

BILL ANALYSIS

C.S.H.B. 998
By: Paul
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerned constituents have asserted that their condominium complexes located just outside the Texas Windstorm Insurance Association (TWIA) catastrophe zone have been unable to obtain property and liability insurance in the voluntary market and are ineligible for the Texas FAIR Plan because their property is not considered residential property. C.S.H.B. 998 seeks to address this issue by providing for the issuance of an insurance policy under the FAIR Plan for certain homeowners' and condominium owners' associations located in an underserved area near, but outside of, a TWIA catastrophe zone.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTION 4 of this bill.

ANALYSIS

C.S.H.B. 998 amends the Insurance Code to authorize the commissioner of insurance to include in the FAIR Plan the delivery of property owners' association insurance covering the property and liability of a homeowners' association's common areas and facilities or a condominium owners' association's common elements in an underserved area designated by the commissioner by rule if the commissioner determines, after notice and a hearing, that the insurance is not reasonably available in all or any part of the designated area in the voluntary market to a substantial number of insurable risks. The bill requires the FAIR Plan Association, if the commissioner makes such a determination, to make property owners' association insurance available to each applicant in the designated area whose property is insurable in accordance with reasonable underwriting standards but who, after diligent efforts, is unable to obtain that 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 Texas.

C.S.H.B. 998 requires the commissioner, in determining the boundaries of the designated area to ensure to the extent practicable that the area is not more than 10 miles beyond the Texas Windstorm Insurance Association (TWIA) catastrophe area and to follow geographical features. If the designated area changes after the FAIR Plan Association issues a property owners' association insurance policy in the designated area, the policy is valid until renewal regardless of whether the insured property remains in the designated area.

C.S.H.B. 998 entitles a homeowners' or condominium owners' association located in an underserved area provided by the bill that is unable to obtain property owners' association insurance, after diligent effort with the requisite evidence and on application to the FAIR Plan Association, to an inspection and evaluation of the property by representatives of the inspection bureau designated by the FAIR Plan Association.

C.S.H.B. 998 establishes that the FAIR Plan is not required to provide property owners' association insurance until September 1, 2024.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 998 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

While both the introduced and the substitute provide for property owners' association policies under the FAIR Plan in certain areas, the introduced made this insurance applicable to an area located not more than 10 miles beyond the TWIA catastrophe area. The substitute instead requires the commissioner of insurance to determine the area boundaries by rule and requires the commissioner, in doing so, to ensure to the extent practicable the area is not more than 10 miles beyond the TWIA catastrophe area and to follow geographical features.

The substitute replaces a provision included in the introduced that provided for the continued validity until renewal of a policy issued in an area that is no longer considered a catastrophe area with a provision providing for the continued validity until renewal of a policy issued in an area that is no longer designated by the commissioner under the bill.

The substitute revises the definition of property owners' association insurance included in the introduced to specify that the coverage under such a policy for a condominium owners' association covers the association's common elements.

The substitute includes a provision absent from the introduced establishing that the FAIR Plan is not required to provide the insurance until September 1, 2024.