

BILL ANALYSIS

Senate Research Center
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H.B. 998
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, the Texas Windstorm Insurance Association (TWIA) provides property and casualty insurance to property owners' associations within the TWIA coverage zone, which covers common areas and facilities of a property owners' association as an insurer of last resort. However, property owners' associations that exist just outside of the TWIA coverage zone are not eligible for TWIA coverage and are forced to enter the private market to obtain property and casualty insurance. Due to their location near the Gulf Coast, often these property owners' associations are declined coverage or are offered coverage at a significantly increased and untenable cost. The Fair Access to Insurance Requirements (FAIR) Plan delivers residential property insurance to Texans who reside in underserved areas of the state if residential property insurance is not reasonably available in the voluntary market. Currently, the FAIR Plan does not include property owners' association insurance in its array of coverage plans.

H.B. 998 seeks to remedy this issue by permitting the commissioner of insurance to include delivery of property owners' association insurance under the FAIR Plan to underserved areas of the state. Further, H.B. 998 would require the FAIR Plan to make property owners' association insurance available to an applicant if the property owners' association is located within 10 miles beyond the TWIA catastrophe area and, after diligent efforts, is unable to obtain insurance through the voluntary market after two declinations from insurers authorized to write property owners' association insurance in Texas. H.B. 998 would require the commissioner of insurance to determine applicable area boundaries to ensure that the area affected by the bill is not more than 10 miles beyond the TWIA catastrophe area. Additionally, H.B. 998 specifies that the coverage for property owners' association covers the association's common elements.

H.B. 998 amends current law relating to the provision of property owners' association insurance by the FAIR Plan Association in certain areas.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to commissioner of insurance in SECTION 4 (Section 2211.1515, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2211.001, Insurance Code, by adding Subdivision (6-a) to define "property owners' association insurance."

SECTION 2. Amends Section 2211.051, Insurance Code, as follows:

Sec. 2211.051. ESTABLISHMENT OF FAIR PLAN. (a) Creates this subsection from existing text.

(b) Authorizes the commissioner of insurance (commissioner) to include in the plan established under Subsection (a) (relating to authorizing the commissioner to establish a Fair Access to Insurance Requirements (FAIR) Plan that meets certain criteria) the delivery of property owners' association insurance in underserved areas as provided by Section 2211.1515 if the commissioner determines, after notice and a hearing, that in all or any part of the area designated under Section

2211.1515(a), property owners' association insurance is not reasonably available in the voluntary market to a substantial number of insurable risks.

SECTION 3. Amends Section 2211.054, Insurance Code, as follows:

Sec. 2211.054. CONTENTS OF PLAN OF OPERATION. Requires that the plan of operation meet certain criteria, including provide for a nonprofit association to issue residential property insurance and, if applicable, property owners' association insurance under Chapter 2211 (FAIR Plan) and distribute the losses and expenses in writing that insurance in this state.

SECTION 4. Amends Subchapter D, Chapter 2211, Insurance Code, by adding Section 2211.1515, as follows:

Sec. 2211.1515. MANDATORY PROPERTY OWNERS' ASSOCIATION POLICIES IN CERTAIN AREAS. (a) Provides that this section applies only to the area designated by the commissioner by rule. Requires the commissioner, in determining the boundaries of the area, to:

(1) to the extent practicable, ensure the area is not more than 10 miles beyond the Texas Windstorm Insurance Association (TWIA) catastrophe area designated under Section 2210.005 (Designation as Catastrophe Area; Revocation of Designation); and

(2) follow geographical features.

(b) Requires TWIA, if the commissioner makes the determination described by Section 2211.051(b), to make property owners' association insurance available to each applicant in an underserved area of the area designated under Subsection (a) whose property is insurable in accordance with reasonable underwriting standards but who, after diligent efforts, is unable to obtain property owners' association insurance through the voluntary market, as evidenced by two declinations from insurers authorized to engage in the business of, and writing, property owners' association insurance in this state.

(c) Provides that the policy, if the area designated under Subsection (a) changes after TWIA issues a policy under Subsection (b), is valid until renewal regardless of whether the insured property is located in the area designated under Subsection (a) after the change.

SECTION 5. Amends Section 2211.153, Insurance Code, as follows:

Sec. 2211.153. INSPECTION BUREAU. Requires the inspection bureau to take certain actions, including to make inspections to determine the condition of a property for which residential property insurance or property owners' association insurance is sought.

SECTION 6. Amends Section 2211.154(a), Insurance Code, as follows:

(a) Provides that a person who has an insurable interest in real or tangible personal property at a fixed location in an underserved area and who, after diligent effort, is unable to obtain residential property insurance, or a homeowners' or condominium owners' association located in an underserved area as provided by Section 2211.1515 that, after diligent effort, is unable to obtain property owners' association insurance, as evidenced by two current declinations from insurers authorized to engage in the business of residential property insurance or property owners' association insurance, as applicable, in this state and actually writing residential property insurance or property owners' association insurance in this state, is entitled on application to TWIA to an inspection and evaluation of the property by representatives of the inspection bureau.

SECTION 7. Amends Section 2211.155, Insurance Code, as follows:

Sec. 2211.155. INSPECTION RESULTS; REINSPECTION. (a) Requires the applicant, if, after an inspection, the inspection bureau determines that property, rather than residential property, meets the underwriting standards established in the plan of operation after an inspection, to be informed in writing of that determination and requires TWIA to issue a policy or binder. Makes conforming changes.

(b)-(c) Makes conforming changes to these subsections.

SECTION 8. Amends Section 2211.201, Insurance Code, as follows:

Sec. 2211.201. PURPOSE. Provides that the legislature finds that issuing public securities to provide a method to raise funds to provide residential property insurance and property owners' association insurance in this state through the association is to benefit the public and to further a public purpose.

SECTION 9. Provides that the FAIR Plan, notwithstanding the changes in law made by this Act to Chapter 2211, Insurance Code, is not required to provide property owners' association insurance under that chapter until September 1, 2024.

SECTION 10. Effective date: September 1, 2023.