



# NATIONAL CONFERENCE *of* STATE LEGISLATURES

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Texas Legislature  
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### Homeowners' Insurance in the States

There are eight package types of policies that are sold in the United States; five types are for owner-occupied dwellings and two are specific for tenants, condominiums and cooperative unit owners. The five types of insurance package policies for owner-occupied dwellings are:

- HO-1: Basic “named perils” coverage for any loss incurred due to a peril named in the policy like fire, lightning, hail, etc. on buildings and personal property.
- HO-2: Broad “named-perils” coverage that covers more perils than the HO-1 package on buildings and personal property.
- HO-3: “All-risks” coverage on buildings, broad named-peril coverage on personal property. HO-3 is the most common package written.
- HO-5: “All-risks” coverage on buildings and personal property.
- HO-8: Repair cost coverage on buildings when the replacement costs exceed the buildings’ market value. Personal property coverage under the HO-8 package is similar to the coverage provided under an HO-1 policy.

The two types of insurance package policies for tenants, condominiums and cooperative unit owners are:

- HO-4: Broad “named-perils” coverage for personal property of tenants, commonly known as renters’ insurance.
- HO-6: Broad “named-perils” coverage for personal property of condominium or cooperative unit owners and coverage for certain building items in which the unit owner has an insurable interest, commonly known as condo/co-op insurance.

The National Association of Insurance Commissioners (NAIC) publishes an annual survey on homeowners’ insurance policies.<sup>1</sup> Utilizing 2009 data, the most recent survey reveals that the five owner-occupied policy packages listed above account for 80.6 percent of all policies nationwide. Tenant and condominium/cooperative policy packages account for 17.7 percent nationwide. A la carte dwelling fire policies account for the remaining 1.6 percent.

In the NAIC survey, Texas was second in the total number of homeowners’ insurance policies written for 2009 compared to the other 50 states. In Texas, while the HO-3 “All-Risks” policy is the most written policy type (40.4 percent) statewide, Texas has the highest percentage (23.8) of HO-1 “Basic Named-Perils” policies nationwide.

The NAIC survey found that the combined average premium in Texas (\$1,280) is higher than the national average (\$875), although comparisons of insurance premiums can be problematic due to variations in property values, economic conditions, policy limits and deductibles and the influence of residual markets in states like Florida and Louisiana. In the 2009 data, the combined average premiums in Florida (\$1,462) and Louisiana (\$1,416) are higher than Texas. When broken down into the individual insurance policies, the average premiums in Texas are higher than the national average for every type of policy package, except HO-8 “Repair costs.” When comparing the HO-3 “All-Risks” policy premiums, Texas appears to have the highest average premium in the nation; however, the NAIC survey cautions that the Florida and Louisiana data is underreported and is likely to be higher than what appears in the survey for this particular type of insurance policy.

Many factors can impact the cost of homeowners' insurance, including exposure to catastrophic perils, real estate property values, construction costs, building structure codes and regulations, economic conditions and the regulatory environment for insurers. Unfortunately, Texas has a high degree of exposure to catastrophic perils including flooding, freezing rain, high winds, hail, hurricanes, earthquakes, tornadoes and wildfires. According to the Federal Emergency Management Agency, Texas has experienced 86 major disaster declarations, 12 emergency declarations and 234 fire management assistance declarations from 1953-2011.<sup>ii</sup> Two of the top 10 most costly hurricanes in the United States have hit Texas—Hurricane Ike and Hurricane Rita.

### **Recent State Legislation**

For more than 150 years, the states have proven that they can successfully and effectively protect consumers and ensure that promises made by insurers are kept. State regulation ensures that rates are fair, adequate and not excessive; that policy language is clear and includes what it should; that insurers are financially sound; that claims are paid; that consumers are informed, and that their complaints are investigated and resolved. Decentralized authority promotes regulatory innovation and safeguards against the imposition of regulatory controls with potential adverse consequences that would be national in scope. Furthermore, state legislatures are uniquely positioned to set policies that accurately reflect local values and concerns, and the nation as a whole benefits from regulation tailored to serve diverse economic, social and cultural needs as well as varying geographic and environmental conditions.

State legislators have taken an active role in addressing homeowners' and renters' insurance issues, introducing hundreds of bills each legislative session. Below is a summary of recently enacted legislation organized into the following categories:

- Transparency and consumer education issues,
- Impact of inquiries and claims history on insurance policies and premiums,
- Mitigation issues, and
- Residual market issues.

## Transparency and Consumer Education Issues

In May 2012, Alabama enacted H.B. 166, the Alabama Homeowners Bill of Rights Act, that requires insurance carriers to provide homeowner policyholders with an outline of policy coverage and a standard checklist of policy contents and provides specific rights for policyholders regarding items such as pricing, advertising, financial assurances, readable policies, balanced regulation by the Department of Insurance, inquiries about the licensing status of insurance personnel and cancellation rights. These provisions will be effective July 1, 2013. In addition, Alabama enacted S.B. 210, the Property Insurance Clarity Act that requires insurance companies authorized to transact homeowners' insurance business in the state to provide policy and premium information on homeowners' insurance policies to the insurance department. The insurance department will aggregate the information and post the information on the department website, along with a general description of the rate-making methodology that the department allows insurance companies to use in establishing their homeowners rates.

Virginia enacted companion bills, H.B. 523 and S.B. 369, that requires fire insurance policies or contracts that exclude coverage for earthquake damage to provide a written notice that (i) conspicuously states that earthquake coverage is excluded unless purchased by endorsement and (ii) if such coverage is otherwise available from the insurer, states that information regarding earthquake insurance is available from the insurer or the insurance agent. The new law applies to policies issued or renewed on or after January 1, 2013.

In 2011 S.B. 425, Texas prohibited a person, property or casualty insurer, or agent, as applicable, from using or issuing a certificate of insurance, changing a previously approved certificate of insurance form, or changing the insurance coverage referenced on the certificate unless the form or change has been filed with and approved by the Texas Department of Insurance.

In September 2010, California enacted A.B. 2022, revising the mandatory language of the California Residential Property Insurance Disclosure that is given to every named insured to simplify and rearrange the description of types of coverage, and to include

additional information concerning insurance limits. A.B. 2022 also revised and simplified the California Residential Property Insurance Bill of Rights.

In May 2010, Florida enacted H.B. 7121, requiring the Florida International University center that develops, maintains, and updates the public model for hurricane loss projections to publish a report summarizing loss data and associated exposure data collected from residential property insurers and licensed rating and advisory organizations. The Florida International University center must submit the report annually, on or before October 1, to the governor, the president of the Senate, and the speaker of the House of Representatives.

In June 2009, Louisiana enacted H.B. 333 and H.B. 437 to require disclosure of separate hurricane, wind or named-storm deductibles and limits the applicability of the separate deductible on an annual basis.

#### Impact of Inquiries and Claims History on Insurance Policies and Premiums

In 2012, Hawaii enacted S.B. 2009 that provides an insurer shall not refuse to issue, refuse to renew, or cancel a homeowner's insurance policy, or establish rates for coverage based in whole or in part on inquiries made by any consumer to an insurer, unless the inquiry provides information not previously disclosed by the insured.

Through H.B. 1068, Maryland now requires homeowners' insurance companies to provide applicants and insured customers with notices that the insurer may cancel or refuse to renew coverage on the basis of the number of claims made by the policyholder within the preceding three-year period due to weather-related claims.

In May 2012, Rhode Island enacted H.B. 7484 and S.B. 2597 that prohibit insurers from refusing to insure, canceling, non-renewing or surcharging an insurance policy covering damages to personal lines residential property based solely upon prior claim experience for property damage claims at the insured property while under the ownership of someone other than the current insured unless the risk from which the claim originated has not been mitigated.

In May 2009, Maryland enacted H.B. 164 prohibiting an insurer under a homeowner's policy from classifying or maintaining an insured for more than three years in a classification that entails a higher premium due to a specific claim.

#### Mitigation Issues

In April 2012, Mississippi enacted H.B. 1410 that provides insurance premium discounts or insurance rate reductions for homeowners who build, rebuild or retrofit an insurable property to better resist hurricane or other catastrophic windstorm events.

#### Residual Market Issues

In May 2012, Alabama enacted S.B. 230 that provides an insurance premium tax credit for private insurance carriers who include wind coverage in policies written on properties located in the counties contiguous to the Gulf of Mexico and Mobile Bay, where the Alabama Insurance Underwriting Association applies. In addition, Alabama enacted S.B. 227 that establishes a catastrophe savings account for insurance policyholders to provide reimbursement for deductible amounts and other uninsured portions of risks of loss to owners of residential property from a windstorm event and allows a tax deduction for deposits made into the account.

Connecticut enacted H.B. 5230 allowing an insurer to impose a hurricane deductible in policies in lieu of an overall policy deductible during the period commencing with the issuance of a hurricane warning by the National Hurricane Center of the National Weather Service in any part of the state if such hurricane results in a maximum sustained surface wind of 74 miles per hour or more for any part of this state. The hurricane deductible can commence when the National Weather Service National Hurricane Center issues a hurricane warning for any part of this state, and will end 24 hours after the National Hurricane Center's termination of the last hurricane warning for any part of this state or 24 hours after the National Hurricane Center's last downgrade of the hurricane from hurricane status for any part of this state, whichever is earlier.

Following revisions made in 2011 S.B. 408, Florida enacted H.B. 1127, reducing to two percent from six percent the amount of the projected deficit in the coastal account issued by the Florida Citizens Property Insurance Corporation for the prior calendar year which

is recovered through regular assessments. The new law requires that remaining projected deficits in personal and commercial lines accounts be recovered through emergency assessments after accounting for the Citizens policyholder surcharge.

Maryland enacted H.B. 1017 establishing a task force to study the state's insurance of last resort programs. The task force is directed to study and make recommendations on whether the Joint Insurance Association, which currently provides insurance coverage on properties located within Maryland to individuals and businesses that are unable to obtain essential property insurance through the competitive property and casualty insurance marketplace, should become an authorized insurer with a broader mandate.

In March 2012, Michigan enacted S.B. 298 to make revisions to the method used to establish home insurance rates charged by the Michigan Basic Property Insurance Association (MBPIA) for HO-2 policies. The MBPIA is a residual market mechanism for homeowner's policies; it makes property insurance available to those who are unable to get insurance through the regular market. The new law directs the MBPIA's Board of Governors to determine the premium rate for HO-2 form insurance through a similar method as is currently employed to determine the premium rate for HO-3 form insurance to increase the actuarial solvency of the MBPIA and reduce the amount of annual assessments levied by the Board of Governors on member insurance companies that may be passed along as higher premium rates for customers who purchased property and home insurance in the private voluntary market.

In June 2010, Louisiana enacted H.B. 952 to provide a policy take-out program to encourage depopulation of the Louisiana Citizens Property Insurance Corporation.

In August 2009, North Carolina amended its Coastal Property Insurance Pool through H.B. 1305, which included setting coverage limits on habitational property.

For any additional questions, please contact:

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<sup>i</sup> 2009 *Dwelling Fire, Homeowners Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative Unit Owner's Insurance*. (Washington, D.C.: National Association of Insurance Commissioners, 2011).

<sup>ii</sup> Federal Emergency Management Agency, *Declared Disasters by Year or State*,  
[http://www.fema.gov/news/disaster\\_totals\\_annual.fema](http://www.fema.gov/news/disaster_totals_annual.fema)