

BILL ANALYSIS

Senate Research Center
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H.B. 4534
By: Lucio III et al. (Taylor)
Business & Commerce
5/15/2019
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 4534 amends current law relating to the rates and other funding of the Texas Windstorm Insurance Association.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2210.071, Insurance Code, as follows:

Sec. 2210.071. PAYMENT OF EXCESS LOSSES. (a) Creates this subsection from existing text and makes no further changes to this subsection.

(b) Prohibits the Texas Windstorm Insurance Association (TWIA) from paying 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 2. Amends Section 2210.0715, Insurance Code, as follows:

Sec. 2210.0715. PAYMENT FROM RESERVES AND TRUST FUND. (a) Requires TWIA to pay losses resulting from an occurrence or series of occurrences in a catastrophe year in excess of premium and other revenue of TWIA for that catastrophe year from reserves of TWIA available before or accrued during that catastrophe year and amounts in the catastrophe reserve trust fund available before or accrued during that catastrophe year, rather than to pay losses in excess of premium and other revenue of TWIA from available reserves of TWIA and available amounts in the catastrophe reserve trust fund.

(b) Prohibits proceeds of public securities issued or assessments made before or as a result of any occurrence or series of occurrences in a catastrophe year that results in insured losses from being included in reserves available for a subsequent catastrophe year for purposes of this section, rather than prohibiting proceeds of Class 1 public securities issued before the date of any occurrence or series of occurrences that results in insured losses from being included in available reserves for purposes of this section.

SECTION 3. Amends Subchapter C, Chapter 2210, Insurance Code, by adding Section 2210.1052, as follows:

Sec. 2210.1052. EMERGENCY MEETING. Requires the board of directors of TWIA, if the final estimate of losses for an occurrence or series of occurrences made by the chief financial officer or chief actuary of TWIA indicates member insurers may be subject to an assessment under Subchapter B-1 (Payment of Losses), to call an emergency meeting of the members of TWIA to notify the members about the assessment.

SECTION 4. (a) Amends Section 2210.351(d), Insurance Code, effective December 1, 2019, as follows:

(d) Authorizes TWIA to use a rate filed by TWIA without prior commissioner of insurance (commissioner) approval if:

- (1) makes no changes to this subdivision;
- (2) the filed rate does not exceed the rate in effect on the date on which the filing is made, rather than the filed rate does not exceed 105 percent of the rate in effect on the date on which the filing is made;
- (3) the filed rate does not reflect a rate for an individual rating class that is higher than the rate in effect for that rating class on the date on which the filing is made, rather than the filed rate does not reflect a rate change for an individual rating class that is 10 percent higher than the rate in effect for that rating class on the date on which the filing is made; and
- (4) makes no changes to this subdivision.

(b) Amends Section 2210.351(d), Insurance Code, effective September 1, 2021, as follows:

(d) Authorizes TWIA to use a rate filed by TWIA without prior commissioner approval if:

- (1) the filing is made not later than the 30th day before the date of any use or delivery for use of the rate;
- (2) the filed rate does not exceed 105 percent of the rate in effect on the date on which the filing is made;
- (3) the filed rate does not reflect a rate change for an individual rating class that is 10 percent higher than the rate in effect for that rating class on the date on which the filing is made; and
- (4) the commissioner has not disapproved the filing in writing, advising of the reasons for the disapproval and the criteria TWIA is required to meet to obtain approval.

SECTION 5. (a) Amends Section 2210.352(a-1), Insurance Code, effective December 1, 2019, to make conforming changes.

(b) Amends Section 2210.352(a-1), Insurance Code, effective September 1, 2021, as follows:

(a-1) Authorizes TWIA to use a rate filed by TWIA under this section (Manual Rate Filings: Annual Filing) without prior commissioner approval if:

- (1) the filing is made not later than the 30th day before the date of any use or delivery for use of the rate;
- (2) the filed rate does not exceed 105 percent of the rate used by TWIA in effect on the date on which the filing is made; and
- (3) the filed rate does not reflect a rate change for an individual rating class that is 10 percent higher than the rate in effect for that rating class on the date on which the filing is made.

SECTION 6. Amends Section 2210.452, Insurance Code, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Requires TWIA, in addition to the payment required by Subsection (c-1), at the end of each calendar year or policy year, to use the net gain from operations of TWIA, including certain monies, to make certain payments.

(c-1) Requires TWIA to annually pay to the catastrophe reserve trust fund 20 percent of net earned premium of TWIA.

SECTION 7. Amends Chapter 2210, Insurance Code, by adding Subchapter N-1, as follows:

SUBCHAPTER N-1. LEGISLATIVE FUNDING AND FUNDING STRUCTURE
OVERSIGHT BOARD

Sec. 2210.661. DEFINITION. Defines "board" as the windstorm insurance legislative funding and funding structure oversight board (board) for purposes of this subchapter.

Sec. 2210.662. COMPOSITION OF BOARD. Provides that the board is composed of eight members as follows:

- (1) four members of the senate appointed by the lieutenant governor; and
- (2) four members of the house of representatives appointed by the speaker of the house of representatives.

Sec. 2210.663. POWERS AND DUTIES OF BOARD. (a) Requires the board to:

- (1) gather information regarding:
 - (A) how TWIA's current funding and funding structure operate;
 - (B) how the catastrophic risk pools of other states operate; and
 - (C) other information that the board considers necessary to prepare the report required by Section 2210.664; and
- (2) hold public meetings to hear testimony from experts, stakeholders, and other interested parties regarding recommendations and proposals for establishing and implementing sustainable funding and a sustainable funding structure for TWIA.

(b) Authorizes the board to request reports and other information as necessary to implement this subchapter from the Texas Department of Insurance (TDI), TWIA, and experts, stakeholders, and other interested parties described by Subsection (a)(2).

Sec. 2210.664. REPORT. (a) Requires the board to prepare a report of the board's findings regarding the current funding and funding structure of TWIA, problems with the funding and funding structure, and recommendations for legislative action related to the funding, funding structure, and sustainability of TWIA. Requires the report to include:

- (1) an analysis of the current funding, funding structure, and sustainability of TWIA, including TWIA's reliance on debt and reinsurance; and
- (2) recommendations for legislative action necessary to address problems with the current funding and funding structure of TWIA and foster the stability and sustainability of TWIA.

(b) Requires the board, not later than November 15, 2020, to deliver the report prepared under Subsection (a) to the governor, the lieutenant governor, and the speaker of the house of representatives.

Sec. 2210.665. EXPIRATION. Provides that this subchapter expires September 1, 2021.

SECTION 8. Requires TWIA, through the board of directors of TWIA, as soon as practicable after the effective date of this Act, to propose to the commissioner amendments to TWIA's plan of operation to be effective before the hurricane season of 2020 as necessary under Chapter 2210 (Texas Windstorm Insurance Association), Insurance Code, as amended by this Act.

SECTION 9. (a) Provides that Sections 2210.351(d) and 2210.352(a-1), Insurance Code, as amended by this Act effective December 1, 2019, apply only to a rate filed by TWIA with TDI on or after December 1, 2019. Provides that a rate filed with TDI before December 1, 2019, is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

(b) Provides that Sections 2210.351(d) and 2210.352(a-1), Insurance Code, as amended by this Act effective September 1, 2021, apply only to a rate filed by TWIA with TDI on or after September 1, 2021. Provides that a rate filed with TDI before September 1, 2021, is governed by the law applicable to the rate immediately before that date, and that law is continued in effect for that purpose.

SECTION 10. Effective date, except as otherwise provided by this Act: December 1, 2019.