

By: Taylor of Galveston

S.B. No. 1537

A BILL TO BE ENTITLED

AN ACT

relating to dispute resolution for certain claims arising under insurance policies issued by the Fair Access to Insurance Requirements (FAIR) Plan Association; authorizing fees.

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

SECTION 1. Section 2211.003, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) Subsection (a) does not apply to a person who is required to resolve a dispute under Subchapter D-1.

SECTION 2. Subchapter A, Chapter 2211, Insurance Code, is amended by adding Sections 2211.004 and 2211.005 to read as follows:

Sec. 2211.004. CERTAIN CONDUCT IN DISPUTE RESOLUTION PROHIBITED. (a) For purposes of this section, "presiding officer" includes a judge, mediator, arbitrator, appraiser, or panel member.

(b) If a person insured under this chapter is assigned to act as presiding officer to preside over or resolve a dispute involving the association and another person insured under this chapter, the presiding officer shall, not later than the seventh day after the date of assignment, give written notice to the association and to each other party to the dispute, or the association's or other party's attorney, that the presiding officer is insured under this chapter.

(c) In a proceeding with respect to which the commissioner

1 has authority to designate the presiding officer, the association  
2 or other party that receives notice under Subsection (b) may file  
3 with the commissioner a written objection to the assignment of the  
4 presiding officer to the dispute. The written objection must  
5 contain the factual basis on which the association or other party  
6 objects to the assignment.

7 (d) The commissioner shall assign a different presiding  
8 officer to the dispute if, after reviewing the objection filed  
9 under Subsection (c), the commissioner determines that the  
10 presiding officer originally assigned to the dispute has a direct  
11 financial or personal interest in the outcome of the dispute.

12 (e) The association or other party must file an objection  
13 under Subsection (c) not later than the earlier of:

14 (1) the seventh day after the date the association or  
15 other party receives actual notice that the presiding officer is  
16 insured under this chapter; or

17 (2) the seventh day before the date of the first  
18 proceeding concerning the dispute.

19 (f) The commissioner may, on a showing of good cause, extend  
20 the deadline to file an objection under Subsection (e).

21 Sec. 2211.005. APPLICABILITY OF CERTAIN OTHER LAW. (a) A  
22 person may not bring a private action against the association,  
23 including a claim against an agent or representative of the  
24 association, under Chapter 541 or 542. Notwithstanding any other  
25 provision of this code or this chapter, a class action under  
26 Subchapter F, Chapter 541, or under Rule 42, Texas Rules of Civil  
27 Procedure, may be brought against the association only by the

1 attorney general at the request of the department.

2 (b) Chapter 542 does not apply to the processing and  
3 settlement of claims by the association.

4 SECTION 3. Subchapter D, Chapter 2211, Insurance Code, is  
5 amended by adding Sections 2211.158 and 2211.159 to read as  
6 follows:

7 Sec. 2211.158. REQUIRED POLICY PROVISIONS: DEADLINE FOR  
8 FILING CLAIM; NOTICE CONCERNING RESOLUTION OF CERTAIN DISPUTES.

9 (a) An insurance policy issued by the association must:

10 (1) require an insured to file a claim under the policy  
11 not later than the first anniversary of the date on which the damage  
12 to property that is the basis of the claim occurs; and

13 (2) contain, in boldface type, a conspicuous notice  
14 concerning the resolution of disputes under the policy, including:

15 (A) the processes and deadlines for appraisal  
16 under Section 2211.174 and alternative dispute resolution under  
17 Section 2211.175;

18 (B) the binding effect of appraisal under Section  
19 2211.174; and

20 (C) the necessity of complying with the  
21 requirements of Subchapter D-1 to seek relief, including judicial  
22 relief.

23 (b) The commissioner, on a showing of good cause by a person  
24 insured under this chapter, may extend the one-year period  
25 described by Subsection (a)(1) for a period not to exceed 180 days.

26 Sec. 2211.159. VOLUNTARY ARBITRATION OF CERTAIN COVERAGE  
27 AND CLAIM DISPUTES. (a) A person insured under this chapter may

1 elect to purchase a binding arbitration endorsement in a form  
2 prescribed by the commissioner. A person who elects to purchase an  
3 endorsement under this section must arbitrate a dispute involving  
4 an act, ruling, or decision of the association relating to the  
5 payment of, the amount of, or the denial of the claim.

6 (b) An arbitration under this section shall be conducted in  
7 the manner and under rules and deadlines prescribed by the  
8 commissioner by rule.

9 (c) The association may offer a person insured under this  
10 chapter an actuarially justified premium discount on a policy  
11 issued by the association if the person elects to purchase a binding  
12 arbitration endorsement under this section. The premium discount  
13 may not exceed 10 percent of the premium for the policy, before the  
14 application of the discount.

15 (d) The commissioner shall adopt rules necessary to  
16 implement and enforce this section, including rules defining  
17 "actuarially justified" for the purposes of this section.

18 SECTION 4. Chapter [2211](#), Insurance Code, is amended by  
19 adding Subchapter D-1 to read as follows:

20 SUBCHAPTER D-1. CLAIMS: SETTLEMENT AND DISPUTE RESOLUTION

21 Sec. 2211.171. DEFINITIONS. In this subchapter:

22 (1) "Association policy" means an insurance policy  
23 issued by the association.

24 (2) "Claim" means a request for payment under an  
25 association policy. The term also includes any other claim against  
26 the association, or an agent or representative of the association,  
27 relating to an insured loss, under any theory or cause of action of

1 any kind, regardless of the theory under which the claim is  
2 asserted, the cause of action brought, or the type of damages  
3 sought.

4 (3) "Claimant" means a person who makes a claim.

5 Sec. 2211.172. EXCLUSIVE REMEDIES AND LIMITATION ON AWARD.

6 (a) This subchapter provides the exclusive remedies for a claim  
7 against the association, including an agent or representative of  
8 the association.

9 (b) Subject to Section 2211.176, the association may not be  
10 held liable for any amount other than covered losses payable under  
11 the terms of the association policy.

12 (c) The association, or an agent or representative of the  
13 association, may not be held liable for damages under Chapter 17,  
14 Business & Commerce Code, or, except as otherwise specifically  
15 provided by this chapter, under any provision of any law providing  
16 for additional damages, exemplary damages, or a penalty.

17 Sec. 2211.173. FILING OF CLAIM; CLAIM PROCESSING. (a)  
18 Subject to Section 2211.158(b), an insured must file a claim under  
19 an association policy not later than the first anniversary of the  
20 date on which the damage to property that is the basis of the claim  
21 occurs.

22 (b) The claimant may submit written materials, comments,  
23 documents, records, and other information to the association  
24 relating to the claim. If the claimant fails to submit information  
25 in the claimant's possession that is necessary for the association  
26 to determine whether to accept or reject the claim, the association  
27 may, not later than the 30th day after the date the claim is filed,

1 request in writing the necessary information from the claimant.

2 (c) The association shall, on request, provide a claimant  
3 reasonable access to all information relevant to the determination  
4 of the association concerning the claim. The claimant may copy the  
5 information at the claimant's own cost or may request the  
6 association to provide a copy of all or part of the information to  
7 the claimant. The association may charge a claimant the actual cost  
8 incurred by the association in providing a copy of information  
9 under this section, excluding any amount for labor involved in  
10 making any information or copy of information available to a  
11 claimant.

12 (d) Unless the applicable 60-day period described by this  
13 subsection is extended by the commissioner under Section 2211.180,  
14 not later than the later of the 60th day after the date the  
15 association receives a claim or the 60th day after the date the  
16 association receives information requested under Subsection (b),  
17 the association shall provide the claimant, in writing,  
18 notification that:

19 (1) the association has accepted coverage for the  
20 claim in full;

21 (2) the association has accepted coverage for the  
22 claim in part and has denied coverage for the claim in part; or

23 (3) the association has denied coverage for the claim  
24 in full.

25 (e) In a notice provided under Subsection (d)(1), the  
26 association must inform the claimant of the amount of loss the  
27 association will pay and of the time limit to demand appraisal under

1 Section 2211.174.

2 (f) In a notice provided under Subsection (d)(2) or (3), the  
3 association must inform the claimant of, as applicable:

4 (1) the portion of the loss for which the association  
5 accepts coverage and the amount of loss the association will pay;

6 (2) the portion of the loss for which the association  
7 denies coverage and a detailed summary of the manner in which the  
8 association determined not to accept coverage for that portion of  
9 the claim; and

10 (3) the time limit to:

11 (A) demand appraisal under Section 2211.174 of  
12 the portion of the loss for which the association accepts coverage;  
13 and

14 (B) provide notice of intent to bring an action  
15 as required by Section 2211.175.

16 (g) In addition to a notice provided under Subsection (d)(2)  
17 or (3), the association shall provide a claimant with a form on  
18 which the claimant may provide the association notice of intent to  
19 bring an action as required by Section 2211.175.

20 Sec. 2211.1731. PAYMENT OF CLAIM. (a) Except as provided  
21 by Subsection (b), if the association notifies a claimant under  
22 Section 2211.173(d)(1) or (2) that the association has accepted  
23 coverage for a claim in full or has accepted coverage for a claim in  
24 part, the association shall pay the accepted claim or accepted  
25 portion of the claim not later than the 10th day after the date  
26 notice is made.

27 (b) If payment of the accepted claim or accepted portion of

1 the claim is conditioned on the performance of an act by the  
2 claimant, the association shall pay the claim not later than the  
3 10th day after the date the act is performed.

4 Sec. 2211.174. DISPUTES CONCERNING AMOUNT OF ACCEPTED  
5 COVERAGE. (a) If the association accepts coverage for a claim in  
6 full and a claimant disputes only the amount of loss the association  
7 will pay for the claim, or if the association accepts coverage for a  
8 claim in part and a claimant disputes the amount of loss the  
9 association will pay for the accepted portion of the claim, the  
10 claimant may request from the association a detailed summary of the  
11 manner in which the association determined the amount of loss the  
12 association will pay.

13 (b) If a claimant disputes the amount of loss the  
14 association will pay for a claim or a portion of a claim, the  
15 claimant, not later than the 60th day after the date the claimant  
16 receives the notice described by Section 2211.173(d)(1) or (2), may  
17 demand appraisal in accordance with the terms of the association  
18 policy.

19 (c) If a claimant, on a showing of good cause and not later  
20 than the 15th day after the expiration of the 60-day period  
21 described by Subsection (b), requests in writing that the 60-day  
22 period be extended, the association may grant an additional 30-day  
23 period in which the claimant may demand appraisal.

24 (d) If a claimant demands appraisal under this section:

25 (1) the appraisal must be conducted as provided by the  
26 association policy; and

27 (2) the claimant and the association are responsible

1 in equal shares for paying any costs incurred or charged in  
2 connection with the appraisal, including a fee charged under  
3 Subsection (e).

4 (e) If a claimant demands appraisal under this section and  
5 the appraiser retained by the claimant and the appraiser retained  
6 by the association are able to agree on an appraisal umpire to  
7 participate in the resolution of the dispute, the appraisal umpire  
8 is the umpire chosen by the two appraisers. If the appraiser  
9 retained by the claimant and the appraiser retained by the  
10 association are unable to agree on an appraisal umpire to  
11 participate in the resolution of the dispute, the commissioner  
12 shall select an appraisal umpire from a roster of qualified umpires  
13 maintained by the department. The department may:

14 (1) require appraisers to register with the department  
15 as a condition of being placed on the roster; and

16 (2) charge a reasonable registration fee to defray the  
17 cost incurred by the department in maintaining the roster and the  
18 commissioner in selecting an appraisal umpire under this  
19 subsection.

20 (f) Except as provided by Subsection (g), the appraisal  
21 decision is binding on the claimant and the association as to the  
22 amount of loss the association will pay for a fully accepted claim  
23 or the accepted portion of a partially accepted claim and is not  
24 appealable or otherwise reviewable. A claimant that does not  
25 demand appraisal before the expiration of the periods described by  
26 Subsections (b) and (c) waives the claimant's right to contest the  
27 association's determination of the amount of loss the association

1 will pay with reference to a fully accepted claim or the accepted  
2 portion of a partially accepted claim.

3 (g) A claimant or the association may, not later than the  
4 second anniversary of the date of an appraisal decision, file an  
5 action in a district court in the county in which the loss that is  
6 the subject of the appraisal occurred to vacate the appraisal  
7 decision and begin a new appraisal process if:

8 (1) the appraisal decision was obtained by corruption,  
9 fraud, or other undue means;

10 (2) the rights of the claimant or the association were  
11 prejudiced by:

12 (A) evident partiality by an appraisal umpire;

13 (B) corruption in an appraiser or appraisal  
14 umpire; or

15 (C) misconduct or wilful misbehavior of an  
16 appraiser or appraisal umpire; or

17 (3) an appraiser or appraisal umpire:

18 (A) exceeded the appraiser's or appraisal  
19 umpire's powers;

20 (B) refused to postpone the appraisal after a  
21 showing of sufficient cause for the postponement;

22 (C) refused to consider evidence material to the  
23 claim; or

24 (D) conducted the appraisal in a manner that  
25 substantially prejudiced the rights of the claimant or the  
26 association.

27 (h) Except as provided by Subsection (g), a claimant may not

1 bring an action against the association with reference to a claim  
2 for which the association has accepted coverage in full.

3 Sec. 2211.175. DISPUTES CONCERNING DENIED COVERAGE. (a)  
4 If the association denies coverage for a claim in part or in full  
5 and the claimant disputes that determination, the claimant, not  
6 later than the expiration of the limitations period described by  
7 Section 2211.177(a) but after the date the claimant receives the  
8 notice described by Section 2211.173(d)(2) or (3), must provide the  
9 association with notice that the claimant intends to bring an  
10 action against the association concerning the partial or full  
11 denial of the claim. A claimant that does not provide notice of  
12 intent to bring an action before the expiration of the period  
13 described by this subsection waives the claimant's right to contest  
14 the association's partial or full denial of coverage and is barred  
15 from bringing an action against the association concerning the  
16 denial of coverage.

17 (b) If a claimant provides notice of intent to bring an  
18 action under Subsection (a), the association may require the  
19 claimant, as a prerequisite to filing the action against the  
20 association, to submit the dispute to alternative dispute  
21 resolution by mediation or moderated settlement conference, as  
22 provided by Chapter 154, Civil Practice and Remedies Code.

23 (c) The association must request alternative dispute  
24 resolution of a dispute described by Subsection (b) not later than  
25 the 60th day after the date the association receives from the  
26 claimant notice of intent to bring an action.

27 (d) Alternative dispute resolution under this section must

1 be completed not later than the 60th day after the date a request  
2 for alternative dispute resolution is made under Subsection (c).  
3 The 60-day period described by this subsection may be extended by  
4 the commissioner in accordance with Section 2211.180 or by the  
5 association and a claimant by mutual consent.

6 (e) If the claimant is not satisfied after completion of  
7 alternative dispute resolution, or if alternative dispute  
8 resolution is not completed before the expiration of the 60-day  
9 period described by Subsection (d) or any extension under that  
10 subsection, the claimant may bring an action against the  
11 association in a district court in the county in which the loss that  
12 is the subject of the coverage denial occurred. An action brought  
13 under this subsection shall be presided over by a judge appointed by  
14 the judicial panel on multidistrict litigation designated under  
15 Section 74.161, Government Code. A judge appointed under this  
16 section must be an active judge, as defined by Section 74.041,  
17 Government Code, who is a resident of the county in which the loss  
18 that is the basis of the disputed denied coverage occurred or of a  
19 county adjacent to the county in which that loss occurred.

20 (f) If a claimant brings an action against the association  
21 concerning a partial or full denial of coverage, the court shall  
22 abate the action until the notice of intent to bring an action has  
23 been provided and, if requested by the association, the dispute has  
24 been submitted to alternative dispute resolution, in accordance  
25 with this section.

26 (g) A moderated settlement conference under this section  
27 may be conducted by a panel consisting of one or more impartial

1 third parties.

2 (h) If the association requests mediation under this  
3 section, the claimant and the association are responsible in equal  
4 shares for paying any costs incurred or charged in connection with  
5 the mediation.

6 (i) If the association requests mediation under this  
7 section, and the claimant and the association are able to agree on a  
8 mediator, the mediator is the mediator agreed to by the claimant and  
9 the association. If the claimant and the association are unable to  
10 agree on a mediator, the commissioner shall select a mediator from a  
11 roster of qualified mediators maintained by the department. The  
12 department may:

13 (1) require mediators to register with the department  
14 as a condition of being placed on the roster; and

15 (2) charge a reasonable registration fee to defray the  
16 cost incurred by the department in maintaining the roster and the  
17 commissioner in selecting a mediator under this subsection.

18 (j) The commissioner shall establish rules to implement  
19 this section, including provisions for expediting alternative  
20 dispute resolution, facilitating the ability of a claimant to  
21 appear with or without counsel, establishing qualifications  
22 necessary for mediators to be placed on the roster maintained by the  
23 department under Subsection (i), and providing that formal rules of  
24 evidence shall not apply to the proceedings.

25 Sec. 2211.176. ISSUES BROUGHT TO SUIT; LIMITATIONS ON  
26 RECOVERY. (a) The only issues a claimant may raise in an action  
27 brought against the association under Section 2211.175 are:

1           (1) whether the association's denial of coverage was  
2 proper; and

3           (2) the amount of the damages described by Subsection  
4 (b) to which the claimant is entitled, if any.

5           (b) Except as provided by Subsections (c) and (d), a  
6 claimant that brings an action against the association under  
7 Section 2211.175 may recover only:

8           (1) the covered loss payable under the terms of the  
9 association policy less, if applicable, the amount of loss already  
10 paid by the association for any portion of a covered loss for which  
11 the association accepted coverage;

12           (2) prejudgment interest from the first day after the  
13 date specified in Section 2211.1731 by which the association was or  
14 would have been required to pay an accepted claim or the accepted  
15 portion of a claim, at the prejudgment interest rate provided by  
16 Subchapter B, Chapter 304, Finance Code; and

17           (3) court costs and reasonable and necessary  
18 attorney's fees.

19           (c) Nothing in this chapter, including Subsection (b), may  
20 be construed to limit the consequential damages, or the amount of  
21 consequential damages, that a claimant may recover under common law  
22 in an action against the association.

23           (d) A claimant that brings an action against the association  
24 under Section 2211.175 may, in addition to the covered loss  
25 described by Subsection (b)(1) and any consequential damages  
26 recovered by the claimant under common law, recover damages in an  
27 amount not to exceed the aggregated amount of the covered loss

1 described by Subsection (b)(1) and the consequential damages  
2 recovered under common law if the claimant proves by clear and  
3 convincing evidence that the association mishandled the claimant's  
4 claim to the claimant's detriment by intentionally:

5 (1) failing to meet the deadlines or timelines  
6 established under this subchapter without good cause, including the  
7 applicable deadline established under Section 2211.1731 for  
8 payment of an accepted claim or the accepted portion of a claim;

9 (2) failing to provide the notice required under  
10 Section 2211.173(d);

11 (3) rejecting a claim without conducting a reasonable  
12 investigation with respect to the claim; or

13 (4) denying coverage for a claim in part or in full if  
14 the association's liability has become reasonably clear as a result  
15 of the association's investigation with respect to the portion of  
16 the claim that was denied.

17 (e) For purposes of Subsection (d), "intentionally" means  
18 actual awareness of the facts surrounding the act or practice  
19 listed in Subsection (d)(1), (2), (3), or (4), coupled with the  
20 specific intent that the claimant suffer harm or damages as a result  
21 of the act or practice. Specific intent may be inferred from  
22 objective manifestations that the association acted intentionally  
23 or from facts that show that the association acted with flagrant  
24 disregard of the duty to avoid the acts or practices listed in  
25 Subsection (d)(1), (2), (3), or (4).

26 Sec. 2211.177. LIMITATIONS PERIOD. (a) Notwithstanding  
27 any other law, a claimant that brings an action against the

1 association under Section 2211.175 must bring the action not later  
2 than the second anniversary of the date on which the person receives  
3 a notice described by Section 2211.173(d)(2) or (3).

4 (b) This section is a statute of repose and controls over  
5 any other applicable limitations period.

6 Sec. 2211.178. CONSTRUCTION WITH OTHER LAW. (a) To the  
7 extent of any conflict between a provision of this subchapter and  
8 any other law, the provision of this subchapter prevails.

9 (b) Notwithstanding any other law, the association may not  
10 bring an action against a claimant, for declaratory or other  
11 relief, before the 180th day after the date an appraisal under  
12 Section 2211.174, or alternative dispute resolution under Section  
13 2211.175, is completed.

14 Sec. 2211.179. RULEMAKING. (a) The commissioner shall  
15 adopt rules regarding the provisions of this subchapter, including  
16 rules concerning:

17 (1) qualifications and selection of appraisers for the  
18 appraisal procedure and mediators for the mediation process;

19 (2) procedures and deadlines for the payment and  
20 handling of claims by the association as well as the procedures and  
21 deadlines for a review of a claim by the association; and

22 (3) any other matters regarding the handling of claims  
23 that are not inconsistent with this subchapter.

24 (b) All rules adopted by the commissioner under this section  
25 must promote the fairness of the process, protect the rights of  
26 aggrieved policyholders, and ensure that policyholders may  
27 participate in the claims review process without the necessity of

1 engaging legal counsel.

2 Sec. 2211.180. COMMISSIONER EXTENSION OF DEADLINES. (a)

3 The commissioner, on a showing of good cause, may extend any  
4 deadline established under this subchapter.

5 (b) For the purposes of Subsection (a), "good cause"  
6 includes military deployment.

7 Sec. 2211.181. OMBUDSMAN PROGRAM. (a) The department  
8 shall establish an ombudsman program to provide information and  
9 educational programs to assist persons insured under this chapter  
10 with the claim processes under this subchapter.

11 (b) Not later than March 1 of each year, the department  
12 shall prepare and submit to the commissioner a budget for the  
13 ombudsman program, including approval of all expenditures incurred  
14 in administering and operating the program. The commissioner shall  
15 adopt or modify and adopt the budget not later than April 1 of the  
16 year in which the budget is submitted.

17 (c) Not later than May 1 of each year, the association shall  
18 transfer to the ombudsman program money in an amount equal to the  
19 amount of the budget adopted under Subsection (b). The ombudsman  
20 program, not later than April 30 of each year, shall return to the  
21 association any unexpended funds that the program received from the  
22 association in the previous year.

23 (d) The department shall, not later than the 60th day after  
24 the date of a catastrophic event, as defined by the commissioner for  
25 the purposes of this subsection, prepare and submit an amended  
26 budget to the commissioner for approval and report to the  
27 commissioner the approximate number of claimants eligible for

1 ombudsman services. The commissioner shall adopt rules as  
2 necessary to implement an amended budget submitted under this  
3 section, including rules regarding the transfer of additional money  
4 from the association to the program.

5 (e) The ombudsman program may provide to persons insured  
6 under this chapter information and educational programs through:

7 (1) informational materials;

8 (2) toll-free telephone numbers;

9 (3) public meetings;

10 (4) outreach centers;

11 (5) the Internet; and

12 (6) other reasonable means.

13 (f) The ombudsman program is administratively attached to  
14 the department. The department shall provide the staff, services,  
15 and facilities necessary for the ombudsman program to operate,  
16 including:

17 (1) administrative assistance and service, including  
18 budget planning and purchasing;

19 (2) personnel services;

20 (3) office space; and

21 (4) computer equipment and support.

22 (g) The ombudsman program shall prepare and make available  
23 to each person insured under this chapter information describing  
24 the functions of the ombudsman program.

25 (h) The association, in the manner prescribed by the  
26 commissioner by rule, shall notify each person insured under this  
27 chapter concerning the operation of the ombudsman program.

1        (i) The commissioner may adopt rules as necessary to  
2 implement this section.

3        SECTION 5. (a) Except as otherwise specifically provided  
4 by this section, this Act applies only to an insurance policy that  
5 is delivered, issued for delivery, or renewed by the Fair Access to  
6 Insurance Requirements Plan Association on or after the 60th day  
7 after the effective date of this Act. An insurance policy that is  
8 delivered, issued for delivery, or renewed by the Fair Access to  
9 Insurance Requirements Plan Association before the 60th day after  
10 the effective date of this Act is governed by the law as it existed  
11 immediately before the effective date of this Act, and that law is  
12 continued in effect for that purpose.

13        (b) The deadline to file a claim under an insurance policy  
14 delivered, issued for delivery, or renewed before the 60th day  
15 after the effective date of this Act by the Fair Access to Insurance  
16 Requirements Plan Association is governed by the law as it existed  
17 immediately before the effective date of this Act, and that law is  
18 continued in effect for that purpose.

19        (c) If a person insured by the Fair Access to Insurance  
20 Requirements Plan Association disputes the amount the association  
21 will pay for a partially or fully accepted claim filed by the  
22 person, Section 2211.174, Insurance Code, as added by this Act,  
23 applies only if the insurance policy under which the claim is filed  
24 is delivered, issued for delivery, or renewed on or after the 60th  
25 day after the effective date of this Act.

26        (d) If a person insured by the Fair Access to Insurance  
27 Requirements Plan Association disputes the amount the association

1 will pay for a partially or fully accepted claim filed by the person  
2 and the insurance policy under which the claim is filed is  
3 delivered, issued for delivery, or renewed before the 60th day  
4 after the effective date of this Act:

5 (1) Section 2211.174, Insurance Code, as added by this  
6 Act, does not apply to the resolution of the dispute; and

7 (2) notwithstanding any other provision of this Act,  
8 the claimant must attempt to resolve the dispute through any  
9 appraisal process contained in the association policy under which  
10 the claim is filed before an action may be brought against the Fair  
11 Access to Insurance Requirements Plan Association concerning the  
12 claim.

13 (e) The person insured by the Fair Access to Insurance  
14 Requirements Plan Association and the association may agree that an  
15 appraisal conducted under Subsection (d)(2) of this section is  
16 binding on the parties.

17 (f) An action brought against the association concerning a  
18 claim described by Subsection (d) of this section shall be abated  
19 until the appraisal process under Subsection (d)(2) of this section  
20 is completed.

21 (g) Notwithstanding Sections 2211.175 and 2211.176,  
22 Insurance Code, as added by this Act, Subsection (b) of this  
23 section, or any other provision of this Act, Sections 2211.176(b),  
24 (c), (d), and (e), Insurance Code, apply to any cause of action that  
25 accrues against the Fair Access to Insurance Requirements Plan  
26 Association on or after the effective date of this Act and the basis  
27 of which is a claim filed under an insurance policy that is

1 delivered, issued for delivery, or renewed by the association,  
2 regardless of the date on which the policy was delivered, issued for  
3 delivery, or renewed.

4         SECTION 6. This Act takes effect immediately if it receives  
5 a vote of two-thirds of all the members elected to each house, as  
6 provided by Section 39, Article III, Texas Constitution. If this  
7 Act does not receive the vote necessary for immediate effect, this  
8 Act takes effect September 1, 2017.