

BILL ANALYSIS

H.B. 2761
By: Taylor
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, Sections 549.056 and 549.0551 of the Insurance Code, govern practices relating to insurance of real estate or personal property. H.B. 1338 of the 78th Legislature amended Article 21.48A to add subsection (g) to Section 2 of that article to prohibit a lender from requiring an amount of insurance greater than the replacement value of the dwelling. Subsection (g) is being recodified as Section 549.0551 of the Insurance Code. However, Section 549.056 (a) and (d) provide that a lender may require evidence that insurance has been obtained in an amount sufficient to cover the debt or loan. Therefore, these two sections might possibly be construed to conflict.

H.B. 2761 clarifies Sec. 549.056 (a) and (d) to acknowledge Sec. 549.0551, whereby allowing lenders to require evidence of insurance in an amount to cover a debt or loan, except where the requirement would be a condition of financing a mortgage or any other financing arrangement for residential property. The amendatory language ensures that this particular statute will not be interpreted to allow lenders to require insurance in an amount exceeding the replacement value of the dwelling and its contents.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Adds Section 549.0551, Insurance Code, by adding conforming language from House Bill 1338, 78th Legislature which amended Article 21.48A to add subsection (g) to Section 2 of that article. Subsection (a) of the conforming language provides that a lender is prohibited from requiring homeowners insurance coverage in an amount that exceeds the replacement value of the dwelling and its contents as a condition of financing. Subsection (b) states that the fair market value of the land on which the dwelling is situated may not be included in determining the replacement cost of the dwelling and its contents.

SECTION 2. Amends Section 549.056 (a) and (d) to provide an exception to the amount of insurance that lenders may require upon the commencement or renewal of a risk, or upon the lender providing insurance in the event that the borrower fails to maintain insurance on the property.

SECTION 3. States that this section prevails over any conflicting Act of the 79th Legislature, Regular Session relating to the recodification of the Insurance Code.

SECTION 4. States that the amendatory language in Section 2 of this bill is intended to clarify the existing statute.

SECTION 5. Effective date: immediately upon a vote of two-thirds of all members of each house, or September 1, 2005.

EFFECTIVE DATE

Upon passage, or if the act does not receive the necessary number of votes, the Act takes effect on September 1, 2005.