

BILL ANALYSIS

Senate Research Center
86R13859 JES-F

S.B. 2305
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Business & Commerce
3/31/2019
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Created by the Texas Legislature in 1971, the Texas Windstorm Insurance Association (TWIA) serves as the state's wind and hail insurer of last resort for Texans unable to secure commercial or residential property insurance in the private market along the coast.

In most cases, an insured's property must meet windstorm building codes based on international standards to qualify for TWIA coverage. Prior to the passage of H.B. 2439 during the 84th Legislature, the Texas Department of Insurance (TDI) administered the inspection program for structures insured by TWIA to determine compliance with applicable building code standards and issued all certificates of compliance. Under current law, TDI only issues certificates of compliance for ongoing improvements, while TWIA issues certificates of compliance for completed improvements.

Various stakeholders have expressed concerns with the bifurcated inspection process between TWIA and TDI to approve compliance with windstorm building code standards. For example, confusion often occurs among policyholders whose structure has been deemed in compliance by an engineer but later determined the certificate was improperly issued. Under current law, TWIA and TDI have little authority to properly affirm compliance with windstorm building code standards and lacks the ability to adequately address improperly issued certificates of compliance.

A recent review by the Texas Sunset Advisory Commission recommended transferring the issuance of certificates of completion back to TDI. The recommendation was adopted by legislators and publicly appointed members and published for consideration by the 86th Texas Legislature.

S.B. 2305 seeks to streamline the application and approval process of TWIA certificates of compliance for completed property improvements by returning the administrative process back to TDI. In addition, the bill resolves stakeholder concerns by authorizing TDI to oversee and regulate the improper certification of windstorm inspections.

As proposed, S.B. 2305 amends current law relating to the certification of certain improvements by the Texas Department of Insurance in connection with the issuance of insurance by the Texas Windstorm Insurance Association and authorizes a penalty.

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 2210.251(g), Insurance Code, as follows:

(g) Provides that a certificate of compliance issued by the Texas Department of Insurance (TDI), rather than by TDI or the Texas Windstorm Insurance Association (TWIA), under Section 2210.2515 (Issuance of Certificates Of Compliance) demonstrates compliance with the applicable building code under the plan of operation.

SECTION 2. Amends Section 2210.2515, Insurance Code, by amending Subsections (c) and (e) and adding Subsections (i) and (j), as follows:

(c) Authorizes a person to apply to TDI, rather than TWIA, on a form prescribed by TDI for a certificate of compliance for a completed improvement. Requires TDI, rather than TWIA, except as provided by Subsection (e), to issue a certificate of compliance for a completed improvement if a professional engineer licensed by the Texas Board of Professional Engineers (TBPE) inspects the completed improvement in accordance with commissioner of insurance rule and affirms the improvement complies with the applicable building code under the plan of operation and, if a design of the completed improvement affixed with the seal of a licensed professional engineer was submitted, that the improvement conforms to the design. Deletes existing Subdivisions (1) and (2) and existing text relating to TBPE inspection procedures.

(e) Prohibits TDI, except as otherwise provided by this subchapter (Property Inspections For Windstorm and Hail Insurance), from issuing a certificate of compliance under Subsection (c) or (d) (relating to authorizing a person to apply to TDI on a form prescribed by TDI for a certificate of compliance for an ongoing improvement) if within six months after the date of the final inspection of the structure that is the subject of the application, TDI has not received:

(1) fully completed forms prescribed by TDI demonstrating that the improvement satisfies the requirements under Subsection (c) or Subsection (d)(1) (relating to a certain affirmation that the improvement conforms to a design of the improvement that has a seal affixed by a professional engineer) or (2) (relating to a certain affirmation that the improvement complies with the applicable building code under the plan of operation), as applicable; and

(2) payment in full of all inspection fees, including fees for prior TDI inspections, owed to TDI.

(i) Authorizes TDI to rescind a certificate of compliance issued under this section if TDI finds that the certificate was improperly issued.

(j) Authorizes TDI, if TDI finds that a professional engineer has failed to provide complete and accurate information in connection with an application for a certificate of compliance under this section, to:

(1) impose a reasonable penalty on the professional engineer, including prohibiting the engineer from applying for certificates of compliance under this section; or

(2) submit a formal complaint to TBPE recommending license revocation.

SECTION 3. Repealer: Section 2210.2515(f) (relating to authorizing insurance coverage for a residential structure to be issued or renewed through TWIA, subject to certain inspection requirements), Insurance Code

SECTION 4. (a) Provides that Section 2210.251(g), Insurance Code, as amended by this Act, does not affect the status of a certificate of compliance issued by TWIA before January 1, 2019, or after January 1, 2019, in response to an application made before that date for purposes of establishing evidence of insurability.

(b) Makes application of Section 2210.2515, Insurance Code, as amended by this Act, prospective to January 1, 2020.

SECTION 5. Effective date: September 1, 2019.