

1-1 By: Ellis S.B. No. 1606  
1-2 (In the Senate - Filed March 14, 2003; March 20, 2003, read  
1-3 first time and referred to Committee on Business and Commerce;  
1-4 April 25, 2003, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 8, Nays 0; April 25, 2003,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1606 By: Fraser

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to residential property insurance provided under the FAIR  
1-11 Plan Act.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 1, Article 21.49A, Insurance Code, is  
1-14 amended to read as follows:

1-15 Sec. 1. AUTHORITY; PURPOSE. (a) If the commissioner  
1-16 determines, after a public hearing, that in all or any part of the  
1-17 state residential property insurance is not reasonably available in  
1-18 the voluntary market to a substantial number of insurable risks and  
1-19 that at least 25 [50] percent of the applicants to the residential  
1-20 property market assistance program who are qualified under the plan  
1-21 of operation [~~after the commissioner has made insurer~~  
1-22 ~~participation mandatory under the plan of operation,~~] have not been  
1-23 placed with an insurer in the previous six-month [12-month] period,  
1-24 the commissioner may establish a FAIR (Fair Access to Insurance  
1-25 Requirements) Plan to deliver residential property insurance to  
1-26 citizens of this state in underserved areas, which shall be  
1-27 determined and designated by the commissioner by rule.

1-28 (a-1) Notwithstanding Subsection (a) of this section, if  
1-29 the commissioner determines, after a public hearing, that in all or  
1-30 any part of the state residential property insurance is not  
1-31 reasonably available in the voluntary market to a substantial  
1-32 number of insurable risks, the commissioner may establish a FAIR  
1-33 (Fair Access to Insurance Requirements) Plan to deliver residential  
1-34 property insurance to citizens of this state in underserved areas,  
1-35 which shall be determined and designated by the commissioner by  
1-36 rule. This subsection expires September 1, 2005.

1-37 (b) Each insurer, as defined herein, as a condition of its  
1-38 authority to transact residential property insurance in this state,  
1-39 shall participate in the FAIR Plan Association in accordance with  
1-40 this Act.

1-41 (c) [~~(b)~~] The FAIR Plan may not provide windstorm and hail  
1-42 insurance coverage for a risk eligible for that coverage under  
1-43 Article 21.49 of this code.

1-44 SECTION 2. Subsection (b), Section 6, Article 21.49A,  
1-45 Insurance Code, is amended to read as follows:

1-46 (b) Applications may be made on behalf of the applicant by a  
1-47 licensed general lines property and casualty [~~local recording~~]  
1-48 agent and shall be submitted on forms prescribed by the  
1-49 association.

1-50 SECTION 3. Subsection (b), Section 8, Article 21.49A,  
1-51 Insurance Code, is amended to read as follows:

1-52 (b) All orders or decisions of the commissioner made  
1-53 pursuant to this Act are subject to judicial review in accordance  
1-54 with Subchapter D, Chapter 36, [Article 1.04] of this code.

1-55 SECTION 4. Section 12, Article 21.49A, Insurance Code, is  
1-56 amended to read as follows:

1-57 Sec. 12. SANCTIONS. If the association, inspection bureau,  
1-58 or participating insurer is found to be in violation of or in  
1-59 failure to comply with this Act, each entity shall be subject to the  
1-60 sanctions authorized in Chapter 82 [Article 1.10] of this code and  
1-61 [~~including~~] administrative penalties authorized under Chapter 84  
1-62 [~~Article 1.10E~~] of this code. The commissioner may also utilize any  
1-63 other disciplinary procedures authorized by this code, including

2-1 the cease and desist procedures authorized by Chapter 83 [~~Article~~  
2-2 ~~1.10A~~] of this code.

2-3 SECTION 5. This Act takes effect immediately if it receives  
2-4 a vote of two-thirds of all the members elected to each house, as  
2-5 provided by Section 39, Article III, Texas Constitution. If this  
2-6 Act does not receive the vote necessary for immediate effect, this  
2-7 Act takes effect September 1, 2003.

2-8 \* \* \* \* \*