

**Subchapter E. Texas Windstorm Insurance Association**  
**Division 8. Rates**  
**28 TAC §5.4702**

**INTRODUCTION.** The Commissioner of Insurance adopts new 28 TAC §5.4702, concerning the Texas Windstorm Insurance Association's rate filings and reinsurance purchases. Section 5.4702 implements House Bill 769, 87th Legislature, 2021. The section is adopted without changes to the proposed text published in the August 27, 2021, issue of the *Texas Register* (46 TexReg 5350).

**REASONED JUSTIFICATION.** HB 769 (1) prohibits the Texas Windstorm Insurance Association (TWIA) board of directors from voting on a proposed rate increase if there is a vacancy on the board that has existed for at least 60 days at the time the vote is to be taken, (2) prohibits TWIA from buying reinsurance from any insurer or broker involved in executing catastrophe models that TWIA relies on in determining its probable maximum loss or in adopting rates, and (3) requires TDI to conform TWIA's plan of operation to these changes.

The new section is described in the following paragraphs.

**Section 5.4702.** New §5.4702 consists of subsections (a) - (c).

Subsection (a) states that the TWIA board of directors must comply with Insurance Code §2210.3512 in all votes on proposed rate filings.

Subsection (b) states that TWIA must comply with Insurance Code §2210.453(f) in all purchases of reinsurance under §2210.453.

Subsection (c) states that §5.4702 is part of TWIA's plan of operation.

**SUMMARY OF COMMENTS.** TDI did not receive any comments on the proposed new section.

# 2021-7034

**STATUTORY AUTHORITY.** The Commissioner adopts new §5.4702 under HB 769 and Insurance Code §§2210.008, 2210.151, and 36.001.

HB 769, Section 4, states that TDI must amend TWIA's plan of operation to conform with the bill not later than the 60th day after the bill's effective date.

Insurance Code §2210.008 provides that the Commissioner may adopt rules as reasonable and necessary to implement Chapter 2210.

Insurance Code §2210.151 provides that the Commissioner adopt TWIA's plan of operation by rule.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

## **TEXT.**

### **§5.4702. Requirement for Vote of Rate Filing and Prohibition on Purchasing Reinsurance from Certain Insurers or Brokers.**

(a) The Texas Windstorm Insurance Association (TWIA) board of directors must comply with Insurance Code §2210.3512 in all votes on proposed rate filings.

(b) TWIA must comply with Insurance Code §2210.453(f) in all purchases of reinsurance under §2210.453.

(c) This section is part of TWIA's plan of operation.

**CERTIFICATION.** This agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on October 25, 2021.

# 2021-7034

TITLE 28. INSURANCE  
Part I. Texas Department of Insurance  
Chapter 5. Property and Casualty Insurance

Adopted Section §5.4702  
Page 3 of 3

DocuSigned by:

*James Person*

75578E954EFC48A...

James Person, General Counsel  
Texas Department of Insurance

The Commissioner adopts new 28 TAC §5.4702.

DocuSigned by:

*Cbrown*

FC5D7EDDFB4F8...

Cassie Brown  
Commissioner of Insurance

Commissioner's Order No. **2021-7034**