

By: Seaman

H.B. No. 98

A BILL TO BE ENTITLED

AN ACT

relating to insurance issues regarding the use of mold, fire, and water resistant materials in residential building and repairs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The Insurance Code is amended by adding Chapter 5A to read as follows:

CHAPTER 5A. BUILDING CODE SPECIFICATIONS AND MAINTENANCE

SUBCHAPTER A. GENERAL PROVISIONS

Art. 5A.01. DEFINITION. In this chapter, "advisory committee" means the Building Code Advisory Committee on Specifications and Maintenance.

Art. 5A.02. RULES. In addition to any other rulemaking authority granted under this article, the commissioner may adopt rules as necessary to implement this chapter.

[Articles 5A.03-5A.50 reserved for expansion]

SUBCHAPTER B. ADVISORY COMMITTEE

Art. 5A.51. ADVISORY COMMITTEE. The Building Code Advisory Committee on Specifications and Maintenance is established as an advisory committee to advise and make recommendations to the commissioner on building specifications and maintenance related to the use of mold, fire, and water resistant materials in residential building and repairs and related insurance issues.

Art. 5A.52. COMPOSITION. (a) The advisory committee is composed of nine voting members appointed by the commissioner as

1 follows:

2 (1) three members from the building industry,

3 including:

4 (A) two residential builders; and

5 (B) one representative from the building supply

6 industry;

7 (2) three members from the insurance industry,

8 including two full-time employees of an insurer authorized to

9 engage in the business of property and casualty insurance in this

10 state; and

11 (3) three public members, including one member who is

12 a professional engineer licensed in this state.

13 (b) The commissioner or the commissioner's designated

14 representative shall serve as an ex officio, nonvoting member of

15 the advisory committee.

16 Art. 5A.53. TERMS. A voting member of the advisory

17 committee serves a three-year term.

18 Art. 5A.54. MEETINGS. (a) The advisory committee shall, at

19 least two times each year, meet at the call of the presiding officer

20 with the approval of the commissioner.

21 (b) The advisory committee shall publish the date and

22 location of the meeting not later than the 45th day before the date

23 on which the meeting is scheduled to occur.

24 (c) The commissioner or the commissioner's designee must be

25 present at each meeting of the advisory committee.

26 [Articles 5A.55-5A.100 reserved for expansion]

27 SUBCHAPTER C. PROPOSALS AND RECOMMENDATIONS REGARDING MOLD,

1 FIRE, AND WATER RESISTANT MATERIALS

2 Art. 5A.101. RECOMMENDATIONS. (a) The advisory committee
3 shall analyze and make recommendations for changes regarding
4 building specifications adopted by the commissioner related to the
5 use of mold, fire, and water resistant materials in residential
6 building and repairs and related insurance issues.

7 (b) In making a recommendation, the advisory committee
8 shall consider technological developments in building products and
9 research and shall seek to balance the concerns of all affected
10 parties, including consumers, builders, and the insurance
11 industry.

12 Art. 5A.102. CONTENT OF PROPOSALS. (a) The commissioner by
13 rule shall adopt a form to be used by a person in presenting a
14 proposal for a change in an applicable building specification to
15 the commissioner.

16 (b) Each proposal for a change in an applicable building
17 specification must be submitted to the commissioner on the form
18 adopted under Subsection (a) of this article and must contain:

19 (1) the name, mailing address, and telephone number of
20 the proponent or, if the proponent is an entity, the name of the
21 entity and the mailing address and telephone number of the entity;

22 (2) a citation of the building code section regarding
23 that specification, as published in the latest edition of that
24 code;

25 (3) the text of the proposed change, with deletions
26 from current code language struck through with a single line and new
27 language underlined; and

1 (4) a statement of the purpose of the proposed change,
2 with supporting written or printed information.

3 Art. 5A.103. TIMING ON PROPOSALS. (a) Each proposal shall
4 be submitted not later than the 30th day before the date of a
5 scheduled advisory committee meeting.

6 (b) A proposal that does not comply with the requirements
7 adopted under Article 5A.102 of this subchapter and is not
8 submitted within the time specified in this article may not be
9 considered at that scheduled meeting.

10 Art. 5A.104. DUTIES OF DEPARTMENT. (a) The department
11 shall review and organize each proposal submitted and shall allow
12 the advisory committee and any interested party to view the
13 proposal to be considered within a reasonable time before the
14 advisory committee meeting.

15 (b) If requested by a majority of the advisory committee,
16 the department shall make recommendations regarding each proposal
17 submitted and provide to the advisory committee any necessary
18 technical information.

19 Art. 5A.105. PUBLIC PARTICIPATION. (a) At an advisory
20 committee meeting, any interested person may present the person's
21 views on a proposal for a change in an applicable building
22 specification that is included on the advisory committee's
23 published agenda.

24 (b) The advisory committee shall consider each comment
25 presented in its action on the disposition of each proposal.

26 Art. 5A.106. ACTION ON PROPOSAL. (a) After consideration
27 of a proposal for a change in an applicable building specification,

1 the advisory committee by vote shall:

2 (1) recommend adoption of the proposal as initially
3 submitted;

4 (2) recommend adoption of the proposal with
5 modifications;

6 (3) recommend rejection of the proposal; or

7 (4) suspend consideration of the proposal and request
8 additional evaluation and study of the proposal.

9 (b) The advisory committee shall submit its recommendation
10 on each proposal to the commissioner.

11 Art. 5A.107. ACTION BY COMMISSIONER ON RECOMMENDATIONS. (a)
12 The commissioner shall notify the advisory committee of the
13 acceptance or rejection of each recommendation not later than the
14 30th day after the date of receipt by the commissioner.

15 (b) Acceptance of a recommendation by the commissioner
16 means that the commissioner will consider adoption of that
17 recommendation at a rulemaking hearing.

18 (c) Before adopting a recommendation, the commissioner must
19 determine that the proposal, if adopted, will not weaken the
20 integrity or diminish the effectiveness of a building
21 specification.

22 (d) The commissioner by rule may adopt a recommendation of
23 the advisory committee.

24 [Articles 5A.108-5A.150 reserved for expansion]

25 SUBCHAPTER D. PREMIUM DISCOUNTS FOR USE OF MOLD,

26 FIRE, AND WATER RESISTANT MATERIALS

27 Art. 5A.151. DEFINITION. In this subchapter, "residential

1 property insurance" means insurance coverage written by an insurer
2 authorized to engage in the business of homeowners insurance, farm
3 and ranch owners insurance, or fire and residential allied lines
4 insurance in this state, including a fire and marine insurer, farm
5 mutual insurer, county mutual insurer, Lloyd's plan, or reciprocal
6 or interinsurance exchange.

7 Art. 5A.152. ESTABLISHMENT OF DISCOUNT. (a) The
8 commissioner by rule may require a premium discount for the use of a
9 mold, fire, or water resistant material recommended to and adopted
10 by the commissioner under Subchapter C of this chapter.

11 (b) The commissioner by rule shall establish the amount of
12 the discount.

13 Art. 5A.153. PREMIUM DISCOUNT. If required under Article
14 5A.152 of this subchapter, an insurer who delivers or issues for
15 delivery a policy of residential property insurance in this state
16 shall grant a premium discount to insure a dwelling that has a
17 correctly installed mold, fire, or water resistant material
18 approved by the commissioner under this chapter.

19 SECTION 2. Not later than September 1, 2003, the
20 commissioner of insurance shall appoint the members of the Building
21 Code Advisory Committee on Specifications and Maintenance created
22 under Subchapter B, Chapter 5A, Insurance Code, as added by this
23 Act.

24 SECTION 3. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

1 Act takes effect September 1, 2003.