

First Extraordinary Session, 2005

HOUSE BILL NO. 126

BY REPRESENTATIVE K. CARTER

INSURERS: Creates the Reliable Homeowner's Insurance Act (Item #55)

1 AN ACT

2 To enact Subpart D of Part XXX of Chapter 1 of Title 22 of the Louisiana Revised Statutes
3 of 1950, to be comprised of R.S. 22:1449 through 1449.6, relative to property
4 insurance; to provide for the Reliable Homeowner's Insurance Act; to provide for
5 orderly markets; to provide for offering homeowner's insurance; to provide for
6 cancellation of policies; to provide for nonrenewal of policies; to provide for
7 limitations; to provide for penalties; to provide for termination; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Subpart D of Part XXX of Chapter 1 of Title 22 of the Louisiana Revised
11 Statutes of 1950, comprised of R.S. 22:1449 through 1449.6, is hereby enacted to read as
12 follows:

13 SUBPART D. RELIABLE HOMEOWNER'S INSURANCE ACT

14 §1449. Title

15 This Subpart may be cited and shall be referred to as the "Reliable
16 Homeowner's Insurance Act".

17 §1449.1. Findings and purpose

18 A. The legislature finds that property insurers, as a condition of doing
19 business in this state, have a responsibility to contribute to an orderly market for
20 property insurance and that there is a compelling state interest in maintaining an

1 orderly market for property insurance. The legislature further finds that Hurricanes
2 Katrina and Rita, which caused over thirty billion dollars of insured losses in
3 Louisiana, has reinforced the need of consumers to have reliable homeowner's
4 insurance coverage. The enormous monetary impact to insurers of the claims from
5 the hurricanes may cause some insurers to consider substantial withdrawal from the
6 homeowner's market in certain areas of the state. The legislature further finds that
7 a withdrawal from the homeowner's insurance market in limited areas of the state
8 by certain insurers would constitute a significant danger to the public health, safety,
9 and welfare and destabilize the insurance market.

10 B. In furtherance of the overwhelming public necessity for an orderly market
11 for property insurance, it is the intent and purpose of the legislature to impose, for
12 a limited time, a requirement of insurers who were doing business in Louisiana on
13 August 28, 2005, to continue offering personal lines residential property insurance
14 policies on a statewide basis and to limit their withdrawal from the market.

15 §1449.2. Applicability

16 This Subpart applies to personal lines residential property insurance in this
17 state in effect on November 23, 2005, or the date on which this provision became
18 law, whichever is later. The term "personal lines residential property insurance"
19 includes the following coverages: homeowner's; condominium unit owner's; mobile
20 homeowner's, including mobile home coverage written on auto physical damage type
21 policies; and dwelling fire including rental dwelling coverages. This Subpart does
22 not apply to commercial coverages and does not apply to commercial or private
23 passenger auto coverages.

24 §1449.3. Limitations

25 A. No insurer who was doing business in this state on August 28, 2005, shall
26 cancel or nonrenew any personal lines property insurance policy in this state or issue
27 any notice of cancellation or nonrenewal for the purpose of reducing the insurer's
28 exposure to hurricane claims, except in accordance with this Subpart.

1 B. As used in this Section, the term "total number of policies" means the
2 number of an insurer's policies of a specified type that were in force on November
3 23, 2005, or the date on which this provision became law, whichever was later.

4 C. The following restrictions apply only to cancellation or nonrenewal of
5 personal lines residential property insurance policies that were in force on November
6 23, 2005, or the date on which this provision became law, whichever was later:

7 (1) In any twelve-month period, an insurer may not cancel or nonrenew more
8 than five percent of such insurer's total number of homeowners' policies, five percent
9 of such insurer's total number of mobile homeowners' policies, or five percent of
10 such insurer's total number of personal lines residential policies of all types and
11 classes in the state for the purpose of reducing the insurer's exposure to hurricane
12 claims and may not, with respect to any parish, cancel or nonrenew more than ten
13 percent of its total number of homeowners' policies, ten percent of its total number
14 of mobile homeowners' policies, or ten percent of its total number of personal lines
15 residential policies of all types and classes in the parish for the purpose of reducing
16 the insurer's exposure to hurricane claims.

17 (2)(a) If, for any twelve-month period, an insurer proposes to cancel or
18 nonrenew personal lines residential policies to an extent not authorized by Paragraph
19 (1) of this Subsection for the purpose of reducing exposure to hurricane claims, the
20 insurer must file a phase-out plan with the department at least ninety days prior to
21 the effective date of the plan. In the plan, the insurer must demonstrate to the
22 department that the insurer is protecting market stability and the interests of its
23 policyholders. The plan may not be implemented unless it is approved by the
24 department. In developing the plan, the insurer must consider policyholder
25 longevity, the use of voluntary incentives to accomplish the reduction, and
26 geographic distribution. The insurer must demonstrate that under the plan the insurer
27 will not cancel or nonrenew more policies in the twelve-month period than the
28 largest number of similar policies the insurer canceled or nonrenewed for any reason
29 in any twelve-month period between August 28, 2002, and August 28, 2005.

1 (b) If the insurer considers the number of cancellations and nonrenewals
2 under Subparagraph (a) of this Paragraph to be insufficient, the insurer may apply
3 for approval of additional cancellations or nonrenewals on the basis of an
4 unreasonable risk of insolvency. In evaluating such request, the department shall
5 consider and shall require the insurer to provide information relevant to the insurer's
6 size, market concentration, and general financial condition; the portion of the
7 insurer's business in this state represented by personal lines residential property
8 insurance; the reasonableness of assumptions with respect to size, frequency,
9 severity, and path of hurricanes; and the extent to which the insurer's assets have
10 been voluntarily transferred by dividend or otherwise from the insurer to its
11 stockholders, parent companies, or affiliated companies since November 23, 2005,
12 or the date on which this provision became law, whichever was later. In the
13 implementation of exposure reductions under this Subparagraph, the department and
14 the insurer shall consider such factors as policyholder longevity, the use of voluntary
15 incentives to accomplish the exposure reduction, and geographic distribution.

16 D. A policy shall not be counted as having been canceled or nonrenewed for
17 purposes of this Section if any of the following apply:

18 (1) The policy was canceled or nonrenewed for an underwriting reason
19 unrelated to the risk of loss from hurricane exposure, nonpayment of premium, or
20 any other lawful reason that is unrelated to the risk of loss from hurricane exposure.
21 The department shall consider the reason specified in the notice of cancellation or
22 nonrenewal to be the reason for the cancellation or nonrenewal unless the department
23 finds by a preponderance of the evidence that the stated reason was not the insurer's
24 actual reason for the cancellation or nonrenewal.

25 (2) The cancellation or nonrenewal was initiated by the insured.

26 (3) The insurer has offered the policyholder replacement or alternative
27 coverage at approved rates, which coverage meets the requirements of the secondary
28 mortgage market.

1 E. In addition to any other cancellations or nonrenewals subject to the
2 limitations in this Section, a policy shall be considered as having been canceled or
3 nonrenewed for purposes of this Subsection if:

4 (1) The insurer implements a rate increase under R.S. 22:1401(J), which rate
5 increase exceeds one hundred fifty percent of the increase ultimately approved, and,
6 while the rate filing was pending, the policyholder voluntarily canceled or
7 nonrenewed the policy and obtained replacement coverage from another insurer,
8 including the Louisiana Citizens Property Insurance Corporation; or

9 (2) The insurer reduces the commission to an agent by more than twenty-five
10 percent and the agent thereafter places the risk with another insurer, including the
11 Residential Property and Casualty Joint Underwriting Association, and the Louisiana
12 Citizens Property Insurance Corporation.

13 F. The department must approve or disapprove an application for a waiver
14 within ninety days after the department receives the application for waiver.

15 G. The following actions by an insurer do not constitute cancellations or
16 nonrenewals for purposes of this Section:

17 (1) The transfer of a risk from one admitted insurer to another admitted
18 insurer, unless the terms of the new or replacement policy place the policyholder in
19 default of a mortgage obligation.

20 (2) An increase in the hurricane deductible applicable to the policy, unless
21 the new deductible places the policyholder in default of a mortgage obligation.

22 (3) Any other lawful change in coverage that does not place the policyholder
23 in default of a mortgage obligation.

24 H. A cancellation or nonrenewal that is part of the same action as the
25 removal of a policy including windstorm or hurricane coverage from the Louisiana
26 Citizens Property Insurance Corporation.

27 I. In order to assure fair and effective enforcement of this Subsection, each
28 insurer shall, no later than March 1, 2006, report to the department the policy number
29 of each policy subject to this Subsection arranged by parish. The report shall include

1 the policy number for each personal lines residential policy that was in force on
2 November 23, 2005, or the date this provision became law, whichever was later.
3 Beginning March 1, 2006, each insurer shall also report, on a monthly basis, all
4 cancellations and nonrenewals of policies included in such policy list and the reasons
5 for the cancellations and nonrenewals.

6 §1449.4. Rules and regulations

7 The department may adopt those rules and regulations as may be necessary
8 to implement the provisions of this Subpart.

9 §1449.5. Penalty

10 Any violation of this Subpart constitutes a violation of the Insurance Code
11 under R.S. 22:7. Each cancellation or nonrenewal of a policy in violation of this
12 Subpart shall be considered a separate action.

13 §1449.6. Termination of law

14 On August 28, 2008, the provisions of this Subpart shall be null, void, and
15 without effect.

16 Section 2. This Act shall become effective upon signature by the governor or, if not
17 signed by the governor, upon expiration of the time for bills to become law without signature
18 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
19 vetoed by the governor and subsequently approved by the legislature, this Act shall become
20 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

K. Carter

HB No. 126

Abstract: Creates the Reliable Homeowner's Insurance Act that requires insurers to offer homeowners' policies on a statewide basis and limits insurers from canceling or nonrenewing policies for three years.

Proposed law provides for legislative findings and purposes.

Proposed law applies to "personal lines residential property insurance" in effect on November 23, 2005, or the effective date of proposed law, whichever is later. Includes homeowners', condominium unit owners', and mobile homeowners' coverages. Excludes commercial and auto coverages.

Proposed law prohibits insurers doing business on August 28, 2005, from canceling or nonrenewing homeowners' policies on the basis of hurricane risk, except in accordance with proposed law.

Proposed law prohibits the cancellation or nonrenewal of more than 5% of the insured's total homeowners' policies in effect on November 23, 2005, within any 12-month period. Prohibits the cancellation or nonrenewal of more than 10% of the insured's total homeowners' policies in effect on November 23, 2005, within any 12-month period in any parish.

Proposed law allows the insurer to apply for approval of additional cancellation or nonrenewals on the basis of unreasonable risk of insolvency. Provides for factors to be considered by the department in evaluating the application.

Proposed law provides that a policy is not considered to be canceled or nonrenewed if it was canceled or nonrenewed for any lawful reason other than risk of hurricane claims, it was initiated by the insured, or the insurer offered a policy replacement at approved rates.

Proposed law provides that a policy is considered to have been canceled or nonrenewed if the policyholder voluntarily obtained coverage from another insurer due to a rate increase in excess of 150% of the rate ultimately approved, or the insurer reduced the producer's commission by more than 25% and the producer placed the risk with another insurer.

Proposed law requires the department to approve or disapprove an application for a waiver within 90 days.

Provides that the following does not constitute cancellations or nonrenewals:

- (1) Transfer of risk from one admitted insurer to another.
- (2) Increase in the hurricane deductible.
- (3) Any other lawful change in coverage.

Proposed law provides that cancellation or nonrenewal that is part of the same action as the removal of a policy including windstorm or hurricane coverage from the Louisiana Citizens Property Insurance Corporation.

Proposed law requires insurers, by March 1, 2006, to report and list by parish each policy in effect on November 23, 2005, and to update the list monthly for all cancellations and nonrenewals.

Proposed law authorizes the department to adopt rules.

Proposed law provides that a violation is a violation of the Insurance Code. Each cancellation or nonrenewal is a separate violation.

Proposed law provides for the termination of proposed law on August 28, 2008.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 22:1449-1449.6)