

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 19  
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Business & Commerce  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Texans face some of the highest homeowners insurance rates in the nation. Research has shown that the most effective means to permanently reduce those rates is to mitigate against the risk of property loss through the protection and reinforcement of structures. For example, strapping, rather than nailing, roofing trusses to a structure's frame reduces the risk that the roof will be lifted away from the structure in a weather event. The most cost-effective time to take risk mitigation steps is when a structure is being constructed, but valuable mitigation steps may also be taken on existing structures.

Most counties currently have the ability to adopt and enforce building codes in unincorporated areas of the state. However, many choose not to utilize this authority as they may not recover costs for administering the program and current law does not provide an effective enforcement mechanism to ensure compliance.

C.S.S.B. 19 includes a number of provisions that will result in more resilient housing throughout the state by utilizing property risk mitigation. Over time, the improved construction and resulting loss risk reductions produced by this legislation will have a real and permanent impact on Texans' homeowners insurance rates.

C.S.S.B. 19 amends current law relating to certain residential and other structures and mitigation of loss to those structures resulting from natural catastrophes; providing a criminal penalty.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Sections 152.004 and 152.006, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle C, Title 2, Insurance Code, by adding Chapter 152, as follows:

#### **CHAPTER 152. LOSS MITIGATION PROGRAMS**

Sec. 152.001. DEFINITIONS. Defines "construction," "loss mitigation measure," "qualified inspector," "seacoast territory," and "trade association" in this chapter.

Sec. 152.002. ESTABLISHMENT OF PROGRAMS; PURPOSE. (a) Requires the commissioner of insurance (commissioner) in consultation with the Office of Public Insurance Counsel (OPIC) to develop and implement statewide loss mitigation programs designed to reduce potential insured residential property losses in this state.

(b) Authorizes the programs to:

(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) Authorizes the Texas Department of Insurance (TDI) and OPIC to enter into an interagency contract or other agreements with each other as appropriate to implement this chapter. Authorizes TDI and OPIC, jointly or severally, to 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) Requires TDI in cooperation with OPIC to 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) Authorizes TDI to enter into interagency agreements and other agreements as necessary to seek funding.

Sec. 152.004. LOSS MITIGATION GRANT OR LOAN PROGRAM. (a) Authorizes the commissioner in consultation with OPIC to establish and administer a statewide grant or loan program to fund the implementation, addition, or installation of loss mitigation measures for residential property.

(b) Authorizes grants or loans under this section, subject to eligibility requirements determined by the commissioner by rule, to 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) Authorizes grants or loans to be made available for implementation, addition, or installation of 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) Requires the commissioner, in establishing eligibility requirements for the program, to consider factors the commissioner considers reasonable, including whether the residential property is:

(1) owner occupied;

(2) built before June 2009; and

(3) located in an area designated as underserved under Chapter 2004 (Residential Property Insurance in Underserved Areas) or 2211 (Fair Plan), or a region of the state in which insurers report high average loss ratios for residential property insurance.

(e) Requires the commissioner to 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) Requires the proceeds of a grant or loan under this section to 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) Authorizes the commissioner, before payment of the proceeds of a grant or loan under this section, to 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) Authorizes the commissioner by rule to adopt quality standards for the loss mitigation measures described by Subsection (c).

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

(1) submits to TDI 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) Provides that an offense under Subsection (a) is a fraudulent insurance act under Chapter 701 (Insurance Fraud Investigations) and a Class C misdemeanor.

Sec. 152.006. LOSS MITIGATION CREDIT AND SURCHARGE INFORMATION COLLECTION. (a) Authorizes the commissioner by rule to require a residential property insurer to provide with a rate filing under Chapter 2251 (Rates) 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 rule.

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

Sec. 152.007. PUBLIC AVAILABILITY OF INFORMATION;. (a) Authorizes TDI to collect information relating to premium credits, surcharges, and discounts:

(1) related to loss mitigation generally; or

(2) authorized under Section 152.006.

(b) Authorizes the information collected under Subsection (a) to 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 required to be met to avoid a surcharge; and

(5) other information the commissioner in consultation with OPIC reasonably believes promotes the purpose of this chapter.

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

(d) Requires that the information collected under this section be:

(1) made available to the public;

(2) posted on TDI's Internet website; and

(3) posted on the Internet website of OPIC.

(e) Requires TDI and OPIC to 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. Requires TDI in cooperation with OPIC, to 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) Authorizes the commissioner in cooperation with OPIC, to 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) Authorizes TDI to develop and implement the public education program, to 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. Amends Section 233.151(a), Local Government Code, to redefine "new residential construction" in this subchapter.

SECTION 3. Amends Section 233.152, Local Government Code, as follows:

(a) Creates this subsection from existing text. Provides that this subchapter, subject to Subsection (b), applies only to a county that has adopted a resolution or order requiring the application of the provisions of this subchapter. Deletes existing text providing that 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 is located within 50 miles of an international border, or has a population of more than 100.

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

SECTION 4. Amends Section 233.153(f), Local Government Code, to create an exception under Section 233.1546 from the prohibition against a county charging a fee to a person subject to standards under this subchapter to defray the costs of enforcing the standards.

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

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

(b) Requires the county, not later than the fifth business day after the date a notice of inspection described by Section 233.154(c) (relating to the requirement of the builder to submit notice of the inspection stating whether or not the inspection showed compliance with certain building code standards) stating that the inspection showed compliance with building code standards described by Section 223.153 (Building Code Standards Applicable) adopted under this subchapter is received, to issue to the party submitting the notice a written certificate of compliance.

(c) Prohibits an electric, gas, water, or sewer service utility from permanently serving or connecting new residential construction of a single-family house or duplex as described by Section 233.151(a)(1) (defining "new residential construction") with electricity, gas, water, sewer, or other utility service unless the utility receives a certificate issued by the county under Subsection (b).

(d) Provides that 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. Authorizes a county to charge a reasonable fee not to exceed \$25 to issue a certificate of compliance under Section 233.1545. Prohibits the fees, aggregated annually, from exceeding the annual cost of issuing the certificates under Section 233.1545.

SECTION 6. Provides that 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 Section 233.154(b) (relating to the requirement of the builder to provide notice before commencing new residential construction, if required by the county), 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. Effective date: September 1, 2013.