

State Corporation Commission 2010 Fiscal Impact Statement

1. Bill Number: HB44

House of Origin	<u> X </u>	Introduced	<u> </u>	Substitute	<u> </u>	Engrossed
Second House	<u> </u>	In Committee	<u> </u>	Substitute	<u> </u>	Enrolled

2. Patron: Oder

3. Committee: Commerce and Labor

4. Title: **Fire or homeowners insurance policy; coverage for damages or replacement of Chinese drywall.**

5. Summary: Insurance coverage; Chinese drywall. Prohibits the application of several exclusions to property damage found in fire or homeowners policies or contracts on an owner-occupied dwelling when the damage is caused by Chinese drywall. As it relates to Chinese drywall, this bill prohibits the application of exclusions for loss or damage to property (i) arising out of the discharge, dispersal, seepage, migration, release, or escape of a pollutant released into the dwelling, or (ii) arising out of defective materials, construction, or design, or (iii) deterioration of the insured property. In addition, insurers are prohibited from excluding coverage for property damage where the loss or damage occurs while the dwelling is vacant or unoccupied because of Chinese drywall. The bill contains an emergency clause.

6. No Fiscal Impact on the State Corporation Commission. See Item 8.

7. Budget amendment necessary: No

8. Fiscal implications: None on the State Corporation Commission. The Bureau of Insurance is unaware of the number of consumers impacted by defective drywall and the potential impact on insurers.

9. Specific agency or political subdivisions affected: State Corporation Commission Bureau of Insurance

10. Technical amendment necessary: The Bureau of Insurance offered the following to the patron of House Bill 44:

- Subsection A limits the applicability of this proposal to “Chinese drywall.” However, a number of dwellings have experienced the same problems with drywall manufactured in the United States. Using a more generic term, such as “defective drywall,” would help to ensure that the bill’s provisions apply to tainted drywall wherever it was manufactured.
- Subsections B, C, and D refer to provisions of a “fire or homeowners insurance policy or contract on an owner-occupied dwelling.” The Bureau of Insurance advised the patron that if it was his to limit the applicability of the provisions to owner-occupied dwellings, the language could be changed to say “any policy or contract written to insure an owner-occupied dwelling” which is the language generally used in Chapter 21 of Title 38.2.

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House Bill 44

Page 2

- Specific policy exclusions are prohibited under this bill. However, other policy exclusions, such as exclusions resulting from mechanical breakdown, wear and tear, inherent vice, and inherent defect, are not mentioned. If it was the patron's intention to prohibit insurers from applying any exclusion resulting from Chinese drywall, a general statement that prohibits application of any exclusion of coverage for loss or damage resulting from the existence of defective drywall within the dwelling should be used.
- The Bureau of Insurance asked the patron if it was his intention to make the bill applicable to existing policies and existing claims or if he intended to make the bill apply to policies effective on or after the date of the bill's passage. If the latter was his intention, the Bureau of Insurance advised him to consider adding language at the end of the emergency clause to say "...and shall apply to new and renewal policies effective on or after the date of the bill's passage."

11. Other comments: The Bureau of Insurance is unaware of the number of consumers impacted by defective drywall. HB 44 is currently assigned to House Commerce and Labor Subcommittee #2.

Date: 01/31/10 V. Tompkins

cc: Secretary of Commerce and Trade