

By: Ellis

S.B. No. 1605

A BILL TO BE ENTITLED

AN ACT

relating to revenue bond program and procedures for certain residential property insurance.

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

SECTION 1. Chapter 21, Insurance Code, is amended by adding new Article 21.49A-1 to read as follows:

Article 21.49A-1. Revenue Bond Program for FAIR Plan Association.

Sec. 1. Purpose. The legislature finds that the issuance of bonds to provide a method to raise funds to provide residential property insurance through the Fair Access to Insurance Requirements Plan association in this state is for the benefit of the public and in furtherance of a public purpose.

Sec. 2. Definitions. In this article:

(1) "Association" means the Fair Access to Insurance Requirements (FAIR) Plan association established under Article 21.49A of this code.

(2) "Bond resolution" means the resolution or order authorizing the bonds to be issued under this article.

(3) "Board" means the board of directors of the Texas Public Finance Authority.

(4) "Insurer" means any insurer required to participate in the association under Section 4, Article 21.49A of this code.

1       Sec. 3. Bonds authorized; application of Texas Public  
2 Finance Authority Act. (a) On behalf of the association, the  
3 Texas Public Finance Authority shall issue revenue bonds to:

4           (1) fund the association established under Section 4,  
5 Article 21.49A of this code;

6           (2) pay costs related to issuance of the bonds; and

7           (3) pay other costs related to the bonds as may be  
8 determined by the board.

9       (b) To the extent not inconsistent with this article,  
10 Chapter 1232, Government Code, applies to bonds issued under this  
11 article. In the event of a conflict, this article controls.

12       Sec. 4. Applicability of other statutes. The following  
13 laws apply to bonds issued under this article to the extent  
14 consistent with this article:

15           (1) Chapters 1201, 1202, 1204, 1205, 1231, and 1371,  
16 Government Code; and

17           (2) Subchapter A, Chapter 1206, Government Code.

18       Sec. 5. Limits. The Texas Public Finance Authority may  
19 issue, on behalf of the association, bonds in a total amount not to  
20 exceed \$75 million.

21       Sec. 6. Conditions. (a) Bonds may be issued at public or  
22 private sale.

23           (b) Bonds may mature not more than 10 years after the date  
24 issued.

25           (c) Bonds must be issued in the name of the association.

26       Sec. 7. Additional covenants. In a bond resolution, the  
27 board may make additional covenants with respect to the bonds and

1 the designated income and receipts of the association pledged to  
2 their payment and may provide for the flow of funds and the  
3 establishment, maintenance, and investment of funds and accounts  
4 with respect to the bonds.

5 Sec. 8. Special accounts. (a) A bond resolution may  
6 establish special accounts, including an interest and sinking fund  
7 account, reserve account, and other accounts.

8 (b) The association shall administer the accounts in  
9 accordance with Article 21.49A of this code.

10 Sec. 9. Security. (a) Bonds are payable only from the  
11 surcharge fee established in Section 10 of this article or other  
12 sources the association is authorized to levy, charge, and collect  
13 in connection with paying any portion of the bonds.

14 (b) Bonds are obligations solely of the association. Bonds  
15 do not create a pledging, giving, or lending of the faith, credit,  
16 or taxing authority of this state.

17 (c) Each bond must include a statement that the state is not  
18 obligated to pay any amount on the bond and that the faith, credit,  
19 and taxing authority of this state are not pledged, given, or lent  
20 to those payments.

21 (d) Each bond issued under this article must state on its  
22 face that the bond is payable solely from the revenues pledged for  
23 that purpose and that the bond does not and may not constitute a  
24 legal or moral obligation of the state.

25 Sec. 10. Surcharge fee. (a) A surcharge fee is assessed  
26 against:

27 (1) each insurer; and

1           (2) the association.

2           (b) The surcharge fee shall be set by the commissioner in an  
3 amount sufficient to pay all debt service on the bonds. The  
4 surcharge shall be paid by each insurer and the association as  
5 required by the commissioner by rule.

6           (c) The comptroller shall collect the surcharge fee and the  
7 department shall reimburse the comptroller in the manner described  
8 by Article 4.19 of this code.

9           (d) The commissioner, in consultation with the comptroller,  
10 may coordinate payment and collection of the surcharge fee with  
11 other payments made by insurers and collected by the comptroller.

12           (e) As a condition of engaging in the business of insurance  
13 in this state, an insurer agrees that if the company leaves the  
14 property insurance market in this state the insurer remains  
15 obligated to pay, until the bonds are retired, the insurer's share  
16 of the surcharge fee assessed under this section in an amount  
17 proportionate to that insurer's share of the property insurance  
18 market, including residential property insurance, in this state as  
19 of the last complete reporting period before the date on which the  
20 insurer ceases to engage in that insurance business in this state.  
21 The proportion assessed against the insurer shall be based on the  
22 insurer's gross premiums for property insurance, including  
23 residential property insurance, for the insurer's last reporting  
24 period. However, an insurer is not required to pay the  
25 proportionate amount in any year in which the surcharge fee  
26 assessed against insurers continuing to write property insurance in  
27 this state is sufficient to service the bond obligation.

1       Sec. 11. Tax exempt. The bonds issued under this article,  
2 and any interest from the bonds, and all assets pledged to secure  
3 the payment of the bonds are free from taxation by the state or a  
4 political subdivision of this state.

5       Sec. 12. Authorized Investments. The bonds issued under  
6 this article constitute authorized investments under Article 2.10  
7 and Subpart A, Part I, Article 3.39, of this code.

8       Sec. 13. State pledge. The state pledges to and agrees with  
9 the owners of any bonds issued in accordance with this article that  
10 the state will not limit or alter the rights vested in the  
11 association to fulfill the terms of any agreements made with the  
12 owners of the bonds or in any way impair the rights and remedies of  
13 those owners until the bonds, any premium or interest, and all costs  
14 and expenses in connection with any action or proceeding by or on  
15 behalf of those owners are fully met and discharged. The  
16 association may include this pledge and agreement of the state in  
17 any agreement with the owners of the bonds.

18       Sec. 14. Enforcement by mandamus. A writ of mandamus and  
19 all other legal and equitable remedies are available to any party at  
20 interest to require the association and any other party to carry out  
21 agreements and to perform functions and duties under this article,  
22 the Texas Constitution, or a bond resolution.

23       SECTION 2. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2003.