

Suspending limitations on conference committee
jurisdiction, S.B. No. 463

By: Janek

S.R. No. 1044

SENATE RESOLUTION

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on Senate Bill No. 463, relating to structures that constitute insurable property under the Texas Windstorm Insurance Association, to consider and take action on the following matter:

(1) Senate Rule 12.03(1) is suspended to permit the committee to change SECTION 1 of the bill to read as follows:

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

Explanation: The change in SECTION 1 is necessary to

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remove language designating certain structures as insurable property by the Texas Windstorm Insurance Association if a building permit or plat was filed with the municipality, county, or United States Army Corps of Engineers before the effective date of the bill and to provide that if a direct loss occurs, and the amount of repair constitutes five percent or less of the value of the property, the insurability of the property is not affected if the repairs are properly made.

(2) Senate Rule 12.03(4) is suspended to permit the committee to add a new SECTION to the bill to read as follows:

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

(9) A rate established and authorized by the commissioner under this subsection may not reflect an average rate change that is more than 10 percent higher or lower than the rate for commercial or 10 percent higher or lower than the rate for noncommercial windstorm and hail insurance in effect on the date the filing is made. The rate may not reflect a rate change for an individual rating class that is 15 percent higher or lower than the rate for that individual class in effect on the date the filing is made. The commissioner may, after notice and hearing, suspend this subdivision upon a finding that a catastrophe loss or series of occurrences resulting in losses in the catastrophe area justify a need to assure rate adequacy in the catastrophe area and also justify a need to assure availability of insurance outside the catastrophe area. [~~This subdivision expires December 31, 2005.~~]

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Explanation: The change in SECTION 2 is necessary to remove the expiration of Subsection (h) of Section 8, which establishes certain limitations on the amount of the rate the commissioner sets and requires the commissioner to justify the rate if the rate is not set within those limitations.

President of the Senate

I hereby certify that the above Resolution was adopted by the Senate on June 1, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate