

1-1 By: Carona S.B. No. 19
1-2 (In the Senate - Filed February 26, 2013; March 5, 2013,
1-3 read first time and referred to Committee on Business and Commerce;
1-4 March 25, 2013, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; March 25, 2013,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Carona	X		
1-10	Taylor	X		
1-11	Eltife	X		
1-12	Estes	X		
1-13	Hancock	X		
1-14	Lucio	X		
1-15	Van de Putte	X		
1-16	Watson	X		
1-17	Whitmire	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 19 By: Carona

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to certain residential and other structures and mitigation
1-22 of loss to those structures resulting from natural catastrophes;
1-23 providing a criminal penalty.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Subtitle C, Title 2, Insurance Code, is amended
1-26 by adding Chapter 152 to read as follows:

1-27 CHAPTER 152. LOSS MITIGATION PROGRAMS

1-28 Sec. 152.001. DEFINITIONS. In this chapter:

1-29 (1) "Construction" includes alteration,
1-30 rehabilitation, remodeling, enlargement, or repair of, or an
1-31 addition to, a structure.

1-32 (2) "Loss mitigation measure" means an improvement to
1-33 or feature of a structure that reduces the risk or amount of loss
1-34 from a covered loss under a residential property insurance policy.

1-35 (3) "Qualified inspector" includes:

1-36 (A) an inspector certified by:

1-37 (i) the International Code Council;

1-38 (ii) the Building Officials and Code
1-39 Administrators International, Inc.;

1-40 (iii) the International Conference of
1-41 Building Officials; or

1-42 (iv) the Southern Building Code Congress
1-43 International, Inc.;

1-44 (B) a licensed professional engineer whose name
1-45 appears on the roster described by Section 1001.652, Occupations
1-46 Code; or

1-47 (C) a person who meets the requirements for
1-48 appointment to conduct windstorm inspections as specified by the
1-49 commissioner by rule.

1-50 (4) "Seacoast territory" has the meaning assigned by
1-51 Section 2210.003.

1-52 (5) "Trade association" means a nonprofit,
1-53 cooperative, and voluntarily joined association of business or
1-54 professional competitors designed to assist its members and its
1-55 industry or profession in dealing with mutual business or
1-56 professional problems and in promoting their common interest.

1-57 Sec. 152.002. ESTABLISHMENT OF PROGRAMS; PURPOSE. (a) The
1-58 commissioner in consultation with the office of public insurance
1-59 counsel shall develop and implement statewide loss mitigation
1-60 programs designed to reduce potential insured residential property

losses in this state.

(b) The programs may:

(1) reduce property loss with respect to windstorm, hail, wildfire, and other natural catastrophes;

(2) reduce the risk and amount of potential insured residential property losses arising from windstorm, hail, wildfire, and other natural catastrophes;

(3) provide grants for loss mitigation measures; and

(4) promote public education about loss mitigation related to windstorm, hail, wildfire, and other natural catastrophes.

(c) The department and the office of public insurance counsel may enter into an interagency contract or other agreements with each other as appropriate to implement this chapter. The department or the office of public insurance counsel, jointly or severally, may enter into agreements with any individual or entity, including a political subdivision, a state or federal agency, a trade association, a university, or a nonprofit entity or other private entity as appropriate to implement this chapter.

Sec. 152.003. FUNDING FOR LOSS MITIGATION GRANT PROGRAM.

(a) The department in cooperation with the office of public insurance counsel shall use its best efforts to obtain funding for loss mitigation grants available under Section 152.004, including obtaining:

(1) grants from any individual or entity, including a political subdivision, a state or federal agency, a trade association, a university, or a nonprofit entity or other private entity; or

(2) gifts or grants of money or in kind.

(b) The department may enter into interagency agreements and other agreements as necessary to seek funding.

Sec. 152.004. LOSS MITIGATION GRANT OR LOAN PROGRAM.

(a) The commissioner in consultation with the office of public insurance counsel may establish and administer a statewide grant or loan program to fund the implementation, addition, or installation of loss mitigation measures for residential property.

(b) Subject to eligibility requirements established by the commissioner by rule, grants or loans under this section may be made available to residential property owners in areas susceptible to windstorm, hail, wildfire, and other natural catastrophes as determined by the commissioner by rule.

(c) Grants or loans may be made available for implementation, addition, or installation of loss mitigation measures, including:

(1) roof deck attachments;

(2) secondary water barriers;

(3) roof coverings;

(4) brace gable ends;

(5) roof-to-wall connection reinforcements;

(6) exterior opening protections;

(7) exterior doors, including garage doors;

(8) tie-down systems;

(9) reinforcements of trusses, studs, or other structural components; or

(10) other loss mitigation measures approved by the commissioner by rule.

(d) In establishing eligibility requirements for the program, the commissioner shall consider factors the commissioner considers reasonable, including whether the residential property is:

(1) owner occupied;

(2) built before June 2009; and

(3) located in:

(A) an area designated as underserved under Chapter 2004 or 2211; or

(B) a region of the state in which insurers report high average loss ratios for residential property insurance.

(e) The commissioner shall prioritize the distribution of grants or loans under the program based on the following criteria in

the following order of importance:

- (1) close proximity to the coast;
- (2) relative susceptibility to wind damage;
- (3) replacement cost value;
- (4) owner occupancy; and
- (5) the anticipated effect of a loss mitigation measure on the insurance premium rate charged for residential property insurance covering the property.

(f) The proceeds of a grant or loan under this section must be paid to the contractor or other person who has entered into a contract to implement, add, or install a loss mitigation measure for the residential property owner.

(g) Before payment of the proceeds of a grant or loan under this section, the commissioner may require inspection of the applicable property or, after implementation, addition, or installation, the loss mitigation measure the implementation, addition, or installation of which is funded by the grant or loan.

(h) The commissioner by rule may adopt quality standards for the loss mitigation measures described by Subsection (c).

Sec. 152.005. FRAUD; PENALTIES. (a) A person commits an offense if the person knowingly or intentionally:

(1) submits to the department in connection with the program established under Section 152.004 false or misleading information or documents; or

(2) diverts proceeds of a grant or a loan to a purpose other than implementing, adding, or installing loss mitigation measures in accordance with the application for the grant or loan.

(b) An offense under Subsection (a) is a fraudulent insurance act under Chapter 701 and a Class C misdemeanor.

Sec. 152.006. LOSS MITIGATION CREDIT AND SURCHARGE INFORMATION COLLECTION. (a) The commissioner by rule may require a residential property insurer to provide with a rate filing under Chapter 2251 supplementary rating information, including information relating to:

(1) credits and surcharges or absence of credits and surcharges related to implementation, addition, or installation of loss mitigation measures specified by the commissioner by rule; and

(2) variances in premium resulting from the implementation, addition, or installation of loss mitigation measures identified by the commissioner by rule.

(b) The Texas Windstorm Insurance Association and FAIR Plan Association shall provide the information described by Subsection (a) to the department with rate filings made by each association.

Sec. 152.007. PUBLIC AVAILABILITY OF INFORMATION. (a) The department may collect information relating to premium credits, surcharges, and discounts:

- (1) related to loss mitigation generally; or
- (2) authorized under Section 152.006.

(b) The information collected under Subsection (a) may include:

- (1) the name of a credit or surcharge;
- (2) the amount of a credit or surcharge;
- (3) loss mitigation measures eligible for a credit;
- (4) building code standards that must be met to avoid a surcharge; and

(5) other information the commissioner in consultation with the office of public insurance counsel reasonably believes promotes the purpose of this chapter.

(c) The information collected under this section may be used in connection with the public education program established under Section 152.009.

(d) The information collected under this section must be:

- (1) made available to the public;
- (2) posted on the department's Internet website; and
- (3) posted on the Internet website of the office of public insurance counsel.

(e) The department and the office of public insurance counsel shall take all reasonable precautions to prevent disclosure or use of personal information obtained in the collection of

information under this section.

Sec. 152.008. FUNDING FOR PUBLIC EDUCATION PROGRAM. The department in cooperation with the office of public insurance counsel shall use its best efforts to obtain funding for the public education program established under Section 152.009, including obtaining:

(1) grants from any individual or entity, including a political subdivision, a state or federal agency, a trade association, a university, or a nonprofit entity or other private entity; or

(2) gifts or grants of money or in kind.

Sec. 152.009. PUBLIC EDUCATION PROGRAM. (a) The commissioner in cooperation with the office of public insurance counsel may create a public education program to educate and inform the public about:

(1) the programs established under this chapter;

(2) the appropriateness and benefits of particular loss mitigation measures in certain circumstances;

(3) the availability of credits described by this chapter; and

(4) the imposition of surcharges described by this chapter.

(b) To develop and implement the public education program, the department may coordinate or collaborate with any individual or entity, including a political subdivision, a state or federal agency, a trade association, a university, or a nonprofit entity or other private entity.

SECTION 2. Subsection (a), Section 233.151, Local Government Code, is amended to read as follows:

(a) In this subchapter, "new residential construction" includes:

(1) residential construction of a single-family house or duplex on a vacant lot; and

(2) construction of an addition to an existing single-family house or duplex~~[, if the addition will increase the square footage or value of the existing residential building by more than 50 percent].~~

SECTION 3. Section 233.152, Local Government Code, is amended to read as follows:

Sec. 233.152. APPLICABILITY. (a) Subject to Subsection (b), this [This] subchapter applies only to a county that has adopted a resolution or order requiring the application of the provisions of this subchapter ~~[and that:~~

~~[(1) is located within 50 miles of an international border, or~~

~~[(2) has a population of more than 100].~~

(b) This subchapter does not apply to nonresidential structures or appurtenances located on land used for agriculture as defined by Section 397A.051.

SECTION 4. Subsection (f), Section 233.153, Local Government Code, is amended to read as follows:

(f) Except as provided by Section 233.1546, a [A] county may not charge a fee to a person subject to standards under this subchapter to defray the costs of enforcing the standards.

SECTION 5. Subchapter F, Chapter 233, Local Government Code, is amended by adding Sections 233.1545 and 233.1546 to read as follows:

Sec. 233.1545. CERTIFICATION OF COMPLIANCE; CONNECTION OF UTILITIES. (a) A county to which this subchapter applies shall require the issuance of a certificate of compliance as a precondition to obtaining utility services as provided by this section.

(b) Not later than the fifth business day after the date a notice of inspection described by Section 233.154(c) stating that the inspection showed compliance with building code standards described by Section 233.153 adopted under this subchapter is received, the county shall issue the party submitting the notice a written certificate of compliance.

(c) An electric, gas, water, or sewer service utility may

not permanently serve or connect new residential construction of a single-family house or duplex as described by Section 233.151(a)(1) with electricity, gas, water, sewer, or other utility service unless the utility receives a certificate issued by the county under Subsection (b).

(d) Subsection (c) does not prevent the temporary use or connection of utilities necessary to complete new residential construction, including temporary use or connection of utilities to pass an inspection under this subchapter.

Sec. 233.1546. FEES. A county may charge a reasonable fee not to exceed \$25 to issue a certificate of compliance under Section 233.1545. The fees, aggregated annually, may not exceed the annual cost of issuing the certificates under Section 233.1545.

SECTION 6. The changes in law made by this Act apply only to new residential construction that commences on or after the effective date of this Act, except that if the county requires notice under Subsection (b), Section 233.154, Local Government Code, this Act applies only to new residential construction for which notice was given on or after the effective date of this Act.

SECTION 7. This Act takes effect September 1, 2013.

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