

By: Paul

H.B. No. 998

A BILL TO BE ENTITLED

AN ACT

relating to the provision of property owners' association insurance by the FAIR Plan Association in certain areas.

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

SECTION 1. Section 2211.001, Insurance Code, is amended by adding Subdivision (6-a) to read as follows:

(6-a) "Property owners' association insurance" means property and liability insurance covering:

(A) common areas and facilities of a homeowners' association; or

(B) common elements of a condominium owners' association.

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

Sec. 2211.051. ESTABLISHMENT OF FAIR PLAN. (a) The commissioner may establish a Fair Access to Insurance Requirements Plan to deliver residential property insurance to residents of this state in underserved areas if the commissioner determines, after a public hearing, that:

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

(2) at least 25 percent of the applicants to the residential property market assistance program who are qualified

1 under that program's plan of operation have not been placed with an  
2 insurer in the preceding six months.

3 (b) The commissioner may include in the plan established  
4 under Subsection (a) the delivery of property owners' association  
5 insurance in underserved areas as provided by Section 2211.1515 if  
6 the commissioner determines, after notice and a hearing, that in  
7 all or any part of the area designated under Section 2211.1515(a),  
8 property owners' association insurance is not reasonably available  
9 in the voluntary market to a substantial number of insurable risks.

10 SECTION 3. Section 2211.054, Insurance Code, is amended to  
11 read as follows:

12 Sec. 2211.054. CONTENTS OF PLAN OF OPERATION. The plan of  
13 operation must:

14 (1) provide for a nonprofit association to issue  
15 residential property insurance and, if applicable, property  
16 owners' association insurance under this chapter and distribute the  
17 losses and expenses in writing that insurance in this state;

18 (2) provide that all insurers that write residential  
19 property insurance shall participate in the association in  
20 accordance with Sections 2211.101(b) and (c);

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

23 (4) provide for the immediate binding of eligible  
24 risks;

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

27 (6) provide for the establishment of reasonable

1 service standards;

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

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

6 (9) provide for the use of deductibles and other  
7 underwriting devices;

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

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

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

14 (13) provide that the association issue policies in  
15 the association's own name;

16 (14) provide reasonable underwriting standards for  
17 determining insurability of a risk;

18 (15) provide procedures for the association to assume  
19 and cede reinsurance; and

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

22 SECTION 4. Subchapter D, Chapter 2211, Insurance Code, is  
23 amended by adding Section 2211.1515 to read as follows:

24 Sec. 2211.1515. MANDATORY PROPERTY OWNERS' ASSOCIATION  
25 POLICIES IN CERTAIN AREAS. (a) This section applies only to the  
26 area designated by the commissioner by rule. In determining the  
27 boundaries of the area, the commissioner shall:

1           (1) to the extent practicable, ensure the area is not  
2 more than 10 miles beyond the Texas Windstorm Insurance Association  
3 catastrophe area designated under Section 2210.005; and

4           (2) follow geographical features.

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

15           (c) If the area designated under Subsection (a) changes  
16 after the association issues a policy under Subsection (b), the  
17 policy is valid until renewal regardless of whether the insured  
18 property is located in the area designated under Subsection (a)  
19 after the change.

20           SECTION 5. Section 2211.153, Insurance Code, is amended to  
21 read as follows:

22           Sec. 2211.153. INSPECTION BUREAU. The association, with  
23 the approval of the commissioner, shall designate one or more  
24 organizations as the inspection bureau. The inspection bureau  
25 shall:

26           (1) make inspections to determine the condition of a  
27 property for which residential property insurance or property

1 owners' association insurance is sought; and

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

4 SECTION 6. Section 2211.154(a), Insurance Code, is amended  
5 to read as follows:

6 (a) A person who has an insurable interest in real or  
7 tangible personal property at a fixed location in an underserved  
8 area and who, after diligent effort, is unable to obtain  
9 residential property insurance, or a homeowners' or condominium  
10 owners' association located in an underserved area as provided by  
11 Section 2211.1515 that, after diligent effort, is unable to obtain  
12 property owners' association insurance, as evidenced by two current  
13 declinations from insurers authorized to engage in the business of  
14 residential property insurance or property owners' association  
15 insurance, as applicable, in this state and actually writing  
16 residential property insurance or property owners' association  
17 insurance in this state, is entitled on application to the  
18 association to an inspection and evaluation of the property by  
19 representatives of the inspection bureau.

20 SECTION 7. Section 2211.155, Insurance Code, is amended to  
21 read as follows:

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

1 meet the underwriting standards, the applicant must be informed in  
2 writing of the reason for the failure of the [~~residential~~] property  
3 to meet the standards.

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

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

16 SECTION 8. Section [2211.201](#), Insurance Code, is amended to  
17 read as follows:

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

23 SECTION 9. Notwithstanding the changes in law made by this  
24 Act to Chapter [2211](#), Insurance Code, the Fair Access to Insurance  
25 Requirements Plan is not required to provide property owners'  
26 association insurance under that chapter until September 1, 2024.

27 SECTION 10. This Act takes effect September 1, 2023.