

By: Ellis

S.B. No. 1606

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the FAIR Plan (Fair Access to Insurance Requirements)
3 Act.

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

5 SECTION 1. Section 1, Article 21.49A, Chapter 21, Insurance
6 Code, is 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
11 ~~[and that at least 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 participation~~
14 ~~mandatory under the plan of operation, have not been placed with an~~
15 ~~insurer in the previous 12-month period,~~] the commissioner may
16 establish a FAIR (Fair Access to Insurance Requirements) Plan to
17 deliver residential property insurance to citizens of this state in
18 underserved areas, which shall be determined and designated by the
19 commissioner by rule. Each insurer, as defined herein, as a
20 condition of its authority to transact residential property
21 insurance in this state, shall participate in the FAIR Plan
22 Association in accordance with this Act.

23 (b) The FAIR Plan may not provide windstorm and hail
24 insurance coverage for a risk eligible for that coverage under

1 Article 21.49 of this code.

2 SECTION 2. Section 6, Article 21.49A, Chapter 21, Insurance
3 Code, is amended to read as follows:

4 Sec. 6. Property Inspection; FAIR Plan Procedure. (a) Any
5 person having an insurable interest in real or tangible personal
6 property at a fixed location in an underserved area who, after
7 diligent effort has been unable to obtain residential property
8 insurance, as evidenced by two current declinations from insurers
9 licensed to write property insurance and actually writing
10 residential property insurance in the state, is entitled upon
11 application to the association to an inspection and evaluation of
12 the property by representatives of the inspection bureau.

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

17 (c) Promptly after the request for inspection is received,
18 an inspection must be made and an inspection report filed with the
19 association and made available to the applicant upon request.

20 (d) If the inspection bureau finds that the residential
21 property meets the reasonable underwriting standards established
22 in the plan of operation, the applicant shall be so informed in
23 writing and a policy or binder shall be issued by the association.
24 If the residential property does not meet the criteria, the
25 applicant shall be informed, in writing, of the reasons for the
26 failure of the residential property to meet the criteria.

27 (e) If, at any time, the applicant makes improvements in the

1 residential property or its condition which the applicant believes
2 are sufficient to make the residential property meet the criteria,
3 a representative of the inspection bureau shall reinspect the
4 residential property upon request. In any case, the applicant for
5 residential property insurance shall be eligible for one
6 reinspection any time within 60 days after the initial FAIR Plan
7 inspection. If upon reinspection the residential property meets
8 the reasonable underwriting standards established in the plan of
9 operation, the applicant shall be so informed in writing and a
10 policy or binder shall be issued by the association.

11 SECTION 3. Section 8, Article 21.49A, Chapter 21, Insurance
12 Code, is amended to read as follows:

13 Sec. 8. Appeals; Judicial Review. (a) Any applicant or
14 affected insurer has the right of appeal to the association. A
15 decision of the association may be appealed to the commissioner
16 within 30 days after such decision.

17 (b) All orders or decisions of the commissioner made
18 pursuant to this Act are subject to judicial review in accordance
19 with Sections 36.201-36.205 [~~Article 1.04~~] of this code.

20 SECTION 4. Section 12, Article 21.49A, Chapter 21,
21 Insurance Code, is amended to read as follows:

22 Sec. 12. Sanctions. If the association, inspection bureau,
23 or participating insurer is found to be in violation of or in
24 failure to comply with this Act, each entity shall be subject to the
25 sanctions authorized by Sections 82.001-82.003 and 82.051-82.056
26 [~~in Article 1.10~~] of this code, including administrative penalties
27 authorized under Sections 84.001-84.003 and 84.021-84.022 [~~Article~~

1 ~~1.10E~~] of this code. The commissioner may also utilize any other
2 disciplinary procedures authorized by this code, including the
3 cease and desist procedures authorized Sections 83.001-83.004 and
4 83.051-83.055 [~~by Article 1.10A~~] of this code.

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