

Suspending limitations on conference committee
jurisdiction, S.B. No. 463 (Janek/Eiland)

By: Eiland

H.R. No. 1868

R E S O L U T I O N

1 BE IT RESOLVED by the House of Representatives of the State of
2 Texas, 78th Legislature, Regular Session, 2003, That House Rule 13,
3 Section 9(a), be suspended in part as provided by House Rule 13,
4 Section 9(f), to enable the conference committee appointed to
5 resolve the differences on Senate Bill 463, relating to structures
6 that constitute insurable property under the Texas Windstorm
7 Insurance Association, to consider and take action on the following
8 matter:

9 (1) House Rule 13, Section 9(a)(1), is suspended to permit
10 the committee to change Section 1 of the bill to read as follows:

11 SECTION 1. Subsection (f), Section 3, Article 21.49,
12 Insurance Code, is amended to read as follows:

13 (f) "Insurable Property" means immovable property at fixed
14 locations in a catastrophe area or corporeal movable property
15 located therein (as may be designated in the plan of operation)
16 which property is determined by the Association, pursuant to the
17 criteria specified in the plan of operation to be in an insurable
18 condition against windstorm, hail and/or fire and explosion as
19 appropriate, as determined by normal underwriting standards;
20 provided, however, that insofar as windstorm and hail insurance is
21 concerned, any structure located within a catastrophe area,
22 commenced on or after the 30th day following the publication of the
23 plan of operation, not built or continuing in compliance with
24 building specifications set forth in the plan of operation shall

1 not be an insurable risk under this Act except as otherwise provided
2 under this Act. A structure, or an addition thereto, which is
3 constructed in conformity with plans and specifications that comply
4 with the specifications set forth in the plan of operation at the
5 time construction commences shall not be declared ineligible for
6 windstorm and hail insurance as a result of subsequent changes in
7 the building specifications set forth in the plan of operation.
8 Except as otherwise provided by this subsection, if ~~[When]~~ repair
9 of damage to a structure involves replacement of items covered in
10 the building specifications as set forth in the plan of operation,
11 such repairs must be completed in a manner to comply with such
12 specifications for the structure to continue within the definition
13 of Insurable Property for windstorm and hail insurance. If repair
14 of damage to a structure is based on a direct loss and claim the
15 amount of which is equal to less than five percent of the amount of
16 total property coverage on the structure, the repairs may be
17 completed in a manner that returns the structure to its condition
18 immediately before the loss without affecting the eligibility of
19 the structure to qualify as insurable property. Nothing in this Act
20 shall preclude special rating of individual risks as may be
21 provided in the plan of operation. For purposes of this Act, all
22 structures which are located within those areas designated as units
23 under the federal Coastal Barrier Resources Act (Public Law 97-348)
24 and for which construction has commenced on or after July 1, 1991
25 shall not be considered insurable property.

26 Explanation: The change in SECTION 1 is necessary to remove
27 language designating certain structures as insurable property by

1 the Texas Windstorm Insurance Association if a building permit or
2 plat was filed with the municipality, county, or United States Army
3 Corps of Engineers before the effective date of the bill and to
4 provide that if a direct loss occurs, and the amount of repair
5 constitutes five percent or less of the value of the property, the
6 insurability of the property is not affected if the repairs are
7 properly made.

8 (2) House Rule 13, Section 9(a)(4), is suspended to permit
9 the committee to add a new section to the bill to read as follows:

10 SECTION 2. Subdivision (9), Subsection (h), Section 8,
11 Article 21.49, Insurance Code, is amended to read as follows:

12 (9) A rate established and authorized by the
13 commissioner under this subsection may not reflect an average rate
14 change that is more than 10 percent higher or lower than the rate
15 for commercial or 10 percent higher or lower than the rate for
16 noncommercial windstorm and hail insurance in effect on the date
17 the filing is made. The rate may not reflect a rate change for an
18 individual rating class that is 15 percent higher or lower than the
19 rate for that individual class in effect on the date the filing is
20 made. The commissioner may, after notice and hearing, suspend this
21 subdivision upon a finding that a catastrophe loss or series of
22 occurrences resulting in losses in the catastrophe area justify a
23 need to assure rate adequacy in the catastrophe area and also
24 justify a need to assure availability of insurance outside the
25 catastrophe area. [~~This subdivision expires December 31, 2005.~~]

26 Explanation: The change in SECTION 2 is necessary to remove
27 the expiration of Subsection (h) of Section 8, which establishes

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1 certain limitations on the amount of the rate the commissioner sets
2 and requires the commissioner to justify the rate if the rate is not
3 set within those limitations.