

BILL ANALYSIS

Senate Research Center
79R3219 AJA-D

H.B. 2761
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Business & Commerce
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under current law, Sections 549.056 and 549.0551, Insurance Code, govern practices relating to insurance of real estate or personal property. H.B. 1338, enacted by the 78th Legislature, Regular Session, 2003, amended Article 21.48A by adding Subsection (g) to Section 2 of that article to prohibit a lender from requiring an amount of insurance greater than the replacement value of the dwelling. Subsection (g) is being recodified as Section 549.0551, Insurance Code. However, Section 549.056(a) and (d) provided that a lender may require evidence that insurance has been obtained in an amount sufficient to cover the debt or loan. Therefore, these two sections might possibly be construed to conflict.

H.B. 2761 clarifies Section 549.056(a) and (d) to acknowledge Section 549.0551, thereby allowing lenders to require evidence of insurance in an amount to cover a debt or loan, except where the requirement would be a condition of financing a mortgage or any other financing arrangement for residential property. The amendatory language ensures that this particular statute will not be interpreted to allow lenders to require insurance in an amount exceeding the replacement value of the dwelling and its contents.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. (a) Amends Subchapter B, Chapter 549, Insurance Code, to conform to Section 1, Chapter 538, Acts of the 78th Legislature, Regular Session, 2003, by adding Section 549.0551, as follows:

Sec. 549.0551. REQUIRING CERTAIN AMOUNTS OF COVERAGE. (a) Prohibits a lender from requiring as a condition of financing a residential mortgage or providing other financing arrangements for residential property, including a mobile or manufactured home, that a borrower purchase homeowners insurance coverage, mobile or manufactured home insurance coverage, or other residential property insurance coverage in an amount that exceeds the replacement value of the dwelling and its contents, regardless of the amount of the mortgage or other financing arrangement entered into by the borrower.

(b) Prohibits a lender, for purposes of this section, from including the fair market value of the land on which a dwelling is located in the replacement value of the dwelling and its contents.

(b) Repealer: Section 1, Chapter 538, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 2. Amends Sections 549.056(a) and (d), Insurance Code, as effective April 1, 2005, to make conforming changes.

SECTION 3. Provides that, to the extent of any conflict, this Act prevails over another Act of the 79th Legislature, Regular Session, 2005, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 4. Provides that the amendment by this Act of Sections 549.056(a) and (d), Insurance Code, is intended to clarify rather than change the existing law.

SECTION 5. Effective date: upon passage or September 1, 2005.