

BILL ANALYSIS

Senate Research Center

S.B. 1797
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Windstorm Insurance Association (TWIA), the windstorm insurer of last resort for many residents of the Texas Gulf Coast, has recently been the subject of many lawsuits and investigations regarding its operations and claims handling processes. S.B. 1797 makes several improvements to TWIA's operations, increases the transparency of TWIA, and adds additional protections for TWIA policyholders.

As proposed, S.B. 1797 amends current law relating to the operation of the Texas Windstorm Insurance Association.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 5 (Section 2210.202, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2210.104, Insurance Code, as follows:

Sec. 2210.104. New heading: OFFICERS; SALARIES AND BONUSES. (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Requires the Texas Windstorm Insurance Association (TWIA) to post on TWIA's Internet website the salary of each officer of TWIA and any bonuses equal to or greater than \$1,000 in value paid or given by TWIA to any officer, employee, vendor, or contractor of TWIA.

SECTION 2. Amends Section 2210.105, Insurance Code, by amending Subsections (a) and (b) and adding Subsections (b-1) and (e), as follows:

(a) Requires TWIA, except for an emergency meeting, to:

(1) notify the Texas Department of Insurance (TDI) not later than the 11th day before the date of a meeting of the board of directors of TWIA (board) or of the members of TWIA; and

(2) not later than the seventh day before the date of a meeting of the board, post notice of the meeting on TWIA's Internet website and TDI's Internet website.

(b) Provides that except for a closed meeting authorized by Subchapter D (Exceptions to Requirement That Meetings Be Open), Chapter 551 (Open Meetings), Government Code, a meeting of the board or of the members of TWIA is open to the public, rather than to the commissioner of insurance (commissioner) or the commissioner's designated representative and the public.

(b-1) Provides that a meeting of the board or the members of TWIA, including a closed meeting authorized by Subchapter D, Chapter 551, Government Code, is open to the commissioner or the commissioner's designated representative.

(e) Requires TWIA to broadcast live on TWIA's Internet website all meetings of the board.

SECTION 3. Amends Section 2210.107, Insurance Code, as follows:

Sec. 2210.107. New heading: PRIMARY BOARD OBJECTIVES; REPORT.

(a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Requires TWIA, not later than June 1 of each year, to submit to the commissioner, the legislative oversight board established under Subchapter N (Legislative Oversight Board), the governor, the lieutenant governor, and the speaker of the house of representatives, a report evaluating the extent to which the board met the objectives described by Subsection (a) (relating to the primary objectives of the board) in the 12-month period immediately preceding the date of the report.

SECTION 4. Amends Subchapter C, Chapter 2210, Insurance Code, by adding Section 2210.108, as follows:

Sec. 2210.108. OPEN MEETINGS AND OPEN RECORDS. Provides that except as specifically provided by this chapter or another law, TWIA is subject to Chapters 551 (Open Meetings) and 552 (Public Information), Government Code.

SECTION 5. Amends Section 2210.202, Insurance Code, by adding Subsection (c) to require the commissioner to adopt rules to simplify and streamline the process through which a person who has an insurable interest in insurable property may apply with TWIA for insurance coverage.

SECTION 6. Amends Section 2210.203, Insurance Code, by amending Subsection (a-1) and adding Subsection (a-2), as follows:

(a-1) Prohibits TWIA, notwithstanding Subsection (a) (relating to issuance of an insurance policy), if all or any part of the property to be insured is located in Zone A or another similar zone with a high level of flood risk or in Zone V or another similar zone with an additional hazard associated with storm waves, as defined by the National Flood Insurance Program (NFIP), from issuing an insurance policy for initial or renewal coverage unless evidence is submitted to TWIA that the property to be covered under the policy is also covered by a flood insurance policy issued under the National Flood Insurance Program, rather than prohibiting TWIA from issuing an insurance policy for initial or renewal coverage, 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 NFIP, and if flood insurance under that program is available, unless evidence that the property is covered by a flood insurance policy is submitted to TWIA. Provides that this subsection does not apply to property for which flood insurance is not available under the National Flood Insurance Program. Deletes existing text providing that this subsection applies only to 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. Makes nonsubstantive changes.

(a-2) Creates this subsection from existing text. Requires an agent offering or selling a Texas windstorm and hail insurance policy, rather than a Texas windstorm and hail insurance policy in any area designated by the commissioner under this subsection, to offer flood insurance coverage required under Subsection (a-1) to a prospective insured, if that coverage is available. Makes a nonsubstantive change.

SECTION 7. Amends Section 2210.203(c), Insurance Code, as follows [sic]:

(c) Provides that a policy is automatically renewed annually, rather than authorizes a policy to be renewed annually on application for renewal, as long as the property continues to be an insurable property, or until canceled as provided by Section 2210.204 (Cancellation of Certain Coverage). Authorizes TWIA to require evidence that the property is covered by a flood insurance policy in accordance with the Subsection (a-1) before the renewal is effective.

(c-2) Provides that Section 2210.203(c), Insurance Code, as amended by this Act, applies only to an insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2012. Provides that a policy delivered, issued for delivery, or renewed before January 1, 2012, 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.

SECTION 8. Amends the heading to Subchapter E, Chapter 2210, Insurance Code, to read as follows:

SUBCHAPTER E. INSURANCE COVERAGE; CLAIMS SETTLEMENT AND PAYMENT

SECTION 9. Amends Subchapter E, Chapter 2210, Insurance Code, by adding Sections 2210.205, 2210.210, and 2210.211, as follows:

Sec. 2210.205. **REQUIRED POLICY PROVISIONS: DEADLINE FOR FILING CLAIM.** (a) Requires a windstorm and hail insurance policy issued by TWIA to require an insured to file a claim under the policy not later than the second anniversary of the date on which the damage or loss that is the basis of the claim occurs.

(b) Requires the commissioner, on a showing of good cause by a person insured under this chapter, to extend the two-year period described by Subsection (a)(1) for a period not to exceed 90 days.

Sec. 2210.210. **COVERAGE OF CERTAIN STRUCTURES PROHIBITED.** Prohibits TWIA from issuing coverage to a structure, regardless of whether the structure is otherwise insurable property under this chapter, if the structure is used as a sexually oriented business, as defined by Section 243.002 (Definition), Local Government Code.

Sec. 2210.211. **PROOF OF OTHER COVERAGE REQUIRED FOR SETTLEMENT OF CERTAIN CLAIMS.** (a) Provides that this section applies only to a claim filed under a TWIA policy the issuance or renewal of which, under Section 2210.203(a-1), requires evidence of coverage by a flood insurance policy.

(b) Prohibits TWIA from paying or settling a claim described by Subsection (a) unless the person filing the claim provides evidence satisfactory to TWIA that, on the date of the loss that is the basis of the claim, the property insured under the TWIA policy was also covered by a flood insurance policy in the amount required for issuance or renewal of the TWIA policy under Section 2210.203(a-1).

SECTION 10. Amends Section 2210.355(g), Insurance Code, to require that a commission paid to an agent for a TWIA policy be reasonable, adequate, not unfairly discriminatory, and nonconfiscatory and is prohibited from exceeding 10% with refund for any unearned portion.

SECTION 12 [sic]. Makes application of this Act only to a Texas windstorm and hail insurance policy, and a dispute arising under a Texas windstorm and hail insurance policy, delivered, issued for delivery, or renewed by TWIA on or after the 30th day after the effective date of this Act, prospective to the 30th day after the effective date of this Act.

SECTION 13 [sic]. Requires TWIA to amend TWIA's plan of operation to conform to the changes in law made by this Act not later than January 1, 2012.

SECTION 14 [sic]. Effective date: upon passage or September 1, 2011.