

By: Ellis

S.B. No. 898

A BILL TO BE ENTITLED

AN ACT

relating to coverage under certain residential property insurance policies for losses incurred because of storm surges.

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

SECTION 1. Subtitle D, Title 10, Insurance Code, is amended by adding Chapter 2010 to read as follows:

CHAPTER 2010. RESIDENTIAL PROPERTY INSURANCE COVERAGE FOR CERTAIN LOSSES INCURRED BECAUSE OF STORM SURGES

Sec. 2010.001. DEFINITIONS. In this chapter:

(1) "Insurer" means an insurance company, reciprocal or interinsurance exchange, mutual insurance company, capital stock company, county mutual insurance company, Lloyd's plan, or other legal entity engaged in the business of residential property insurance in this state. The term includes:

(A) an affiliate as described by Section 823.003(a) if that affiliate is authorized to write and is writing residential property insurance in this state;

(B) the Texas Windstorm Insurance Association created and operated under Chapter 2210; and

(C) the FAIR Plan Association under Chapter 2211.

(2) "Residential property insurance" means insurance against loss to real or tangible personal property at a fixed location that is provided through a homeowners insurance policy, a residential fire and allied lines insurance policy, or a farm and

1 ranch owners insurance policy.

2 (3) "Storm surge" means the onshore rush of sea or lake
3 water caused primarily by the high winds associated with a
4 landfalling cyclonic storm and secondarily by the low pressure of
5 the storm.

6 Sec. 2010.002. COVERAGE FOR CERTAIN LOSSES INCURRED BECAUSE
7 OF STORM SURGE REQUIRED. Notwithstanding any other law, an insurer
8 may not issue a residential property insurance policy in this state
9 that excludes coverage for losses to covered property attributable
10 to storm surges.

11 Sec. 2010.003. NOT GROUNDS FOR DENIAL; BURDEN OF PROOF. (a)
12 An insurer may not assert as a ground for total denial of a claim
13 involving storm surge damage that an excluded risk under a
14 residential insurance policy contributed to the loss incurred by an
15 insured under the policy if there is any evidence that a covered
16 risk may also have contributed to the loss claimed by the insured.

17 (b) The insurer has the burden of proof regarding damage
18 caused by an excluded risk.

19 SECTION 2. Section 2002.006, Insurance Code, is amended by
20 adding Subsection (d) to read as follows:

21 (d) Notwithstanding Subsection (a), insurance coverage
22 under a residential property insurance policy for losses
23 attributable to storm surges is subject to Chapter 2010.

24 SECTION 3. Subchapter E, Chapter 2210, Insurance Code, is
25 amended by adding Section 2210.210 to read as follows:

26 Sec. 2210.210. WINDSTORM AND HAIL INSURANCE: COVERAGE FOR
27 LOSSES RELATED TO STORM SURGE. (a) Notwithstanding any other

1 provision of this chapter, a policy issued by the association under
2 this chapter must include coverage for losses to insured property
3 incurred in a first tier coastal county that are attributable to
4 storm surges.

5 (b) The association is subject to Chapter 2010.

6 SECTION 4. Section 2211.156, Insurance Code, is amended to
7 read as follows:

8 Sec. 2211.156. CERTAIN COVERAGE EXCLUDED. (a) The FAIR
9 Plan may not provide windstorm and hail insurance coverage for a
10 risk eligible for that coverage under Chapter 2210.

11 (b) Notwithstanding Subsection (a), the FAIR Plan may
12 provide coverage for incurred losses that are attributable to storm
13 surges.

14 SECTION 5. This Act applies only to an insurance policy
15 delivered, issued for delivery, or renewed on or after January 1,
16 2008. A policy delivered, issued for delivery, or renewed before
17 January 1, 2008, is governed by the law as it existed immediately
18 before the effective date of this Act, and that law is continued in
19 effect for that purpose.

20 SECTION 6. This Act takes effect September 1, 2007.