

SUBCHAPTER E. TEXAS WINDSTORM INSURANCE ASSOCIATION
DIVISION 10. IMPLEMENTATION OF HOUSE BILL 4409
28 TAC §5.4901

1. INTRODUCTION. The Commissioner of Insurance adopts on an emergency basis, to take immediate effect, new Division 10 and §5.4901, establishing a period for interested persons to file written requests with the Commissioner for additional supporting information concerning the Texas Windstorm Insurance Association's (Association) 2009 annual proposed rate filing, under the Insurance Code §2210.352.

The rule is necessary to provide interested persons with a definite period in which to request information concerning the rate filing. The Association offers windstorm and hail insurance coverage (insurance coverage) in the designated catastrophe area which consists of the 14 Texas coastal counties and parts of Harris County. The catastrophe area is underserved for insurance coverage. The rate filing proposes the rates under which the Association will offer insurance coverage from the Association for the next year. The rates determine the cost of insurance from the Association for specific risks. Persons seeking coverage from the Association are unable to obtain comparable insurance coverage in the voluntary insurance market. Thus, persons who obtain coverage from the Association have few, if any, other sources from which they may obtain coverage. These persons have a substantial interest in ensuring that the premiums established as a result of the filing are fair and reasonable. Therefore, the Association's rates have a direct effect on the welfare of

persons living and working in the designated catastrophe area, and the possible inability of such persons to obtain insurance coverage places them in imminent financial peril.

The Insurance Code §2210.352 requires the Association to make an annual rate filing. The Insurance Code §2210.354 authorizes interested persons to submit requests to the Commissioner for additional supporting information relating to the annual filing. Under §2210.354 the Commissioner would then forward these requests to the Association. Section 2210.354 was amended by House Bill (HB) 4409 (81st Legislature, Regular Session) to require the Commissioner to submit the requests for additional information to the Association within 21 days after the date the Department received the Association's annual rate filing. HB 4409 further amended §2210.354 to require persons to submit requests for additional information within a time period specified by the Commissioner. HB 4409 became effective on June 19, 2009. The Association's 2009 annual rate filing was received on August 17, 2009. The Department has not had sufficient time to adopt permanent rules concerning requests for additional supporting information regarding the Association's 2009 annual filing. Rules concerning such for the year 2009 must therefore be adopted on an emergency basis.

Based on the foregoing facts, the Commissioner has determined that persons living and working in the catastrophe area are entitled to request additional supporting information they believe is necessary to meaningfully comment on the Association's 2009 annual rate filing. This rule is necessary to provide interested persons with a definite period in which to request information concerning the rate filing. As a market of last resort, there is imminent peril to the welfare of persons in the catastrophe area if

insurance coverage from the Association cannot be obtained. Therefore, it is necessary to adopt this section on an emergency basis.

Section 5.4901 establishes the period during which persons interested in the Association's 2009 annual rate filing may submit written requests to the Commissioner for additional supporting information from the Association. The Department has selected September 1, 2009, because it will provide persons approximately two weeks to submit their requests for additional information, while providing the Department with sufficient time to gather and deliver the requests to the Association.

2. STATUTORY AUTHORITY. Section 5.4901 is adopted under the Government Code §2001.034 and the Insurance Code §§2210.008, 2210.354 and 36.001. The Insurance Code §2210.008 authorizes the Commissioner to adopt rules in the manner prescribed in Subchapter A, Chapter 36, Insurance Code. The Insurance Code §2210.354 authorizes the Commissioner to adopt by rule a period for persons interested in the Association's annual filing to submit written requests for information. The Insurance Code §36.001 provides that the Commissioner of Insurance may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of the state. The Government Code §2001.034 authorizes a state agency to adopt administrative rules on an emergency basis without prior notice and hearing under certain statutorily specified circumstances, including a finding that there is imminent peril to the public health, safety, or welfare.

3. TEXT.**SUBCHAPTER E. TEXAS WINDSTORM INSURANCE ASSOCIATION****DIVISION 10. IMPLEMENTATION OF HOUSE BILL 4409****§5.4901. Requests for Additional Supporting information.**


(a) Pursuant to the Insurance Code §2210.354 interested persons may file a written request with the Commissioner for additional supporting information related to the Texas Windstorm Insurance Association's 2009 annual rate filing.

(b) All written requests for additional supporting information must be submitted on or before September 1, 2009.

(c) the written request must be submitted to the Office of the Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC 113-2A, Austin, TX 78714-9104, with an additional copy of the request submitted to the Chief Actuary, P.O. Box 149104, MC 105-5F, Austin, TX 78714-9104.

4. CERTIFICATION. This agency hereby certifies that the adopted sections have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

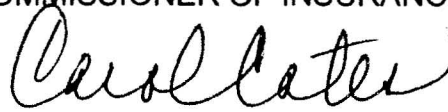
Issued at Austin, Texas, on August 19, 2009.


Gene C. Jarmon
General Counsel and Chief Clerk
Texas Department of Insurance

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that §5.4901 specified herein, establishing the period during which persons interested in the Association's 2009 annual rate filing may submit written requests to the Commissioner for additional supporting information from the Association is adopted on an emergency basis pursuant to the Government Code §2001.034 to take immediate effect.

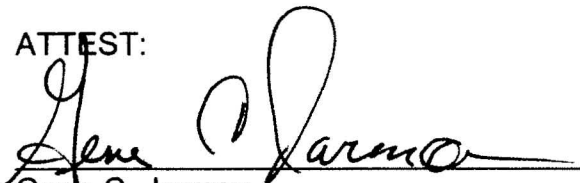
AND IT IS SO ORDERED.

MIKE GEESLIN
COMMISSIONER OF INSURANCE



By: Carol Cates
Temporary Acting Commissioner
Via Commissioner's Order No. 09-0667

ATTEST:



Gene C. Jarmon
General Counsel and Chief Clerk

COMMISSIONER'S ORDER NO. **09-0692**

AUG 19 2009