

3rd Committee Substitute SB 14, Fraser; April 13, 2009 A SYNOPSIS

This bill would shift many costs from insurance companies and the state to consumers [TWIA, coastal, and statewide]. It would shift controls from TDI to the new TWIA board [1 to 3 coastal directors of 9]. It would impose restrictive requirements to obtain TWIA coverage. Most changes reduce TWIA'S effectiveness to achieve its purpose: to provide an insurance market adequate to support a healthy economy.

- Recharging RESERVES is provided: 2 annual \$250 Million member assessments, + 3% Catastrophe Area property and casualty and 20% TWIA policy surcharges; estimated at **\$400 Million the 1st year.**
- Additional funding for increased claims could come from a mix of borrowing, reinsurance, member assessments, Class 1 pre-event securities, Class 2 post-event securities, and 'financing instruments'. The board of directors can select from these sources according to the severity of an event, estimated **up to \$5.2 Billion.**
- Funding in excess of this amount and any reinsurance would be available from additional member assessments which members may recoup by claiming state premium tax credits over 5 years.
- The **Board of Directors**, appointed by the commissioner, are given much greater authority. Of 2 P&C agents, 3 public members, and 4 insurer representative directors, **only 1, 2, or 3 could be 'coastal'**. All must be from different counties. An engineer inspection-advisor is a non voting director.

PREDICTABLE NEW COSTS INCLUDE:

- **+50% est. increase in 'base' rates;** this view is based on the following changes: REPEAL OF 1.) actuarial experience based rate development; and 2.) the no storm rate increase 'cap'. And 3.) REQUIRED use of 'models' [+52% indicated by models in August 2008 filing]; 4.) allowance of 'territories'; and 5.) consumer input in the rate setting process would be all but excluded by this bill.
- **+ 20% 1ST year TWIA surcharge;** 3% other Cat Area Property & Casualty policies;
- **+ 7% TWIA surcharge;** Class 1 \$750 Mill. pre event securities; 3.5% other Cat Area P&C;
- **+30% TWIA surcharge \$4.6 Billion additional securities, IF NEEDED;** 15% C.A. P&C, 1.1% state.
- **+30%** on all structures and contents, if not WPI-8 certified.
- **+20%** 2 year surcharge on secondary residences and contents.
- **+10%** (1st year) 10% annual 'automatic' increases are required for 3 years; a total of +30%
- Flood insurance [though flood is not a TWIA peril] must be in force in "V" zones, if it is available.
- Building code inspections and certifications are moved from TDI to TWIA, and made **rigid.**
- Certification is required *before* TWIA can cover. **Builders Risk** policies could become unavailable?
- New Subchapter M provides for repayment of various funding methods in various ways. Some member assessments are denied named means of recoupment [perhaps not denied other means?]. Some securities and financial instrument repayments are from TWIA premiums or surcharges, some from Catastrophe area Property & Casualty surcharges, some from Statewide P & C surcharges. The pattern is to charge TWIA policyholders double or more, Catastrophe Area P & C a middle amount, and statewide policyholders the least. Most repayments do not state fixed terms; many allow board of directors to choose from alternate sources. It appears that in an extreme event, costs for TWIA coverage could greatly exceed practical affordability, putting TWIA in question as a source of repayment, at the same time the Catastrophe Area is struggling to restore economic viability, and is in greatest need of affordable insurance.
- Unless directors decide otherwise, 2210.609 calls for *TWIA to pay ALL securities costs.*
- 2210.612 provides that Class 1 securities may be payable by Catastrophe Area P&C surcharges, of which *TWIA surcharges are at least twice as much as others'.*
- 2210.613 provides that Class 2 securities may be payable by Statewide surcharges, of which 70% are from the Catastrophe Area [only 30% from the other 240 counties], of which *TWIA policyholders must pay "twice" as much as others.*
- Section 53 of the bill seems to 'conditionally' appropriate \$500 Million, if needed for TWIA integrity?
- 2210.552 Seems to **end direct access to the courts** for TWIA claims contests [available in disputes with other insurers], first requiring an administrative procedure which must be commenced in 30 days.

SB 14 is a complex and comprehensive redesign of the Texas Windstorm Insurance Association [TWIA], from a whole insurance industry 'servicing facility' into a quasi insurance company.

- TWIA is restricted to provide a maximum of 28 coastal counties, wind and hail insurance only;
- Policyholders are required to prove annually that equivalent voluntary coverage is not available.
- TWIA is subjected to Sunset review in 2015.
- Notice and informal hearing procedures is changed to Chapter 36 Subchapter A.
- Changes intended to qualify TWIA for IRS tax exempt status are included.
- A 1st 2 year exemption from TWIA assessments is added to encourages new insurers to come to Texas.

VARIOUS EFFECTIVE DATES ARE 'IMMEDIATE' TO 'VERY SOON'—SEEMINGLY *TOO QUICKLY* FOR ORDERLY IMPLIMENTATION.

Coastal Windstorm Insurance Coalition, Lee Otis Zapp, Jr., April 13, 2009