

AN ACT

relating to rates and insurable property under the Texas Windstorm Insurance Association.

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

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

(f) "Insurable Property" means immovable property at fixed locations in a catastrophe area or corporeal movable property located therein (as may be designated in the plan of operation) which property is determined by the Association, pursuant to the criteria specified in the plan of operation to be in an insurable condition against windstorm, hail and/or fire and explosion as appropriate, as determined by normal underwriting standards; provided, however, that insofar as windstorm and hail insurance is concerned, any structure located within a catastrophe area, commenced on or after the 30th day following the publication of the plan of operation, not built or continuing in compliance with building specifications set forth in the plan of operation shall not be an insurable risk under this Act except as otherwise provided under this Act. A structure, or an addition thereto, which is constructed in conformity with plans and specifications that comply with the specifications set forth in the plan of operation at the time construction commences shall not be declared ineligible for windstorm and hail insurance as a result of subsequent changes in

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

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

22 (9) A rate established and authorized by the commissioner
23 under this subsection may not reflect an average rate change that is
24 more than 10 percent higher or lower than the rate for commercial or
25 10 percent higher or lower than the rate for noncommercial
26 windstorm and hail insurance in effect on the date the filing is
27 made. The rate may not reflect a rate change for an individual

1 rating class that is 15 percent higher or lower than the rate for
2 that individual class in effect on the date the filing is made. The
3 commissioner may, after notice and hearing, suspend this
4 subdivision upon a finding that a catastrophe loss or series of
5 occurrences resulting in losses in the catastrophe area justify a
6 need to assure rate adequacy in the catastrophe area and also
7 justify a need to assure availability of insurance outside the
8 catastrophe area. [~~This subdivision expires December 31, 2005.~~]

9 SECTION 3. Article 21.49, Insurance Code, as amended by
10 this Act, applies only to an insurance policy delivered or issued
11 for delivery by the Texas Windstorm Insurance Association on or
12 after the effective date of this Act. A policy delivered or issued
13 for delivery before the effective date of this Act is governed by
14 the law as it existed immediately before the effective date of this
15 Act, and that law is continued in effect for that purpose.

16 SECTION 4. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 463 passed the Senate on April 25, 2003, by the following vote: Yeas 29, Nays 0; May 29, 2003, Senate refused to concur in House amendment and requested appointment of Conference Committee; May 30, 2003, House granted request of the Senate; June 1, 2003, Senate adopted Conference Committee Report by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 463 passed the House, with amendment, on May 28, 2003, by the following vote: Yeas 144, Nays 0, two present not voting; May 30, 2003, House granted request of the Senate for appointment of Conference Committee; June 1, 2003, House adopted Conference Committee Report by the following vote: Yeas 144, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor