

First Extraordinary Session, 2005

SENATE BILL NO. 48

BY SENATOR MURRAY

INSURANCE POLICIES. Requires certain insurers to offer coverage for property damage due to flooding unless specifically rejected in writing by the insured.

1 AN ACT

2 To enact R.S. 22:696, relative to insurance coverage for property damage due to flooding;
3 to require insurers to include coverage for damage to property due to flooding unless
4 specifically rejected by the insured; to require that itemized coverage limits be
5 disclosed to the insured; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:696 is hereby enacted to read as follows:

8 **§696. Delivery of fire insurance contract providing coverage for damage to**
9 **property; disclosure of coverage; coverage for damages due to**
10 **flood**

11 **In addition to any other requirement contained in law, the following**
12 **provisions shall govern the issuance of fire insurance policies issued or delivered**
13 **in this state which provide coverage for damage to property in this state:**

14 **(1) No fire insurance policy which provides coverage for damage to**
15 **property shall be delivered or issued for delivery in this state with respect to any**
16 **residence or commercial property unless the insurer advises the insured in**
17 **writing on the face of the policy or as an insert in the front of the policy as to**

1 which coverages are included in the policy for which the insured has paid
2 premiums. The insurer shall disclose whether or not the insured has coverage
3 for flooding or mold and whether an increased deductible is required for
4 hurricane damage.

5 (2)(a) No fire insurance policy shall be delivered or issued for delivery
6 in this state with respect to any residence or commercial property as is provided
7 in this Part unless flood insurance coverage is provided therewith or
8 supplemental thereto, in not less than the limits of coverage provided by the fire
9 insurance policy, under provisions filed with and approved by the commissioner
10 of insurance, for the protection of persons insured thereunder. The coverage
11 required under this Subsection is not applicable when any insured named in the
12 policy either rejects in writing flood insurance coverage or selects lower limits.
13 This coverage need not be provided therewith or supplemental to a renewal,
14 reinstatement, or substitute policy when the named insured has rejected the
15 flood insurance coverage or selected lower limits in connection with a fire
16 insurance policy previously issued to him by the same insurer or any of its
17 affiliates.

18 (b) Rejection of such flood insurance or selection of lower limits shall be
19 made only in writing on a form prescribed by the commissioner of insurance.
20 The prescribed form shall be provided by the insurer and signed by the named
21 insured or his legal representative. The form signed by the named insured or his
22 legal representative which initially rejects such flood insurance coverage or
23 selects lower limits shall be conclusively presumed to become a part of the
24 policy or contract when issued and delivered, irrespective of whether it is
25 physically attached to the policy or contract. A properly completed and signed
26 form creates a rebuttable presumption that the insured knowingly rejected
27 flood insurance coverage or selected a lower limit. The form signed by the
28 insured or his legal representative which initially rejects flood insurance
29 coverage or selects lower limits shall remain valid for the life of the policy and

1 shall not require the completion of a new selection form when a renewal,
2 reinstatement, substitute, or amended policy is issued to the same named
3 insured by the same insurer or any of its affiliates. An insured may change the
4 original flood insurance selection or rejection which accompanies the fire
5 insurance policy at any time during the life of the policy by submitting a new
6 flood insurance selection form to the insurer on the form prescribed by the
7 commissioner of insurance. Any changes to an existing policy, regardless of
8 whether these changes create new coverage, except changes in the limits of
9 liability, do not create a new policy and do not require the completion of new
10 flood insurance selection forms. For the purpose of this Subsection, a "new
11 policy" shall mean an original contract of insurance which an insured executes
12 into through the completion of an application on the form required by the
13 insurer.

14 (c) Any insurer delivering or issuing a flood insurance policy referred to
15 in this Section shall also permit the insured, upon his written request, to
16 increase the coverage applicable to flood insurance to any available limit up to
17 the coverage limits afforded under the fire insurance policy.

18 (d) The issuer of the fire insurance policy need not provide flood
19 insurance coverage in the fire insurance policy. Nothing herein shall prohibit
20 the fire insurance insurer, or his agent, from offering the insured flood
21 insurance from the National Flood Insurance Program or from another
22 insurance carrier who sells flood insurance in the state of Louisiana.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

Present law requires insurance companies who write standard homeowner's insurance policies, which are referred to as "standard fire insurance" policies, to use certain forms and include certain provisions in the written policies.

Proposed law requires insurance carriers who sell standard fire insurance policies to disclose if the insured of a home or business has coverage for flooding or mold and whether there is an increased deductible for hurricane damage. The disclosure shall be made on the cover of the policy or as an insert in the front of the policy.

Proposed law requires insurance companies who write standard fire insurance policies to also offer their insured flood insurance coverage in the policy or as a supplement to the policy in not less than the limits of coverage provided by the fire insurance policy. The language must be approved by the commissioner of insurance.

Proposed law provides that the insurer may reject flood insurance coverage or select a lower coverage amount.

Proposed law provides that such coverage need not be provided therewith or supplemental to a renewal, reinstatement, or substitute policy when the named insured has rejected the flood insurance coverage or selected lower limits in connection with a fire insurance policy previously issued to him by the same insurer or any of its affiliates.

Proposed law provides that the form for rejecting the flood insurance or selection of lower limits shall be made in writing only on a form prescribed by the commissioner of insurance. The prescribed form shall be provided by the insurer and signed by the named insured or his legal representative.

Proposed law provides that if the form is signed by the named insured or his legal representative which initially rejects such flood insurance coverage or selects lower limits, it creates a rebuttable presumption that the insured knowingly rejected flood insurance coverage or selected a lower limit.

Proposed law requires that the form signed by the insured or his legal representative which initially rejects flood insurance coverage or selects lower limits remains valid for the life of the policy and does not require the completion of a new selection form when a renewal, reinstatement, substitute, or amended policy is issued to the same named insured by the same insurer or any of its affiliates.

Proposed law provides that an insured may change the original flood insurance selection or rejection which accompanies the fire insurance policy at any time during the life of the policy by submitting a new flood insurance selection form to the insurer on the form prescribed by the commissioner of insurance. Any changes to an existing policy, regardless of whether these changes create new coverage, except changes in the limits of liability, do not create a new policy and do not require the completion of new flood insurance selection forms.

Proposed law provides that any insurer delivering or issuing a flood insurance policy referred to herein shall also permit the insured, upon his written request, to increase the coverage applicable to flood insurance provided for herein to any available limit up to the coverage limits afforded under the fire insurance policy.

Proposed law provides that the issuer of the fire insurance policy need not provide flood insurance coverage themselves but may offer flood insurance from the National Flood Insurance Program or from another insurance carrier who sells flood insurance in the state of Louisiana.

(Adds R.S. 22:696)