

BILL ANALYSIS

Senate Research Center
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S.B. 1123
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Department of Insurance (TDI) appoints qualified inspectors for the purpose of inspecting new, remodeled, altered, enlarged, and repaired structures in a catastrophe area for compliance with the Texas Windstorm Insurance Association's (TWIA) building code standards, as required under Sections 2210.251 (Exclusive Enforcement Authority; Rules) and 2210.258 (Mandatory Compliance With Building Codes; Eligibility), Insurance Code. The building code standards are performance based and require that design work be performed by an engineer, although these set of standards do not specify that an inspector be a particular type of engineer. Through the oversight process, TDI has determined that some engineers who have been appointed do not possess the knowledge and skill required for the design and inspection of residential and commercial structures in high wind areas or to provide substantiating information to support their certification of structures.

Without reliable certifications from appointed engineers consumers are not able to maintain or obtain windstorm and hail insurance coverage through TWIA. Because some engineers do not possess sufficient skills, the certifications might be required to be redone. Both TWIA and the consumer are at a greater risk for loss.

The purpose of S.B. 1123 is to enhance TDI's oversight of qualified inspectors.

As proposed, S.B. 1123 amends current law relating to the regulation of inspectors qualified to perform windstorm inspections and to persons acting as those inspectors.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 2 (Section 2210.2551, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2210.254, Insurance Code, by adding Subsection (e), as follows:

(e) Authorizes the Texas Department of Insurance (TDI) to establish an annual renewal period for persons appointed as qualified inspectors.

SECTION 2. Amends Subchapter F, Chapter 2210, Insurance Code, by adding Section 2210.2551, as follows:

Sec. 2210.2551. EXCLUSIVE ENFORCEMENT AUTHORITY; RULES. (a) Provides that TDI has exclusive authority over all matters relating to the appointment and oversight of qualified inspectors for purposes of this chapter.

(b) Requires the commissioner of insurance (commissioner) by rule to establish criteria to ensure that a person seeking appointment as a qualified inspector under this subchapter, including an engineer seeking appointment under Section 2210.255 (Appointment of Licensed Engineer as Inspector), possesses the knowledge, understanding, and professional competence to perform windstorm

inspections under this chapter and to comply with other requirements of this chapter.

SECTION 3. Amends the heading to Section 2210.256, Insurance Code, to read as follows:

Sec. 2210.256. DISCIPLINARY PROCEEDINGS REGARDING APPOINTED INSPECTORS AND CERTAIN OTHER PERSONS.

SECTION 4. Amends Section 2210.256, Insurance Code, by adding Subsection (a-2), as follows:

(a-2) Authorizes the commissioner ex parte, in addition to any other action authorized under this section, to enter an emergency cease and desist order under Chapter 83 (Emergency Cease and Desist Orders) against a qualified inspector, or a person acting as a qualified inspector, if:

(1) the commissioner believes that:

(A) the qualified inspector has:

(i) through submitting or failing to submit to TDI sealed plans, designs, calculations, or other substantiating information, failed to demonstrate that a structure or a portion of a structure subject to inspection meets the requirements of this chapter and TDI rules; or

(ii) refused to comply with requirements imposed under this chapter or TDI rules; or

(B) the person acting as a qualified inspector is acting without appointment as a qualified inspector under Section 2210.254 (Qualified Inspectors) or 2210.255; and

(2) the commissioner determines that the conduct described by Subdivision (1) is fraudulent or hazardous or creates an immediate danger to the public.

SECTION 5. Amends Section 83.002, Insurance Code, by adding Subsection (c), as follows:

(c) Provides that this chapter also applies to:

(1) a person appointed as a qualified inspector under Section 2210.254 or 2210.255; and

(2) a person acting as a qualified inspector under Section 2210.254 or 2210.255 without being appointed as a qualified inspector under either of those sections.

SECTION 6. Effective date: September 1, 2011.