

# Disaster Mortgage Protection Policy - Texas



ACE USA

## A. INTRODUCTION

THIS IS NOT A HOMEOWNERS, FIRE OR FLOOD POLICY

### SURPLUS LINES NOTIFICATION

**THIS INSURANCE CONTRACT IS WITH AN INSURER NOT LICENSED TO TRANSACT INSURANCE IN THIS STATE AND IS ISSUED AND DELIVERED AS A SURPLUS LINE COVERAGE PURSUANT TO THE TEXAS INSURANCE STATUTES. THE STATE BOARD OF INSURANCE DOES NOT AUDIT THE FINANCES OR REVIEW THE SOLVENCY OF THE SURPLUS LINES INSURER PROVIDING THIS COVERAGE AND THIS INSURER IS NOT A MEMBER OF THE PROPERTY AND CASUALTY, INSURANCE GUARANTY ASSOCIATION CREATED UNDER ARTICLE 21.28C, INSURANCE CODE. ARTICLE 1.14-2, INSURANCE CODE, REQUIRES PAYMENT OF 4.85 PERCENT ON GROSS PREMIUM.**

THIS POLICY PROVIDES NO COVERAGE IF:

- 1) YOUR RESIDENCE IS CONTAINED WITHIN A STRUCTURE OR ON PROPERTY OWNED BY YOU CONTAINING MORE THAN TWO SEPARATE HOUSEHOLD UNITS; OR
- 2) YOUR RESIDENCE IS A MOBILE HOME; OR
- 3) THIS RESIDENCE IS NOT YOUR PRIMARY RESIDENCE.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we," "us" and "our" refer to the Company providing this insurance. Other words and phrases that appear in **bold print** have special meaning. Refer to Section G. DEFINITIONS.

## B. DECLARATIONS

By acceptance of this policy, you agree that the statements in the Declarations page are your agreements and representations, that this policy is issued in reliance upon the truth of such representations and that this policy embodies all agreements existing between you and us or any of our agents relating to this insurance.

## C. COVERAGE

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

## 1. COVERED PROPERTY

### a. PROPERTY THAT IS COVERED

Covered property means the premises described in the Declarations that is occupied by you as your primary residence.

### b. PROPERTY THAT IS NOT COVERED

1. Property containing more than two separate household units; or
2. Any mobile home; or
3. Any premises that is rented to others, or held for rental.

## 2. INSURING AGREEMENT

### COVERAGE A - COVERED PROPERTY THAT IS TEMPORARILY UNINHABITABLE

We will pay your **monthly mortgage amount** up to the Limit of Insurance described in the Declarations under Coverage A if your covered property is made **temporarily uninhabitable** by a **loss**.

We will make any payments to you and the **lender** as your interests may appear subject to the policy provisions including the Limits of Insurance and Exclusions shown in Coverage A.

### COVERAGE B - COVERED PROPERTY THAT IS PERMANENTLY UNINHABITABLE

We will pay the **total unpaid balance** of your mortgage loan up to the Limit of Insurance described in the Declarations under Coverage B if your covered property is made **permanently uninhabitable** by a **loss**.

We will make any payments to you and the **lender** as your interests may appear subject to the policy provisions including the Limits of Insurance and Exclusions shown in Coverage B.

### COVERAGE C - DEDUCTIBLE OF YOUR PRIMARY PROPERTY POLICY

We will pay any deductible amount incurred by you up to the Limits of Insurance described in the Declarations under Coverage C as a result of **loss** that is paid under your primary property insurance policy in excess of the deductible amount. We will not be liable for deductibles applicable for **loss** to covered property other than real property.

We will make any payments to you subject to the policy provisions including the Limits of Insurance and Exclusions shown in Coverage C

### 3. EXCLUSIONS

#### COVERAGE A

Under Coverage A we will not cover **loss** resulting directly or indirectly from the following:

1. **War.**
2. An **event** affecting or causing allergies.
3. Constant or intermittent noise.
4. Pollution and/or contamination.
5. Normal wear and tear and/or deterioration.
6. Settling, shrinking, bulging or expansion, including resulting cracking of pavements, patios, foundations, walls, floors, roofs or ceilings.
7. Riot.
8. Neglect which means your failure to take all reasonable steps to protect your property when it is threatened with **loss** or damage, and to take all reasonable steps to protect your property from further **loss** after **loss** or damage occurs.
9. Vandalism if your premises is vacant for more than 60 days.
10. Interruption of power from an occurrence that takes place away from the premises.
11. **Loss** caused by a condition known by you to exist prior to this insurance being placed in force or of which you should have known to exist by use of reasonable diligence.
12. **Loss** caused by an intentional act, meaning any **loss** arising out of:
  - a. Any act committed by or at the direction of you, your immediate family or any other person living at your premises with the intent to cause a **loss** or with reasonable knowledge that such a **loss** would occur; or
  - b. A dishonest act committed by or at the direction of you, your immediate family or any other person living at your premises.
13. **Loss** arising out of or relating to actual, alleged or threatened contact with, exposure to, existence of or growth of any **fungi** or **microbes**, regardless of whether any other cause, **event** or material contributed concurrently to the **loss**. This exclusion also excludes any **loss** arising out of or relating to the testing, monitoring, cleaning up, removing, containing, abating, treating, detoxifying, neutralizing, remediating, or in any way responding to or assessing the effects of **fungi** or **microbes**.

#### COVERAGE B

Under Coverage B we will not cover **loss** resulting directly or indirectly from the following:

1. **Loss** caused by a condition known by you to exist prior to this insurance being placed in force or of which you should have known to exist by use of reasonable diligence.
2. Governmental activity which means:
  - a. The seizure or destruction of covered property by any governmental body, including any customs or quarantine action; or
  - b. Confiscation or destruction of property by an order of any governmental or public authority, except an order to destroy property to prevent the spread of fire or explosion.
3. Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.
4. Faulty inadequate or defective:
  - a. Planning, zoning, development, surveying, siting;
  - b. Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
  - c. Materials used in repair, construction, renovation or remodeling; or
  - d. Maintenance of all or any property on the insured premises.
5. **Loss** caused by an intentional act, meaning any **loss** arising out of:
  - a. Any act committed by or at the direction of you, your immediate family or any other person living at your premises with the intent to cause a **loss** or with reasonable knowledge that such a **loss** would occur; or
  - b. A dishonest act committed by or at the direction of you, your immediate family or any other person living at your premises.
6. **Loss** arising out of or relating to actual, alleged or threatened contact with, exposure to, existence of or growth of any **fungi** or **microbes**, regardless of whether any other cause, **event** or material contributed concurrently to the **loss**. This exclusion also excludes any **loss** arising out of or relating to the testing, monitoring, cleaning up, removing, containing, abating, treating, detoxifying, neutralizing, remediating, or in any way responding to or assessing the effects of **fungi** or **microbes**.

## D. WHAT WE WILL PAY

Each Limit of Insurance in the Declarations show the most we will pay, under each coverage, for covered **losses** that arise from any one **event**.

### LIMIT OF INSURANCE - COVERAGE A

If your premises is made **temporarily uninhabitable**, our limit of insurance is:

1. Your **monthly mortgage amount**, up to the Limit of Insurance shown in the Declarations under Coverage A, payable each month until such time as your property should be repaired, rebuilt or replaced with reasonable speed and similar quality.

The first month of a covered **loss**, payment will be calculated at the rate of 1/30th of the **monthly mortgage amount** for each day of the first month your premises is uninhabitable.

After the first month of a covered **loss**, payment will be the **monthly mortgage amount**, up to the Limit of Insurance shown in the Declarations under Coverage A, for each month or portion of a month your premises is uninhabitable.

2. If repair, reconstruction or restoration starts within ninety (90) days of the date of covered **loss** and continues on a regular basis, we will pay the **monthly mortgage amount** scheduled for a period of time usually and customarily required to complete the repair, reconstruction or restoration. In no event will we pay more than two (2) years of **monthly mortgage amounts**.

If repair, reconstruction or restoration does not start within ninety (90) days of the date of **loss** or does not continue on a regular basis, our liability is limited to three (3) **monthly mortgage amounts**.

3. In the event of a weather-related catastrophe or major natural disaster, as defined by the Commissioner of Insurance, the repair, reconstruction or restoration requirements of this policy are extended for an additional 15 days.

No payment will be made until your premises is uninhabitable and vacated for forty-eight (48) consecutive hours.

4. The **monthly mortgage amount** is not payable if your premises is **permanently uninhabitable**.
5. In no event will our payment under Coverage A exceed the Limit of Insurance for Coverage A stated in the Declarations.

### LIMITS OF INSURANCE - COVERAGE B

If your premises is made **permanently uninhabitable**, our limit of insurance is the **total unpaid balance** of your mortgage, up to the Limit of Insurance shown in the Declarations under Coverage B.

1. If your premises is **permanently uninhabitable**, we will pay the **total unpaid balance** of your mortgage, up to the Limit of Insurance stated in the Declarations under Coverage B.
2. If the Limit of Insurance you select under Coverage B is less than the **total unpaid balance** of your mortgage loan on the **effective date** of this policy, then the amount of insurance is the **total unpaid balance** of the loan on the date of **loss** multiplied by the fraction of the Limit of Insurance divided by the **total unpaid balance** of the loan. The Limit of Insurance reduces each month. The Limit of Insurance is reduced by any claim payment made under any Coverage. In no event will the total of all claim payments exceed the Limit of Insurance stated in the Declarations.
3. No payment will be made under Coverage B if your premises is **temporarily uninhabitable**.

In no event will our payment under Coverage B exceed the lesser of:

- a. The Limit of Insurance for Coverage B stated in the Declarations; or
- b. The **total unpaid balance** of your Mortgage.

### LIMITS OF INSURANCE - COVERAGE PART C

Our Limit of Insurance under Coverage C is the lesser of:

1. The maximum deductible incurred under your primary property insurance; or
2. The Limit of Insurance stated in the Declarations applicable to Coverage C.

We will not be liable under Coverage C for more than two **losses** within any consecutive twelve (12) month period.

## E. LOSS CONDITIONS

### REQUIREMENTS IN CASE LOSS OCCURS

You must give us prompt written notice of any **loss**.

You must protect your covered property from further damage.

Within sixty (60) days after the **loss**, you must provide us with a proof of **loss**, signed and sworn to by you.

### LENDER'S INTEREST AND OBLIGATIONS

If you fail to provide proof of **loss**, the **lender**, upon notice, may render proof of **loss** within sixty (60) days after the date of such notice.

#### **SUBROGATION AND ASSIGNMENT**

If we claim that no liability existed as to you or the **lender**, we will, to the extent of payment of **loss** to the **lender**, be subrogated to all the **lender's** rights of recovery, but without impairing the **lender's** right to sue, or we may, but are not required to, pay the unpaid mortgage balance, subject to our limit of insurance under Coverage B, and require an assignment thereof and of the mortgage.

### **F. CONDITIONS (Applicable to all Coverages)**

#### **OTHER INSURANCE**

##### Coverage A

Insurance provided under Coverage A is primary insurance and will not be pro-rated with any other insurance in the event of **loss**.

##### Coverage B and C

Insurance provided under Coverages B and C is excess insurance and it applies only in excess of other collectable insurance up to the Limit of Insurance.

#### **RATE CHANGES**

We may change the rates after necessary regulatory approval is obtained; you the named insured will be notified at least 30 days in advance of the policy anniversary date of the new rate that will apply to your policy.

#### **CONCEALMENT OR FRAUD**

This entire policy will be void, whether before or after a **loss**, if you willfully conceal or misrepresent any material fact or circumstance concerning this insurance or the subject thereof or your interest therein, or in case of any fraud or false swearing by you relating thereto.

#### **ADDED PROVISIONS**

The extent of the application of insurance under this policy and of the payments to be made by us in case of **loss**, and any other provision or agreement inconsistent with the provisions of this policy, may be added in writing, but no provisions may be waived except by the terms of this policy.

Other provisions relating to the interests and obligations of the **lender** may be added by agreement in writing.

#### **WAIVER PROVISION**

No provision affecting this insurance will exist, or waive any provision unless expressed in writing and added to this policy. No provision, stipulation or forfeiture will be held to be waived

by any requirement or proceeding on our part relating to evaluation or to any examination provided for in this policy.

#### **ABANDONMENT OF PROPERTY**

We need not accept any property abandoned by any insured or **lender**.

#### **CANCELLATION OF POLICY**

By You: This policy may be canceled by you by surrendering the policy to us or to any of our authorized agents or by mailing to us written notice of the future date when the cancellation will be effective. When this policy is canceled, the premium for the period from the date of cancellation to the expiration date will be refunded. When you request cancellation, the return premium will be based on our short rate table.

By Us: If this policy has been in effect for less than 60 days, we may cancel this policy for any reason by notifying you in writing at least 10 days prior to the date cancellation takes effect. After this policy has been in effect for 60 days or more, we may cancel this policy 'by notifying you in writing 30 days prior to the date takes effect. We will give you 10 days notice of cancellation for non-payment of premium. This cancellation notice may be delivered to you, or mailed to you at your mailing address shown in the Declarations.

Proof of mailing shall be sufficient proof of notice. When this policy is canceled, the premium for the period from the date of cancellation to the expiration date will be refunded. The refund will be calculated on a pro-rata basis.

In the event the Limit of Insurance under Coverage B is paid, this policy automatically terminates and any return premium due will be calculated pro rata.

#### **TERMINATION**

Your insurance will terminate on the earliest of the following:

1. The loan shown on the Declarations is paid in full or refinanced;
2. You are no longer legally obligated to repay the loan;
3. You no longer have an ownership interest in the real property which secures the loan;
4. Any premium contribution due from you remains unpaid for more than 31 days;
5. We receive your request to cancel your coverage;
6. This policy or the **lender's** participation in this policy is terminated;
7. The expiration date shown on the Declarations;
8. The covered property is not owner occupied.

#### **NON-RENEWAL**

We may elect not to renew this policy. We may do so by delivering to you at your mailing address shown in the Declarations, written notice at least 30 days before the expiration date of this policy. Proof of mailing will be sufficient proof of notice.

## SUITS AGAINST US

No action shall be brought against us unless there has been compliance with all the terms and conditions of this policy and the action is started within four years after the date of **loss** or damage.

## CONFORMITY WITH STATUTE

Terms of this policy which are in conflict with the statutes of the state where this policy is issued are hereby amended to conform to such statutes.

## G. DEFINITIONS (Applicable to all Coverages)

**Effective date** means 12:01 a.m. standard time at the business address and on the date specified in the declarations but no earlier than the day after the date your enrollment form is postmarked or the day after your phone order is placed.

**Event** means any sudden and accidental occurrence beyond the control of or not intended by you, by your immediate family or by other person(s) living in your home that physically, adversely and directly affects the habitable condition of your premises.

**Lender** means the **lender** named on the Declarations, or by endorsement to this policy.

**Loss** means destruction of, damage to or other adverse condition physically affecting your premises, as a direct or indirect result of an **event**, that makes your premises **Temporarily or Permanently Uninhabitable**.

**Monthly Mortgage Amount** means the amount normally payable monthly to your mortgage **lender**, including finance charge(s), interest charge(s) and insurance charge(s) scheduled to be paid by you after the date of **loss**. The **monthly mortgage amount** does not include penalties or other charges not normally included in your **monthly mortgage amount** that are incurred by you prior to the date of **loss**.

**Permanently Uninhabitable** means your premises, which by reason of an **event**, is made unfit for use as a residence and can not be made fit for use as a residence by corrective action but only when it is due to:

1. Condemnation of the land on which your property exists which permanently prohibits rebuilding or reconstruction. The land must be condemned by federal, state or local statutory or common law, ordinance, rule or regulation or judiciary administrative order to decision.
2. Movement of the land on which your property exists which makes the land permanently unfit for rebuilding or reconstruction as determined by federal, state or local statutory or common law, ordinance, rule or regulation or judicial or administrative order or decision.

**Temporarily Uninhabitable** means your premises, which by reason of an **event**, is made unfit for use as a residence for a period in excess of forty-eight (48) consecutive hours, but can be made fit for use as a residence by corrective action.

**Total Unpaid Balance** means the total of the **Monthly Mortgage Amounts**, if any, shown on the Declarations remaining due the **lender** following the date of **loss**, less:

1. Unearned finance charges;
2. Unearned interest charges;
3. Unearned insurance premiums; and
4. Charges and penalties due the **lender** by you.

**Fungi** means any type or form of fungus, including mold, mildew, bacteria, rust, smut, mushroom or yeast. This includes any spores, allergens, mycotoxins, irritants, odors, scents, substances, microbial volatile organic compounds, products or byproducts produced by or associated with **fungi**.

**Microbe** means any type or form of nonfungal microorganism or nonfungal, colony-form organism that causes infection or disease.

**War** means any of the following:

1. Hostile or belligerent action, including action in hindering, combating or defending against an actual, impending or expected attack by:
  - a. Any government or sovereign power (de jure or de facto);
  - b. Any military, naval, air or nuclear forces; or
  - c. Any agent of such government, power, authority or forces.
2. Insurrection, invasion, rebellion, revolution, civil **war**, usurping power or action taken by governmental authority in hindering, combating or defending against any of these.

ILLINOIS UNION INSURANCE COMPANY  
CHICAGO, ILLINOIS