

INSURANCE CODE

TITLE 10. PROPERTY AND CASUALTY INSURANCE

SUBTITLE G. POOLS, GROUPS, PLANS, AND SELF-INSURANCE

CHAPTER 2211. FAIR PLAN

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2211.001. DEFINITIONS. In this chapter:

(1) "Association" means the FAIR Plan Association established under this chapter.

(2) "FAIR Plan" means a Fair Access to Insurance Requirements Plan established under Section [2211.051](#).

(3) "Governing committee" means the governing committee of the association.

(4) "Inspection bureau" means the organization or organizations designated by the association under Section [2211.153](#).

(5) "Insurer" means an authorized insurer writing property insurance in this state, including:

(A) a Lloyd's plan; and

(B) a reciprocal or interinsurance exchange.

(6) "Net direct premiums" means gross direct written premiums less return premiums on canceled contracts, regardless of reinsurance assumed or ceded, written on residential property under this chapter.

(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.

(7) "Residential property insurance" means the coverage provided by a homeowners insurance policy, residential fire and allied lines insurance policy, or farm and ranch owners insurance policy against loss incurred to real or tangible personal property at a fixed location.

(8) "Underserved area" or "underserved areas" means an

area or areas designated as underserved by the commissioner by rule.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 44 (H.B. 998), Sec. 1, eff. September 1, 2023.

Sec. 2211.002. IMMUNITY. Liability does not exist on the part of, and a cause of action does not arise against, an insurer, the inspection bureau, the association, the governing committee, the commissioner, an authorized representative of the commissioner, or an agent or employee of an insurer, the inspection bureau, the association, or the governing committee for:

- (1) an inspection required by this chapter;
- (2) an act or omission in connection with an inspection; or
- (3) a statement made:
  - (A) in a report and communication concerning the insurability of property;
  - (B) in the determinations required by this subchapter or Subchapter B, C, D, or F; or
  - (C) at a hearing conducted in connection with an inspection.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2211.003. APPEALS; JUDICIAL REVIEW. (a) An applicant or affected insurer is entitled to appeal to the association. The association's decision may be appealed to the commissioner not later than the 30th day after the date of the decision.

(b) An order or decision made by the commissioner under this chapter is subject to judicial review in accordance with Subchapter D, Chapter 36.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER B. ESTABLISHMENT AND ADMINISTRATION OF FAIR PLAN

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 under Subsection (a) the delivery of property owners' association insurance in underserved areas as provided by Section 2211.1515 if the commissioner determines, after notice and a hearing, that in all or any part of the area designated under Section 2211.1515(a), property owners' association insurance is not reasonably available in the voluntary market to a substantial number of insurable risks. Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.065(a), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.065(a), eff. September 1, 2007.

Acts 2023, 88th Leg., R.S., Ch. 44 (H.B. 998), Sec. 2, eff. September 1, 2023.

Sec. 2211.052. ADMINISTRATION OF FAIR PLAN; COMPOSITION OF GOVERNING COMMITTEE. (a) The governing committee shall administer the FAIR Plan under a plan of operation.

(b) The governing committee is composed of 11 members appointed by the commissioner as follows:

(1) five members who represent the interests of

insurers;

(2) four public members who reside in this state; and

(3) two members who are general property and casualty agents.

(c) The commissioner or an employee of the department designated by the commissioner serves as an ex officio member.

(d) Each member of the governing committee who represents the interests of insurers must be a full-time employee of an insurer that is a member of the association.

(e) The commissioner may remove a member of the governing committee without cause and may replace the member in accordance with Subsection (b).

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 3B.065(b), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 9.065(b), eff. September 1, 2007.

Sec. 2211.0521. MEETINGS OF GOVERNING BODY. (a) Notwithstanding Chapter [551](#), Government Code, or any other law, members of the governing committee may meet by telephone conference call, video conference, or other similar telecommunication method. The governing committee may use telephone conference call, video conference, or other similar telecommunication method for purposes of establishing a quorum or voting or for any other meeting purpose in accordance with this subsection and Subsection (b). This subsection applies without regard to the subject matter discussed or considered by the members of the governing committee at the meeting.

(b) A meeting held by telephone conference call, video conference, or other similar telecommunication method:

(1) is subject to the notice requirements applicable to other meetings of the governing committee;

(2) may not be held unless notice of the meeting specifies the location of the meeting at which at least one member

of the governing committee is physically present;

(3) must be audible to the public at the location specified in the notice under Subdivision (2); and

(4) must provide two-way audio communication between all members of the governing committee attending the meeting during the entire meeting, and if the two-way audio communication link with members attending the meeting is disrupted so that a quorum of the governing committee is no longer participating in the meeting, the meeting may not continue until the two-way audio communication link is reestablished.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 3B.065(c), eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 9.065(c), eff. September 1, 2007.

Sec. 2211.053. AMENDMENTS TO PLAN OF OPERATION. (a) The governing committee may, on the committee's own initiative or at the commissioner's request, propose amendments to the plan of operation.

(b) Amendments to the plan must be adopted by the commissioner by rule.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 44 (H.B. 998), Sec. 3, eff. September 1, 2023.

Sec. 2211.055. ASSOCIATION DUTIES WITH RESPECT TO POLICIES.

(a) The association may, for FAIR Plan purposes only:

(1) issue insurance policies and endorsements to those policies in the association's own name or a trade name adopted for that purpose; and

(2) act on behalf of all participating insurers in connection with those policies and act in any other manner

necessary to accomplish the purposes of this chapter, including:

- (A) issuing insurance policies;
- (B) collecting premiums;
- (C) issuing cancellations; and
- (D) paying commissions, losses, judgments, and

expenses.

(b) In connection with an insurance policy issued by the association:

(1) service of a notice, proof of loss, legal process, or other communication with regard to the policy must be made on the association; and

(2) an action by the insured constituting a claim under the policy may be brought only against the association, and the association is the proper party for all purposes in an action brought under or in connection with the policy.

(c) The requirements of Subsection (b) must be stated in an insurance policy issued by the association.

(d) The form and content of an insurance policy issued by the association are subject to the commissioner's approval.

(e) The association may assume and cede reinsurance as provided by the plan of operation.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2211.056. FILING AND APPROVAL OF RATES. (a) The association shall file with the commissioner for approval the proposed rates and supplemental rate information to be used in connection with the issuance of insurance policies or endorsements.

(b) The association shall set rates in an amount sufficient to:

- (1) carry all claims to maturity; and
- (2) meet the expenses incurred in the writing and servicing of the business.

(c) Not later than the 60th day after the date the association files the proposed rates, the commissioner shall enter an order approving or disapproving, wholly or partly, the proposed rates. The commissioner may, on notice to the association, extend

the period for entering an order under this section an additional 30 days.

(d) An order disapproving a rate must state:

- (1) the grounds for the disapproval; and
- (2) the findings in support of the disapproval.

(e) The association may not issue an insurance policy or endorsement until the commissioner approves the rates to be applied to the policy or endorsement.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2211.057. POWERS OF COMMISSIONER. The commissioner is charged with the authority to supervise the association and the inspection bureau. The commissioner also has the power to:

(1) examine the operation of the association and the inspection bureau through free access to all the books, records, files, papers, and documents relating to the operation of the association and the inspection bureau;

(2) summon, qualify, and examine as a witness any person who has knowledge of the operation of the association or the inspection bureau, including a member of the governing committee or an officer or employee of the association or the inspection bureau;

(3) take any action necessary to enable this state and the association to fully participate in any federal reinsurance program that is enacted for purposes similar to the purposes of this chapter;

(4) require reports from the association concerning risks the association insures under this chapter as the commissioner considers necessary; and

(5) adopt policy forms and endorsements, promulgate rates, and adopt rating and rule manuals for use by the association.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2211.058. ANNUAL OPERATING REPORT. (a) Not later than March 31 of each year, the association shall compile and submit to the commissioner an operating report covering the preceding

calendar year.

(b) The report is a public record.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2211.059. ASSETS OF ASSOCIATION. On dissolution of the association, all assets of the association shall be deposited in the general revenue fund.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 3B.067(a), eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 9.067(a), eff. September 1, 2007.

#### SUBCHAPTER C. INSURER PARTICIPATION IN FAIR PLAN

Sec. 2211.101. COVERAGE PROVIDED TO INSURED IN UNDERSERVED AREA. (a) In accordance with the plan of operation, the association shall develop and administer a program for participation by each insurer that writes residential property insurance in this state.

(b) Except as provided by this subsection, each insurer, as a condition of the insurer's authority to engage in the business of residential property insurance in this state, shall participate in the association in accordance with this chapter, including participating in the association's assessments in the proportion that the insurer's net direct premiums written in this state during the preceding calendar year bear to the aggregate net direct premiums written in this state by all participating insurers. The Texas Windstorm Insurance Association established by Chapter [2210](#) may not participate in the association for any purpose.

(c) An insurer's participation under Subsection (b) in the association's assessments must be determined in accordance with the residential property statistical plan adopted by the commissioner.

(d) A participating insurer is entitled to receive credit for similar insurance voluntarily written in an underserved area. The participation of an insurer entitled to receive credit under this subsection must be reduced in accordance with the plan of

operation.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 3B.065(d), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 9.065(d), eff. September 1, 2007.

Sec. 2211.102. LIABILITY OF INSURERS TO ASSOCIATION; ASSESSMENTS. The participating insurers are liable to the association as provided by this chapter and the plan of operation for the expenses and liabilities incurred by the association as provided by this chapter and the plan. The association shall make assessments against the participating insurers as required to meet those expenses and liabilities.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2211.103. RECOMPUTATION OF REIMBURSEMENT RATIOS. If a participating insurer fails to pay an assessment because of the insurer's insolvency, the association shall immediately recompute the reimbursement ratios to exclude from the ratios the amount of that assessment the commissioner determines is uncollectible, so that the uncollectible amount is assumed by and redistributed among the remaining participating insurers.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2211.104. ADDITIONAL ASSESSMENT IN EVENT OF DEFICIT; PREMIUM SURCHARGE AUTHORIZED. (a) If the association incurs a deficit, the association, at the commissioner's direction, shall:

(1) request the issuance of public securities as authorized by Subchapter E; or

(2) assess participating insurers in accordance with this section.

(b) As reimbursement for assessments paid under this

section or service fees paid under Section 2211.209, each insurer may charge a premium surcharge on every property insurance policy insuring property in this state that the insurer issues, the effective date of which is within the three-year period beginning on the 90th day after the date of the assessment or the 90th day after the date the service fee under Section 2211.209 is paid, as applicable.

(c) The insurer shall compute the amount of the surcharge under Subsection (b) as a uniform percentage of the premium on each policy described by Subsection (b). The percentage must be equal to one-third of the ratio of the amount of the participating insurer's assessment or service fee payment to the amount of the insurer's direct earned premiums, as reported to the department in the insurer's financial statement for the calendar year preceding the year in which the assessment or service fee payment is made so that, over the three-year period, the aggregate of all surcharges by the insurer under this section is at least equal to the amount of the assessment or service fee payment.

(d) The amount of any assessment paid and surcharged under this section may be carried by the insurer as an admitted asset of the insurer for all purposes, including exhibition in annual statements under Section 862.001, until collected.

(e) The commissioner shall adopt rules and procedures as necessary to implement this section.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.066(a), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.066(a), eff. September 1, 2007.

Sec. 2211.105. RETENTION AND USE OF PROFITS BY ASSOCIATION.

(a) The association shall retain any profits of the association to be used for the purposes of the association.

(b) The association:

(1) shall use the profits to mitigate losses,

including purchasing reinsurance and offsetting future assessments; and

(2) may not distribute the profits to insurers.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

#### SUBCHAPTER D. COVERAGE PROVIDED TO INSUREDS

Sec. 2211.151. MANDATORY COVERAGE PROVIDED TO CERTAIN INSUREDS. The association shall make residential property insurance available to each applicant in an underserved area whose property is insurable in accordance with reasonable underwriting standards but who, after diligent efforts, is unable to obtain residential property insurance through the voluntary market, as evidenced by two declinations from insurers authorized to engage in the business of, and writing, residential property insurance in this state.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

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

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

(2) follow geographical features.

(b) If the commissioner makes the determination described by Section 2211.051(b), the association shall make property owners' association insurance available to each applicant in an underserved area of the area designated under Subsection (a) whose property is insurable in accordance with reasonable underwriting standards but who, after diligent efforts, is unable to obtain property owners' association 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 this

state.

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

Added by Acts 2023, 88th Leg., R.S., Ch. 44 (H.B. 998), Sec. 4, eff. September 1, 2023.

Sec. 2211.152. DESIGNATION OF AREA AS UNDERSERVED. The commissioner by rule shall designate the areas determined to be underserved. In determining which areas to designate as underserved, the commissioner shall consider the factors specified in Section 2004.002.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

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

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

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

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 44 (H.B. 998), Sec. 5, eff. September 1, 2023.

Sec. 2211.154. PROPERTY INSPECTION. (a) A person who has an insurable interest in real or tangible personal property at a fixed location in an underserved area and who, after diligent effort, is unable to obtain residential property insurance, or a homeowners' or condominium owners' association located in an

underserved area as provided by Section [2211.1515](#) that, after diligent effort, is unable to obtain property owners' association insurance, as evidenced by two current declinations from insurers authorized to engage in the business of residential property insurance or property owners' association insurance, as applicable, in this state and actually writing residential property insurance or property owners' association insurance in this state, is entitled on application to the association to an inspection and evaluation of the property by representatives of the inspection bureau.

(b) A general property and casualty agent or personal lines property and casualty agent may make an application on behalf of the applicant. The applicant or agent must submit the application on a form prescribed by the association.

(c) Promptly after the application is received, the inspection bureau shall make an inspection and file an inspection report with the association. The inspection report must be made available to the applicant on request. The association shall prescribe the manner and scope of the inspection and inspection report for residential property in accordance with the plan of operation.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 548 (S.B. [1263](#)), Sec. 2.17, eff. September 1, 2007.

Acts 2023, 88th Leg., R.S., Ch. 44 (H.B. [998](#)), Sec. 6, eff. September 1, 2023.

Sec. 2211.155. INSPECTION RESULTS; REINSPECTION. (a) If, after an inspection, the inspection bureau determines that property meets the underwriting standards established in the plan of operation, the applicant must be informed in writing of that determination and the association shall issue a policy or binder. If the property does not meet the underwriting standards, the applicant must be informed in writing of the reason for the failure of the property to meet the standards.

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

(c) If, on reinspection, the property meets the underwriting standards, the applicant must be informed in writing of that fact and the association shall issue a policy or binder.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 44 (H.B. [998](#)), Sec. 7, eff. September 1, 2023.

Sec. 2211.156. CERTAIN COVERAGE EXCLUDED. The FAIR Plan may not provide windstorm and hail insurance coverage for a risk eligible for that coverage under Chapter [2210](#).

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2211.157. COVERAGE FOR CERTAIN WINDSTORM AND HAIL DAMAGE; COVERAGE FOR CERTAIN PROPERTY LOCATED OVER WATER. (a) A policy issued by the association may include coverage against loss or damage by windstorm or hail for:

(1) a building or other structure that is built wholly or partially over water; and

(2) the corporeal movable property contained in a building or structure described by Subdivision (1).

(b) The association may impose appropriate limits of coverage and deductibles for coverage described by Subsection (a).

(c) The governing committee of the association shall submit any proposed changes to the plan of operation necessary to implement Subsections (a) and (b) to the commissioner for the approval of the commissioner in the manner provided by Section [2211.053](#).

(d) The commissioner shall adopt rules as necessary to implement this section, including any rules necessary to implement changes in the plan of operation proposed under Subsections (a) and (b).

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 3B.068(a), eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 9.068(a), eff. September 1, 2007.

#### SUBCHAPTER E. REVENUE BOND PROGRAM

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

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 44 (H.B. [998](#)), Sec. 8, eff. September 1, 2023.

Sec. 2211.202. DEFINITIONS. In this subchapter:

(1) "Board" means the board of directors of the Texas Public Finance Authority.

(2) "Bond" means a debt instrument or other public security issued by the Texas Public Finance Authority.

(3) "Public security resolution" means the resolution or order authorizing public securities to be issued under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2211.203. APPLICABILITY OF OTHER LAWS. The following laws apply to public securities issued under this subchapter to the extent consistent with this subchapter:

(1) Chapters [1201](#), [1202](#), [1204](#), [1205](#), [1231](#), [1232](#), and

[1371](#), Government Code; and

(2) Subchapter [A](#), Chapter [1206](#), Government Code.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2211.204. ISSUANCE OF PUBLIC SECURITIES AUTHORIZED. At the request of the association and subject to Section [2211.205](#), the Texas Public Finance Authority shall issue public securities to:

(1) fund the association, including to:

(A) establish and maintain reserves to pay claims;

(B) pay operating expenses; and

(C) purchase reinsurance;

(2) pay costs related to issuing the public securities; and

(3) pay other costs related to the public securities as determined by the board.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2211.205. LIMITATION ON AMOUNT OF PUBLIC SECURITIES. The Texas Public Finance Authority may issue on behalf of the association public securities in a total amount not to exceed \$75 million.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2211.206. TERMS OF ISSUANCE. (a) Public securities issued under this subchapter may be issued at a public or private sale.

(b) Public securities must:

(1) be issued in the name of the association; and

(2) mature not more than 10 years after the date issued.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2211.207. CONTENTS OF PUBLIC SECURITY RESOLUTION; ADMINISTRATION OF ACCOUNTS. (a) In a public security resolution, the board may:

(1) provide for the flow of funds and the establishment, maintenance, and investment of funds and special accounts with regard to the public securities, including an interest and sinking fund account, a reserve account, and other accounts; and

(2) make additional covenants with regard to the public securities and the designated income and receipts of the association pledged to the payment of the public securities.

(b) The association shall administer the accounts in accordance with this chapter.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2211.208. SOURCE OF PAYMENT. (a) Public securities issued under this subchapter are payable only from:

(1) the service fee established under Section 2211.209; or

(2) other amounts the association is authorized to levy, charge, and collect.

(b) The public securities are obligations solely of the association and do not create a pledge, gift, or loan of the faith, credit, or taxing authority of this state.

(c) Each public security must:

(1) include a statement that the state is not obligated to pay any amount on the security and that the faith, credit, and taxing authority of this state are not pledged, given, or loaned to those payments; and

(2) state on the security's face that the security:

(A) is payable solely from the revenue pledged for that purpose; and

(B) is not a legal or moral obligation of the state.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff.

April 1, 2007.

Sec. 2211.209. SERVICE FEE. (a) A service fee may be assessed against:

- (1) each participating insurer; and
- (2) the association.

(b) The commissioner shall set the service fee in an amount sufficient to pay all debt service on the public securities issued under this subchapter. Each participating insurer and the association shall pay the service fee as required by the commissioner by rule.

(c) The comptroller shall collect the service fee and the department shall reimburse the comptroller in the manner described by Section 201.052.

(d) The commissioner, in consultation with the comptroller, may coordinate payment and collection of the service fee with other payments made by participating insurers and collected by the comptroller.

(e) As a condition of engaging in the business of insurance in this state, a participating insurer agrees that, if the insurer leaves the property insurance market in this state, the insurer remains obligated to pay the insurer's share of the service fee assessed under this section until the public securities are retired. The amount assessed against an insurer under this subsection must be:

- (1) proportionate to the insurer's share of the property insurance market, including residential property insurance, in this state as of the last complete reporting period before the date the insurer ceases to engage in the property insurance business in this state; and

- (2) based on the insurer's gross premiums for property insurance, including residential property insurance, for the insurer's last reporting period.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2211.210. EXEMPTION FROM TAXATION. Public securities

issued under this subchapter, any interest from the public securities, and all assets pledged to secure the payment of the public securities are exempt from taxation by the state or a political subdivision of this state.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2211.211. AUTHORIZED INVESTMENTS. Public securities issued under this subchapter are authorized investments under Subchapter B, Chapter 424, and Subchapters C and D, Chapter 425.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2211.212. STATE PLEDGE REGARDING PUBLIC SECURITY OWNER RIGHTS AND REMEDIES. (a) The state pledges to and agrees with the owners of public securities issued in accordance with this subchapter that the state will not limit or alter the rights vested in the association to fulfill the terms of agreements made with the owners or impair the rights and remedies of the owners until the following obligations are fully discharged:

- (1) the public securities;
- (2) any bond premium;
- (3) interest; and
- (4) all costs and expenses related to an action or proceeding by or on behalf of the owners.

(b) The association may include the state's pledge and agreement under Subsection (a) in an agreement with the owners of the public securities.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2211.213. PAYMENT ENFORCEABLE BY MANDAMUS. A writ of mandamus and any other legal or equitable remedy are available to a party in interest to require the association or another party to fulfill an agreement or perform a function or duty under:

- (1) this subchapter;
- (2) the Texas Constitution; or

(3) a public security resolution.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

#### SUBCHAPTER F. PENALTIES

Sec. 2211.251. SANCTIONS AND ADMINISTRATIVE PENALTIES. If the association, the inspection bureau, or a participating insurer is found to be in violation of or to have failed to comply with this chapter, that entity is subject to:

(1) the sanctions authorized by Chapter 82; and

(2) administrative penalties authorized by Chapter 84.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2211.252. ADDITIONAL DISCIPLINARY PROCEDURES. In addition to the remedies provided by Section 2211.251, the commissioner may use any other disciplinary procedures authorized by this code, including the cease and desist procedures authorized by Chapter 83.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.