

All Prefiled Amendments for: SB 615

Herrero

Amendment	861699
Amendment	861701

King, Ken

Amendment	861704
Amendment	861705

Lucio III

Amendment	861697
-----------	--------

Middleton

Amendment	861693
Amendment	861694
Amendment	861695

**The following 8 amendments were
published on 5/15/19 10:18 AM**



Herrero

Floor Amendment No. _____ to S.B. 615

2019 MAY 15 AM 9:42

On page 13, between lines 11 and 12, ~~insert~~ ^{HOUSE OF REPRESENTATIVES} the following appropriately numbered section:

SECTION ____ . Section 2210.575, Insurance Code, is amended by adding subsection (f-1) to read as follows:

(f-1) If a claimant brings an action against the association concerning a partial or full denial of coverage under a commercial policy and the association later accepts part or all of a previously denied portion of the claim, the court shall dismiss the action as to the portion of the claim the association has accepted so that the parties may proceed with appraisal as provided in Section 2210.573, but only if the association notifies the claimant of its acceptance of the claim before the later of the 90th day after the date:

(1) the claimant's notice of intent to bring an action is received by the association;

(2) the date an alternative dispute resolution process under this section is completed; or

(3) the association files its answer to the claimant's action.

(f-2) If the court grants a motion to dismiss under Subsection (f-1), the court shall order the association to pay the claimant's court costs and the reasonable and necessary amounts for:

(1) attorney's fees incurred by the claimant in pursuing the action before it was dismissed;

(2) expert fees paid by the claimant to investigate and evaluate the claim in order to pursue the action; and

(3) expenses incurred by the claimant to

investigate and evaluate the claim in order to pursue the action.

On page 16, between lines 23 and 24, insert the following:

(j) Sections 2210.575(f-1) and 2210.575(f-2) apply to a claim submitted under an association policy that is delivered, issued for delivery, or renewed on or after January 1, 2020. A claim submitted under an association policy that is delivered, issued for delivery, or renewed before January 1, 2020, is governed by the law as it existed immediately before the effective date of the Act, and that law is continued in effect for that purpose.



2019 MAY 15 AM 9:41

HOUSE OF REPRESENTATIVES

Herrero

FLOOR AMENDMENT NO. _____

BY: _____

Amend C.S.S.B. No. 615 (house committee report) as follows:

(1) On page 2, strike lines 11 and 12, and substitute the following:

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

(2) On page 2, between lines 12 and 13, insert the following:

(a) The board of directors is composed of 11 [~~nine~~] members appointed by the governor [~~commissioner~~] in accordance with this section.

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

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

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

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

(c-1) One of the members appointed under Subsection (c) must be a property and casualty agent who is licensed under this code and is not a captive agent. Other members appointed under that subsection:

(1) must be association policyholders nominated by the office of public insurance counsel; and

(2) may not be property and casualty agents.

1 (f) Insurers who are members of the association shall
2 nominate, from among those members, persons to fill any vacancy in
3 the three board of director seats reserved for representatives of
4 the insurance industry. The board of directors shall solicit
5 nominations from the members and submit the nominations to the
6 governor [~~commissioner~~]. The nominee slate submitted to the
7 governor [~~commissioner~~] under this subsection must include at least
8 three more names than the number of vacancies. The governor
9 [~~commissioner~~] may appoint replacement insurance industry
10 representatives from the nominee slate.

11 (3) Add the following appropriately numbered SECTIONS to
12 the bill and renumber subsequent SECTIONS of the bill accordingly:

13 SECTION _____. Section 2210.103, Insurance Code, is amended
14 to read as follows:

15 Sec. 2210.103. TERMS. (a) Members of the board of
16 directors serve two-year [~~three-year staggered~~] terms[, ~~with the~~
17 ~~terms of three members expiring on the third Tuesday of March of~~
18 ~~each year~~].

19 (b) A person may serve on the board of directors for not more
20 than three consecutive full terms, not to exceed six [~~nine~~] years.

21 (c) A member of the board of directors may be removed by the
22 governor [~~commissioner~~] with cause stated in writing and posted on
23 the association's website. The governor [~~commissioner~~] shall
24 appoint a replacement in accordance with Section 2210.102 for a
25 member who leaves or is removed from the board of directors.

26 SECTION _____. (a) The board of directors of the Texas
27 Windstorm Insurance Association established under Section
28 2210.102, Insurance Code, as that section existed before amendment
29 by this Act, is abolished effective December 1, 2019.

30 (b) The governor shall appoint the members of the board of
31 directors of the Texas Windstorm Insurance Association under

1 Section 2210.102, Insurance Code, as amended by this Act, not later
2 than December 1, 2019.

3 (c) The term of a person who is serving as a member of the
4 board of directors of the Texas Windstorm Insurance Association
5 immediately before the abolition of that board under Subsection (a)
6 of this section expires on December 1, 2019. Such a person is
7 eligible for appointment by the governor to the new board of
8 directors of the Texas Windstorm Insurance Association, subject to
9 the requirements of Section 2210.102, Insurance Code, as amended by
10 this Act.



2019 MAY 15 AM 9:57

HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. _____

BY: 

Amend C.S.S.B. No. 615 (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering SECTIONS of the bill accordingly:

SECTION _____. Subtitle G, Title 10, Insurance Code, is amended by adding Chapter 2214 to read as follows:

CHAPTER 2214. TEXAS TORNADO AND WILDFIRE INSURANCE ASSOCIATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2214.001. PURPOSE. The primary purpose of the Texas Tornado and Wildfire Insurance Association is the provision of an adequate market for property insurance to provide coverage for losses from tornado and wildfire in this state. The legislature finds that the provision of adequate tornado and wildfire insurance is necessary to the economic welfare of this state, and without that insurance, the orderly growth and development of this state would be severely impeded. This chapter provides a method by which adequate tornado and wildfire insurance may be obtained in this state. The association is intended to serve as a residual insurer of last resort for tornado and wildfire insurance in this state. The association shall:

(1) function in such a manner as to not be a direct competitor in the private market; and

(2) provide tornado and wildfire insurance coverage to those who are unable to obtain that coverage in the private market.

Sec. 2214.002. SHORT TITLE; COVERAGE AVAILABLE. (a) This chapter may be cited as the Texas Tornado and Wildfire Insurance Association Act.

(b) This chapter authorizes the association to issue only tornado and wildfire insurance.

Sec. 2214.003. GENERAL DEFINITIONS. In this chapter,

1 unless the context clearly indicates otherwise:

2 (1) "Association" means the Texas Tornado and Wildfire
3 Insurance Association.

4 (2) "Board of directors" means the board of directors
5 of the association.

6 (3) "Net direct premium" means gross direct written
7 premium less return premium on each canceled contract, regardless
8 of assumed or ceded reinsurance, that is written on property in this
9 state, as defined by the board of directors.

10 (4) "Plan of operation" means the plan adopted under
11 this chapter for the operation of the association.

12 (5) "Tornado and wildfire insurance" means deductible
13 insurance against:

14 (A) direct loss to insurable property incurred as
15 a result of tornado or wildfire, as those terms are defined and
16 limited in policies and forms approved by the department; and

17 (B) indirect losses resulting from the direct
18 loss.

19 (6) "Wildfire" means an uncontrolled blaze fueled by
20 weather, wind, and dry underbrush, trees, grasses, or other
21 flammable material.

22 Sec. 2214.004. DEFINITION OF INSURABLE PROPERTY. For
23 purposes of this chapter and subject to this section, "insurable
24 property" has the meaning assigned by the plan of operation.

25 Sec. 2214.005. DESIGNATION AS CATASTROPHE AREA; REVOCATION
26 OF DESIGNATION. An area of this state may be designated as a
27 catastrophe area in the plan of operation. The commissioner by rule
28 may revoke the designation.

29 Sec. 2214.006. APPLICABILITY OF CHAPTER TO CERTAIN
30 INSURERS. (a) Except as provided by Subsection (b), this chapter
31 applies to each insurer authorized to engage in the business of

1 property insurance in this state, including a county mutual
2 insurance company, a Lloyd's plan, and a reciprocal or
3 interinsurance exchange.

4 (b) This chapter does not apply to:

5 (1) a farm mutual insurance company operating under
6 Chapter 911;

7 (2) a nonaffiliated county mutual fire insurance
8 company described by Section 912.310 that is writing exclusively
9 industrial fire insurance policies as described by Section
10 912.310(a)(2); or

11 (3) a mutual insurance company or a statewide mutual
12 assessment company engaged in business under Chapter 12 or 13,
13 Title 78, Revised Statutes, respectively, before those chapters'
14 repeal by Section 18, Chapter 40 (S.B. 37), Acts of the 41st
15 Legislature, 1st Called Session, 1929, as amended by Section 1,
16 Chapter 60 (S.B. 106), General Laws, Acts of the 41st Legislature,
17 2nd Called Session, 1929, that retains the rights and privileges
18 under the repealed law to the extent provided by those sections.

19 Sec. 2214.007. DEPARTMENT ORDERS; GENERAL RULEMAKING
20 AUTHORITY. (a) The commissioner may issue any orders that the
21 commissioner considers necessary to implement this chapter.

22 (b) The commissioner may adopt rules in the manner
23 prescribed by Subchapter A, Chapter 36, as reasonable and necessary
24 to implement this chapter.

25 Sec. 2214.008. LIST OF PRIVATE INSURERS; INCENTIVE PLAN.

26 (a) The department shall maintain a list of all insurers that
27 engage in the business of property and casualty insurance in the
28 voluntary market in this state.

29 (b) The department shall develop incentive programs to
30 encourage authorized insurers to write insurance on a voluntary
31 basis and to minimize the use of the association as a means to

1 obtain insurance.

2 SUBCHAPTER B. ADMINISTRATION OF THE ASSOCIATION

3 Sec. 2214.051. COMPOSITION OF ASSOCIATION; REQUIRED
4 MEMBERSHIP. (a) The association is composed of all property
5 insurers authorized to engage in the business of property insurance
6 in this state, other than insurers prevented by law from writing on
7 a statewide basis coverages available through the association.

8 (b) As a condition of the insurer's authority to engage in
9 the business of insurance in this state, each insurer subject to
10 Subsection (a) must be a member of the association and must remain a
11 member for the duration of the association's existence. An insurer
12 that ceases to be a member of the association remains liable on
13 insurance contracts entered into during the insurer's membership in
14 the association to the same extent and effect as if the insurer's
15 membership in the association had not been terminated.

16 (c) An insurer that becomes authorized to write and is
17 engaged in writing insurance that requires the insurer to be a
18 member of the association shall become a member of the association
19 on the January 1 following the effective date of that
20 authorization. The determination of the insurer's participation in
21 the association is made as of the date of the insurer's membership
22 in the manner used to determine participation for all other members
23 of the association.

24 Sec. 2214.052. MEMBER PARTICIPATION IN ASSOCIATION. (a)
25 Each member of the association shall participate in insured losses
26 and operating expenses of the association, in excess of premium and
27 other revenue of the association, in the proportion that the net
28 direct premiums of that member during the preceding calendar year
29 bears to the aggregate net direct premiums by all members of the
30 association, as determined using the information provided under
31 Subsection (b).

1 **(b) The department shall review annual statements, other**
2 **reports, and other statistics that the department considers**
3 **necessary to obtain the information required under Subsection (a)**
4 **and shall provide that information to the association. The**
5 **department is entitled to obtain the annual statements, other**
6 **reports, and other statistics from any member of the association.**

7 **(c) Each member's participation in the association shall be**
8 **determined annually in the manner provided by the plan of**
9 **operation. For purposes of determining participation in the**
10 **association, two or more members that are subject to common**
11 **ownership or that operate in this state under common management or**
12 **control shall be treated as a single member. The determination**
13 **shall also include the net direct premiums of an affiliate that is**
14 **under that common management or control, including an affiliate**
15 **that is not authorized to engage in the business of property**
16 **insurance in this state.**

17 **(d) Notwithstanding Subsection (a), a member, in accordance**
18 **with the plan of operation, is entitled to receive credit for**
19 **similar insurance voluntarily written in areas designated by the**
20 **commissioner. The member's participation in the insured losses and**
21 **operating expenses of the association in excess of premium and**
22 **other revenue of the association shall be reduced in accordance**
23 **with the plan of operation.**

24 **(e) Notwithstanding Subsections (a)-(d), an insurer that**
25 **becomes a member of the association and that has not previously been**
26 **a member of the association is not subject to participation in any**
27 **insured losses and operating expenses of the association in excess**
28 **of premium and other revenue of the association until the second**
29 **anniversary of the date on which the insurer first becomes a member**
30 **of the association.**

31 **Sec. 2214.053. OPERATION OF ASSOCIATION. The association**

1 shall operate in accordance with the plan of operation.

2 Sec. 2214.054. ANNUAL STATEMENT. (a) The association
3 shall file annually with the department and the state auditor's
4 office a statement covering periods designated by the department
5 that summarizes the transactions, conditions, operations, and
6 affairs of the association during the preceding year.

7 (b) The statement must:

8 (1) be filed at times designated by the department;

9 (2) contain the information prescribed by the
10 department; and

11 (3) be in the form prescribed by the department.

12 Sec. 2214.055. USE OF ASSOCIATION ASSETS. (a) The
13 association's net earnings may only be used in accordance with the
14 plan of operation.

15 (b) On dissolution of the association, all assets of the
16 association, other than assets pledged for the repayment of public
17 securities issued under this chapter, revert to this state.

18 Sec. 2214.056. EXAMINATION OF ASSOCIATION. (a) The
19 association is subject to Sections 401.051, 401.052,
20 401.054-401.062, 401.151, 401.152, 401.155, and 401.156 and
21 Subchapter A, Chapter 86.

22 (b) A final examination report of the association resulting
23 from an examination as provided by this section is a public record
24 and is available to the public at the offices of the department in
25 accordance with Chapter 552, Government Code.

26 Sec. 2214.057. AUDIT OF ASSOCIATION. (a) The association
27 is subject to audit by the state auditor and shall pay the costs
28 incurred by the state auditor in performing an audit under this
29 section.

30 (b) The association shall pay the costs described by
31 Subsection (a) promptly after receipt of a statement from the state

1 auditor's office regarding the amount of those costs.

2 Sec. 2214.058. CLAIMS PRACTICES AUDIT. The commissioner,
3 in the manner and at the time the commissioner determines to be
4 necessary, may conduct a random audit of claim files concerning
5 claims the bases of which are damage to property insured under this
6 chapter.

7 SUBCHAPTER C. PAYMENT OF LOSSES

8 Sec. 2214.101. PAYMENT OF LOSSES. The association shall
9 pay insured losses and operating expenses of the association from
10 premium and other revenue of the association in accordance with the
11 plan of operation.

12 Sec. 2214.102. ASSESSMENTS. (a) Losses not paid under
13 Section 2214.101 shall be paid from member insurer assessments.

14 (b) A member of the association may not recoup an assessment
15 paid under this section through a premium surcharge or tax credit.

16 SUBCHAPTER D. BOARD OF DIRECTORS; POWERS AND DUTIES

17 Sec. 2214.151. ACCOUNTABLE TO COMMISSIONER. The board of
18 directors is responsible and accountable to the commissioner.

19 Sec. 2214.152. COMPOSITION. (a) The board of directors is
20 composed of nine members appointed by the governor.

21 (b) All members must have demonstrated experience in
22 insurance, general business, or actuarial principles sufficient to
23 make the success of the association probable.

24 Sec. 2214.153. TERMS. (a) Members of the board of
25 directors serve six-year staggered terms, with the terms of three
26 members expiring on February 1 of each odd-numbered year.

27 (b) A person may serve on the board of directors for not more
28 than three consecutive full terms, not to exceed 18 years.

29 (c) A member of the board of directors may be removed by the
30 commissioner with cause stated in writing and posted on the
31 association's Internet website. The commissioner shall appoint the

1 replacement for a director who leaves or is removed from the board
2 of directors.

3 Sec. 2214.154. OFFICERS. The board of directors shall
4 elect from the board's membership an executive committee consisting
5 of a presiding officer, assistant presiding officer, and
6 secretary-treasurer.

7 Sec. 2214.155. MEETINGS. (a) Except for an emergency
8 meeting, the association shall call and conduct its meetings in
9 accordance with the plan of operation.

10 (b) Except for a closed meeting authorized by Subchapter D,
11 Chapter 551, Government Code, a meeting of the board of directors or
12 of the members of the association is open to the public.

13 (c) Notice of a meeting of the board of directors or the
14 association must be given as provided by Chapter 551, Government
15 Code.

16 Sec. 2214.156. OPEN MEETINGS AND OPEN RECORDS. (a) Except
17 as specifically provided by this chapter or another law, the board
18 of directors and the association are subject to Chapters 551 and
19 552, Government Code.

20 (b) A settlement agreement to which the association is a
21 party is public information and is not exempted from required
22 disclosure under Chapter 552, Government Code.

23 (c) Subsection (b) may not be construed to limit or
24 otherwise restrict the categories of information that are public
25 information under Section 552.022, Government Code.

26 SUBCHAPTER E. PLAN OF OPERATION

27 Sec. 2214.201. ADOPTION OF PLAN OF OPERATION. With the
28 advice of the board of directors, the commissioner by rule shall
29 adopt the plan of operation to provide tornado and wildfire
30 insurance in this state.

31 Sec. 2214.202. CONTENTS OF PLAN OF OPERATION. (a) The plan

1 of operation must:

2 (1) provide for the efficient, economical, fair, and
3 nondiscriminatory administration of the association; and

4 (2) include other provisions as considered necessary
5 by the department to implement the purposes of this chapter.

6 (b) The plan of operation may provide for liability limits
7 for an insured structure and for the corporeal movable property
8 located in the structure.

9 Sec. 2214.203. AMENDMENTS TO PLAN OF OPERATION. (a) The
10 association may present a recommendation for a change in the plan of
11 operation to the department at:

12 (1) periodic hearings conducted by the department for
13 that purpose; or

14 (2) hearings relating to property and casualty
15 insurance rates.

16 (b) The association must present a proposed change to the
17 department in writing in the manner prescribed by the commissioner.
18 A proposed change does not take effect unless adopted by the
19 commissioner by rule.

20 (c) An interested person may, in accordance with Chapter
21 2001, Government Code, petition the commissioner to modify the plan
22 of operation.

23 SUBCHAPTER F. INSURANCE COVERAGE; APPLICATION AND INSPECTION

24 Sec. 2214.251. DEFINITION OF INSURABLE INTEREST. In this
25 subchapter, "insurable interest" includes any lawful and
26 substantial economic interest in the safety or preservation of
27 property from loss, destruction, or pecuniary damage.

28 Sec. 2214.252. APPLICATION FOR COVERAGE. (a) A person who
29 has an insurable interest in insurable property may apply to the
30 association for insurance coverage provided under the plan of
31 operation and an inspection of the property, subject to any rules

1 established by the board of directors and approved by the
2 commissioner. The association shall make insurance available in
3 accordance with the plan of operation to each applicant in this
4 state whose property is insurable property but who, after diligent
5 efforts, is unable to obtain property insurance through the
6 voluntary market, as evidenced by one declination from an insurer
7 authorized to engage in the business of, and writing, property
8 insurance providing tornado and wildfire coverage in this state.

9 (b) A property and casualty agent must submit an application
10 for initial insurance coverage on behalf of the applicant on forms
11 prescribed by the association. The association shall develop a
12 simplified renewal process that allows for the acceptance of an
13 application for renewal coverage, and payment of premiums, from a
14 property and casualty agent or a person insured under this chapter.
15 An application for initial or renewal coverage must comply with the
16 requirements of the plan of operation.

17 Sec. 2214.253. ISSUANCE OF COVERAGE; TERM; RENEWAL. (a) If
18 the association determines that the property for which an
19 application for initial insurance coverage is made is insurable
20 property, the association, on payment of the premium, shall direct
21 the issuance of an insurance policy as provided by the plan of
22 operation.

23 (b) A policy issued under this section is for a one-year
24 term.

25 (c) A policy may be renewed annually on application for
26 renewal as long as the property continues to be insurable property.

27 (d) The commissioner, after receiving a recommendation from
28 the board of directors, shall approve a commission structure for
29 payment of an agent who submits an application for coverage to the
30 association on behalf of a person who has an insurable interest in
31 insurable property. The commission structure adopted by the

1 commissioner must be fair and reasonable, taking into consideration
2 the amount of work performed by an agent in submitting an
3 application to the association and the prevailing commission
4 structure in the private insurance market.

5 Sec. 2214.254. CANCELLATION OF CERTAIN COVERAGE. (a) An
6 agent or insured may request cancellation of the insurance coverage
7 by:

8 (1) returning the policy, with proof that the insured
9 was notified of the return; or

10 (2) requesting the association to cancel the insurance
11 coverage by a notice mailed to the insured and to any others shown
12 in the policy as having an insurable interest in the property.

13 (b) On completion of cancellation under Subsection (a), the
14 association shall refund the unearned premium, less any minimum
15 retained premium set forth in the plan of operation, to the person,
16 firm, or corporation to whom the unpaid balance is due.

17 (c) If an insured requests cancellation of the insurance
18 coverage, the association shall refund the unearned premium, less
19 any minimum retained premium set forth in the plan of operation,
20 payable to the insured and the holder of an unpaid balance. The
21 property and casualty agent who received a commission as the result
22 of the issuance of an association policy providing the canceled
23 coverage shall refund the agent's commission on any unearned
24 premium in the same manner.

25 Sec. 2214.255. POLICY PROVISIONS. A tornado and wildfire
26 insurance policy issued by the association must comply with the
27 requirements of the plan of operation.

28 Sec. 2214.256. INSPECTION REQUIREMENT. (a) To be
29 considered insurable property eligible for insurance coverage from
30 the association, a structure must be inspected or approved by the
31 department for compliance with the plan of operation.

1 (b) The department shall issue a certificate of compliance
2 for each structure that qualifies for coverage. The certificate is
3 evidence of insurability of the structure by the association. The
4 decision whether to issue a certificate of compliance for a
5 structure is wholly within the discretion of the department.

6 (c) The department may enter into agreements and contracts
7 as necessary to implement this section.

8 (d) The department may charge reasonable fees to cover the
9 cost of implementing this section.

10 SUBCHAPTER G. RATES

11 Sec. 2214.301. ASSOCIATION FILINGS. (a) The association
12 must file with the department each manual of classifications,
13 rules, rates, including condition charges, and each rating plan,
14 and each modification of those items that the association proposes
15 to use.

16 (b) A filing under this section must indicate the character
17 and the extent of the coverage contemplated and must be accompanied
18 by the policy and endorsement forms proposed to be used. The forms
19 may be designed specifically for use by the association without
20 regard to other forms filed with, approved by, or prescribed by the
21 department for use in this state.

22 (c) As soon as reasonably possible after the filing has been
23 made, the commissioner in writing shall approve or disapprove the
24 filing. A filing is considered approved unless disapproved on or
25 before the 30th day after the date of the filing. If the
26 commissioner disapproves a filing, the commissioner shall state in
27 writing the reasons for the disapproval and the criteria the
28 association is required to meet to obtain approval.

29 (d) The department shall value the loss and loss adjustment
30 expense data to be used for a filing not earlier than March 31 of the
31 year before the year in which the filing is to be made.

1 Sec. 2214.302. MANUAL RATE FILINGS: ANNUAL FILING. (a) Not
2 later than August 15 of each year, the association shall file with
3 the department a proposed manual rate for all types and classes of
4 risks written by the association.

5 (b) Before approving or disapproving a filing under this
6 section, the commissioner shall provide all interested persons a
7 reasonable opportunity to:

8 (1) review the filing;

9 (2) obtain copies of the filing on payment of any
10 legally required copying cost; and

11 (3) submit to the commissioner written comments or
12 information related to the filing.

13 (c) The commissioner shall approve or disapprove the filing
14 in writing not later than October 15 of the year in which the filing
15 was made. If the filing is not approved or disapproved on or before
16 that date, the filing is considered approved.

17 (d) If the commissioner disapproves a filing, the
18 commissioner shall state in writing the reasons for the disapproval
19 and the criteria the association is required to meet to obtain
20 approval.

21 Sec. 2214.303. MANUAL RATE FILINGS: AMENDED ANNUAL FILING.

22 (a) Not later than the 30th day after the date the association
23 receives the commissioner's written disapproval under Section
24 2214.302, the association may file with the commissioner an amended
25 annual filing that conforms to all criteria stated in that written
26 disapproval.

27 (b) Not later than the 30th day after the date an amended
28 filing made under Subsection (a) is received, the commissioner
29 shall approve or disapprove the amended filing. If the filing is
30 not disapproved on or before the 30th day after the date of receipt,
31 the filing is considered approved. If the commissioner disapproves

1 a filing, the commissioner shall state in writing the reasons for
2 the disapproval and the criteria the association is required to
3 meet to obtain approval.

4 (c) Before approving or disapproving an amended annual
5 filing under this section, the commissioner shall, in the manner
6 provided by Section 2214.302, provide all interested persons a
7 reasonable opportunity to:

8 (1) review the amended annual filing;

9 (2) obtain copies of the amended annual filing on
10 payment of any legally required copying cost; and

11 (3) submit to the commissioner written comments or
12 information related to the amended annual filing.

13 Sec. 2214.304. MANUAL RATE FILINGS: ADDITIONAL SUPPORTING
14 INFORMATION. (a) In conjunction with the review of a filing under
15 Section 2214.302:

16 (1) the commissioner may request the association to
17 provide additional supporting information relating to the filing;
18 and

19 (2) any interested person may file a written request
20 with the commissioner, during a period specified by the
21 commissioner by rule, for additional supporting information
22 relating to the filing.

23 (b) A request under this section must be reasonable and must
24 be directly related to the filing.

25 (c) The commissioner shall submit to the association all
26 requests for additional supporting information made under this
27 section for the commissioner's use and the use of any interested
28 person not later than the 21st day after the date of receipt of the
29 filing.

30 (d) Unless a different period is requested by the
31 association and approved by the commissioner, the association shall

1 provide the information to the commissioner not later than the
2 fifth day after the date the written request for additional
3 supporting information is delivered to the association.

4 Sec. 2214.305. GENERAL RATE REQUIREMENTS; RATE STANDARDS.

5 (a) Rates for coverage under this chapter must be made in
6 accordance with the plan of operation.

7 (b) Rates must be reasonable, adequate, not unfairly
8 discriminatory, and nonconfiscatory as to any class of insurer.

9 (c) For the establishment of rates and minimum premiums, the
10 risks may be grouped by classification.

11 (d) A commission paid to an agent for a tornado and wildfire
12 insurance policy issued by the association must comply with the
13 commission structure established in the plan of operation and be
14 reasonable, adequate, not unfairly discriminatory, and
15 nonconfiscatory.

16 (e) The association may establish rating territories and
17 may vary rates among the territories as provided by the plan of
18 operation.

19 Sec. 2214.306. RATE CLASSIFICATIONS. All premiums written
20 and losses paid under this chapter, as appropriate, must be
21 included in applicable classifications for general ratemaking
22 purposes.

23 SUBCHAPTER H. LIABILITY LIMITS

24 Sec. 2214.351. MAXIMUM LIABILITY LIMITS. The maximum
25 liability limits under a tornado and wildfire insurance policy
26 issued by the association under this chapter are established by the
27 plan of operation and may be adjusted by amendment to the plan of
28 operation.

29 SECTION _____. (a) The governor shall appoint the members of
30 the board of directors of the Texas Tornado and Wildfire Insurance
31 Association under Chapter 2214, Insurance Code, as added by this

1 Act, effective November 1, 2019. The initial directors shall draw
2 lots to achieve staggered terms, with three of the directors
3 serving two-year terms, three of the directors serving four-year
4 terms, and three of the directors serving six-year terms.

5 (b) The plan of operation adopted under Chapter 2214,
6 Insurance Code, as added by this Act, must provide that the Texas
7 Tornado and Wildfire Insurance Association issue insurance
8 policies under that chapter not later than January 1, 2020.

9 (c) The commissioner of insurance shall adopt rules
10 necessary to ensure that the Texas Tornado and Wildfire Insurance
11 Association issue insurance policies under Chapter 2214, Insurance
12 Code, as added by this Act, not later than January 1, 2020.



FLOOR AMENDMENT NO. _____

BY: 

Amend C.S.S.B. No. 615 (house committee report) as follows:

(1) On page 2, line 12, before "adding Subsection", insert "amending Subsection (b) and".

(2) On page 2, between lines 12 and 13, insert the following:

(b) Three members must be representatives of the insurance industry who actively write and renew tornado insurance or wildfire insurance or write and renew windstorm and hail insurance in the first tier coastal counties.

(3) On page 6, line 9, between "counties" and the period, insert "or tornado insurance or wildfire insurance in this state".

(4) On page 6, line 11, between "windstorm and hail" and "and", insert ", tornado, or wildfire".

(5) On page 6, line 13, between "windstorm and hail" and the period, insert ", tornado, or wildfire".

(6) On page 7, line 4, between "Subsection (a)" and "and proof", insert ", with respect to windstorm and hail insurance,".

(7) On page 7, line 7, between "(a)" and "and (c)", insert "(a-1),".

(8) On page 7, between lines 14 and 15, insert the following:

(a-1) This subsection applies only to windstorm and hail insurance and a structure constructed, altered, remodeled, or enlarged on or after September 1, 2009, and only for insurable property located in areas designated by the commissioner. Notwithstanding Subsection (a), if all or any part of the property to which this subsection applies is located in Zone V or another similar zone with an additional hazard associated with storm waves, as defined by the National Flood Insurance Program, and if flood

1 insurance under that federal program is available, the association
2 may not issue an insurance policy for initial or renewal coverage
3 unless evidence that the property is covered by a flood insurance
4 policy is submitted to the association. An agent offering or
5 selling a Texas windstorm and hail insurance policy in any area
6 designated by the commissioner under this subsection shall offer
7 flood insurance coverage to the prospective insured, if that
8 coverage is available.

9 (9) On page 8, line 22, between "policy" and "issued",
10 insert ", tornado insurance policy, or wildfire insurance policy".

11 (10) On page 9, line 16, strike "(c) and (d)" and substitute
12 "(b), (c), (d), and (e)".

13 (11) On page 9, between lines 17 and 18, insert the
14 following:

15 (b) Subject to any applicable deductibles and the limits for
16 the coverage purchased by the insured, a windstorm and hail
17 insurance policy, tornado insurance policy, or wildfire insurance
18 policy issued by the association may include replacement cost
19 coverage for one- and two-family dwellings, including
20 outbuildings, as provided under the dwelling extension coverage in
21 the policy.

22 (12) On page 10, between lines 5 and 6, insert the
23 following:

24 (e) Notwithstanding this chapter or any other law, the
25 commissioner, after notice and hearing, may adopt rules to:

26 (1) authorize the association to provide actual cash
27 value coverage instead of replacement cost coverage on the roof
28 covering of a building insured by the association; and

29 (2) establish:

30 (A) the conditions under which the association
31 may provide that actual cash value coverage;

1 (B) the appropriate premium reductions when
2 coverage for the roof covering is provided on an actual cash value
3 basis; and

4 (C) the disclosure that must be provided to the
5 policyholder, prominently displayed on the face of the windstorm
6 and hail insurance policy, tornado insurance policy, or wildfire
7 insurance policy.

8 (13) On page 11, line 27, strike "The" and substitute "As
9 applicable, the".

10 (14) On page 13, line 3, strike "a windstorm and hail
11 insurance" and substitute "an insurance".

12 (15) On page 13, line 16, strike "The" and substitute "With
13 respect to windstorm and hail insurance policies, the".

14 (16) Add the following appropriately numbered SECTIONS to
15 the bill and renumber the subsequent SECTIONS accordingly:

16 SECTION _____. Section 2210.001, Insurance Code, is amended
17 to read as follows:

18 Sec. 2210.001. PURPOSE. The primary purpose of the Texas
19 Windstorm Insurance Association is the provision of an adequate
20 market for windstorm and hail insurance in the seacoast territory
21 of this state and tornado insurance and wildfire insurance
22 statewide. The legislature finds that the provision of adequate
23 windstorm and hail insurance, tornado insurance, and wildfire
24 insurance is necessary to the economic welfare of this state, and
25 without that insurance, the orderly growth and development of this
26 state would be severely impeded. This chapter provides a method by
27 which adequate windstorm and hail insurance may be obtained in
28 certain designated portions of the seacoast territory of this state
29 and tornado insurance and wildfire insurance may be obtained
30 statewide. The association is intended to serve as a residual
31 insurer of last resort for windstorm and hail insurance in the

1 seacoast territory and tornado insurance and wildfire insurance
2 statewide. The association shall:

3 (1) function in such a manner as to not be a direct
4 competitor in the private market; and

5 (2) provide windstorm and hail insurance coverage,
6 tornado insurance coverage, and wildfire insurance coverage to
7 those who are unable to obtain [~~that~~] coverage in the private
8 market.

9 SECTION _____. Section 2210.003, Insurance Code, is amended
10 by amending Subdivision (6) and adding Subdivisions (14), (15), and
11 (16) to read as follows:

12 (6) "Insurance" means:

13 (A) Texas windstorm and hail insurance;

14 (B) tornado insurance; and

15 (C) wildfire insurance.

16 (14) "Tornado insurance" means insurance against:

17 (A) direct loss to insurable property incurred as
18 a result of a tornado, as those terms are defined and limited in
19 policies and forms approved by the department; and

20 (B) indirect losses resulting from the direct
21 loss.

22 (15) "Wildfire" means an uncontrolled blaze fueled by
23 weather, wind, and dry underbrush, trees, grasses, and other
24 flammable material.

25 (16) "Wildfire insurance" means insurance against:

26 (A) direct loss to insurable property incurred as
27 a result of wildfire, as those terms are defined and limited in
28 policies and forms approved by the department; and

29 (B) indirect losses resulting from the direct
30 loss.

31 SECTION _____. Sections 2210.004(a), (b), (c), and (d),

1 Insurance Code, are amended to read as follows:

2 (a) Except as provided by Subsection (h), for purposes of
3 this chapter and subject to this section, "insurable property"
4 means immovable property at a fixed location in a catastrophe area
5 or corporeal movable property located in that immovable property,
6 as designated in the plan of operation, that is determined by the
7 association according to the criteria specified in the plan of
8 operation to be in an insurable condition against windstorm and
9 hail, tornado, and wildfire, as determined by normal underwriting
10 standards. The term includes property described by Section
11 2210.209.

12 (b) A structure located in a catastrophe area, construction
13 of which began on or after the 30th day after the date of
14 publication of the plan of operation, that is not built in
15 compliance with building specifications set forth in the plan of
16 operation or continued in compliance with those specifications,
17 does not constitute an insurable risk for purposes of windstorm and
18 hail insurance, tornado insurance, or wildfire insurance except as
19 otherwise provided by this chapter.

20 (c) A structure, or an addition to a structure, that is
21 constructed in conformity with plans and specifications that comply
22 with the specifications set forth in the plan of operation at the
23 time construction begins may not be declared ineligible for
24 windstorm and hail insurance, tornado insurance, or wildfire
25 insurance as a result of subsequent changes in the building
26 specifications set forth in the plan of operation.

27 (d) Except as otherwise provided by this section, if repair
28 of damage to a structure involves replacement of items covered in
29 the building specifications set forth in the plan of operation, the
30 repairs must be completed in a manner that complies with those
31 specifications for the structure to continue to be insurable

1 property for windstorm and hail insurance, tornado insurance, and
2 wildfire insurance.

3 SECTION _____. Sections 2210.005(a) and (c), Insurance Code,
4 are amended to read as follows:

5 (a) After at least 10 days' notice and a hearing, the
6 commissioner may designate, with respect to windstorm and hail
7 insurance, an area of the seacoast territory of this state as a
8 catastrophe area or, with respect to tornado insurance and wildfire
9 insurance, any area of this state as a catastrophe area if the
10 commissioner determines, unless such a determination results in an
11 adverse impact to the exposure of the association, that windstorm
12 and hail insurance, tornado insurance, or wildfire insurance is not
13 reasonably available to a substantial number of the owners of
14 insurable property located in the area [~~that territory~~] because the
15 area [~~territory~~] is subject to unusually frequent and severe damage
16 resulting from windstorms, [~~or~~] hailstorms, tornadoes, or
17 wildfires.

18 (c) If the association determines that windstorm and hail
19 insurance, tornado insurance, or wildfire insurance is no longer
20 reasonably unavailable to a substantial number of owners of
21 insurable property in a territory designated as a catastrophe area,
22 the association may request in writing that the commissioner revoke
23 the designation. After at least 10 days' notice and a hearing, but
24 not later than the 30th day after the date of the hearing, the
25 commissioner shall:

- 26 (1) approve the request and revoke the designation; or
27 (2) reject the request.

28 SECTION _____. Section 2210.015(a), Insurance Code, is
29 amended to read as follows:

30 (a) Each biennium, the department shall conduct a study of
31 market incentives to promote participation in the voluntary

1 windstorm and hail insurance, tornado insurance, and wildfire
2 insurance markets [~~market~~] in [~~the seacoast territory of~~] this
3 state. The study must address as possible incentives the mandatory
4 or voluntary issuance of windstorm and hail insurance, tornado
5 insurance, and wildfire insurance in conjunction with the issuance
6 of a homeowners policy [~~in the seacoast territory~~].

7 SECTION _____. Section 2210.053(b), Insurance Code, is
8 amended to read as follows:

9 (b) The department may develop programs to improve the
10 efficient operation of the association, including a program for
11 approving policy forms under Section 2301.010 and a program
12 designed to create incentives for insurers to write windstorm and
13 hail insurance, tornado insurance, and wildfire insurance
14 voluntarily to cover property located in a catastrophe area,
15 especially property located on the barrier islands of this state.

16 SECTION _____. Section 2210.151, Insurance Code, is amended
17 to read as follows:

18 Sec. 2210.151. ADOPTION OF PLAN OF OPERATION. With the
19 advice of the board of directors, the commissioner by rule shall
20 adopt the plan of operation to provide Texas windstorm and hail
21 insurance, tornado insurance, and wildfire insurance in a
22 catastrophe area.

23 SECTION _____. Section 2210.152(a), Insurance Code, is
24 amended to read as follows:

25 (a) The plan of operation must:

26 (1) provide for the efficient, economical, fair, and
27 nondiscriminatory administration of the association; and

28 (2) include:

29 (A) a plan for the equitable assessment of the
30 members of the association to defray losses and expenses;

31 (B) underwriting standards;

1 (C) procedures for accepting and ceding
2 reinsurance;

3 (D) procedures for obtaining and repaying
4 amounts under any financial instruments authorized under this
5 chapter;

6 (E) procedures for determining the amount of
7 insurance to be provided to specific risks;

8 (F) time limits and procedures for processing
9 applications for insurance;

10 (G) a requirement that a nonresident agent
11 licensed under Section 4056.052 may not offer or sell a Texas
12 windstorm and hail insurance policy, tornado insurance policy, or
13 wildfire insurance policy under this chapter unless the nonresident
14 agent's state of residence authorizes a resident agent licensed in
15 this state to act in the nonresident agent's state as an agent for
16 that state's residual insurer of last resort for windstorm and hail
17 insurance, tornado insurance, or wildfire insurance; and

18 (H) other provisions as considered necessary by
19 the department to implement the purposes of this chapter.

20 SECTION _____. The heading to Section 2210.207, Insurance
21 Code, is amended to read as follows:

22 Sec. 2210.207. WINDSTORM AND HAIL INSURANCE, TORNADO
23 INSURANCE, AND WILDFIRE INSURANCE: REPLACEMENT COST COVERAGE.

24 SECTION _____. The heading to Section 2210.208, Insurance
25 Code, is amended to read as follows:

26 Sec. 2210.208. WINDSTORM AND HAIL INSURANCE, TORNADO
27 INSURANCE, AND WILDFIRE INSURANCE: COVERAGE FOR CERTAIN INDIRECT
28 LOSSES.

29 SECTION _____. Sections 2210.208(a) and (b), Insurance Code,
30 are amended to read as follows:

31 (a) Except as provided by Subsections (e) and (f), a

1 windstorm and hail insurance policy, tornado insurance policy, or
2 wildfire insurance policy issued by the association for a dwelling,
3 as that term is defined by the department or a successor to the
4 department, must include coverage for:

5 (1) with respect to a windstorm and hail insurance
6 policy, wind-driven rain damage, regardless of whether an opening
7 is made by the wind;

8 (2) loss of use; and

9 (3) consequential losses.

10 (b) A windstorm and hail insurance policy, tornado
11 insurance policy, or wildfire insurance policy issued by the
12 association for tenant contents of a dwelling or other residential
13 building must include coverage for loss of use and consequential
14 losses.

15 SECTION _____. The heading to Subchapter F, Chapter 2210,
16 Insurance Code, is amended to read as follows:

17 SUBCHAPTER F. PROPERTY INSPECTIONS [~~FOR WINDSTORM AND HAIL~~
18 ~~INSURANCE~~]

19 SECTION _____. Section 2210.253, Insurance Code, is amended
20 to read as follows:

21 Sec. 2210.253. INITIAL INSURER ASSESSMENT[~~+- FIRST TIER~~
22 ~~COASTAL COUNTY~~]. (a) In this section, "property insurance" means a
23 commercial or residential insurance policy prescribed or approved
24 by the department that provides coverage for windstorm and hail
25 damage, including a Texas windstorm and hail insurance policy, or
26 loss from tornado or wildfire.

27 (b) The department shall assess each insurer that provides
28 property insurance in [~~a first tier coastal county in~~] accordance
29 with this section.

30 (c) The total assessment under this section in a state
31 fiscal year must be in the amount estimated by the department as

1 necessary to cover the administrative costs of the [windstorm]
2 inspection program under Section 2210.251 to be incurred in [the
3 ~~first tier coastal counties in~~] that fiscal year.

4 (d) The assessment must be based on each insurer's
5 proportionate share of the total extended coverage and other allied
6 lines premium received by all insurers for property insurance in
7 the state [~~first tier coastal counties~~] in the calendar year
8 preceding the year in which the assessment is made.

9 (e) The commissioner shall adopt rules to implement the
10 assessment of insurers under this section.

11 SECTION _____. Section 2210.2551(b), Insurance Code, is
12 amended to read as follows:

13 (b) The commissioner by rule shall establish criteria to
14 ensure that a person seeking appointment as a qualified inspector
15 under this subchapter possesses the knowledge, understanding, and
16 professional competence to perform [windstorm] inspections for the
17 issuance of a certificate of compliance under Section 2210.2515(d)
18 and to comply with other requirements of this chapter.

19 SECTION _____. Section 2210.258, Insurance Code, is amended
20 by adding Subsection (a-1) to read as follows:

21 (a-1) This section applies only to windstorm and hail
22 insurance.

23 SECTION _____. Section 2210.355(g), Insurance Code, is
24 amended to read as follows:

25 (g) A commission paid to an agent for a windstorm and hail
26 insurance policy, tornado insurance policy, or wildfire insurance
27 policy issued by the association must comply with the commission
28 structure approved by the commissioner under Section 2210.203(d)
29 and be reasonable, adequate, not unfairly discriminatory, and
30 nonconfiscatory.

31 SECTION _____. Section 2210.359(a), Insurance Code, is

1 amended to read as follows:

2 (a) Except as otherwise provided by this subsection, a rate
3 approved by the commissioner under this subchapter may not reflect
4 an average rate change that is more than 10 percent higher or lower
5 than the rate for commercial windstorm and hail insurance,
6 commercial tornado insurance, or commercial wildfire insurance or
7 10 percent higher or lower than the rate for noncommercial
8 windstorm and hail insurance, noncommercial tornado insurance, or
9 noncommercial wildfire insurance in effect on the date the filing
10 is made. The rate may not reflect a rate change for an individual
11 rating class that is 15 percent higher or lower than the rate for
12 that individual rating class in effect on the date the filing is
13 made. This subsection does not apply to a rate filed under Sections
14 2210.351(a)-(d).

15 SECTION _____. Section 2210.455(b), Insurance Code, is
16 amended to read as follows:

17 (b) The catastrophe plan must:

18 (1) describe the manner in which the association will,
19 during the period covered by the plan, evaluate losses and process
20 claims after the following windstorms affecting an area of maximum
21 exposure to the association:

22 (A) a windstorm with a four percent chance of
23 occurring during the period covered by the plan;

24 (B) a windstorm with a two percent chance of
25 occurring during the period covered by the plan; and

26 (C) a windstorm with a one percent chance of
27 occurring during the period covered by the plan; ~~and~~

28 (2) include, if the association does not purchase
29 reinsurance under Section 2210.453 for the period covered by the
30 plan, an actuarial plan for paying losses in the event of a
31 catastrophe with estimated damages of \$2.5 billion or more; and

1 (3) describe the manner in which the association will,
2 during the period covered by the plan, evaluate losses and process
3 claims after tornadoes or wildfires affecting an area of maximum
4 exposure to the association.

5 SECTION _____. Section 2210.501(a), Insurance Code, is
6 amended to read as follows:

7 (a) The board of directors shall propose the maximum
8 liability limits under a windstorm and hail insurance policy,
9 tornado insurance policy, and wildfire insurance policy issued by
10 the association under this chapter. The maximum liability limits
11 must be approved by the commissioner.

12 SECTION _____. Section 2210.502(b), Insurance Code, is
13 amended to read as follows:

14 (b) An adjustment to the maximum liability limits that is
15 approved by the commissioner applies to each windstorm and hail
16 insurance policy, tornado insurance policy, and wildfire insurance
17 policy delivered, issued for delivery, or renewed on or after
18 January 1 of the year following the date of the approval. The
19 indexing of the limits shall adjust for changes occurring on and
20 after January 1, 1997.

21 SECTION _____. Section 2210.505(a), Insurance Code, is
22 amended to read as follows:

23 (a) Notwithstanding any other law, the association may
24 issue a windstorm and hail insurance policy, tornado insurance
25 policy, or wildfire insurance policy that includes coverage for an
26 amount in excess of a maximum liability limit established under
27 Sections 2210.501-2210.504 if the association first obtains from a
28 reinsurer approved by the commissioner reinsurance for the full
29 amount of policy exposure above that limit.

30 SECTION _____. Section 2210.571(1), Insurance Code, is
31 amended to read as follows:

1 (1) "Association policy" means a windstorm and hail
2 insurance policy, tornado insurance policy, or wildfire insurance
3 policy issued by the association.

4 SECTION _____. Section 2210.601, Insurance Code, is amended
5 to read as follows:

6 Sec. 2210.601. PURPOSE. The legislature finds that
7 authorizing the issuance of public securities to provide a method
8 to raise funds to provide [~~windstorm and hail insurance~~] through
9 the association windstorm and hail insurance in certain designated
10 portions of the state and tornado insurance and wildfire insurance
11 statewide is for the benefit of the public and in furtherance of a
12 public purpose.

13 SECTION _____. Section 2210.6132(c), Insurance Code, is
14 amended to read as follows:

15 (c) The premium surcharge under this section shall be
16 assessed on all policyholders of policies that cover insured
17 property that is located in a catastrophe area, including
18 automobiles principally garaged in a catastrophe area. The premium
19 surcharge shall be assessed on each Texas windstorm and hail
20 insurance policy, each tornado insurance policy, and each wildfire
21 insurance policy issued by the association and each property and
22 casualty policy, including an automobile insurance policy, issued
23 for automobiles and other property located in the catastrophe area.
24 A premium surcharge under Subsection (b) applies to:

25 (1) all policies written under the following lines of
26 insurance:

- 27 (A) fire and allied lines;
28 (B) farm and ranch owners;
29 (C) residential property insurance;
30 (D) private passenger automobile liability and
31 physical damage insurance; and

1 (E) commercial automobile liability and physical
2 damage insurance; and

3 (2) the property insurance portion of a commercial
4 multiple peril insurance policy.

5 SECTION _____. Section 2210.652, Insurance Code, is amended
6 to read as follows:

7 Sec. 2210.652. COMPOSITION OF BOARD. The [~~windstorm~~
8 ~~insurance legislative oversight~~] board is composed of eight members
9 as follows:

10 (1) four members of the senate appointed by the
11 lieutenant governor, including the chairperson of the Senate
12 Business and Commerce Committee, who shall serve as co-chairperson
13 of the board; and

14 (2) four members of the house of representatives
15 appointed by the speaker of the house of representatives.

16 SECTION _____. Section 2210.653(a), Insurance Code, is
17 amended to read as follows:

18 (a) The board shall:

19 (1) receive information about rules proposed by the
20 department relating to windstorm and hail insurance, tornado
21 insurance, and wildfire insurance, and may submit comments to the
22 commissioner on the proposed rules;

23 (2) monitor windstorm and hail insurance, tornado
24 insurance, and wildfire insurance in this state, including:

25 (A) the adequacy of rates;

26 (B) the operation of the association; and

27 (C) the availability of coverage; and

28 (3) review recommendations for legislation proposed
29 by the department or the association.

30 SECTION _____. Section 2210.654(b), Insurance Code, is
31 amended to read as follows:

1 (b) The report must include:

2 (1) an analysis of any problems identified; and

3 (2) recommendations for any legislative action
4 necessary to address those problems and to foster stability,
5 availability, and competition within the windstorm and hail
6 insurance, tornado insurance, and wildfire insurance industries
7 [industry].

8 SECTION _____. (a) The plan of operation adopted under
9 Chapter 2210, Insurance Code, as amended by this Act, must provide
10 that the Texas Windstorm Insurance Association issue tornado
11 insurance policies and wildfire insurance policies under that
12 chapter not later than January 1, 2020.

13 (b) The commissioner of insurance shall adopt rules
14 necessary to ensure that the Texas Windstorm Insurance Association
15 issues tornado insurance policies and wildfire insurance policies
16 under Chapter 2210, Insurance Code, as amended by this Act, not
17 later than January 1, 2020.



2019 MAY 15 AM 9:07

HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. _____

BY: Cucio

Amend C.S.S.B. No. 615 (house committee report) as follows:

(1) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 2210.071, Insurance Code, is amended to read as follows:

Sec. 2210.071. PAYMENT OF EXCESS LOSSES. (a) If, in a catastrophe year, an occurrence or series of occurrences in a catastrophe area results in insured losses and operating expenses of the association in excess of premium and other revenue of the association, the excess losses and operating expenses shall be paid as provided by this subchapter.

(b) The association may not pay insured losses and operating expenses resulting from an occurrence or series of occurrences in a catastrophe year with premium and other revenue earned in a subsequent year.

SECTION _____. Section 2210.0715, Insurance Code, is amended to read as follows:

Sec. 2210.0715. PAYMENT FROM RESERVES AND TRUST FUND. (a) The association shall pay losses resulting from an occurrence or series of occurrences in a catastrophe year in excess of premium and other revenue of the association for that catastrophe year from ~~[available]~~ reserves of the association available before or accrued during that catastrophe year and ~~[available]~~ amounts in the catastrophe reserve trust fund available before or accrued during that catastrophe year.

(b) Proceeds of ~~[Class 1]~~ public securities issued or assessments made before or as a result [the date] of any occurrence or series of occurrences in a catastrophe year that results in insured losses may not be included in ~~[available]~~ reserves

1 available for a subsequent catastrophe year for purposes of this
2 section.

3 SECTION _____. Subchapter C, Chapter 2210, Insurance Code, is
4 amended by adding Section 2210.1052 to read as follows:

5 Sec. 2210.1052. EMERGENCY MEETING. If the final estimate
6 of losses for an occurrence or series of occurrences made by the
7 chief financial officer or chief actuary of the association
8 indicates member insurers may be subject to an assessment under
9 Subchapter B-1, the board of directors shall call an emergency
10 meeting of the members of the association to notify the members
11 about the assessment.

12 SECTION _____. Section 2210.351, Insurance Code, is amended
13 by adding Subsection (f) to read as follows:

14 (f) Notwithstanding any other law, the association may not
15 file a new rate or use a filed rate that was not in effect on May 1,
16 2019, without regard to whether the filed rate has been approved by
17 the commissioner, if the new or filed rate exceeds the rate that was
18 in effect on May 1, 2019. The commissioner may not approve a rate
19 that exceeds the rate that was in effect on May 1, 2019. This
20 subsection expires September 1, 2021.

21 SECTION _____. Section 2210.352, Insurance Code, is amended
22 by adding Subsection (e) to read as follows:

23 (e) Notwithstanding any other law, the association may not
24 file a new rate or use a filed rate that was not in effect on May 1,
25 2019, without regard to whether the filed rate has been approved by
26 the commissioner, if the new or filed rate exceeds the rate that was
27 in effect on May 1, 2019. The commissioner may not approve a rate
28 that exceeds the rate that was in effect on May 1, 2019. This
29 subsection expires September 1, 2021.

30 SECTION _____. Chapter 2210, Insurance Code, is amended by
31 adding Subchapter N-1 to read as follows:

1 SUBCHAPTER N-1. LEGISLATIVE FUNDING AND FUNDING STRUCTURE

2 OVERSIGHT BOARD

3 Sec. 2210.661. DEFINITION. In this subchapter, "board"
4 means the windstorm insurance legislative funding and funding
5 structure oversight board.

6 Sec. 2210.662. COMPOSITION OF BOARD. The board is composed
7 of eight members as follows:

8 (1) four members of the senate appointed by the
9 lieutenant governor; and

10 (2) four members of the house of representatives
11 appointed by the speaker of the house of representatives.

12 Sec. 2210.663. POWERS AND DUTIES OF BOARD. (a) The board
13 shall:

14 (1) gather information regarding:

15 (A) how the association's current funding and
16 funding structure operate;

17 (B) how the catastrophic risk pools of other
18 states operate; and

19 (C) other information that the board considers
20 necessary to prepare the report required by Section 2210.664; and

21 (2) hold public meetings to hear testimony from
22 experts, stakeholders, and other interested parties regarding
23 recommendations and proposals for establishing and implementing
24 sustainable funding and a sustainable funding structure for the
25 association.

26 (b) The board may request reports and other information as
27 necessary to implement this subchapter from:

28 (1) the department;

29 (2) the association; and

30 (3) experts, stakeholders, and other interested
31 parties described by Subsection (a)(2).

1 Sec. 2210.664. REPORT. (a) The board shall prepare a
2 report of the board's findings regarding the current funding and
3 funding structure of the association, problems with the funding and
4 funding structure, and recommendations for legislative action
5 related to the funding, funding structure, and sustainability of
6 the association. The report must include:

7 (1) an analysis of the current funding, funding
8 structure, and sustainability of the association, including the
9 association's reliance on debt and reinsurance; and

10 (2) recommendations for legislative action necessary
11 to:

12 (A) address problems with the current funding and
13 funding structure of the association; and

14 (B) foster the stability and sustainability of
15 the association.

16 (b) Not later than November 15, 2020, the board shall
17 deliver the report prepared under Subsection (a) to:

18 (1) the governor;

19 (2) the lieutenant governor; and

20 (3) the speaker of the house of representatives.

21 Sec. 2210.665. EXPIRATION. This subchapter expires
22 September 1, 2021.

23 SECTION _____. As soon as practicable after the effective
24 date of this Act, the Texas Windstorm Insurance Association,
25 through the board of directors of that association, shall propose
26 to the commissioner of insurance amendments to the association's
27 plan of operation to be effective before the hurricane season of
28 2020 as necessary under Chapter 2210, Insurance Code, as amended by
29 this Act.

30 (2) On page 16, line 24, strike "This" and substitute "(a)
31 Except as provided by Subsection (b) of this section, this".

1 (3) On page 16, immediately after line 24, insert the
2 following:

3 (b) Sections 2210.351(f) and 2210.352(e), Insurance Code,
4 as added by this Act, take effect immediately if this Act receives a
5 vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for those sections to have
8 immediate effect, those sections take effect September 1, 2019.



2019 MAY 15 AM 8:16

HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. _____

BY: Middleton

1 Amend C.S.S.B. No. 615 (house committee printing) by adding
2 the following appropriately numbered SECTIONS to the bill and
3 renumbering SECTIONS of the bill accordingly:

4 SECTION _____. Subchapter J, Chapter 2210, Insurance Code,
5 is amended by adding Section 2210.4522 to read as follows:

6 Sec. 2210.4522. REINSURANCE REQUIRED. (a) Notwithstanding
7 any other provision of this chapter, a member insurer shall provide
8 to the association reinsurance in lieu of reinsurance purchased
9 under Section 2210.453 at no cost to the association. The
10 proportion of the losses that exceed the attachment point for the
11 provided reinsurance is calculated in the manner used to determine
12 each insurer's participation in the association for the year under
13 Section 2210.052.

14 (b) A member insurer may purchase reinsurance to cover the
15 proportion of losses for which the insurer is responsible under
16 Subsection (a).

17 SECTION _____. The Texas Windstorm Insurance Association
18 shall amend the association's plan of operation to conform to the
19 changes in law made by Section 2210.4522, Insurance Code, as added
20 by this Act, not later than the 60th day after the effective date of
21 this Act.



861694

2019 MAY 15 AM 8:16

HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. _____

BY: Middleton

1 Amend C.S.S.B. No. 615 (house committee report) as follows:

2 (1) On page 7, strike lines 7 and 8, and substitute the
3 following:

4 SECTION 7. Section 2210.203, Insurance Code, is amended by
5 amending Subsections (a) and (c) and adding Subsection (a-2) to
6 read as follows:

7 (2) On page 7, between lines 14 and 15, insert the
8 following:

9 (a-2) Notwithstanding Subsection (a-1), the association may
10 not require as a condition for issuing or renewing an insurance
11 policy for a residential property that the applicant provide
12 evidence that the property is covered by a flood insurance policy.

13 (3) On page 15, between lines 7 and 8, insert the following
14 appropriately lettered subsection and reletter subsequent
15 subsections of the section accordingly:

16 () Section 2210.203(a-2), Insurance Code, as added by this
17 Act, applies only to an application for initial insurance coverage
18 or a renewal of insurance coverage submitted to the Texas Windstorm
19 Insurance Association on or after the effective date of this Act.



2019 MAY 15 AM 8:16

HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. _____

BY: M. Middleton

1 Amend C.S.S.B. No. 615 (house committee report) as follows:

2 (1) Add the following appropriately numbered SECTIONS to
3 the bill and renumber subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Section 2210.351(d), Insurance Code, is
5 amended to read as follows:

6 (d) The association may use a rate filed by the association
7 without prior commissioner approval if:

8 (1) the filing is made not later than the 30th day
9 before the date of any use or delivery for use of the rate;

10 (2) the filed rate does not exceed [~~105 percent of~~] the
11 rate in effect on the date on which the filing is made;

12 (3) the filed rate does not reflect a rate [~~change~~] for
13 an individual rating class that is [~~10 percent~~] higher than the rate
14 in effect for that rating class on the date on which the filing is
15 made; and

16 (4) the commissioner has not disapproved the filing in
17 writing, advising of the reasons for the disapproval and the
18 criteria the association is required to meet to obtain approval.

19 SECTION _____. Section 2210.352(a-1), Insurance Code, is
20 amended to read as follows:

21 (a-1) The association may use a rate filed by the
22 association under this section without prior commissioner approval
23 if:

24 (1) the filing is made not later than the 30th day
25 before the date of any use or delivery for use of the rate;

26 (2) the filed rate does not exceed [~~105 percent of~~] the
27 rate used by the association in effect on the date on which the
28 filing is made; and

29 (3) the filed rate does not reflect a rate [~~change~~] for

1 an individual rating class that is [~~10 percent~~] higher than the rate
2 in effect for that rating class on the date on which the filing is
3 made.

4 SECTION _____. (a) Subchapter H, Chapter 2210, Insurance
5 Code, is amended by adding Section 2210.3521 to read as follows:

6 Sec. 2210.3521. TEMPORARY RATE FREEZE; ROLLBACK. (a)
7 Notwithstanding any rate increase that takes effect on or after May
8 16, 2019, the rate for an association policy issued or renewed on or
9 after September 1, 2019, and before September 1, 2021, is the rate
10 in effect May 16, 2019. For a policy in effect on September 1, 2019,
11 for which a rate increase took effect on or after May 16, 2019, the
12 rate for any coverage provided on or after September 1, 2019, and
13 before September 1, 2021, is the rate in effect on May 16, 2019.

14 (b) This section expires September 1, 2021.

15 (b) This section takes effect only if this Act does not
16 receive the vote necessary for the sections of this Act amending
17 Sections 2210.351(d) and 2210.352(a-1), Insurance Code, to take
18 effect immediately.

19 (2) On page 16, line 24, strike "This" and substitute "(a)
20 Except as provided by Subsection (b), this".

21 (3) On page 16, immediately after line 24, insert the
22 following:

23 (b) The sections of this Act amending Sections 2210.351(d)
24 and 2210.352(a-1), Insurance Code, take effect immediately if this
25 Act receives a vote of two-thirds of all the members elected to each
26 house, as provided by Section 39, Article III, Texas Constitution.
27 If this Act does not receive the vote necessary for those sections
28 of this Act to have immediate effect, those sections take effect
29 September 1, 2019.