

By: Middleton

S.B. No. 741

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 common areas and facilities of a homeowners' or 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 under that program's plan of operation have not been placed with an insurer in the preceding six months.

(b) The commissioner may include in the plan established

1 under Subsection (a) the delivery of property owners' association  
2 insurance in underserved areas as provided by Section 2211.1515 if  
3 the commissioner determines, after notice and a hearing, that in  
4 all or any part of the area described by Section 2211.1515(a),  
5 property owners' association insurance is not reasonably available  
6 in the voluntary market to a substantial number of insurable risks.

7 SECTION 3. Section 2211.054, Insurance Code, is amended to  
8 read as follows:

9 Sec. 2211.054. CONTENTS OF PLAN OF OPERATION. The plan of  
10 operation must:

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

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

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

20 (4) provide for the immediate binding of eligible  
21 risks;

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

24 (6) provide for the establishment of reasonable  
25 service standards;

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

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

3 (9) provide for the use of deductibles and other  
4 underwriting devices;

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

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

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

11 (13) provide that the association issue policies in  
12 the association's own name;

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

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

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

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

21 Sec. 2211.1515. MANDATORY PROPERTY OWNERS' ASSOCIATION  
22 POLICIES IN CERTAIN AREAS. (a) This section applies only to the  
23 area located not more than 10 miles beyond the Texas Windstorm  
24 Insurance Association catastrophe area designated under Section  
25 2210.005.

26 (b) If the commissioner makes the determination described  
27 by Section 2211.051(b), the association shall make property owners'

1 association insurance available to each applicant in an underserved  
2 area of the area described by Subsection (a) whose property is  
3 insurable in accordance with reasonable underwriting standards but  
4 who, after diligent efforts, is unable to obtain property owners'  
5 association insurance through the voluntary market, as evidenced by  
6 two declinations from insurers authorized to engage in the business  
7 of, and writing, property owners' association insurance in this  
8 state.

9 (c) If the catastrophe area changes after the association  
10 issues a policy under Subsection (b), the policy is valid until  
11 renewal regardless of whether the insured property is located in  
12 the area described by Subsection (a) after the catastrophe area  
13 change.

14 SECTION 5. Section 2211.153, Insurance Code, is amended to  
15 read as follows:

16 Sec. 2211.153. INSPECTION BUREAU. The association, with  
17 the approval of the commissioner, shall designate one or more  
18 organizations as the inspection bureau. The inspection bureau  
19 shall:

20 (1) make inspections to determine the condition of a  
21 property for which residential property insurance or property  
22 owners' association insurance is sought; and

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

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

27 (a) A person who has an insurable interest in real or

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

14 SECTION 7. Section [2211.155](#), Insurance Code, is amended to  
15 read as follows:

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

25 (b) If, at any time, an applicant whose [~~residential~~]  
26 property did not meet the underwriting standards makes improvements  
27 to the property or the property's condition that the applicant

1 believes are sufficient to make the property meet the standards, an  
2 inspection bureau representative shall reinspect the property on  
3 request. In any case, the applicant is eligible for one  
4 reinspection on or before the 60th day after the date of the initial  
5 inspection.

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

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

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

17 SECTION 9. This Act takes effect September 1, 2023.