

- SUBJECT:** Repealing statutory exclusion of homeowners insurance slab coverage
- COMMITTEE:** Insurance — committee substitute recommended
- VOTE:** 6 ayes — Smithee, Duncan, Averitt, Dutton, G. Lewis, Shields
0 nays
3 absent — Counts, De La Garza, Driver
- WITNESSES:** For — Edwin D. Benjamin, Texas Loss Consultants Association; Robert Schneider, Consumers Union
Against — None
- BACKGROUND:** In 1991 the Legislature required the Texas insurance commissioner to adopt an endorsement form, or policy amendment form, excluding certain insurance coverage for damage to a home's slab or foundation. The endorsement does not exclude damage to the slab caused by windstorm, hurricane, fire or other specified causes and applies only to homes 10 years old or older.

The provision was included in HB 1461, the sunset bill continuing the Texas Department of Insurance and is now found in Insurance Code art. 5.35-2. The insurance commissioner adopted rules and policy forms for the endorsement in July 1994, but the endorsement is not in use because no premium offset for the slab exclusion has been determined.
- DIGEST:** CSHB 347 would repeal Insurance Code art. 5.35-2, eliminating the requirement that the insurance commissioner adopt an endorsement form for exclusion of slab damage. Attachment of a slab-exclusion endorsement issued under the repealed statute to any policy issued, delivered or renewed as of the bill's effective date would be prohibited. The commissioner of insurance would specifically retain authority under other provisions of the Insurance Code to promulgate policy and endorsement provisions regarding

the foundation or slab of an insured building. The bill would take immediate effect if approved by two-thirds of the membership of each house.

**SUPPORTERS
SAY:**

CSHB 347 would return to the commissioner of insurance the sole discretion to decide the sensitive issue of insurance coverage of slabs and foundations. Insurance industry representatives and consumer groups agree that the mandatory endorsement legislation failed to solve anyone's problem and that the commissioner of insurance could best address the issue of insurance and slab damage.

In South Texas in particular, clay soil expands and contracts with the weather and causes foundation slabs to crack and shift, resulting in damaged pipes and water damage to property. In Nueces County 66 percent of all home policy claims paid in 1993 were related to water damage, compared to a 15 percent statewide average for that year. Repairing a slab in Nueces County costs between \$8,000 and \$35,000. Because of the high rate of claims, homeowners in Nueces County are having a difficult time purchasing insurance for their homes, and homeowners in areas such as Austin and San Antonio are also starting to have problems acquiring homeowners insurance because of slab claims.

Consumer groups feel that damage to a foundation of a house is exactly the kind of catastrophic event that the average homeowner needs and expects insurance to cover. They feel that the law requiring the exclusion is bad policy worthy of repeal. Insurance industry representatives say the mandatory endorsement did not and would not help insurers provide coverage to people in affected areas. They say the statutory language does not provide them with proper guidelines, and that even though an insurer may have excluded the slab from coverage, the law might still require the insurer to investigate damage to the slab and plumbing, at a cost of up to \$8,000. For this reason, insurance industry representatives also support repeal of the exclusion provision.

The mandatory endorsement provision was the result of a floor amendment to the sunset bill and not subjected to the hearings process nor received adequate study. Both consumer groups and insurance industry representatives agree that CSHB 347 would provide the commissioner of

insurance an opportunity to conduct studies and hearings necessary to reach a proper solution. The issue can be addressed either through a more carefully crafted exclusion or some other regulatory solution.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

The committee substitute specified that use of an endorsement promulgated under the repealed statute would be prohibited.