

**Texas FAIR Plan Association**  
5700 South MoPac Expressway, Building A, Austin, TX 78749  
P.O. Box 99080, Austin, Texas 78709-9080

**TFPA DWELLING POLICY**



**Important Notice of Limited Coverage**

The Texas FAIR Plan Association is a residual market residential property insurance carrier, and, as such, does not offer coverages that may be available from other insurance companies and the National Flood Insurance Program.

**Please read the enclosed policy and endorsement(s) carefully**

THIS POLICY JACKET WITH THE COMMON DECLARATIONS PAGE, COVERAGE PARTS, AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETES THIS POLICY.

## IMPORTANT NOTICE

To obtain information or make a complaint:

You may call Texas FAIR Plan Association's toll-free telephone number for information or to make a complaint at:

**1-800-979-6440**

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

**1-800-252-3439**

You may write the Texas Department of Insurance:

P.O. Box 149104  
Austin, TX 78714-9104  
FAX # (512) 475-1771  
Web: <http://www.tdi.tx.gov>  
E-mail: [ConsumerProtection@tdi.tx.gov](mailto:ConsumerProtection@tdi.tx.gov)

To obtain price and policy form comparisons and other information relating to residential property insurance and personal automobile insurance, you may visit the Texas Department of Insurance/Office of Public Insurance Counsel website:

[www.helpinsure.com](http://www.helpinsure.com)

**PREMIUM OR CLAIM DISPUTES:** Should you have a dispute concerning your premium or about a claim you should contact the agent or the company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

### **ATTACH THIS NOTICE TO YOUR POLICY:**

This notice is for information only and does not become a part or condition of the attached document.

## AVISO IMPORTANTE

Para obtener information o para someter una queja:

Usted pueda llamar al numero de telefono gratis de Texas FAIR Plan Association para information o para someter una queja al:

**1-800-979-6440**

Pueda comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al:

**1-800-252-3439**

Pueda escribir al Departamento de Seguros de Texas:

P.O. Box 149104  
Austin, TX 78714-9104  
FAX # (512) 475-1771  
Web: <http://www.tdi.tx.gov>  
E-mail: [ConsumerProtection@tdi.tx.gov](mailto:ConsumerProtection@tdi.tx.gov)

Para obtener formas de comparacion de precios y poliza y otra informacion acerca del seguro de propiedad residencial y del seguro de autom6vil, visite el sitio web del Departamento de Seguros de Texas y la Oficina del Asesor Publico de Seguros:

[www.helpinsure.com](http://www.helpinsure.com)

### **DISPUTAS SOBRE PRIMAS O RECLAMOS:**

Si tiene una disputa concierne a su prima o a un reclamo, debe comunicarse con el agente o la compania primero. Si no se resuelve la disputa, pueda entonces comunicarse con el departamento (TDI).

**UNA ESTE AVISO A SU POLIZA:** Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.

# QUICK REFERENCE

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# TFPA DWELLING POLICY

## AGREEMENT

We will provide the insurance described in this policy in return for the premium and compliance with all applicable provisions of this policy.

## DEFINITIONS

In this policy:

- A. "You," "your" and **insured** refer to the "named insured" shown in the declarations and the spouse if a resident of the same household.
- B. Throughout this policy, the words "Association," "we", "us" and "our" refer to the Texas FAIR Plan Association.
- C. "**Business day**" means a day other than a Saturday, Sunday or holiday recognized by the state of Texas.
- D. "**Actual cash value**" is calculated as the amount it would cost us to repair or replace the damaged part of covered property, at the time of loss or damage, with material of like kind and quality and for the same use on the premises shown on the declarations page, subject to a deduction for deterioration and depreciation. "Actual cash value" applies to valuation of damage regardless of whether the property has sustained partial loss or total loss. The "actual cash value" of lost or damaged property may be significantly less than its replacement cost. We will not pay to repair or replace undamaged property due to mismatch of color, discontinued, outdated or obsolete material.
- E. "**Sudden and accidental**" means an abrupt, fortuitous event which is unintended from the perspective of a reasonable person.
- F. "**Vacant**" means:
  - (1) the **insured** or a tenant of the **insured** moves from the dwelling and a substantial part of the personal property is removed from that dwelling; or
  - (2) the dwelling is unoccupied by the **insured** or a tenant of the **insured**; or
  - (3) the dwelling lacks the necessary amenities, adequate furnishings, utilities and services to permit occupancy of the dwelling as a residence.

## COVERAGES

This insurance applies to the described location and coverages for which a limit of liability is shown.

### COVERAGE A (DWELLING)

We cover:

1. the dwelling on the described location shown in the declarations, used principally for dwelling purposes, including structures attached to the dwelling.
2. materials and supplies located on or next to the described location used to construct, alter or repair the dwelling or other structures on the described location.
3. if not otherwise covered in this policy, building equipment and outdoor equipment used for the service of and located on the described location.
4. maintenance equipment, floor coverings, window shades, refrigerators and stoves that you own as a landlord, located on the described location.
5. other structures on the described location set apart from the dwelling by clear space. This includes structures connected to the dwelling by only a fence, utility line or similar connection.

The total limit of liability for other structures is 10% of the Coverage A (Dwelling) limit of liability. This is additional insurance and does not reduce the Coverage A (Dwelling) limit of liability.

We do not cover other structures used for commercial, manufacturing or farming purposes.

### COVERAGE B (PERSONAL PROPERTY)

We cover personal property and business personal property owned or used by you or members of your family residing with you while it is on the described location. At your request, we will cover personal property owned by a guest or residence employee while the property is on the described location.

You may use up to 10% of the Coverage B (Personal Property) limit of liability for loss by a **Peril Insured Against** to personal property covered under Coverage B (Personal Property) while anywhere in the world. This coverage does not apply to business personal property or property of guests or residence employees. This is not additional insurance and does not increase the Coverage B (Personal Property) limit of liability.

At your request, you may use up to 10% of the Coverage B (Personal Property) limit of liability for loss by a **Peril Insured Against** to property of others while in your custody and located on the described location. This is not additional insurance and does not increase the Coverage B (Personal Property) limit of liability.

**Property Not Covered.** We do not cover:

1. animals.

2. money, currency or bullion.
3. securities, deeds, or evidences of debt.
4. records, books of records or manuscripts.
5. motor or engine propelled vehicles or machines designed for movement on land, including attached machinery or equipment.

However, we do cover such vehicles which are not subject to motor vehicle registration and are:

- a. devices and equipment for assisting the handicapped.
  - b. power mowers.
  - c. golf carts.
  - d. vehicles or machines used for recreational purposes while located on the described location.
  - e. farm equipment not designed for use principally on public roads.
6. aircraft, meaning any device used or designed for flight.

We do cover model or hobby aircraft not used or designed to carry people or cargo.

7. watercraft, including outboard motors and furnishings or equipment.

We do cover watercraft, including outboard motors and furnishings or equipment, while located on land on the described location.

#### EXTENSIONS OF COVERAGE:

1. **Debris Removal.** We will pay your expense for the removal from the described location of:

- a. debris covered property if a **Peril Insured Against** causes the loss.
- b. a tree that has damaged covered property if a **Peril Insured Against** causes the tree to fall.

This does not increase the limit of liability that applies to the damaged property.

2. **Improvements, Alterations and Additions.** If you are a tenant of the described location, the Coverage B (Personal Property) limit of liability applies to a loss caused by a Peril Insured Against to improvements, alterations and additions, made or acquired at your expense, to that part of the described location used only by you.

This is not additional insurance and does not increase the Coverage B (Personal Property) limit of liability.

3. **Reasonable Repairs.** If a **Peril Insured Against** causes the loss, we will pay the reasonable cost you incur for necessary repairs made solely to protect covered property from further damage. This coverage does not increase the limit of liability that applies to the property being repaired.

4. **Property Removed.** We pay for expense and damage incurred in the removal of covered property from the described location endangered by a **Peril Insured Against**. This coverage exists on a pro-rata basis for 30 days at each location to which such property is removed for preservation. This is not additional insurance and does not increase the Coverage B (Personal Property) limit of liability.

5. **Consequential Loss.** We insure property covered by this policy against loss due to utility failure if such failure is a result of physical damage, caused by a **Peril Insured Against**, to power, heating or cooling equipment situated on the premises where the covered property is located.

## PERILS INSURED AGAINST

We insure for **sudden and accidental**, direct physical loss to the covered property caused by a peril listed below unless the loss is excluded in the General Exclusions.

### 1. Fire and Lightning.

**When a premium for sudden and accidental damage from smoke, windstorm and hail, explosion, aircraft and vehicles and riot and civil commotion is shown on the declarations, the following perils are made a part of the Perils Insured Against.**

### 2. Sudden and Accidental Damage from Smoke.

This peril does not include loss caused by smog or by smoke from industrial or agricultural operations.

### 3. Windstorm and Hail.

This peril does not cover:

- a. loss to the following:

- (1) cloth awnings, greenhouses and their contents.

- (2) radio and television towers, outside satellite dishes, masts and antennas, including lead-in wiring, wind chargers and windmills.

- b. loss caused by rain, snow, sand, or dust, whether or not driven by wind, unless the direct force of wind or hail makes an opening in the roof or wall and the rain, snow, sand or dust enters through this opening and causes the damage.

### 4. Explosion.

This peril does not include loss caused by or resulting from:

- a. Breakage of water, sewage or steam pipes or any component of a plumbing system.

- b. Freezing of plumbing, heating or air conditioning systems or household appliances.
- c. Discharge, leakage or overflow of water, sewage or steam from within a plumbing, heating or air conditioning system or household appliance.

## 5. Aircraft and Vehicles.

This peril does not include loss caused by a vehicle owned or operated by you or an occupant of the described location.

## 6. Riot and Civil Commotion.

**When a premium for vandalism and malicious mischief is shown in the declarations, the following peril is made a part of Perils Insured Against.**

## 7. Vandalism and Malicious Mischief.

This peril does not include:

- a. loss to glass or safety glazing material constituting a part of the building other than glass building blocks.
- b. loss by pilferage, theft, burglary or larceny, but we will be liable for damage to a building insured under Coverage A (Dwelling) caused by the breaking in or exiting of burglars.
- c. loss caused by you, a roomer, tenant, or any other person regularly staying at the described location shown on the declarations page for a period in excess of thirty consecutive days.

# GENERAL EXCLUSIONS

We do not insure for loss or damage consisting of or caused directly or indirectly by any of the following, regardless of any other cause or event that contributes concurrently or in any sequence to produce the loss or damage:

- 1. We do not cover loss to electrical devices or wiring caused by electricity other than lightning.
- 2. **Flood.** We do not cover under any and all circumstances loss or damage caused by or resulting from flood, surface water, waves, storm surge, tides, tidal water, tidal waves, tsunamis, seiche, overflow of streams or other bodies of water, or spray from any of these, all whether driven by wind or not.
- 3. **Governmental Action.** We do not cover loss caused by the destruction of property by order of governmental authority.  
But we do cover loss caused by the acts of destruction ordered by governmental authority taken at the time of a fire to prevent its spread, if the fire would be covered under this policy.
- 4. **War Damage.** We do not cover loss directly or indirectly from war. This includes undeclared war, civil war, Insurrection, rebellion, revolution, warlike act by military personnel, destruction or seizure or use for military purpose, and including any consequence of these. Discharge of a nuclear weapon will be deemed a warlike act even if accidental.
- 5. **Nuclear Damage.** We do not cover loss resulting directly or indirectly from nuclear reaction, radiation or radioactive contamination, all whether controlled or uncontrolled or however caused. We cover loss by fire resulting from nuclear reaction, radiation or radioactive contamination.
- 6. **Building Laws.** We do not cover loss caused by or resulting from the enforcement of any ordinance or law regulating the construction, repair or demolition of a building or structure.

"**BUILDING LAWS**" exclusion is modified to provide coverage only to the extent described under Perils Insured Against.

- a. Coverage Provided.

You may use up to \$5,000 (at no additional premium) for the increased costs that you incur due to the enforcement of any ordinance or law, which requires or regulates:

- (1) the construction, demolition or repair of that part of a covered building or other structure damaged by a Peril Insured Against;
- (2) the demolition and reconstruction of the undamaged part of a covered building or other structure, when that building or other structure must be totally demolished because of damage by a Peril Insured Against to another part of that covered building or other structure; or
- (3) the remodeling, removal or replacement of the portion of the undamaged part of a covered building or other structure necessary to complete tile remodeling, repair or replacement of that part of the covered building or other structure damaged by a Peril Insured Against.

You may use all or part of this coverage to pay for the increased costs you incur to remove debris resulting from the construction, repair or replacement of property as stated in (a), above.

This is additional insurance and does not reduce Coverage A (Dwelling) the limit of liability.

- b. Building Ordinance or Law Coverage Limitations,  
We will not pay for the increased cost of construction:

- (1) if the building or structure is not rebuilt or repaired;
- (2) if the rebuilt or repaired building or structure is not intended for similar occupancy as the current building or structure;
- (3) until the building or structure is actually repaired or rebuilt at the same premises; or
- (4) unless the rebuilding or repairs are made as soon as reasonably possible after the loss or damage, not to exceed 365 days after loss unless you have requested in writing that this time limit be extended for an additional 180 days.

c. We do not cover:

- (1) the loss in value to any covered building or other structure due to the requirements of any ordinance or law; or
- (2) the costs to comply with any ordinance or law which requires any **insured** or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, assess the effects of, pollutants on any covered building or other structure.

Pollutants mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, waste, asbestos, mold, fungi, or microbes. Waste includes material to be recycled, reconditioned or reclaimed.

d. If the insured property is located in an area which is eligible for coverage through the Texas Windstorm Insurance Association, the coverage described above, also applies to the increased cost you incur due to the repair, replacement or demolition required for the dwelling to comply with the building specifications contained in the Texas Windstorm Insurance Association's plan of operation.

7. **Mold, Fungi and Other Microbes.** We do not cover any loss or damage caused by or resulting from mold, fungi or other microbes. We do cover direct physical loss caused by a Peril Insured Against to covered property containing mold, fungi or other microbes; however, we do not cover the additional cost or

expense to test for, monitor, clean up, remove, contain, treat, abate or assess the effects of mold, fungi or other microbes on any materials or in the air.

8. **Asbestos.** We do not cover any loss or damage caused by or resulting from asbestos. We do cover direct physical loss caused by a Peril Insured Against to covered property containing asbestos materials; however, we do not cover the additional cost or expense to test for, monitor, clean up, remove, contain, treat, abate or assess the effects of asbestos-containing materials or asbestos on any materials or in the air.
9. **Intentional Loss.** We do not cover any loss or damage caused by or resulting from any act that any **insured**, roomer, tenant, or any person regularly staying at the described location, commits or conspires to commit:

- a. with the intent to cause a loss;
- b. with reckless disregard for the property insured; or
- c. in connection with a dishonest act or criminal offense.

This exclusion does not apply to an **insured** who did not commit or conspire to commit the act causing the loss if that **insured** has filed a police report and fully cooperated with the law enforcement investigation and prosecution relating to any other **insured** causing the loss; provided, however, payment to an **insured** under this exception to exclusion 9 will be limited to that **insured's** interest in the property involved in the loss.

10. **Vacancy.** We do not cover any loss or damage under Coverage A (Dwelling), Coverage B (Personal Property, or under any Extension of Coverage if the dwelling has been **vacant** for more than 60 consecutive days before the loss or damage occurs. Such loss or damage is excluded even if it was caused by Perils Insured Against. This exclusion does not apply to the Mortgagee if the Mortgagee has complied with all terms and conditions of the Mortgage Clause.

All other Terms of the policy apply.

## DEDUCTIBLE

We will deduct from the amount of the loss or damage to each item of insurance in any one occurrence the deductible amount shown on the declarations page. The

deductible amount applies to loss or damage caused by any peril insured against other than fire or lightning.

## CONDITIONS

1. **Policy Period.** This policy applies only to loss which occurs during the policy period.
2. **Insurable Interest and Limit of Liability.** Even if more than one person has an insurable interest in the property covered, we will not be liable in any loss:

- a. for an amount greater than the interest of a person insured under this policy; or
- b. for more than the applicable limit of liability.

Each time there is a loss to any building insured under Coverage A (Dwelling), the amount of

insurance applicable to that building for loss by fire will be reduced by the amount of the loss. As repairs are made, the amount of insurance will be reinstated up to the limit of liability shown on the declarations page.

**Sec. 862.053. Policy A Liquidated Demand.** A fire insurance policy, in case of a total loss by fire of property insured, shall be held and considered to be a liquidated demand against the company for the full amount of such policy. The provisions of this article shall not apply to personal property.

3. **Concealment and Fraud.** This policy is void as to you, if you have intentionally concealed or misrepresented any material fact or circumstance, made false statements or committed fraud relating to this insurance, whether before or after a loss.
4. **Residential Community Property.** This policy, subject to all other terms and conditions. when covering residential community property, as defined by state law, shall remain in full force and effect as to the interest of each spouse covered, irrespective of divorce or change of ownership between the spouses unless excluded by endorsement attached to this policy, until the expiration of the policy or until cancelled in accordance with the terms and conditions of this policy.
5. **Duties After Loss.**
  - a. **Your Duties After Loss.** In case of a loss to covered property caused by a **Peril Insured Against**, you must:
    - (1) give us written notice of the facts relating to the claim promptly after the date of loss that is the subject of the claim.
    - (2) file a police report with a complete inventory of the property involved in any loss by theft, vandalism, malicious mischief or other illegal act.
    - (3) (a) protect the property from further damage.  
(b) make reasonable and necessary repairs to protect the property.  
(c) keep an accurate record of repair expenses.
    - (4) furnish a complete inventory of damaged personal property showing the quantity, description, amount of loss. Attach all bills, receipts and related documents which you have that justify the figures in the inventory.
    - (5) as often as we reasonably require:
      - (a) provide us access to the damaged property.
      - (b) provide us with pertinent records and documents we request and permit us to make copies.

(c) submit to examination under oath and sign and swear to it.

- (6) send to us, if we request, your signed sworn proof of loss within 91 days of our request on a standard form supplied by us. We must request a signed sworn proof of loss not later than the 15th day after we receive your written notice, or we waive our right to require a proof of loss. Such waiver will not waive our other rights under this policy.

This proof of loss shall state, to the best of your knowledge and belief:

- (i) the date, time and cause of loss;
- (ii) the interest of the **insured** and all others in the property involved including all liens on the property, and any changes in title during the term of the policy;
- (iii) other insurance which may cover the loss;
- (iv) name of the occupant at the time of the loss, and any changes in occupancy during the term of the policy;
- (v) a detailed repair estimate, receipts, invoices and expense records; and
- (vi) the **actual cash value** of loss or damage to each item of damaged property.

**b. Our Duties After Loss.**

- (1) Not later than the 15th day after we receive your written notice of claim. we must:
  - (a) acknowledge receipt of the claim.If our acknowledgement of the claim is not in writing. we will keep a record of the date, method and content of our acknowledgement.
  - (b) begin any investigation of the claim.
  - (c) specify the information you must provide in accordance with item 6.a. above.We may request additional information, if during the investigation of the claim such additional information is necessary.
- (2) After we receive the information we request, we must notify you in writing of the status of your claim:
  - (a) within 15 **business days**; or
  - (b) within 30 days if we have reason to believe the loss resulted from arson.
- (3) If we do not approve payment of your claim, we must:
  - (a) give the reason for denying your claim, or



- (b) give the reasons we require additional time to process your claim. But, we must either approve or deny your claim within 45 days after our request for additional time.
6. **Loss Settlement.** Our limit of liability and payment for covered losses will not exceed the smallest of the following:
- the **actual cash value**; or
  - the specified limit of liability of the policy.
7. **Salvage Rights.** If we notify you that we will pay your claim or part of your claim, the notice must also state whether we will or will not take all or any part of the damaged property. We must bear the expense of our salvage rights.
8. **Appraisal.**
- If you and we fail to agree on the amount of loss, either may demand an appraisal of the loss. In this event, each party will choose a **qualified** appraiser and notify the other of the appraiser's identity within 20 days after receiving a written request from the other. The two appraisers will choose a **qualified** umpire. If they cannot agree upon an umpire within 15 days after selection of the second appraiser, you or we may request that a **qualified** umpire be chosen by a district judge of a court of record in the county where the loss occurred. You and we may agree to delay selection of an umpire until the appraisers have first attempted to reach agreement on the amount of the loss.
  - The term "**qualified**" means competent, impartial, and disinterested appraiser or umpire. The umpire and appraisers, and their employers, may not have an interest in the property that is the subject of the claim or have a financial interest that is conditioned on the outcome of the appraisal or the claim. The umpire may not have made or received substantial referrals of business to or from you or us, or representatives of you or us. The umpire and appraisers must be one of the following and be licensed or certified as required by the applicable jurisdiction:
    - (1) an engineer, architect, adjuster, or public adjuster with experience and training in investigation, estimating, and repair of the type of property damage in dispute;
    - (2) an attorney mediator or former state judge with experience or training in the mediation, arbitration or trial of legal actions over investigation, estimating and repair of the type of property damage in dispute; or
    - (3) have experience and training in building construction, repair, estimating, or investigation of the type of property damage in dispute.
- c. By accepting appointment, the appraisers and umpire agree that if requested by you or us, they will:
- (1) within 7 days after a request, disclose to you and us his or her qualifications, fee agreement, and any known facts which a reasonable person may consider to affect the appraiser's or umpire's independence, neutrality, or impartiality;
  - (2) review any estimates, repair records, written statements, expert opinions, photos, and other pertinent information that you or we provide to the appraisers, umpire and each other; and
  - (3) personally inspect the property.
- d. The appraisers will separately set and itemize the **actual cash value** of the damaged part of the property. If the appraisers submit a written report of an agreement to us, the amount agreed upon will be the **actual cash value**. If they fail to agree, they will submit their differences, only, to the umpire. An itemized decision agreed to by any two of these three and filed with us will set the **actual cash value**, and any additional items determined under subpart e., when received by us. Such an award shall be binding on you and us. The following conditions apply to appraisal:
- If you or we request that they do so, the appraisal will also determine the amount of loss for any applicable Extensions of Coverage.
  - Each party will pay its own appraiser and bear the other expense of the appraisal and umpire equally. Any fees for expert witnesses or attorneys will be paid by the party who hires them.
  - Each party must be given at least 3 **business days**' advance written notice of the date, time, location and identity of any judge who will be asked to choose an umpire. If such notice is not given, a judge's selection of an umpire at the request of one party who has not given such notice to the other party as described in this paragraph shall invalidate that selection and require selection of a new umpire either by agreement or by another judge after advance written notice as described in this paragraph.
  - You, we, and each of our representatives shall cooperate with the appraisal process, provide the appraisers and umpire with existing repair bids, estimates, invoices, receipts, expense records, inventories, and photos which are reasonably requested, and allow the appraisers and umpire reasonable and timely access to inspect the damaged property.
  - Neither party waives the right to an appraisal if the request for appraisal is made within 90 days after an impasse is reached or a suit is filed over the amount of loss, whichever is later.

- j. The appraisers and umpire are not authorized to determine coverage, exclusions, conditions, forfeiture provisions, conditions precedent, or any other contractual issues that may exist between you and us, and the appraisal decision is not binding on these issues.
9. **Other Insurance.** If property covered by this policy is also covered by other insurance, we will pay only the proportion of a loss caused by any **Peril Insured Against** under this policy that the limit of liability applying under this policy bears to the total amount of insurance covering the property. If personal property is insured specifically under any other policy, then this policy applies as excess insurance over the specific insurance.
10. **Loss Payment.**
- a. If we notify you that we will pay your claim, or part of your claim, we must make payment not later than the 5th **business day** after we notify you.
- b. If payment of your claim or part of your claim requires the performance of an act by you, we must make payment not later than the 5th **business day** after the date you perform the act.
11. **Catastrophe Claims.** If a claim results from a weather related catastrophe or a major natural disaster, each claim handling deadline shown under the Duties After Loss and Loss Payment provisions is extended for an additional 15 days.
- Catastrophe or major natural disaster means a weather related event which:
- a. is declared a disaster under the Texas Disaster Act of 1975; or
- b. is determined to be a catastrophe by the commissioner of insurance
12. **Suit Against Us.** No suit or action can be brought unless the policy provisions have been complied with. Suit or action brought against us must be started within two years and one day after the cause of action accrues.
- Before you file or proceed with a suit or action against us concerning the amount of a loss:
- a. You must provide us with written notice of your dispute, and a copy of all existing repair bids, estimates, invoices, receipts, expense records, inventories, and photos that relate to the dispute;
- b. You must make a written demand to us for appraisal of the amount of loss under Section I – Conditions, part 8; and
- c. The appraisal must be completed as required by Section I – Conditions, part 8.
- These conditions precedent to suit or action may be waived only by a written agreement signed by you and us. If suit is filed prior to compliance with these conditions precedent, the parties agree to abatement of the lawsuit until these conditions precedent are fulfilled.
13. **Subrogation.** You may waive in writing before a loss, all rights or recovery against any person. If not waived, we may require an assignment of rights of recovery for a loss to the extent that payment is made by us.
14. **Abandonment of Property.** There can be no abandonment of property to us.
15. **No Benefit to Bailee.** We will not recognize any assignment or grant any coverage for the benefit of a person or organization holding, storing or moving property for a fee.
16. **Liberalization.** If the commissioner of insurance adopts a revision which would broaden or extend the coverage under this policy without additional premium within 45 days prior to or during the policy period, the broadened or extended coverage will immediately apply to this policy.
17. **Waiver or Change of Policy Provisions.** Changes in this policy may be made and perils insured against added only by attaching a written endorsement properly executed by our authorized agent. No provision of this policy may be waived unless the terms of this policy allow the provision to be waived. Our request for an appraisal or examination will not waive any of our rights.
18. **Mortgage Clause (without contribution).**
- a. The word "mortgagee" includes trustee.
- b. We will pay for any covered loss of or damage to buildings or structures to the mortgagee shown on the declarations page as interests appear.
- c. The mortgagee has the right to receive loss payment even if the mortgagee has started foreclosure or similar action on the building or structure.
- d. If we deny your claim because of your acts or because you have failed to comply with the terms of this policy, the mortgagee has the right to receive loss payment if the mortgagee:
- (1) at our request, pays any premiums due under this policy, if you have failed to do so.
- (2) submits a signed, sworn statement of loss within 91 days after receiving notice from us of your failure to do so.
- (3) has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgagee.
- All of the terms of this policy will then apply directly to the mortgagee. Failure of the mortgagee to comply with d.(1), d.(2) or d.(3) above shall void this policy as to the interest of the mortgagee.
- e. If we pay the mortgagee for any loss or damage and deny payment to you because of your acts or

because you have failed to comply with the terms of this policy:

- (1) the mortgagee's rights under the mortgage will be transferred to us to the extent of the amount we pay.
- (2) the mortgagee's right to recover the full amount of the mortgagee's claim will not be impaired.

At our option, we may pay to the mortgagee the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

- f. If this policy is cancelled, we will give the mortgagee specifically named on the declarations page written notice of cancellation.

If we cancel the policy, we will give the mortgagee the same number of days' notice of cancellation we give you.

If you cancel the policy, we will give the mortgagee notice of cancellation to be effective on the date stated in the notice. The effective date of cancellation cannot be before the 10th day after we mail notice.

We will not give notice of cancellation to any successor or assignee of the mortgagee named in this policy.

- g. If the property described under Coverage A (Dwelling) is foreclosed upon under the deed of trust, the mortgagee may cancel this policy of insurance and will be entitled to any unearned premiums from this policy.

The mortgagee must credit any unearned premium against any deficiency owed by the borrower and return any unearned premium not so credited to the borrower.

- h. If we elect not to renew this policy, the mortgagee specifically named on the declarations page will be given written notice of the non-renewal not later than the 30th day before the date on which this policy expires.

## 19. Cancellation.

- a. You may cancel this policy at any time by notifying us of the date cancellation is to take effect. We will send you any refund due when the policy is returned to us. The refund will be pro rata, subject to our minimum premium.
- b. We may cancel this policy for the reasons stated in this condition by mailing you notice in writing of the date cancellation takes effect.
  - (1) We may not cancel this policy unless:
    - (a) there is a property condition which would have been grounds for nonacceptance of

the risk had such condition been known at the time of acceptance;

- (b) it is determined that your property does not meet our underwriting rules;
- (c) you do not pay the premium or any portion of the premium when due, including nonpayment of premium on a prior Texas FAIR Plan Association policy;
- (d) you commit fraud;
- (e) you make a material misrepresentation;
- (f) there is evidence of incendiarism by you or another person acting on your behalf; or
- (g) you make a written request for cancellation.

The effective date of cancellation cannot be before the 10<sup>th</sup> day after we mail notice if we cancel for nonpayment of premium or the 30<sup>th</sup> day after we mail notice if we cancel for any other reason listed above.

- c. If we cancel, our notice to you will state that if the refund is not included with the notice, it will be mailed within 10 **business days** of the effective date of cancellation. The refund will be pro rata, subject to our minimum premium.
  - d. We may not cancel this policy based solely on the fact that the policyholder is an elected official.
20. **Refusal to Renew.** We may refuse to renew your policy if we determine the property does not meet our underwriting rules.

Every two years starting with the second renewal we will non-renew the policy and you must reapply for residential property insurance in the voluntary market. You are no longer eligible for coverage unless:

- a. You receive two current declinations from insurers licensed to write property insurance and actually writing residential property insurance in the state; and
- b. You do not receive a valid offer of comparable residential property insurance from an insurance company licensed by the State of Texas, other than a surplus lines carrier.

If we refuse to renew this policy, we must deliver to you, or mail to you at your mailing address shown on the declarations page and any mortgagee named in the declarations page, written notice of our refusal to renew not later than the 30th day before the date in which this policy expires. Our notice of non-renewal will state the reason for non-renewal. Proof of mailing will be sufficient proof of notice.

We may not refuse to renew this policy based solely on the fact that the policyholder is an elected official.

21. **Assignment.** Your rights and duties under this policy may not be assigned. Assignment of this policy or your claim under this policy will not be valid.
22. **Death.** If the named insured dies, we insure:
- a. the named insured's spouse, if a resident of the same household at the time of death.
  - b. the legal representative of the deceased only with respect to the described premises of the named insured.
23. **Proper Party.** Service of any notice, proof of loss, legal process or other communication with respect to this policy shall be made upon us, and any action by you constituting a claim under this policy shall be brought only against us, and we shall be the proper party for all purposes in any action brought under or in connection with this policy.
24. **Automatic Termination.** If we offer to renew and you or your representative do not accept, this policy will automatically terminate at the end of the current

policy period. Failure to pay the required renewal premium when due shall mean that you have not accepted our offer.

25. **Right to Appeal.** Any applicant shall have the right to appeal any action or decision of the Association or inspector to the staff of the Association or its administrator under 28 Texas Administrative Code Sec. 5.9919. Such appeal must be made in writing within thirty days after receipt of notice of the action or decision to be appealed. The staff of the Association or its administrator shall render its decision on the appeal and notify the applicant of its decision within forty-five days of receipt. Any applicant shall then have the right to appeal to the commissioner of insurance any action or decision within thirty days of the decision. The decision of the commissioner of insurance of an appeal under 28 Texas Administrative Code Sec. 5.9919 is a final order and is subject to judicial review as provided in Texas Insurance Code Chapter 36, Subchapter D.