

By: Hopson (Senate Sponsor - Staples) H.B. No. 3048
(In the Senate - Received from the House May 13, 2005;
May 16, 2005, read first time and referred to Committee on Business
and Commerce; May 19, 2005, reported favorably by the following
vote: Yeas 9, Nays 0; May 19, 2005, sent to printer.)

A BILL TO BE ENTITLED
AN ACT

relating to insurance coverage for certain structures.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 3(f), 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 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 to a structure, other than a roof repair that exceeds 100 square feet, is 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 residential structures, other than a condominium, apartment, duplex, or other multifamily residence, or a hotel or resort facility, which are located within those areas designated as units under the federal Coastal Barrier Resources Act (Public Law 97-348) and for which a building permit or plat has been filed with the municipality, the county, or the United States Army Corps of Engineers before June 11, 2003 [~~the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003~~], are insurable property. "Insurable Property" includes property described by Section 3A of this article.

SECTION 2. Article 21.49, Insurance Code, is amended by adding Section 3A to read as follows:

Sec. 3A. COVERAGE FOR CERTAIN PROPERTY LOCATED OVER WATER.

(a) A policy of windstorm and hail insurance issued by the association may include coverage for:

(1) a building or other structure located in the seacoast territory that is built wholly or partially over water; and

(2) the corporeal movable property contained in a building or structure described by Subdivision (1) of this subsection.

(b) The association may impose appropriate limits of coverage and deductibles for coverage described by Subsection (a) of this section.

(c) The board of directors of the association shall submit any proposed changes to the plan of operation necessary to implement Subsections (a) and (b) of this section to the commissioner in the manner provided by Section 5(c) of this article.

(d) The commissioner shall adopt rules as necessary to implement this section, including any rules necessary to implement changes in the plan of operation proposed under Subsection (c) of this section.

SECTION 3. Article 21.49A, Insurance Code, is amended by adding Section 5A to read as follows:

Sec. 5A. COVERAGE FOR WINDSTORM AND HAIL INSURANCE; COVERAGE FOR CERTAIN PROPERTY LOCATED OVER WATER. (a) A policy issued by the association may include coverage against loss or damage by windstorm or hail for:

(1) a building or other structure that is built wholly or partially over water; and

(2) the corporeal movable property contained in a building or structure described by Subdivision (1) of this subsection.

(b) The association may impose appropriate limits of coverage and deductibles for coverage described by Subsection (a) of this section.

(c) The governing committee of the association shall submit any proposed changes to the plan of operation necessary to implement Subsections (a) and (b) of this section to the commissioner for the approval of the commissioner in the manner provided by Section 3(a) of this article.

(d) The commissioner shall adopt rules as necessary to implement this section, including any rules necessary to implement changes in the plan of operation proposed under Subsections (a) and (b) of this section.

SECTION 4. Section 911.151, Insurance Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) An insurance policy written by a farm mutual insurance company against loss or damage by windstorm, hurricane, or hail, as described by Subsection (a), may include coverage for:

(1) a building or other structure that is built wholly or partially over water; and

(2) the corporeal movable property contained in a building or structure described by Subdivision (1).

(d) The farm mutual insurance company may impose appropriate limits of coverage and deductibles for coverage described by Subsection (c).

SECTION 5. Section 912.151, Insurance Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) An insurance policy written by a county mutual insurance company against loss or damage by windstorm or hail, as described by Subsection (a), may include coverage for:

(1) a building or other structure that is built wholly or partially over water; and

(2) the corporeal movable property contained in a building or structure described by Subdivision (1).

(e) The county mutual insurance company may impose appropriate limits of coverage and deductibles for coverage described by Subsection (d).

SECTION 6. Subchapter B, Chapter 5, Insurance Code, is amended by adding Article 5.14 to read as follows:

Art. 5.14. COVERAGE FOR CERTAIN LOSS OR DAMAGE CAUSED BY WINDSTORM, HURRICANE, OR HAIL. (a) In this article, "insurer" has the meaning assigned by Section 3, Article 5.13-2, of this code.

(b) An insurance policy written by an insurer against loss or damage by windstorm, hurricane, or hail may include coverage for:

(1) a building or other structure that is built wholly or partially over water; and

(2) the corporeal movable property contained in a building or structure described by Subdivision (1) of this subsection.

(c) An insurer that writes coverage described by Subsection (b) of this section may impose appropriate limits of coverage and deductibles for the coverage described by Subsection (b).

SECTION 7. (a) Except as provided by Subsection (b) of this section, Article 21.49, Insurance Code, as amended by this Act, applies only to a policy of windstorm or hail insurance that is delivered, issued for delivery, or renewed on or after January 1, 2006. A policy that is delivered, issued for delivery, or renewed before January 1, 2006, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) If it is determined by the board of directors of the Texas Windstorm Insurance Association that an amendment to the association's plan of operation is required before Section 3A, Article 21.49, Insurance Code, as added by this Act, may be implemented, Section 3A, Article 21.49, Insurance Code, as added by this Act:

(1) takes effect on the 30th day after the date of the adoption of rules by the commissioner of insurance amending the plan of operation appropriately; and

(2) applies only to a policy of windstorm or hail insurance that is delivered, issued for delivery, or renewed on or after the 90th day after the date rules are adopted as described by Subdivision (1) of this subsection.

SECTION 8. (a) Except as provided by Subsection (b) of this section, Article 21.49A, Insurance Code, as amended by this Act, applies only to a policy of windstorm or hail insurance that is delivered, issued for delivery, or renewed on or after January 1, 2006. A policy that is delivered, issued for delivery, or renewed before January 1, 2006, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) If it is determined by the governing committee of the FAIR Plan Association that an amendment to the association's plan of operation is required before Section 5A, Article 21.49A, Insurance Code, as added by this Act, may be implemented, Section 5A, Article 21.49A, Insurance Code, as added by this Act:

(1) takes effect on the 90th day after the date of the adoption of rules by the commissioner of insurance amending the plan of operation appropriately; and

(2) applies only to a policy of windstorm or hail insurance that is delivered, issued for delivery, or renewed on or after the 180th day after the date rules are adopted as described by Subdivision (1) of this subsection.

SECTION 9. Sections 911.151 and 912.151, Insurance Code, as amended by this Act, and Article 5.14, Insurance Code, as added by this Act, apply only to a policy of insurance that is delivered, issued for delivery, or renewed on or after January 1, 2006. A policy that is delivered, issued for delivery, or renewed before January 1, 2006, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 10. This Act takes effect September 1, 2005.

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