

BILL ANALYSIS

Senate Research Center
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H.B. 1744
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Business & Commerce
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

H.B. 1744 amends Article 21.49A of the Texas Insurance Code, which is the enabling legislation for the Texas FAIR (Fair Access to Insurance Requirements) Plan Association (Association). The purpose of the bill is to improve the operation of the association and to ensure favorable disposition of a private letter ruling pending before the Internal Revenue Service relating to the federal tax status of the association. Upon passage of this bill, the association will receive an exemption from federal income taxation.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance, in SECTION 1 (Section 1, Article 21.49A, Insurance Code) and SECTION 4 (Section 11, Article 21.49A, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1, Article 21.49A, Insurance Code, by amending Subsections (a) and (b), as follows:

(a) Authorizes the commissioner of insurance (commissioner), after a public hearing, to make one of two determinations, rather than two specific determinations, as grounds to establish a FAIR (Fair Access to Insurance Requirements) Plan to deliver residential property insurance to citizens of this state in undeserved areas.

(b) Adds an exception to the requirement that each insurer, as defined herein, as a condition of its authority to transact residential property insurance in this state, participate in the FAIR Plan Association in accordance with this Act, by providing that the Texas Windstorm Insurance Association established by Article 21.49 of this code is prohibited from participating in the FAIR Plan Association for any purpose.

SECTION 2. Amends Section 3, Article 21.49A, Insurance Code, by amending Subsections (b), (d), and (e), and adding Subsections (f) and (g), as follows:

(b) Sets forth additional requirements regarding the composition of the governing committee appointed by the commissioner.

(d) Adds a requirement that a person serving as a representative on insurers must be a full-time employee of an authorized insurer that is a member of the association. Authorizes a member of the governing committee to be removed by the commissioner without cause and replaced in accordance with Subsection (b) of this section.

(e) Sets forth required provisions of the plan of operation, requiring participation in the assessments, rather than the writings, expenses, and losses, of the association.

(f) Authorizes members of the governing committee to meet by certain methods, notwithstanding Chapter 551 (Open Meetings), Government Code, or any other law. Authorizes the governing committee to use certain methods of communication for establishing a quorum for voting or for any other meeting purpose in accordance with this subsection and Subsection (g). Provides that this subsection applies without regard to the

subject matter discussed or considered by the members of the governing committee at the meeting.

(g) Sets forth requirements to be met for a meeting held by telephone conference call, video conference, or other similar telecommunication method.

SECTION 3. Amends Section (5)(d), Article 21.49A, Insurance Code, to make conforming changes.

SECTION 4. Amends Section 11, Article 21.49A, Insurance Code, as follows:

Sec. 11. ASSESSMENTS AND PREMIUM SURCHARGES. Adds a provision authorizing each insurer to charge a premium surcharge on certain property insurance policies, as reimbursement for assessments paid under this section or service fees paid under Article 21.49A-1 of this code. Adds a provision which permits the amount of any assessment paid and surcharged under this section to be carried by the member insurer as an admitted asset of the insurer for all purposes. Adds a requirement that the commissioner adopt rules and procedures as necessary to implement this section.

SECTION 5. Amends Article 21.49A, Insurance Code, by adding Section 16, as follows:

Sec. 16. ASSETS OF ASSOCIATION. Requires all assets of the association to be deposited in the general revenue fund on dissolution of the association.

SECTION 6. Effective date: upon passage or September 1, 2005.