

Resolution No. 3

Date: June 6, 2002

City: Washington, D.C.

NAHB Resolution

Title: Insurance
Original Sponsor: General Liability Insurance Task Force

WHEREAS, general liability, property and casualty, and umbrella insurance coverage for members of the National Association of Home Builders have become less available, more expensive and more restrictive with greater numbers of exclusions;

WHEREAS, the insurance market is cyclical, and some of the reasons for the recent evolution into hard-market pricing are:

1. Sharply lower profitability for insurers began even prior to September 11, 2001;
2. The terrorist attacks of September 11, 2001, exacerbated existing problems in the insurance market;
3. The reinsurance market on which most insurers rely has also hardened dramatically;
4. The investment market's decline has resulted in much lower realized capital gains and unrealized capital losses, thereby resulting in higher premiums;
5. Insurance industry surpluses dropped dramatically, thus reducing insurers' capacity to accept risk;
6. Insurers are pressing prices upward to fund reserve deficiencies, replace lost surplus and regain profitability;
7. Insurers have failed to accurately estimate claims and risk, resulting in poor underwriting practices;
8. Construction defect litigation has increased and been sensationalized by heavy media coverage and large awards;
9. Plaintiffs' attorneys have aggressively solicited, and in many cases created, unnecessary litigation;
10. Congress has failed to enact terrorism legislation, which has caused the insurance industry to be even more cautious in providing coverage;

WHEREAS, other types of insurance coverage affected by the current crisis include hazard, rent loss coverage, and worker's compensation;

WHEREAS, insurers have excluded coverage at an alarming rate for traditionally covered items, such as mold;

WHEREAS, there are often direct conflicts between builders' insurance policies and policies carried by trade contractors and suppliers; and

WHEREAS, the insurance crisis is threatening the economic viability of home builders, raising the cost of doing business, and limiting the availability of affordable housing,

NOW, THEREFORE, BE IT RESOLVED that the National Association of Home Builders:

1. Assist NAHB state affiliates in supporting state legislation to increase the availability of general liability insurance and lower premiums for builders and trade contractors, including but not limited to measures that :
 - a. Require consumers and renters to notify builders of alleged construction defects and actual damages and provide builders the opportunity to inspect and cure said defects prior to the initiation of litigation,
 - b. Shorten the timeframe in which plaintiffs may bring construction defect litigation under the statute of repose,
 - c. Fairly apportion liability to responsible parties in construction defect litigation,
2. Urge Congress to pass legislation that would provide secondary insurance coverage for acts of terrorism,
3. Educate insurance companies about the numerous resources available to NAHB members, including certification, education, manuals, and quality assurance programs, in order to encourage insurers to write affordable general liability insurance policies,
4. Encourage insurance companies to more fully utilize and support the resources of the Consortium of Housing Research/Resource Centers,
5. Meet with state insurance commissioners, GSEs, Federal Home Loan Banks, and other relevant federal and state regulatory agencies to make them aware of the insurance problems confronting the housing industry, and

NOW, THEREFORE, BE IT RECOMMENDED that the National Association of Home Builders:

1. Encourage the use of alternative dispute resolution techniques, such as arbitration and mediation, in order to avoid costly litigation,
2. Provide NAHB members with information that will assist them in obtaining necessary insurance coverage at reasonable rates,
3. Educate NAHB members on fundamentals of risk management and insurance, including:
 - a. avoiding risks,
 - b. minimizing risks,
 - c. transferring risks, and
 - d. handling claims.
4. Encourage the use of express limited warranties as a means of limiting liability exposure for builders,
5. Study the feasibility of a consumer-purchased extended warranty for construction defects to minimize builder liability, and
6. Educate consumers and renters relative to home maintenance responsibilities.

Board of Directors Action:

Joint Executive/Resolutions Committee Action:

Resolutions Committee Action:

Multifamily Council Board of Trustees Action:

Federal Government Affairs Committee Action:

State and Local Government Affairs Committee Action:

General Liability Insurance Task Force Action:

Approved

Recommends Approval

Recommends Approval

Recommends Approval

Recommends Approval

Recommends Approval

Recommends Approval