

By: Ellis, Lucio

S.B. No. 1606

A BILL TO BE ENTITLED

AN ACT

1
2 relating to residential property insurance provided under the FAIR
3 Plan Act.

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

5 SECTION 1. Section 1, Article 21.49A, Insurance Code, is
6 amended to read as follows:

7 Sec. 1. AUTHORITY; PURPOSE. (a) If the commissioner
8 determines, after a public hearing, that in all or any part of the
9 state residential property insurance is not reasonably available in
10 the voluntary market to a substantial number of insurable risks and
11 that at least 25 [~~50~~] percent of the applicants to the residential
12 property market assistance program who are qualified under the plan
13 of operation [~~, after the commissioner has made insurer~~
14 ~~participation mandatory under the plan of operation,~~] have not been
15 placed with an insurer in the previous six-month [~~12-month~~] period,
16 the commissioner may establish a FAIR (Fair Access to Insurance
17 Requirements) Plan to deliver residential property insurance to
18 citizens of this state in underserved areas, which shall be
19 determined and designated by the commissioner by rule.

20 (a-1) Notwithstanding Subsection (a) of this section, if
21 the commissioner determines, after a public hearing, that in all or
22 any part of the state residential property insurance is not
23 reasonably available in the voluntary market to a substantial
24 number of insurable risks, the commissioner may establish a FAIR

1 (Fair Access to Insurance Requirements) Plan to deliver residential
2 property insurance to citizens of this state in underserved areas,
3 which shall be determined and designated by the commissioner by
4 rule. This subsection expires September 1, 2005.

5 (b) Each insurer, as defined herein, as a condition of its
6 authority to transact residential property insurance in this state,
7 shall participate in the FAIR Plan Association in accordance with
8 this Act.

9 (c) [~~(b)~~] The FAIR Plan may not provide windstorm and hail
10 insurance coverage for a risk eligible for that coverage under
11 Article 21.49 of this code.

12 SECTION 2. Subsection (b), Section 6, Article 21.49A,
13 Insurance Code, is amended to read as follows:

14 (b) Applications may be made on behalf of the applicant by a
15 licensed general lines property and casualty [~~local recording~~]
16 agent and shall be submitted on forms prescribed by the
17 association.

18 SECTION 3. Subsection (b), Section 8, Article 21.49A,
19 Insurance Code, is amended to read as follows:

20 (b) All orders or decisions of the commissioner made
21 pursuant to this Act are subject to judicial review in accordance
22 with Subchapter D, Chapter 36, [~~Article 1.04~~] of this code.

23 SECTION 4. Section 12, Article 21.49A, Insurance Code, is
24 amended to read as follows:

25 Sec. 12. SANCTIONS. If the association, inspection bureau,
26 or participating insurer is found to be in violation of or in
27 failure to comply with this Act, each entity shall be subject to the

1 sanctions authorized in Chapter 82 [~~Article 1.10~~] of this code
2 and [~~, including~~] administrative penalties authorized under Chapter
3 84 [~~Article 1.10E~~] of this code. The commissioner may also utilize
4 any other disciplinary procedures authorized by this code,
5 including the cease and desist procedures authorized by Chapter 83
6 [~~Article 1.10A~~] of this code.

7 SECTION 5. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2003.