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Author:

SIIS Office: (512) 795-8214
SIIS Cell: (512) 965-4001 Jerry
(512) 468-6965 Sandra

TWIA lowers payout estimate

By Laura Elder

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The state-backed windstorm insurer has slashed by almost half an earlier estimate of Hurricane Ike damage, bringing it to about \$2.7 billion.

But officials concede the payout figure still is a moving target as they and others sort out what caused damage to houses and businesses — flood or wind.

And the question of whether flood policies or wind policies should cover destruction from the massive storm surge brought by Hurricane Ike has the potential to become a war not unlike what occurred after hurricanes Katrina and Rita in 2005, which led to more than 1,000 lawsuits.

In the month since Ike struck the island and plowed through a huge swath of Southeast Texas, Windstorm Insurance Association policyholders have filed 76,000 claims.

The association, also known as the windstorm pool, doesn't cover storm surge. In some places on the island, the surge was as high as 12 feet, as evidenced by the filmy watermark around hundreds of buildings and homes. It might have been even higher in low-lying mainland areas along Galveston Bay.

"We're seeing a lot of people calling in or coming to the catastrophe unit to file a claim for damage that was definitely caused by flooding," said windstorm pool spokesman Jerry Johns.

Only about 66,000 National Flood Insurance Policies are in force in the county, with about 16,000 on the island. About 67,020 windstorm policies are in effect in the county.

For Additional Information:

8303 N Mopac, Ste B-231
Austin, TX 78759

Phone: (512) 795-8214
Fax: (512) 795-9363



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Some island residents whose properties never before flooded have said they were caught off guard by the storm, the most destructive to make landfall on the island in more than a century.

The low number of flood policies worries state Rep. Craig Eiland.

The Democrat from Galveston said he expects a fight to ensue over what the windstorm pool would and wouldn't cover.

Windstorm officials say the federally backed flood insurance program covers rising water. But some consumer groups have argued that storm surge is a phenomenon peculiar to windstorms.

"I'm very concerned about how this is resolved," Eiland said. "Most people consider flood and rising water to be a rain event or a river rising, not a wind-driven wall of water."

Meanwhile, the storm, which struck Sept. 13, will only intensify a fight about how to fund the association, the insurer of last resort for 14 coastal counties. It also has moved regulators to consider raising a state mandated cap on windstorm insurance rates.

By state law, the windstorm pool can't exceed yearly rate increases of 10 percent unless The Texas Department of Insurance agrees that a catastrophic event makes it necessary.

The windstorm pool's governing board has not formally requested raising of the cap, but state regulators have broached the subject, Johns said.

Before the storm, windstorm officials had filed a request to the insurance department to raise rates by 10 percent for both commercial and residential policyholders. Insurance Commissioner Mike Geeslin has extended the period for gathering written comment about the proposed rate increase until Nov. 3 to allow policyholders displaced by the storm to have a say.

Just days after Hurricane Ike, the windstorm pool had estimated it would pay out more than \$4.2 billion in claims, but lowered that after a better look at the damages.

Still this storm was the one the insurance industry had long feared. It stripped the pool's funding to the bone.

The windstorm pool has about \$2.1 billion available, but has adequate funding to pay the claims, officials said.

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The association, a pool of all insurers in Texas, has assessed member companies for \$430 million. It will use all of \$1.5 billion in reinsurance and \$379 million in its Catastrophe Reserve Trust Fund.

About \$230 million of the \$430 million will be subject to premium tax credits, meaning insurers won't have to pay taxes for five years, a direct hit on the state's general revenue fund. Ultimately, taxpayers will foot the bill for much of the destruction.

Differences about how to best bolster windstorm pool funding have been a source of tension among stakeholders for years. As developers flocked to the coast and private insurers fled, the pool's membership jumped 220 percent, to 219,844, in seven years. Its exposure grew to \$65.5 billion.

In the county alone, exposure was about \$18.5 billion.

Lawmakers in May 2007 ended the state's 80th legislative session without agreeing to increase windstorm pool funding by about \$6 billion through higher premiums and bonds.

"I think a lesson learned from Ike for policymakers, not only coastal policymakers but legislators throughout the state, is that it's not just a coastal issue," Johns said.

"If we impact the general revenue fund, there's going to be a lot of interest about the issue of proper funding for TWIA."

Although windstorm officials have been adamant that the pool would not pay for damage from storm surge, they say they are deciding claims on an individual basis.

"They're not just denying claims on a wholesale basis," Johns said. "A lot are going to be wind, but unfortunately, a lot is going to be from flooding. It's tragic and sad to see."

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