

BILL ANALYSIS

Senate Research Center

H.B. 1853
By: Eiland (Patterson)
Economic Development
5-7-97
Engrossed

DIGEST

Currently, a policy issued by the Texas Catastrophe Insurance Property Association (association) must provide coverage in an amount as specified in the Insurance Code. The current coverages may make it difficult for homeowners and commercial property owners on the coast to adequately insure their properties. This bill would increase the current liability limits for a policy issued by the association and authorize the association to purchase reinsurance for a policy that includes coverage in excess of the liability limit.

PURPOSE

As proposed, H.B. 1853 increases the current liability limits for a policy issued by the Texas Catastrophe Insurance Property Association and authorizes the association to purchase reinsurance for a policy that includes coverage in excess of the liability limit.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the commissioner of insurance in SECTIONS 2, 3 and 4 (Sections 8A(c), 8D(g) and 8E(c), Article 21.49, Insurance Code (Texas Catastrophe Property Insurance Pool Act)) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 8(h)(13), Article 21.49, Insurance Code (Texas Catastrophe Property Insurance Pool Act), to require the Texas Catastrophe Property Insurance Association (association) to either establish a reinsurance program approved by the Texas Department of Insurance (department) or enter into a contract as provided in Subsection (i) of this section. Authorizes the association, with the approval of the department, to establish a, rather than approve any, reinsurance program that operates in addition to or in concert with a contract entered into under Subsection (i) of this section.

SECTION 2. Amends Sections 8A(a) and (c), Article 21.49, Insurance Code, to authorize a policy of windstorm and hail insurance issued by the association to include replacement cost coverage for one and two-family dwellings, including outbuildings, as provided under the dwelling extension coverage in the policy, subject to any applicable deductibles and the limits for the coverage purchased by the insured. Deletes reference to the General Basis Schedule. Deletes text providing that the replacement cost coverage does not apply to outdoor antennas, aerials, carpeting, awnings, appliances, or other outdoor equipment, whether or not attached to the insured dwelling. Authorizes the commissioner of insurance (commissioner), rather than the Board of Insurance, to promulgate such rules and regulations as necessary to implement this section.

SECTION 3. Amends Section 8D, Article 21.49, Insurance Code, as follows:

Sec. 8D. LIABILITY LIMITS. (a) Requires the maximum limits of liability under a policy of windstorm and hail insurance issued by the association under this Act to be proposed by the board of directors of the association and to be approved by the commissioner. Provides that the maximum limits of liability for coverage on any one insurable property may not be less than \$350,000, rather than \$250,000, for a dwelling, including an individually owned townhouse unit, and the corporeal movable property located in or about the dwelling, and as

an extension of coverage, away from those premises, as provided under the policy; \$2,192,000, rather than \$2,000,000, for a building and the corporeal movable property located in the building that is owned by, and at least 75 percent of which is occupied by, a governmental entity, or that is not owned by, but is wholly and exclusively occupied by, a governmental entity; \$125,000, rather than \$100,000, for individually owned corporeal movable property located in an apartment unit, residential condominium unit, or townhouse unit that is occupied by the owner of that property, and as an extension of coverage, away from those premises, as provided under the policy; and \$1,500,000, rather than \$1,000,000, for a structure other than a dwelling or a public building and the corporeal movable property located in that structure and, as an extension of coverage, away from those premises, as provided under the policy. Deletes existing Subsection (a)(3). Makes conforming and nonsubstantive changes.

(b) Provides that notwithstanding Subsection (a), the liability limit imposed under Subsection (a)(2) is frozen, and the indexing and adjustments provided by this section do not apply to that liability limit, until the liability limit imposed on a structure subject to Subsection (a)(4) for this section and the corporeal property located in that structure reaches or exceeds \$2,192,000, at which time the liability limit shall be indexed and adjusted as provided for a risk under Subsection (a)(4) of this section.

(c) Makes a conforming change.

(d) Requires the board of directors of the association, no later than September 30 of each year, to propose adjustments to the liability limits for inflation. Requires the proposed adjustments to be made in increments of \$1,000, rounded to the nearest \$1,000, considering the limits set by Subsection (a), at a rate that reflects any change in the BOECKH index. Requires the board of directors of the association, if the BOECKH ceases to exist, to propose adjustments to the nearest \$1,000 in round numbers to the liability limits for inflation based on any other index that the board of directors determines accurately reflects changes in the cost of construction or residential value in the catastrophe area. Provides that an adjustment to the liability limits that is approved by the commissioner applies to each policy of windstorm and hail insurance delivered, issued for delivery, or renewed on or after January 1 of the year following the approval by the commissioner of the adjustment to the liability limits. Requires the indexing of the liability limits to adjust for changes occurring on or after January 1, 1997, rather than 1992. Makes conforming and nonsubstantive changes.

(e) Authorizes the board of directors of the association to propose additional increases in the liability limits as it determines necessary to implement the purposes of this Act.

(f) Requires the association, by a certain date, to file its proposed adjustments with the commissioner in writing. Sets forth the required contents of the writing.

(g) Requires the commissioner, by a certain date and after notice and hearing, by order, to approve, disapprove, or modify the proposed adjustments to the liability limits.

(h) Prohibits the commissioner, notwithstanding Subsections (c)-(g), rather than (b) and (c), from approving adjustments of liability limits to amounts lower than the amounts prescribed, rather than adopted, under Subsection (a). Makes conforming changes.

(i) Provides that Article 1.33B of this code does not apply to an action taken under this section. Deletes existing Subsection (e).

SECTION 4. Amends Article 21.49, Insurance Code, by adding Section 8E, as follows:

Sec. 8E. REINSURED EXCESS LIMITS. Authorizes the association, notwithstanding any other law, from issuing a policy of windstorm and hail insurance that includes coverage for an amount in excess of a liability limit proposed by the association and approved by the commissioner under Section 8D of this Act if the association first obtains, from a reinsurer

approved by the commissioner, reinsurance for the full amount of policy exposure above the limits approved by the commissioner for any given type of risk. Requires the premium charged by the association for the excess coverage to be equal to the amount of reinsurance premium charged to the association by the reinsurer, plus any payment to the association that is approved by the commissioner. Requires the commissioner to adopt rules as necessary to implement this section. Prohibits the association from issuing excess coverage under this section until those rules are adopted. Provides that Article 1.33B of this code does not apply to an action taken under this section.

SECTION 5. Amends Section 19(a), Article 21.49, Insurance Code, to require any losses in excess of \$100 million, if, in any calendar year, an occurrence or series of occurrences within the defined catastrophe area results in insured losses and operating expenses of the association in excess of premium and other revenue of the association, to be paid from the catastrophe reserve trust fund established under Section 8(i) of this Act and, rather than or, any reinsurance program established by the association. Makes a conforming change.

SECTION 6. Makes application of this Act prospective to January 1, 1998.

SECTION 7. (a) Effective date: September 1, 1997.

(b) Requires the board of directors of the association to propose initial adjustments for the liability limits imposed under Section 8D, Article 21.49, Insurance Code, as amended by this Act, by September 30, 1997.

SECTION 8. Emergency clause.