

No. **11-0762**

**Official Order
of the
Commissioner of Insurance
of the
State of Texas
Austin, Texas**

Date: September 16, 2011

Subject Considered:

**TEXAS FAIR ACCESS TO INSURANCE
REQUIREMENTS PLAN
ASSOCIATION
RATE FILING**

General remarks and official action:

On this day came on for consideration by the Commissioner of Insurance (Commissioner) the matter of the residential property insurance rate filings by the Texas FAIR Access to Insurance Requirements Plan Association (FAIR Plan) that was received by the Texas Department of Insurance (Department) on July 13, 2011.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After considering the FAIR Plan's rate filings, and based upon the evidence presented, the Commissioner makes the following Findings of Fact and Conclusions of Law:

1. The FAIR Plan is a nonprofit association established pursuant to §§2211.051 and 2211.054 of the Insurance Code to develop and administer a program to provide residential property insurance in designated underserved areas in the State of Texas.
2. Pursuant to §2211.056 of the Insurance Code, the FAIR Plan submitted residential property insurance rate filings that were received by the Department on July 13, 2011, and assigned the following numbers: Filing Link Nos. 115262 and 115263, and File Nos. 9212529945 and 9212529946, respectively for HO-A and TDP-1 rates.

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3. The Commissioner has jurisdiction of this matter pursuant to §2211.056 of the Insurance Code.

4. The FAIR Plan's indicated and proposed rate changes in Filing Link No. 115262 / File No. 9212529945 for the current HO-A rates vary as follows:

Zone	Indicated Change	Proposed Change
Central North - Greater Dallas / Ft. Worth	40.1%	15.8%
Central North – Remainder	38.2%	15.8%
Central South	37.1%	15.8%
North/Northwest	4.9%	4.9%
Seacoast - Tier 1	2.7%	2.7%
Seacoast - Tier 2	37.9%	15.8%
Overall	36.0%	15.0%

5. The FAIR Plan's indicated and proposed rate changes in Filing Link No. 115263 / File No. 9212529946 for the current TDP-1 rates vary as follows:

Zone	Fire		Extended Coverage	
	Indicated Change	Proposed Change	Indicated Change	Proposed Change
Central North - Greater Dallas / Ft. Worth	15.0%	26.2%	16.2%	
Central North – Remainder	15.0%	18.7%	16.2%	
Central South	15.0%	30.5%	16.2%	
North/Northwest	15.0%	-9.9%	-9.9%	
Seacoast - Tier 1	15.0%	-41.1%	-16.2%	
Seacoast - Tier 2	15.0%	47.8%	16.2%	
Overall	31.2%	15.0%	42.0%	15.0%

6. Section 2211.156 of the Insurance Code prohibits the FAIR Plan from providing windstorm and hail insurance coverage for a risk eligible for that coverage in the designated catastrophe area under Insurance Code Chapter 2210 (designated catastrophe area).

7. The FAIR Plan's calculations of indicated rate changes exclude actual losses resulting from catastrophes that occurred during the experience period. The actual losses are then replaced with an average expected catastrophe loss based on hurricane models and hail/tornado models.

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8. Models are often used to estimate losses from events, such as hurricanes, that occur infrequently and generate high loss amounts per claim.

9. The projected hail and tornado losses produced by the models are nearly fifteen times greater than the actual catastrophic non-hurricane windstorm and hail losses sustained during the period from 2006 to 2009, as calculated from historical data.

10. Based on Finding of Fact No. 9, it is reasonable to exclude from the FAIR Plan's rate filings, the portion of the catastrophe provision based on the modeled losses for hail and tornado events.

11. The FAIR Plan's calculation of indicated rate changes also includes information based on modeled losses for hail and tornado events in the non-catastrophe smoothing adjustment. The FAIR Plan's estimated adjustment is calculated as 25 percent of the modeled hail and tornado losses for each zone multiplied by the catastrophe loss adjustment expense factor.

12. The hail and tornado models estimate windstorm and hail losses caused by storms which meet certain meteorological criteria. The actual underlying loss experience used in the calculation of the indicated rates excludes all windstorm and hail losses. The difference in the definition of what defines a hail / tornado catastrophe used in the models and that used in the FAIR Plan's calculations results in an understatement of the non-catastrophe losses used in the experience period.

13. The estimated non-catastrophe smoothing adjustment attempts to address the underestimation described in Finding of Fact No. 12. However, using an estimated 50 percent of the modeled hail and tornado losses better approximates the average actual non-catastrophe wind and hail losses during the period from 2006 to 2009.

14. It is reasonable to use 50 percent, rather than 25 percent, in the estimated non-catastrophe smoothing adjustment in this filing, to incorporate an estimate of non-catastrophe wind and hail losses.

15. Based on Findings of Fact Nos. 10 and 14, the revised indicated changes and the proposed changes, using the FAIR Plan's selected changes where appropriate, for the current HO-A rates vary as follows:

Zone	Indicated Change	Proposed Change
Central North - Greater Dallas / Ft. Worth	12.4%	12.4%
Central North – Remainder	17.3%	15.8%
Central South	21.4%	15.8%
North/Northwest	-8.8%	-8.8%
Seacoast - Tier 1	1.5%	1.5%

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Seacoast - Tier 2	27.4%	15.8%
Overall	24.4%	14.7%

16. Based on Findings of Fact Nos. 10 and 14, the revised indicated changes and the proposed changes, using the FAIR Plan's selected changes where appropriate, for the current TDP-1 rates vary as follows:

Zone	Fire		Extended Coverage	
	Indicated Change	Proposed Change	Indicated Change	Proposed Change
Central North - Greater Dallas / Ft. Worth		15.0%	-10.1%	-10.1%
Central North – Remainder		15.0%	-14.2%	-14.2%
Central South		15.0%	2.1%	2.1%
North/Northwest		15.0%	-29.1%	-11.0%
Seacoast - Tier 1		15.0%	-29.1%	-11.0%
Seacoast - Tier 2		15.0%	33.6%	16.2%
Overall		30.1%	15.0%	12.2%

17. The FAIR Plan suffered a large number of insured losses from numerous storms and other non-catastrophic events in calendar years 2008, 2009 and 2010. These insured losses, together with those resulting from hurricanes Dolly and Ike, substantially depleted the FAIR Plan's financial reserves.

18. Section §2211.056 of the Insurance Code requires that the FAIR Plan's rates be sufficient to carry all claims to maturity and to meet the expenses incurred in the writing and servicing of the business.

19. Based on Findings of Fact Nos. 17 and 18, it is reasonable to rebuild the FAIR Plan's financial reserves to the extent that the FAIR Plan is assured that it can carry all claims to maturity without resorting to alternative deficit revenue sources under the Insurance Code §2211.104.

20. Based on Finding of Fact No. 19, even without the modeled loss data excluded in Finding of Fact No. 10, the rate changes stated in Findings of Fact Nos. 15 and 16 are just, fair, reasonable, and adequate; and are not confiscatory, excessive for the risks to which they apply, or unfairly discriminatory, as required by §560.002 of the Insurance Code.

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21. Based on Finding of Fact No. 19, even without the modeled loss data excluded in Finding of Fact No. 10, the rate changes stated in Findings of Fact Nos. 15 and 16 are sufficient to carry all claims to maturity and to meet the expenses incurred in the writing and servicing of the business, as required by §2211.056 of the Insurance Code.

IT IS THEREFORE ORDERED by the Commissioner of Insurance that the residential property insurance rates proposed in Filing Link Nos. 115262 and 115263 / File Nos. 9212529945 and 9212529946 by the Texas FAIR Plan Association for HO-A and TDP-1 policies, and as revised in Findings of Fact Nos. 15 and 16, are hereby APPROVED and shall become effective on January 1, 2012.

IT IS SO ORDERED.

Eleanor Kitzman
COMMISSIONER OF INSURANCE