

Request for Information on FAIR Plan Property Owners' Association Insurance Rule

Posting Date: January 8, 2024

Comments Due: **February 7, 2024**

[House Bill 998](#), 88th Legislature, 2023, authorizes the Fair Access to Insurance Requirements Plan (FAIR Plan) to provide property owners' association insurance for condominium owners' and homeowners' associations. The Texas Department of Insurance (TDI) is contemplating corresponding changes to the plan of operation for the FAIR Plan.

Request for comments

TDI is requesting suggestions on parameters for the FAIR Plan to provide property owners' association insurance for condominium owners' and homeowners' associations in underserved areas of an area designated by rule. Specifically, TDI is seeking input on

1. the designated area,
2. any underserved areas within the designated area, and
3. the maximum limits of liability for property owners' association insurance.

Please provide your comments to PropertyCasualty@tdi.texas.gov by **5 p.m. Central time, February 7, 2024**. If you have questions, contact the Property and Casualty Division at 512-676-6710 or PropertyCasualty@tdi.texas.gov.

FAIR Plan property owners' association insurance

Designated area: The commissioner must set the designated area by rule. According to Insurance Code [§ 2211.1515\(a\)](#), in determining the designated area, the commissioner must "to the extent practicable, ensure the designated area is not more than 10 miles beyond the Texas Windstorm Insurance Association catastrophe area designated under [§ 2210.005](#); and follow geographical features."

Underserved areas: After determining the designated area, HB 998 allows the commissioner to set underserved areas of that designated area, if the commissioner determines that "property owners' association insurance is not reasonably available in the voluntary market to a substantial number of insurable risks" in all or any part of the designated area. Insurance Code [§ 2211.051\(b\)](#).

Contemplated changes

TDI will amend 28 TAC, Chapter 5, Subchapter T, to:

1. designate an area where the FAIR Plan may make property owners' association insurance available if some or all of that area is underserved;
2. outline a process by which interested parties can petition to have an area determined as underserved; and
3. set the maximum limits of liability.

Request for input

1. Should the designated area include the TWIA catastrophe area?
2. The biggest possible designated area is a strip running the entire length of the Texas coast which "to the extent practicable, is not more than 10 miles beyond the Texas Windstorm Insurance Association catastrophe area designated under § 2210.005." Should the designated area be the biggest possible area, or should it be limited? If it should be limited, in what ways should it be limited?
3. What geographical features, if any, should be used as part of the boundary of the designated area?
4. Which areas within the potential designated area are underserved?
 - A. What criteria should be used to determine whether property owners' association insurance is not "reasonably available" as required by § 2211.051(b)?
 - B. What criteria should be used to determine "a substantial number of insurable risks" as required by § 2211.051(b)?
5. What should the maximum limits of liability be for property owners' association coverage?

Additional comments

Please provide any additional comments, feedback, or points of clarification that the rule should address.