



Southwestern Insurance Information Service

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## Insurance News

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### ***Legislature slow to deal with Ike-induced insurance problems***

Senator says inaction could be costly.

When two hurricanes slapped Texas last year, they took more than lives and property. Hurricanes Dolly and Ike blew away the state's windstorm insurance fund, leaving a multimillion-dollar hole that lawmakers have yet to tackle with less than six weeks left in the 2009 regular session.

A key lawmaker fears legislators could fail to retool the Texas Windstorm Insurance Association for the third straight regular session.

"Other than the budget, this is the most important thing to the state" this year, said Sen. Troy Fraser, R-Horseshoe Bay. "I'm having trouble getting everybody to talk about it. Everybody is in denial."

If lawmakers don't act, Fraser said, a special legislative session might be needed, something he's broached with Gov. Rick Perry. Perry, according to the governor's office, reminded Fraser that he designated the windstorm issue an emergency item in February, an indication he wants to avoid overtime.

Advocates say action is needed to shore up the nonprofit association, which was swamped by about 100,000 claims after the hurricanes. The alternative, they warn, is to leave insurers and taxpayers facing the tab for windstorm damage wreaked by future storms.

"Unless substantial reform occurs, the cupboard is bare when the next hurricane hits," said Seth Chandler, a University of Houston law professor who studies insurance issues. "That is a very troubling proposition."

Not to say that a solution will look pretty.

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Proposals on the table could drive up what coastal residents pay for windstorm coverage for years to come. They also envision hundreds of millions of dollars of assessments on insurance companies and/or dependence on reinsurance and financial instruments such as bonds to refill the windstorm association's catastrophe reserve trust fund.

The association, funded by premiums paid by policyholders, was created by legislators in 1971 as the insurer of last resort for residents of 14 coastal counties and a sliver of Harris County. Over the years, its rates have proved increasingly attractive to property owners who also aren't required to show they've been turned down by private carriers. Starting in the 1990s, accelerated growth along the coast and decisions by insurers to reduce property coverage in the region also stoked participation.

In places like Galveston Island, said Henry Freudenberg, a former Galveston mayor, "they're the only game in town."

As of March 31, the association was underwriting more than 225,000 policies and \$68 billion in coverage — up from \$5 billion in 1991. That year, lawmakers also decided to pay for windstorm association losses in excess of collected premiums by requiring insurance companies writing property and casualty insurance in Texas to pay post-storm assessments tied to their shares of the Texas market.

The decision had consequences for taxpayers because insurers were permitted to recoup a share of the assessments in credits against premium taxes — with the credits left to be made up by the state through more spending or budget cuts.

To pay claims, the association can raise money from assessments levied on its member insurance companies, the catastrophe trust fund and reinsurance, which it purchases to pay claims in the event of a huge storm.

But the association was socked last year. First, about \$80 million in accumulated premiums went for claims after Hurricane Dolly struck in July. Then insurance companies were assessed \$100 million. Then another \$100 million was drawn from the trust fund, which was emptied after Hurricane Ike hit in September. The association then tapped all of its \$1.5 billion in reinsurance and levied \$430 million in fresh assessments on insurance companies, with \$230 million of that recoverable in premium tax credits.

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Without legislative action, the association estimates it can afford to buy \$1 billion to \$1.5 billion in reinsurance before the 2009 hurricane season. If a storm then wracks the coast, insurance companies would face unlimited assessments for windstorm association claims up to the reinsurance level and would again be assessed for claims exceeding the reinsurance peak (\$1.5 billion in this example).

And insurers could take premium tax credits for any assessments exceeding \$300 million, leaving the state to adjust to resulting reductions in tax revenue.

Chandler said insurers mindful of the pinch they could face might reconsider doing business in Texas. Beaman Floyd of the Texas Coalition for Affordable Insurance Solutions, which represents several insurance companies, said each company would react in its own way, but "companies are going to have to make hard decisions ... about their business in the state."

At its heart, the windstorm debate has pivoted on how much coastal residents and insurance companies should pay to replenish the catastrophe fund.

Two inland legislators — Fraser, who heads the Senate Business & Commerce Committee, and Rep. John Smithee, R-Amarillo, chairman of the House Committee on Insurance — also have speculated about tapping the state's so-called rainy day fund for \$500 million or so as part of rebuilding the trust fund. More millions could come from assessments on insurance companies and surcharges on property policies issued in the affected communities.

Meanwhile, coastal representatives who stopped windstorm measures in 2005 and 2007 have renewed complaints that suggested changes could unfairly cost coastal property owners and batter the region's economy.

"No bill is better than a bad bill for us. Our first goal is that nothing bad happen to us when we're down and struggling," said Rep. Craig Eiland, D-Galveston, House speaker pro tempore and a leader among coastal members.

So far, there's no sign of consensus. Fraser advanced a proposal from his committee last week, but he conceded it was a "shell bill" with elements to be sanded out later.

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Sen. Kirk Watson, D-Austin, said he went along with Fraser's Senate Bill 14 because the windstorm issue should be resolved. "If we don't get this (measure) rolling, it won't be addressed," Watson said.

Smithee said homeowner insurance rates statewide are 10 percent to 12 percent higher than they would be if Texas had a stable approach to insuring coastal properties against the wind. His take: More private companies would enter the Texas market if they thought they weren't going to be subject to big assessments after big storms for a surge in windstorm claims.

"The lack of a solution is driving up the cost of insurance away from the coast," Smithee said.

The Texas Department of Insurance said it has no information on the effect of windstorm provisions on homeowner insurance rates. Chandler said homeowner rates would be about 2 percent lower statewide if windstorm association policyholders "paid fully for the risks they pose."

Smithee and Fraser have said coastal residents need to bear a greater share of windstorm coverage costs, a point of friction with their coastal colleagues.

In a hearing, Fraser outlined a proposal envisioning 20 percent increases in windstorm premiums for coastal residents on top of increases put in place after Hurricane Ike, to which Sen. Mike Jackson, R-La Porte, replied: "Sounds fair."

Fraser also proposed that owners of second homes in the coastal zone pay an additional 20 percent surcharge in the second year of his plan — with anyone building a new, second home facing a 40 percent surcharge.

"I understand where you're coming from," Jackson said. "Sounds fair."

Jackson later said he was being sarcastic with Fraser.

"I have been excluded from any part of this bill crafting," Jackson said. "I think I'd be part of the solution."

Fraser later said his office shared his original plan with Jackson's office — and heard nothing back.

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