

No. 06-1173

**Official Order
of the
Commissioner of Insurance
of the
State of Texas
Austin, Texas**

Date: November 10, 2006

Subject Considered:

ADJUSTMENTS FOR INFLATION TO THE MAXIMUM LIMITS OF LIABILITY
FOR RISKS INSURED BY THE TEXAS WINDSTORM INSURANCE
ASSOCIATION

Docket No. 2661

General remarks and official action taken:

On this day came on for consideration by the Commissioner of Insurance ("the Commissioner") a proposal by the Texas Windstorm Insurance Association ("the Association") to adjust for inflation the maximum limits of liability for risks insured by the Association as permitted by TEX. INS. CODE ANN. art. 21.49 § 8D(d). The Association is composed of all insurers authorized to transact property insurance in this state and operates pursuant to the TEX. INS. CODE ANN. art. 21.49 to provide windstorm and hail insurance to certain designated areas of the state.

TEX. INS. CODE ANN. art. 21.49 § 8D(a) provides that the maximum limits of liability under a policy of windstorm and hail insurance issued by the Association shall be proposed by the Association board of directors and must be approved by the Commissioner. TEX. INS. CODE ANN. art. 21.49 § 8D(g) provides that the Commissioner, after notice and hearing, by order shall approve, disapprove, or modify the proposed adjustments to the liability limits.

The public hearing on the proposed adjustments was held on October 25, 2006 at 10:00 a.m., in Room 100 of the William P. Hobby, Jr. State Office Building 333 Guadalupe Street in Austin, Texas.

TEX. INS. CODE ANN. art. 21.49 § 8D(d) provides that not later than September 30 of each year, the board of directors of the Association shall propose adjustments to the liability limits for inflation in statutorily specified increments and at a rate that reflects any change in the BOECKH Index. The approved adjustments to the liability limits apply to each policy of windstorm and hail insurance delivered, issued for delivery, or renewed on or after January 1 of the year following the Commissioner's approval of the adjustments to the liability limits.

TEX. INS. CODE ANN. art. 21.49 § 8D(b) provides that the liability limit 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 is frozen until the liability limit imposed upon a structure subject to TEX. INS. CODE ANN. art. 21.49 § 8D(a)(4) reaches or exceeds \$2,192,000, at which time the liability limit shall be indexed and adjusted as provided for a risk under TEX. INS. CODE ANN. art. 21.49 § 8D(a)(4).

By Commissioner's Order No. 05-0818, dated September 23, 2005, the Commissioner adopted the following maximum limits of liability, adjusted for inflation, for the risks insured by the Association: (1) \$1,500,000 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) \$2,192,000 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; (3) \$163,000 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 (4) \$1,907,000 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; to be effective for windstorm and hail policies delivered, issued for delivery, or renewed on or after January 1, 2006.

The Association's board of directors is authorized by TEX. INS. CODE ANN. art. 21.49 § 8D(e) to propose additional increases in the liability limits as it determines necessary to implement the Texas Windstorm Insurance Association Act. By Commissioner's Order No. 06-0521, dated May 24, 2006, the Commissioner, after consideration of a proposal submitted by the Association, adopted pursuant to TEX. INS. CODE ANN. art. 21.49 § 8D(g) the following additional increases to the maximum limit of liability: (1) 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, an increase from \$1,907,000 to \$3,000,000; and (2) 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, an increase from \$2,192,000 to \$3,000,000, based on evidence received and testimony delivered at a public hearing under Docket No. 2639 on May 2, 2006 at 9:30 a.m. in Room 100 of the William P Hobby Jr. State Office Building, 333 Guadalupe Street in Austin, Texas.

On September 22, 2006, the Association filed the following proposed liability limits, adjusted for inflation, for the risks insured by the Association: (1) \$1,597,000 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) \$173,000 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; (3) \$3,206,000 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; and (4) \$3,206,000 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. The Association's proposed liability limits adjusted for inflation are based on its calculations, utilizing the BOECKH Index factors applicable to Corpus Christi and Houston, applied to the entire coast, and upon the indexing and adjustment provision of TEX. INS. CODE ANN. art. 21.49 § 8D.

The Commissioner finds that the adjustments to the limits of liability shall be based on the changes in the BOECKH Index as is required by TEX. INS. CODE ANN. art. 21.49 § 8D(d), and upon the indexing and adjustment provision of TEX. INS. CODE ANN. art. 21.49 § 8D(b). The Commissioner also finds that the average of the changes in the BOECKH Index for Corpus Christi and Houston applied to the entire coast as proposed by the Association's board of directors should be considered so that the maximum liability limits most closely reflect adjustments accounting for inflation in areas covered by the Association's policies as required by TEX. INS. CODE ANN. art. 21.49.

Pursuant to TEX. INS. CODE ANN. art. 21.49 §§ 8 D(d) and (g), the Commissioner has determined that the Association's proposed adjustment to the maximum limits of liability for inflation should be approved 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; 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 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. The Commissioner has further determined that the Association's proposal to index and adjust the maximum limit of liability for a building and the corporeal movable property located in the building that is owned by, 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 to the maximum limit of liability 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 pursuant to TEX. INS. CODE ANN. art. 21.49 §§ 8D (b) and (g) should be approved.

IT IS THEREFORE THE ORDER of the Commissioner that the Association's maximum limits of liability, adjusted for inflation, for risks insured by the Association are adopted as follows: (1) \$1,597,000 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) \$173,000 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; (3) \$3,206,000 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; and (4) \$3,206,000 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.

IT IS FURTHER ORDERED that the adjusted maximum limits of liability are effective for windstorm and hail policies delivered, issued for delivery, or renewed on or after January 1, 2007.

AND IT IS SO ORDERED.

TEXAS DEPARTMENT OF INSURANCE

MIKE GEESLIN
COMMISSIONER OF INSURANCE