

No. **35183**

RECORD OF OFFICIAL ACTION
of the
STATE BOARD OF INSURANCE
AUSTIN, TEXAS

Date **MAR 28 1979**

Subject Considered: REGULATION OF HOME WARRANTY INSURANCE

General remarks and official action taken:

On this day came on for consideration by the State Board of Insurance the matter of the regulation of home warranty insurance pursuant to Article 5.53-A, Texas Insurance Code, which provides, in part:

"Sec. 2. As used in this Code, the term "home warranty insurance" means insurance assuring either

"(1) performance by builders of residential property of their warranty obligations to purchasers of such property; or

"(2) against named defects arising from failure of the builder to construct residential property in accordance with specified construction standards."

On March 15, 1979, a meeting of the Board was held, and the extent of regulation appropriate for this line of insurance at this time under Article 5.53-A was discussed. Article 5.53-A directs home warranty insurance to be governed like inland marine insurance. This requirement necessitates applying Article 5.53, Texas Insurance Code, concerning inland marine insurance; that statute requires the filing of forms and rates for such insurance fixed by rating bureaus or associations of underwriters, and also authorizes the Board to require the filing of any rates and forms not otherwise required to be filed, etc.

In this meeting, the Board found that rates and rating plans for home warranty insurance are not required by law to be filed in Texas at this time because such rates and rating plans are not being fixed by a rating bureau or association of underwriters. The Board next considered whether it was desirable to require the filing of rates and forms for home warranty insurance at this time although such are not otherwise required to be filed.

In its deliberations, the Board inquired into the extent of the available market for such insurance in Texas, the demand for and the competitiveness of this market, whether the existing rates had occasioned any consumer complaints to the Board, and whether the Board's staff was of the opinion that a present need exists to direct the filing of home warranty insurance.

THEREFORE, after due consideration, the Board is of the opinion that home warranty insurance as defined in Article 5.53-A shall not be required to be filed; provided, however, that only insurance coming within the explicit definition of the term "home warranty insurance," quoted above, comes within the scope of this Order. This action shall not preclude the Board from requiring the filing of home warranty insurance in the future if after proper notice it is deemed to be in the best interest of the policyholders of Texas that such filings be required.

This Order will remain open for any amendments or additions.

AND IT IS SO ORDERED.

STATE BOARD OF INSURANCE

Recommended and prepared by:

Lyndon Anderson
Lyndon Anderson, Director
Commercial Multi-Peril/
Inland Marine
Property Division

Lyndon Olson, Jr.
LYNDON OLSON, JR., Chairman

Recommended and approved by:

Ned Price
NED PRICE, Member

G. J. Jones
G. J. Jones
Property Actuary
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Durwood Manford
DURWOOD MANFORD, Member

Recommended and approved by:

Joe S. Moore
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Deputy Commissioner
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