

1-1 By: Paul (Senate Sponsor - Middleton) H.B. No. 998
 1-2 (In the Senate - Received from the House April 17, 2023;
 1-3 April 18, 2023, read first time and referred to Committee on
 1-4 Business & Commerce; May 1, 2023, reported favorably by the
 1-5 following vote: Yeas 11, Nays 0; May 1, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the provision of property owners' association insurance
 1-22 by the FAIR Plan Association in certain areas.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 2211.001, Insurance Code, is amended by
 1-25 adding Subdivision (6-a) to read as follows:

1-26 (6-a) "Property owners' association insurance" means
 1-27 property and liability insurance covering:

1-28 (A) common areas and facilities of a homeowners'
 1-29 association; or

1-30 (B) common elements of a condominium owners'
 1-31 association.

1-32 SECTION 2. Section 2211.051, Insurance Code, is amended to
 1-33 read as follows:

1-34 Sec. 2211.051. ESTABLISHMENT OF FAIR PLAN. (a) The
 1-35 commissioner may establish a Fair Access to Insurance Requirements
 1-36 Plan to deliver residential property insurance to residents of this
 1-37 state in underserved areas if the commissioner determines, after a
 1-38 public hearing, that:

1-39 (1) in all or any part of the state, residential
 1-40 property insurance is not reasonably available in the voluntary
 1-41 market to a substantial number of insurable risks; or

1-42 (2) at least 25 percent of the applicants to the
 1-43 residential property market assistance program who are qualified
 1-44 under that program's plan of operation have not been placed with an
 1-45 insurer in the preceding six months.

1-46 (b) The commissioner may include in the plan established
 1-47 under Subsection (a) the delivery of property owners' association
 1-48 insurance in underserved areas as provided by Section 2211.1515 if
 1-49 the commissioner determines, after notice and a hearing, that in
 1-50 all or any part of the area designated under Section 2211.1515(a),
 1-51 property owners' association insurance is not reasonably available
 1-52 in the voluntary market to a substantial number of insurable risks.

1-53 SECTION 3. Section 2211.054, Insurance Code, is amended to
 1-54 read as follows:

1-55 Sec. 2211.054. CONTENTS OF PLAN OF OPERATION. The plan of
 1-56 operation must:

1-57 (1) provide for a nonprofit association to issue
 1-58 residential property insurance and, if applicable, property
 1-59 owners' association insurance under this chapter and distribute the
 1-60 losses and expenses in writing that insurance in this state;

1-61 (2) provide that all insurers that write residential

2-1 property insurance shall participate in the association in
 2-2 accordance with Sections 2211.101(b) and (c);
 2-3 (3) provide that a participating insurer is entitled
 2-4 to receive credit in accordance with Section 2211.101(d);
 2-5 (4) provide for the immediate binding of eligible
 2-6 risks;
 2-7 (5) provide for the use of premium installment payment
 2-8 plans, adequate marketing, and service facilities;
 2-9 (6) provide for the establishment of reasonable
 2-10 service standards;
 2-11 (7) provide procedures for efficient, economical,
 2-12 fair, and nondiscriminatory administration of the association;
 2-13 (8) provide procedures for determining the net level
 2-14 of participation required for each insurer in the association;
 2-15 (9) provide for the use of deductibles and other
 2-16 underwriting devices;
 2-17 (10) provide for assessment of all members in amounts
 2-18 sufficient to operate the association;
 2-19 (11) establish maximum limits of liability to be
 2-20 placed through the program;
 2-21 (12) establish commissions to be paid to the insurance
 2-22 agents submitting applications;
 2-23 (13) provide that the association issue policies in
 2-24 the association's own name;
 2-25 (14) provide reasonable underwriting standards for
 2-26 determining insurability of a risk;
 2-27 (15) provide procedures for the association to assume
 2-28 and cede reinsurance; and
 2-29 (16) provide any other procedure or operational matter
 2-30 the governing committee or the commissioner considers necessary.
 2-31 SECTION 4. Subchapter D, Chapter 2211, Insurance Code, is
 2-32 amended by adding Section 2211.1515 to read as follows:
 2-33 Sec. 2211.1515. MANDATORY PROPERTY OWNERS' ASSOCIATION
 2-34 POLICIES IN CERTAIN AREAS. (a) This section applies only to the
 2-35 area designated by the commissioner by rule. In determining the
 2-36 boundaries of the area, the commissioner shall:
 2-37 (1) to the extent practicable, ensure the area is not
 2-38 more than 10 miles beyond the Texas Windstorm Insurance Association
 2-39 catastrophe area designated under Section 2210.005; and
 2-40 (2) follow geographical features.
 2-41 (b) If the commissioner makes the determination described
 2-42 by Section 2211.051(b), the association shall make property owners'
 2-43 association insurance available to each applicant in an underserved
 2-44 area of the area designated under Subsection (a) whose property is
 2-45 insurable in accordance with reasonable underwriting standards but
 2-46 who, after diligent efforts, is unable to obtain property owners'
 2-47 association insurance through the voluntary market, as evidenced by
 2-48 two declinations from insurers authorized to engage in the business
 2-49 of, and writing, property owners' association insurance in this
 2-50 state.
 2-51 (c) If the area designated under Subsection (a) changes
 2-52 after the association issues a policy under Subsection (b), the
 2-53 policy is valid until renewal regardless of whether the insured
 2-54 property is located in the area designated under Subsection (a)
 2-55 after the change.
 2-56 SECTION 5. Section 2211.153, Insurance Code, is amended to
 2-57 read as follows:
 2-58 Sec. 2211.153. INSPECTION BUREAU. The association, with
 2-59 the approval of the commissioner, shall designate one or more
 2-60 organizations as the inspection bureau. The inspection bureau
 2-61 shall:
 2-62 (1) make inspections to determine the condition of a
 2-63 property for which residential property insurance or property
 2-64 owners' association insurance is sought; and
 2-65 (2) perform other duties authorized by the association
 2-66 or the commissioner.
 2-67 SECTION 6. Section 2211.154(a), Insurance Code, is amended
 2-68 to read as follows:
 2-69 (a) A person who has an insurable interest in real or

3-1 tangible personal property at a fixed location in an underserved
3-2 area and who, after diligent effort, is unable to obtain
3-3 residential property insurance, or a homeowners' or condominium
3-4 owners' association located in an underserved area as provided by
3-5 Section 2211.1515 that, after diligent effort, is unable to obtain
3-6 property owners' association insurance, as evidenced by two current
3-7 declinations from insurers authorized to engage in the business of
3-8 residential property insurance or property owners' association
3-9 insurance, as applicable, in this state and actually writing
3-10 residential property insurance or property owners' association
3-11 insurance in this state, is entitled on application to the
3-12 association to an inspection and evaluation of the property by
3-13 representatives of the inspection bureau.

3-14 SECTION 7. Section 2211.155, Insurance Code, is amended to
3-15 read as follows:

3-16 Sec. 2211.155. INSPECTION RESULTS; REINSPECTION. (a) If,
3-17 after an inspection, the inspection bureau determines that
3-18 [~~residential~~] property meets the underwriting standards
3-19 established in the plan of operation, the applicant must be
3-20 informed in writing of that determination and the association shall
3-21 issue a policy or binder. If the [~~residential~~] property does not
3-22 meet the underwriting standards, the applicant must be informed in
3-23 writing of the reason for the failure of the [~~residential~~] property
3-24 to meet the standards.

3-25 (b) If, at any time, an applicant whose [~~residential~~]
3-26 property did not meet the underwriting standards makes improvements
3-27 to the property or the property's condition that the applicant
3-28 believes are sufficient to make the property meet the standards, an
3-29 inspection bureau representative shall reinspect the property on
3-30 request. In any case, the applicant is eligible for one
3-31 reinspection on or before the 60th day after the date of the initial
3-32 inspection.

3-33 (c) If, on reinspection, the [~~residential~~] property meets
3-34 the underwriting standards, the applicant must be informed in
3-35 writing of that fact and the association shall issue a policy or
3-36 binder.

3-37 SECTION 8. Section 2211.201, Insurance Code, is amended to
3-38 read as follows:

3-39 Sec. 2211.201. PURPOSE. The legislature finds that
3-40 issuing public securities to provide a method to raise funds to
3-41 provide residential property insurance and property owners'
3-42 association insurance in this state through the association is to
3-43 benefit the public and to further a public purpose.

3-44 SECTION 9. Notwithstanding the changes in law made by this
3-45 Act to Chapter 2211, Insurance Code, the Fair Access to Insurance
3-46 Requirements Plan is not required to provide property owners'
3-47 association insurance under that chapter until September 1, 2024.

3-48 SECTION 10. This Act takes effect September 1, 2023.

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