or engage in a business or professional activity that the director or employee might reasonably expect would require disclosure of TWIA's confidential information;
- accept other employment or compensation that could reasonably be expected to impair the member's or employee's independence of judgment while working for TWIA;
- make personal investments that could reasonably be expected to create a substantial conflict between the director's or employee's private interest and TWIA's interest; or
- intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the member's or employee's powers while working for TWIA or having performed a favor for another, while working for TWIA.

A TWIA employee who violated any section of the Insurance Code

governing conduct and employee performance standards would be subject to employment-related sanctions, including job termination. A TWIA board member or employee who violated ethics rules would be subject to civil or criminal penalties associated with their actions if those actions violated another statute or rule.

A TWIA member of the board of directors or employee would be prohibited from appointing, employing, or contracting with any of the following individuals for goods or services connected with the operation or business of TWIA if the individual would be directly or indirectly paid with TWIA funds:

- someone related to the member or employee within the third degree by consanguinity or within the second degree by affinity; or
- someone related to any member or employee within the third degree by consanguinity or within the second degree by affinity.

CSHB 272 would require TWIA to post the salaries and bonuses of all managerial employees on its website.

The bill would require that, in addition to notifying TDI before a meeting of the directors or association members, TWIA post notice of the meeting on the TDI and TWIA websites no later than 7 days before the date of the meeting. These meetings, including certain closed meetings under Government Code, ch. 551, would have to be open to the commissioner or the commissioner's representative. TWIA would be responsible for live streaming of board meetings on its website and maintaining an archive on its website for at least two years following the date of each meeting.

The board and TWIA would be responsible for creating a code of conduct and performance standards for employees and contractors and for evaluating association management on an annual basis. TWIA also would be required to submit an annual report, no later than June 1, to the governor and other state leaders evaluating objectives completed from the prior year.

CSHB 272 would subject TWIA to the open meetings and public information provisions in the Government Code. Settlement agreements that involved the association as a party would be considered public information and would have to include the names of attorneys or adjusters involved with the claim that was the basis of the settlement.

**Plan of operation.** The bill would require the association's plan of operation to list TWIA's duty to use published claims settlement guidelines recommended by the commissioner-appointed technical panel in evaluating the extent to which a loss was incurred as a result of certain factors.

**Coverage and applications.** CSHB 272 would require the commissioner to create rules to simplify the windstorm insurance application process, both for new coverage policies and renewals.

The bill would list provisions required in policies, including claim filing deadlines and arbitration notices. TWIA windstorm and hail policies would require insured parties to file claims no later than one year from the date on which damage occurred to the insured property. These policies also would have to list conspicuously in boldface type:

- a notice detailing dispute procedures, including appraisal processes and deadlines, and independent coverage review;
- the requirement for compliance with the Insurance Code governing dispute resolution to seek administrative or judicial relief.

CSHB 272 would authorize the commissioner to extend the one-year claim deadline by no more than 180 days for persons showing good cause.

The bill would prohibit TWIA from providing coverage to certain structures, including wind turbines, structures used primarily as casinos, or structures used as sexually oriented businesses.

**Property inspections and inspectors.** TDI would be authorized to establish an annual renewal period for appointed qualified inspectors. Under CSHB 272, TDI would have exclusive authority over everything related to the appointment and oversight of qualified inspectors for TWIA matters. The insurance commissioner would be required to establish rules to ensure that persons seeking appointment as qualified inspectors be competent and possess knowledge and skills for windstorm inspections and other compliance issues.

CSHB 272 would authorize the commissioner to enter an emergency cease and desist order against a qualified inspector the commissioner believed had failed to show through documentation and other information

submitted to TDI that a structure met the requirements of TWIA provisions in the Insurance Code. The commissioner could also enter an emergency cease and desist order against a person acting as a qualified inspector without appointment. If the commissioner determined that inspections performed by any inspector were fraudulent, hazardous, or created immediate danger to the public, the commissioner could enter an emergency cease and desist order.

Under CSHB 272, the commissioner would be required to create rules, based on recommendations from the board of directors, to establish the amount of the annual surcharge for noncompliant residential structures. The amount of the surcharge would have to be actuarially justifiable and no less than 15 percent of the TWIA premium. Before establishing the surcharge, the commissioner would be required to submit information to the legislative oversight board detailing the methodology used to determine the amount of the surcharge.

**Rates.** The bill would require TWIA to establish rating territories and to vary rates according to changes provided under CSHB 272. TWIA could use rate relativities to rate territories that subdivided a county without obtaining commissioner approval if the resulting rate for any subdivision in the county:

- was no more than 15 percent greater than the resulting rate used in other subdivisions within that county for identical coverage for insureds with identical risk characteristics; and
- would not discriminate unfairly.

Otherwise, TWIA would have to seek prior approval from the commissioner to use rate relativities for these types of rating territories. These rate relativities would have to be actuarially sound, be based on reasonable output from recognized catastrophe models, and produce rates that complied with statutory and regulatory requirements.

**Trust fund and reinsurance program.** If TWIA did not purchase reinsurance, the association would have to submit a report to the governor and other state officials by June 1 on an actuarial plan to pay losses in the event of a catastrophe that resulted in total damage of at least \$2.5 billion. The TWIA board would be required to submit a catastrophe plan to the governor and other state leaders annually by June 1, covering a period from the date of submission of the plan until May 31 of the following

year. The details of the plan would have to include:

- the way TWIA would determine loss and process claims after windstorms affecting an area of maximum exposure to the association, including windstorms with 4 percent, 2 percent, and 1 percent chances of occurring during the projected period, and
- a description of payment of losses and the processing of claims with regard to administration and adjustment.

This plan would not apply to an insured required to use arbitration methods to settle disputes, but would apply to every other insured policyholder.

For disputes other than causation, coverage, and damage, an insured would be able to bring an action against TWIA or appeal the decision. The bill would remove the provision allowing an insured to bring an action under ch. 541 of the Insurance Code. The insured would be able to recover only actual damages with court costs and reasonable attorney's fees and could not recover consequential, punitive, or exemplary damages, including treble damages under sec. 541.152(b) or Business and Commerce Code, sec. 17.50.

**Appeals.** CSHB 272 would require an insured to bring an action no later than two years following the date of the act, ruling, or decision that formed the basis of the issue in contention. The bill would create a statute of repose that would control over any other applicable limitations period.

**Claims: settlement and dispute resolution.** CSHB 272 would create a new provision in the TWIA subchapter. The bill would limit the amount of recovery for an insured to the amount of the limits for the TWIA policy at issue and would provide the only remedies for a causation, coverage, or damage dispute with the association.

Under the bill, an insured would be required to file a claim no later than one year from the date damage occurred to the property that was the basis of the claim. The bill would require TWIA to act within 90 days after receiving the claim to notify the claimant in writing of the amount of money the association would be willing to pay and provide the claimant with either:



- a detailed description of the assumptions or estimates TWIA used to determine the claim amount, including estimated costs of labor and materials; or
- a detailed description of the factual or legal basis for a coverage or causation dispute regarding the claim, if TWIA were to determine, in whole or in part, that the property was not insured or that it was damaged by something not covered in the policy.

If TWIA failed to notify the claimant in the manner prescribed, the claim would be presumed to be covered by the policy. The association could extend the 90-day period under certain circumstances and would have to notify the claimant of the extension in writing.

If the claimant failed to submit information necessary to determine whether to pay any or all of the claim, the association could request additional information, and the 90-day review period or any extension would be tolled from the date of the request until responsive information was received.

A claimant could make a written request to review a TWIA determination within 30 days of the decision. The association would have to allow the claimant to review all information relevant to the determination. Within 60 days, TWIA would have to provide the claimant with a written notification about the review's outcome, or the claimant and TWIA could agree to extend the review period. The written notice to the claimant by TWIA would have to contain reasons for the review decision and time limits to request appraisal, as authorized by other sections of the code.

Under the bill, a claimant could request an appraisal for a damage dispute remaining after a review, if no coverage or causation dispute existed. The appraisal would include information about the extent of damage to the property or the costs of repairing or replacing the property. The claimant would have 30 days after the receipt of notice of the association's review. The commissioner could grant an additional 30-day extension for good cause.

The claimant and TWIA would resolve the dispute through the appraisal process, at the claimant's request, according to the terms of the association's policy. The results of the appraisal would be binding and subject to appeal and judicial review only under the provisions governing

dispute resolution created by this bill. The results would be final and appealable 15 days after the date the appealing party received actual or constructive notice of the results.

An appraisal request and an appraisal would be mandatory before a claimant could contest a TWIA determination on property damage or the costs of replacement or repair. A claimant failing to request an appraisal would waive the opportunity to contest TWIA's determination on property damage. The commissioner would by rule establish policies and procedures for requested appraisals.

A claimant could request resolution of all disputes on a claim through an independent review panel if a coverage or causation dispute remained after TWIA review. The written request for independent review would have to be mailed or served on TWIA or the commissioner within 30 days of notice received by the claimant on a TWIA review. The commissioner could grant an extension for good cause.

The commissioner would have to appoint an independent review panel to resolve the dispute. The panel of three would be selected from a roster of qualified members maintained and published by the commissioner. The commissioner would appoint one member as the presiding officer.

The panel would make a determination regarding causation, coverage, or damage, and would have to notify the parties in writing no later than 120 days after the panel was appointed. The commissioner could grant a reasonable extension for the panel to make a determination or could select a new panel for the review.

The independent review panel would determine whether a dispute review required input from the technical panel appointed under provisions in the bill. If guidance from the technical panel were sought, the 120-day review period would be tolled from the date of request until the information was received.

A review panel's determination would be binding on both parties and subject to appeal and review only by methods provided under the bill. The determination would be final and appealable 15 days after the appealing party received notice of the decision. The commissioner would by rule establish qualifications for review panel members, procedures and deadlines for independent review and the exchange of documents, and

other necessary procedures and deadlines. These rules would have to ensure that the independent review process was fair to the claimant and enabled the claimant to participate without requiring legal counsel.

Under CSHB 272, the commissioner would appoint a technical panel of experts to advise TWIA on the extent to which damage was created by wind, waves, tidal surges, rising waters not caused by waves or surges, and wind-driven rain associated with a storm. The size of the panel would be determined by the commissioner, with one member serving as presiding officer. The panel members would have to possess expertise in geography and meteorology of the Texas seacoast territory, as well as the scientific bases for determining the extent of damage created by the listed weather patterns, and at the commissioner's request would recommend methods to determine the extent of damage. The panel would meet at the commissioner's request or when the presiding officer called a meeting. It would investigate, collect, and evaluate information needed to provide guidance and recommendations for the independent review panel. The commissioner would publish the recommendations for TWIA's use in settling claims.

If not satisfied with the appraisal or independent review panel's determinations, the claimant would be entitled to judicial review, but only after exhausting all administrative remedies available under dispute resolution. The claimant could use the method provided by subchapter G of ch. 2001 of the Government Code to seek judicial review. Under the bill, a court could award no more than the policy limits, plus court costs and reasonable and necessary attorney's fees.

The subchapter created by CSHB 272 to govern settlement and dispute resolution would prevail upon any conflict with any other law.

CSHB 272 would repeal sec. 2210.551(e), which allows hearings for certain TWIA actions.

**Other provisions.** Under CSHB 272, the deceptive acts provisions under ch. 541 and unfair claim settlement practices under ch. 542 would apply to TWIA and its claims-processing procedures, unless otherwise governed by the TWIA provisions in the Insurance Code. Ch. 2210 would prevail over any conflicts in law between it and chs. 541 and 542. The bill would prohibit a person insured under the TWIA provisions from bringing a private lawsuit against TWIA under ch. 541.

The bill would limit applicability of the Civil Practice and Remedies Code section governing third-party joinder that allows one party to designate another as a responsible third party to a suit. The bill also would prohibit someone who was insured by TWIA from presiding over any matter or action to which TWIA was a party, including as a judge or arbitrator.

The bill would stipulate that the standard permitting a plaintiff to recover treble damages would not apply to an action brought against TWIA by a person insured by the association.

The bill also would change the year for TWIA's Sunset review to 2013 from 2015.

**Effective dates.** CSHB 272 would apply only to policies or disputes initiated 30 days after the effective date of the bill. TWIA would have to amend the association's plan of operation by January 1, 2012, to conform to changes in the bill. Changes to secs. 541.152 and 2210.552 would apply only to causes of action that accrued on or after the effective date of the bill.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011.

**SUPPORTERS  
SAY:**

CSHB 272 would add much-needed regulation, transparency, and ethics reform to the association created to aid and protect insurance consumers on the Texas coast. TWIA board members, management, and staff recently failed to fulfill the purpose of the association in providing last-resort wind and hail insurance to a different class of insurance consumers on the coast.

The bill would provide a fair, efficient, and highly effective method for claims disputes that arise between TWIA and coastal policyholders. The claims settlement and dispute resolution provisions created by CSHB 272 would allow policyholders to appeal different types of claims by using processes that were more appropriate for each issue. By setting concrete deadlines for each issue, the bill would streamline the review and appeal process. CSHB 272 would ensure fairness in the dispute process by instituting consumer-friendly deadlines designed to provide structure and make TWIA more accountable to policyholders. The bill also would ensure fairness by presenting opportunities to policyholders for deadline

extensions. Because CSHB 272 ultimately would allow for access to the court system, it would strike a sensible compromise between arbitration and access to the legal system that could not be sustained by TWIA.

CSHB 272 would reduce claims dispute costs for involved parties by providing a process that would be supported through TWIA's current infrastructure. The association has paid millions of dollars in legal fees for claims stemming from Hurricane Ike, and this type of unnecessary spending must be prevented. Because TWIA is funded much differently than a traditional for-profit insurance company, the association does not have the resources to sustain losses from exorbitant lawsuits that grant punitive and exemplary damages in addition to the insured's actual loss. The association has never been capitalized as an insurance company. Without CSHB 272, claims dispute costs would be shouldered by not only coastal consumers in litigation, but also inland consumers who would suffer from higher insurance premiums as a result of that litigation.

CSHB 272 would subject the association to increased transparency to benefit Texas taxpayers. Although TWIA is a quasi-governmental entity subject to the Government Code, the bill would explicitly place TWIA under the state's open meetings and open records laws. Livestream broadcasts of board meetings and access to archives, plus the commissioner's presence at closed meetings, would prevent the board from operating without the authoritative oversight of the commissioner or the watchful eye of the public. Furthermore, transparency would be maintained throughout TWIA's operations through the required full disclosures for disputes and rate determinations created by the bill.

CSHB 272 would impose more stringent guidelines for TWIA board members and association staff that would prevent improper acts of the association in its operations. By prohibiting improper relationships and transactions between TWIA and other interested parties, and by also prohibiting nepotism in the association, the bill would make it extremely difficult for TWIA employees and others to exploit business relationships or exert improper influence on the association.

The bill also would foster greater assurance in TWIA's preparedness. The requirement created by CSHB 272 for catastrophe and actuarial plans would cause the association to take a proactive approach to preparing for possible storm occurrences.

OPPONENTS  
SAY:

Even with the increased transparency and ethics rules provided by CSHB 272, TWIA policyholders would be relegated to second-class citizens, left with fewer remedies and redress methods than all other insurance consumers in Texas. The bill would effectively punish coastal policyholders for the actions of the agency created to protect them by stripping these consumers of essential protections and remedies granted by secs. 541 and 542 of the Insurance Code. Many TWIA policyholders already are held in a captive market with no bargaining power in negotiating policy terms, and this bill would make this group increasingly vulnerable to unfair treatment by TWIA.

The arbitration process created by CSHB 272 would be an unnecessarily complex administrative system benefitting no one, and would be especially burdensome to TWIA policyholders. It would create additional duties for the association for claims disputes, thereby eliminating any efficiency it created in other areas. The bill would place policyholders at the mercies of the commissioner, unidentified review panels, and TWIA. Furthermore, it would serve to discourage TWIA policyholders from pursuing disputes through to completion. The accountability and increased transparency created by the bill would be negated by the shields created for TWIA through the claims dispute process.

The bill would not ensure lower costs for claims disputes for TWIA or consumers. CSHB 272 would force a policyholder to retain an attorney before a dispute even became eligible for judicial review because the substantial evidence requirement under the bill would necessitate a legal expert to build a record for later review. The drawn out process created by timelines in the bill would increase the time and resources both TWIA and policyholders would have to invest in claims disputes. Furthermore, the policyholder would bear a tremendously unfair burden to use as many financial resources as possible due to being pitted against a highly sophisticated opponent equipped with legal counsel and scientific experts.

Access to a jury of peers would be taken from claimants through provisions mandating use of the dispute system created by CSHB 272. By prohibiting coastal residents from serving on any part of any review processes, including panels established by the commissioner, the bill would eliminate the opportunity for claims even to be examined by peers. Valuable access to jury trials would be removed by CSHB 272, thereby preventing fact issues normally left to jury trials from being exposed.

The current treble damages provision gives consumers more room when negotiating claims disputes between the insured and TWIA. Without the ability to seek treble and other damages, coastal policyholders would be limited in their negotiation ability and could end up receiving even less than policy limits.

OTHER  
OPPONENTS  
SAY:

CSHB 272 would not improve the broken dispute system because it would fail to address claims adjusting, the issue that gives rise to disputes. The bill should adopt a single-adjuster claims process that would use the qualified, competent adjusters of large companies already in the practice of adjusting these claims. Consumers would be protected from unqualified adjusters seeking to take advantage of a broken system, and TWIA could experience some cost savings by using a very streamlined system, which is currently working well for other states.

The bill would be ineffective for solving windstorm problems in Texas because it would continue the existence of TWIA. The government should not be involved in the insurance market. Because the market would more effectively in setting the costs of premiums for this very special type of coverage, TWIA should not be involved in regulating insurance premium rates. Additionally, because the bill would not require the association to purchase reinsurance, TWIA's current practice of bond financing would continue to be insufficient for its obligations. The government should not be involved in the insurance market.

CSHB 272 would do nothing to assist TWIA to respond quickly to changing weather and market conditions. The bill should amend the Insurance Code to allow TWIA to use new rates with an average increase of up to 10 percent without prior approval from the commissioner. This type of change would increase the flexibility of the association to respond to changing weather conditions and insurance issues.

NOTES:

The substitute differs from the original by:

- removing language creating a binding arbitration process for claims disputes;
- adding a system for claims settlement and dispute resolution;
- removing flood insurance language;
- removing language regarding flood insurance requirements;
- removing language related to agent commissions; and

- removing language changing the current maximum liability limits. According to the LBB's fiscal note, CSHB 272 would cause no fiscal impact to the state for fiscal 2012-13. Changes to the Insurance Code regarding the issuance of public securities would be offset by any future debt issuance. Changes that would implement the claims review process would be paid from the self-leveling insurance maintenance tax.

The companion bill, SB 1432 by Carona, was considered in a public hearing by the Senate Business and Commerce Committee on April 6 and left pending.