

No. **2025-9553**

**Official Order  
of the  
Texas Commissioner of Insurance**

**Date: 10/15/2025**

**Subject Considered:**

Determination of Underserved Areas for FAIR Plan Property Owners' Association Insurance.

*Petition Numbers:*

Property Owners' Association Petition Nos.  
P-1224-01, P-1224-02, P-0125-01, P-0125-02, P-0125-03

**General Remarks and Official Action Taken:**

The subject of this order is to determine whether proposed areas within the designated area of 28 Texas Administrative Code (TAC) § 5.9930 are underserved for the purpose of making property owners' association (POA) insurance available through the Texas Fair Access to Insurance Requirements Plan Association (FAIR Plan).

After reviewing petitions submitted by five POAs, analyzing admitted and surplus lines market data, conducting a public hearing, and receiving public comments, the commissioner of insurance finds that POA insurance is not reasonably available in the voluntary market to a substantial number of insurable risks in the area described in the attached Appendix, incorporated by reference into this order. The area falls within the boundaries described in 28 TAC § 5.9930 and satisfies the conditions required under Insurance Code §§ 2211.051(b) and 2211.1515 for underserved determination.

As a result, the commissioner orders that the area described in the attached Appendix is determined to be an underserved area for POA insurance. The commissioner directs FAIR Plan to make POA insurance available under Insurance Code § 2211.1515(b).

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## Background

House Bill 998, 88th Texas Legislature, 2023, effective September 1, 2024, amended Texas Insurance Code Chapter 2211 to authorize FAIR Plan to provide POA insurance in underserved areas within an area designated by the commissioner by rule.

POA insurance, as defined in Insurance Code § 2211.001(6-a), provides property and liability coverage for the common areas and facilities of a homeowners' association or the common elements of a condominium owners' association.

In October 2024, the commissioner adopted 28 TAC § 5.9930, which set the designated area described in Insurance Code § 2211.1515 as the region extending 10 miles inland from the border of the TWIA catastrophe area.

Under Insurance Code §§ 2211.051(b) and 2211.1515, FAIR Plan must make POA insurance available in areas of the designated area where the commissioner determines, after notice and hearing, that POA insurance is not reasonably available in the voluntary market to a substantial number of insurable risks.

## Summary of the Hearing and Comments Received

TDI held a public hearing to receive comments on the petitions and proposed areas. The hearing was held on June 6, 2025, under Docket No. 2854, after providing notice as required in Insurance Code § 2211.051(b). The hearing was conducted both in person at the Barbara Jordan Building in Austin, Texas and virtually, to ensure public access and participation. TDI extended the time period to provide written comments to June 20, 2025. During the hearing and the written comment period, TDI received oral and written comments from representatives and residents of POAs, property managers, a consumer advocacy group, and an insurance industry trade association. At the hearing, a TDI staff member also presented information based on staff analysis of market data related to the proposed areas.

One insurance industry trade association raised procedural concerns and posited that the petitions did not satisfactorily demonstrate that the proposed areas were underserved. The trade association did not provide evidence that admitted insurers are writing POA insurance coverage in the proposed area.

All other commenters were in favor of determining that the proposed areas are underserved, citing difficulties in obtaining admitted market POA coverage, rising premiums, high deductibles, and reduced coverage terms in the surplus lines market.

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For example, one commenter, who served on the board and insurance committee of her condominium owners' association, stated that her POA applies to the admitted market each year but has not been offered a policy for over 14 years. In one recent year, the POA worked with three different insurance agencies, resulting in no offers and 30 declinations from admitted carriers.

TDI considered all comments and found that they support the conclusion that POA insurance is not reasonably available to a substantial number of insurable risks in the proposed area.

The following findings of fact and conclusions of law are adopted.

## **Findings of Fact**

1. Between December 2024 and January 2025, TDI received written petitions from five POAs located along the north shore of Clear Lake in Harris County, within the area defined in 28 TAC § 5.9930. The petitioners are:
  - The Bayfront Condominium Association Inc. (Bayfront),
  - The Point at Egret Bay Condominium Association (Egret Bay),
  - Lakeside Townhome Council of Co-Owners (Lakeside),
  - The Meridian Townhome Owners Association (Meridian), and
  - The Natchez Landing Townhome Owners Association, Inc. (Natchez Landing).
2. After reviewing the petitions, TDI staff requested additional information from the five petitioners related to declinations they received from admitted market insurance companies.
3. On June 6, 2025, TDI held a public hearing under Docket No. 2854 after providing notice as required in Insurance Code § 2211.051. A notice of the hearing was posted on TDI's website and on the Texas Secretary of State's Open Meetings website on May 28, 2025. The hearing was conducted both in person at the Barbara Jordan Building in Austin, Texas and virtually. The commissioner also extended the written comment period until June 20, 2025.

## *Proposed Underserved Areas*

4. Collectively, the petitioners proposed that the following area near the north shore of Clear Lake in Harris County is underserved for POA insurance:

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- South boundary: Galveston/Harris County line, which runs across Clear Lake and along Clear Creek.
- East boundary: Highway 146, which intersects the city of Seabrook.
- North boundary: NASA Road 1 and Repsdorff Road.
- West boundary: Egret Bay Boulevard, which intersects Clear Creek to the southwest of Clear Lake.

Each of the petitioners is located within the area.

5. The proposed underserved areas are entirely within the boundary established by 28 TAC § 5.9930.

### *Petitioners' Experience*

6. None of the petitioners is able to obtain POA insurance coverage that is reasonably available in the admitted market. As a result, each of the petitioners currently relies on surplus lines carriers.
7. Collectively, the petitioners identified over 20 admitted insurance companies or groups that declined to provide them with coverage. One petitioner received an offer from an admitted company, but the coverage amount (\$500,000 per building) was two-thirds less than the building valuation in the petitioner's existing policy and would have left the petitioner significantly underinsured. None of the other petitioners received an admitted market offer.
8. The petitioners provided examples of written statements from admitted companies that declined to write the petitioner. Most of the declinations cited underwriting prohibitions or restrictions on writing in the areas that the petitioners propose are underserved.
9. One commenter testified that her POA applies first to the admitted market each year but has not been offered a policy in 14 years and has also received more than 30 declinations from admitted carriers.

### *Market Data*

10. TDI staff analyzed recent admitted market data from the commercial lines statistical plan. The most relevant data is for the "0300 Other Habitational" class code, which is a mix of policies sold to POAs and policies sold to some other kinds of insureds. It is the most granular data available to TDI by ZIP code and county.

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11. TDI staff focused on "0300 Other Habitational" data for ZIP codes 77058 and 77586, which is where the petitioners are located.
12. From 2021 to 2023, the admitted insurance market reported between two and four policies each year under the "0300 Other Habitational" code for those two ZIP codes combined. The policies were spread among three companies.
13. For comparison, TDI staff also requested and analyzed data from the Surplus Lines Stamping Office of Texas. The most comparable data consisted of three risk classes: Apartments, Condos, and Townhouses (Commercial Building classification); Associations, not otherwise classified; and Buildings or Premises for Banks, Offices, or Barns.
14. Within that subset of policies, from 2021 to 2023, the surplus lines market reported between 17 and 27 policies each year for ZIP codes 77058 and 77586 combined.

### *Property Owners' Associations in the Proposed Areas*

15. The exact number of POAs in the proposed areas is unknown. Three petitioners estimated there are about 20 POAs. The other two petitioners listed 12 POAs and said the list was not exhaustive.
16. TDI staff performed a ZIP code search in the Texas Real Estate Commission's property owners' association management certificate database and found 21 associations listed in ZIP code 77058, and 29 associations listed in ZIP code 77586.

### **Conclusions of Law**

1. The commissioner has authority over this matter under Insurance Code §§ 2211.051(b) and 2211.1515 to determine underserved areas for purposes of making POA insurance available through FAIR Plan.
2. Based on Findings of Fact Nos. 1–3, the petitions were submitted under 28 TAC §§ 5.9931 and 5.9932, and TDI provided notice and a conducted a hearing under Docket No. 2854, as required in Insurance Code § 2211.051 and 28 TAC § 5.9932, satisfying the procedural requirements for a determination.
3. Based on Findings of Fact Nos. 4 and 5, the proposed underserved area lies entirely within the boundary defined by 28 TAC § 5.9930, satisfying the requirement in

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Insurance Code § 2211.051(b) that any underserved areas be located within the area designated under Insurance Code § 2211.1515(a).

4. Based on Findings of Fact Nos. 6–9, the five petitioning POAs are unable to secure sufficient coverage from the admitted market and instead must get coverage from the surplus lines market, supporting a conclusion that coverage is not reasonably available in the voluntary market to a substantial number of insurable risks as required under Insurance Code § 2211.051(b).
5. Based on Findings of Fact Nos. 10–16, admitted insurers are writing few or no POA policies in the relevant ZIP codes while surplus lines insurers dominate the market by comparison, supporting a conclusion that insurance is not reasonably available in the voluntary market to a substantial number of insurable risks as required under Insurance Code § 2211.051(b).
6. Based on Findings of Fact Nos. 4–16, POA insurance is not reasonably available in the voluntary market to a substantial number of insurable risks in the proposed underserved area as required under Insurance Code § 2211.051(b).

## Order

It is ordered that the area described in the attached Appendix near Clear Lake in Harris County is determined to be an underserved area for purposes of POA insurance under Insurance Code §§ 2211.051 and 2211.1515.

It is also ordered that the Texas FAIR Plan Association begin accepting applications for POA insurance from eligible applicants within the underserved area described in the attached Appendix. To qualify, applicants must demonstrate that the property is insurable under reasonable underwriting standards and must provide evidence of at least two declinations from admitted insurers under Insurance Code § 2211.1515(b).

It is further ordered that policies issued under this order remain valid until renewal, even if the boundaries of the underserved area change before that time, consistent with Insurance Code § 2211.1515(c).

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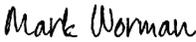
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This order is effective immediately and remains in effect until amended or withdrawn.

Signed by:  
  
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Cassie Brown  
Commissioner of Insurance

Recommended and reviewed by:

Signed by:  
  
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Mark Worman, Deputy Commissioner

Signed by:  
  
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Jessica Barta, General Counsel

## Appendix

The following area is determined to be an underserved area for purposes of POA insurance:

- South boundary: Galveston/Harris County line, which runs across Clear Lake and along Clear Creek as indicated by the dotted line in the map.
- East boundary: Highway 146, which intersects the city of Seabrook.
- North boundary: NASA Road 1 and Repsdorph Road.
- West boundary: Egret Bay Boulevard, which intersects Clear Creek to the southwest of Clear Lake.

The underserved area is visually depicted by the yellow-shaded area in the map shown below. The five petitioner POAs are within the underserved area, reflected by the five numbered locations.

