

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

By: Janek

S.R. No. 1044

R E S O L U T I O N

1 BE IT RESOLVED by the Senate of the State of Texas, 78th
2 Legislature, Regular Session, 2003, That Senate Rule 12.03 be
3 suspended in part as provided by Senate Rule 12.08 to enable the
4 conference committee appointed to resolve the differences on Senate
5 Bill 463, relating to structures that constitute insurable property
6 under the Texas Windstorm Insurance Association, to consider and
7 take action on the following matter:

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

10 SECTION 1. Subsection (f), Section 3, Article 21.49,
11 Insurance Code, is amended to read as follows:

12 (f) "Insurable Property" means immovable property at fixed
13 locations in a catastrophe area or corporeal movable property
14 located therein (as may be designated in the plan of operation)
15 which property is determined by the Association, pursuant to the
16 criteria specified in the plan of operation to be in an insurable
17 condition against windstorm, hail and/or fire and explosion as
18 appropriate, as determined by normal underwriting standards;
19 provided, however, that insofar as windstorm and hail insurance is
20 concerned, any structure located within a catastrophe area,
21 commenced on or after the 30th day following the publication of the
22 plan of operation, not built or continuing in compliance with
23 building specifications set forth in the plan of operation shall
24 not be an insurable risk under this Act except as otherwise provided

1 under this Act. A structure, or an addition thereto, which is
2 constructed in conformity with plans and specifications that comply
3 with the specifications set forth in the plan of operation at the
4 time construction commences shall not be declared ineligible for
5 windstorm and hail insurance as a result of subsequent changes in
6 the building specifications set forth in the plan of operation.
7 Except as otherwise provided by this subsection, if ~~When~~ repair
8 of damage to a structure involves replacement of items covered in
9 the building specifications as set forth in the plan of operation,
10 such repairs must be completed in a manner to comply with such
11 specifications for the structure to continue within the definition
12 of Insurable Property for windstorm and hail insurance. If repair
13 of damage to a structure is based on a direct loss and claim the
14 amount of which is equal to less than five percent of the amount of
15 total property coverage on the structure, the repairs may be
16 completed in a manner that returns the structure to its condition
17 immediately before the loss without affecting the eligibility of
18 the structure to qualify as insurable property. Nothing in this Act
19 shall preclude special rating of individual risks as may be
20 provided in the plan of operation. For purposes of this Act, all
21 structures which are located within those areas designated as units
22 under the federal Coastal Barrier Resources Act (Public Law 97-348)
23 and for which construction has commenced on or after July 1, 1991
24 shall not be considered insurable property.

25 Explanation: The change in SECTION 1 is necessary to remove
26 language designating certain structures as insurable property by
27 the Texas Windstorm Insurance Association if a building permit or

1 plat was filed with the municipality, county, or United States Army
2 Corps of Engineers before the effective date of the bill and to
3 provide that if a direct loss occurs, and the amount of repair
4 constitutes five percent or less of the value of the property, the
5 insurability of the property is not affected if the repairs are
6 properly made.

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

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

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

25 Explanation: The change in SECTION 2 is necessary to remove
26 the expiration of Subsection (h) of Section 8, which establishes
27 certain limitations on the amount of the rate the commissioner sets

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1 and requires the commissioner to justify the rate if the rate is not
2 set within those limitations.