

1 AN ACT

2 relating to insurance coverage for certain structures.

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

4 SECTION 1. Section 3(f), Article 21.49, Insurance Code, is
5 amended to read as follows:

6 (f) "Insurable Property" means immovable property at fixed
7 locations in a catastrophe area or corporeal movable property
8 located therein (as may be designated in the plan of operation)
9 which property is determined by the Association, pursuant to the
10 criteria specified in the plan of operation to be in an insurable
11 condition against windstorm, hail and/or fire and explosion as
12 appropriate, as determined by normal underwriting standards;
13 provided, however, that insofar as windstorm and hail insurance is
14 concerned, any structure located within a catastrophe area,
15 commenced on or after the 30th day following the publication of the
16 plan of operation, not built or continuing in compliance with
17 building specifications set forth in the plan of operation shall
18 not be an insurable risk under this Act except as otherwise provided
19 under this Act. A structure, or an addition thereto, which is
20 constructed in conformity with plans and specifications that comply
21 with the specifications set forth in the plan of operation at the
22 time construction commences shall not be declared ineligible for
23 windstorm and hail insurance as a result of subsequent changes in
24 the building specifications set forth in the plan of operation.

1 Except as otherwise provided by this subsection, if repair of
2 damage to a structure involves replacement of items covered in the
3 building specifications as set forth in the plan of operation, such
4 repairs must be completed in a manner to comply with such
5 specifications for the structure to continue within the definition
6 of Insurable Property for windstorm and hail insurance. If repair
7 to a structure, other than a roof repair that exceeds 100 square
8 feet, is less than five percent of the amount of total property
9 coverage on the structure, the repairs may be completed in a manner
10 that returns the structure to its condition immediately before the
11 loss without affecting the eligibility of the structure to qualify
12 as insurable property. Nothing in this Act shall preclude special
13 rating of individual risks as may be provided in the plan of
14 operation. For purposes of this Act, all residential structures,
15 other than a condominium, apartment, duplex, or other multifamily
16 residence, or a hotel or resort facility, which are located within
17 those areas designated as units under the federal Coastal Barrier
18 Resources Act (Public Law 97-348) and for which a building permit or
19 plat has been filed with the municipality, the county, or the United
20 States Army Corps of Engineers before June 11, 2003 [~~the effective~~
21 ~~date of S.B. No. 14, Acts of the 78th Legislature, Regular Session,~~
22 ~~2003~~], are insurable property. "Insurable Property" includes
23 property described by Section 3A of this article.

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

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

27 (a) A policy of windstorm and hail insurance issued by the

1 association may include coverage for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (c) An insurer that writes coverage described by Subsection
27 (b) of this section may impose appropriate limits of coverage and

1 deductibles for the coverage described by Subsection (b).

2 SECTION 7. (a) Except as provided by Subsection (b) of this
3 section, Article 21.49, Insurance Code, as amended by this Act,
4 applies only to a policy of windstorm or hail insurance that is
5 delivered, issued for delivery, or renewed on or after January 1,
6 2006. A policy that is delivered, issued for delivery, or renewed
7 before January 1, 2006, is governed by the law as it existed
8 immediately before the effective date of this Act, and that law is
9 continued in effect for that purpose.

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

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

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

23 SECTION 8. (a) Except as provided by Subsection (b) of this
24 section, Article 21.49A, Insurance Code, as amended by this Act,
25 applies only to a policy of windstorm or hail insurance that is
26 delivered, issued for delivery, or renewed on or after January 1,
27 2006. A policy that is delivered, issued for delivery, or renewed

1 before January 1, 2006, is governed by the law as it existed
2 immediately before the effective date of this Act, and that law is
3 continued in effect for that purpose.

4 (b) If it is determined by the governing committee of the
5 FAIR Plan Association that an amendment to the association's plan
6 of operation is required before Section 5A, Article 21.49A,
7 Insurance Code, as added by this Act, may be implemented, Section
8 5A, Article 21.49A, Insurance Code, as added by this Act:

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

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

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

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

David Swihurst

President of the Senate

Jim Credick

Speaker of the House

I certify that H.B. No. 3048 was passed by the House on May 12, 2005, by a non-record vote.

Robert Haney
Chief Clerk of the House

I certify that H.B. No. 3048 was passed by the Senate on May 25, 2005, by the following vote: Yeas 31, Nays 0

Patsy Spaw
Secretary of the Senate

APPROVED: 18 JUNE '05

Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
12:20 PM O'CLOCK

Roger Williams
Secretary of State