

By: Eiland

H.B. No. 698

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the kinds of property insurance that may be offered by  
3 the Fair Access to Insurance Requirements (FAIR) Plan.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 2211.001(6), Insurance Code, is amended  
6 to read as follows:

7 (6) "Net direct premiums" means gross direct written  
8 premiums less return premiums on canceled contracts, regardless of  
9 reinsurance assumed or ceded, written on residential and commercial  
10 property under this chapter.

11 SECTION 2. Section 2211.051, Insurance Code, is amended to  
12 read as follows:

13 Sec. 2211.051. ESTABLISHMENT OF FAIR PLAN. The  
14 commissioner may establish a Fair Access to Insurance Requirements  
15 Plan to deliver residential and commercial property insurance to  
16 persons in [~~residents of~~] this state located in underserved areas  
17 if the commissioner determines, after a public hearing, that:

18 (1) in all or any part of the state, residential or  
19 commercial property insurance is not reasonably available in the  
20 voluntary market to a substantial number of insurable risks; and

21 (2) at least 25 percent of the applicants to the  
22 residential property market assistance program who are qualified  
23 under that program's plan of operation have not been placed with an  
24 insurer in the preceding six months.

1 SECTION 3. Section 2211.054, Insurance Code, is amended to  
2 read as follows:

3 Sec. 2211.054. CONTENTS OF PLAN OF OPERATION. The plan of  
4 operation must:

5 (1) provide for a nonprofit association to issue  
6 residential and commercial property insurance under this chapter  
7 and distribute the losses and expenses in writing that insurance in  
8 this state;

9 (2) provide that all insurers that write residential  
10 or commercial property insurance shall participate in the  
11 association in accordance with Sections 2211.101(b) and (c);

12 (3) provide that a participating insurer is entitled  
13 to receive credit in accordance with Section 2211.101(d);

14 (4) provide for the immediate binding of eligible  
15 risks;

16 (5) provide for the use of premium installment payment  
17 plans, adequate marketing, and service facilities;

18 (6) provide for the establishment of reasonable  
19 service standards;

20 (7) provide procedures for efficient, economical,  
21 fair, and nondiscriminatory administration of the association;

22 (8) provide procedures for determining the net level  
23 of participation required for each insurer in the association;

24 (9) provide for the use of deductibles and other  
25 underwriting devices;

26 (10) provide for assessment of all members in amounts  
27 sufficient to operate the association;

1           (11) establish maximum limits of liability to be  
2 placed through the program;

3           (12) establish commissions to be paid to the insurance  
4 agents submitting applications;

5           (13) provide that the association issue policies in  
6 the association's own name;

7           (14) provide reasonable underwriting standards for  
8 determining insurability of a risk;

9           (15) provide procedures for the association to assume  
10 and cede reinsurance; and

11           (16) provide any other procedure or operational matter  
12 the governing committee or the commissioner considers necessary.

13           SECTION 4. Sections 2211.101(a), (b), and (c), Insurance  
14 Code, are amended to read as follows:

15           (a) In accordance with the plan of operation, the  
16 association shall develop and administer a program for  
17 participation by each insurer that writes residential or commercial  
18 property insurance in this state.

19           (b) Each insurer, as a condition of the insurer's authority  
20 to engage in the business of residential or commercial property  
21 insurance in this state, shall participate in the association in  
22 accordance with this chapter, including participating in the  
23 association's writings, expenses, and losses in the proportion that  
24 the insurer's net direct premiums written in this state during the  
25 preceding calendar year bear to the aggregate net direct premiums  
26 written in this state by all participating insurers.

27           (c) An insurer's participation under Subsection (b) in the

1 association's writings, expenses, and losses must be determined in  
2 accordance with [~~the~~] residential and commercial property  
3 statistical plans [~~plan~~] adopted by the commissioner.

4 SECTION 5. Section 2211.151, Insurance Code, is amended to  
5 read as follows:

6 Sec. 2211.151. MANDATORY COVERAGE PROVIDED TO CERTAIN  
7 INSUREDS. The association shall make residential or commercial  
8 property insurance available to each applicant in an underserved  
9 area whose property is insurable in accordance with reasonable  
10 underwriting standards but who, after diligent efforts, is unable  
11 to obtain residential or commercial property insurance through the  
12 voluntary market, as evidenced by two declinations from insurers  
13 authorized to engage in the business of, and writing, residential  
14 or commercial property insurance, as applicable, in this state.

15 SECTION 6. Section 2211.153, Insurance Code, is amended to  
16 read as follows:

17 Sec. 2211.153. INSPECTION BUREAU. The association, with  
18 the approval of the commissioner, shall designate one or more  
19 organizations as the inspection bureau. The inspection bureau  
20 shall:

21 (1) make inspections to determine the condition of a  
22 property for which residential or commercial property insurance is  
23 sought; and

24 (2) perform other duties authorized by the association  
25 or the commissioner.

26 SECTION 7. Sections 2211.154(a) and (c), Insurance Code,  
27 are amended to read as follows:

1           (a) A person who has an insurable interest in real or  
2 tangible personal property at a fixed location in an underserved  
3 area and who, after diligent effort, is unable to obtain  
4 residential or commercial property insurance, as evidenced by two  
5 current declinations from insurers authorized to engage in the  
6 business of residential or commercial property insurance, as  
7 applicable, in this state and actually writing residential or  
8 commercial property insurance in this state, is entitled on  
9 application to the association to an inspection and evaluation of  
10 the property by representatives of the inspection bureau.

11           (c) Promptly after the application is received, the  
12 inspection bureau shall make an inspection and file an inspection  
13 report with the association. The inspection report must be made  
14 available to the applicant on request. The association shall  
15 prescribe the manner and scope of the inspection and inspection  
16 report for residential or commercial property in accordance with  
17 the plan of operation.

18           SECTION 8. Section 2211.155, Insurance Code, is amended to  
19 read as follows:

20           Sec. 2211.155. INSPECTION RESULTS; REINSPECTION. (a) If,  
21 after an inspection, the inspection bureau determines that  
22 residential or commercial property meets the underwriting  
23 standards established in the plan of operation, the applicant must  
24 be informed in writing of that determination and the association  
25 shall issue a policy or binder. If the [~~residential~~] property does  
26 not meet the underwriting standards, the applicant must be informed  
27 in writing of the reason for the failure of the [~~residential~~]

1 property to meet the standards.

2 (b) If, at any time, an applicant whose [~~residential~~]  
3 property did not meet the underwriting standards makes improvements  
4 to the property or the property's condition that the applicant  
5 believes are sufficient to make the property meet the standards, an  
6 inspection bureau representative shall reinspect the property on  
7 request. In any case, the applicant is eligible for one  
8 reinspection on or before the 60th day after the date of the initial  
9 inspection.

10 (c) If, on reinspection, the [~~residential~~] property meets  
11 the underwriting standards, the applicant must be informed in  
12 writing of that fact and the association shall issue a policy or  
13 binder.

14 SECTION 9. Section 2211.201, Insurance Code, is amended to  
15 read as follows:

16 Sec. 2211.201. PURPOSE. The legislature finds that issuing  
17 public securities to provide a method to raise funds to provide  
18 residential and commercial property insurance in this state through  
19 the association is to benefit the public and to further a public  
20 purpose.

21 SECTION 10. Section 2211.209(e), Insurance Code, is amended  
22 to read as follows:

23 (e) As a condition of engaging in the business of insurance  
24 in this state, a participating insurer agrees that, if the insurer  
25 leaves the property insurance market in this state, the insurer  
26 remains obligated to pay the insurer's share of the service fee  
27 assessed under this section until the public securities are

1 retired. The amount assessed against an insurer under this  
2 subsection must be:

3 (1) proportionate to the insurer's share of the  
4 property insurance market, including residential and commercial  
5 property insurance, in this state as of the last complete reporting  
6 period before the date the insurer ceases to engage in the property  
7 insurance business in this state; and

8 (2) based on the insurer's gross premiums for property  
9 insurance, including residential and commercial property  
10 insurance, for the insurer's last reporting period.

11 SECTION 11. Not later than December 1, 2007, the governing  
12 committee of the FAIR Plan shall amend the plan's plan of operation  
13 to reflect the changes in law made by this Act. On January 1, 2008,  
14 the FAIR Plan shall begin issuing commercial property insurance in  
15 accordance with the plan of operation.

16 SECTION 12. This Act takes effect September 1, 2007.