

1-1 By: Creighton S.B. No. 1367
 1-2 (In the Senate - Filed March 10, 2021; March 18, 2021, read
 1-3 first time and referred to Committee on Business & Commerce;
 1-4 April 7, 2021, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 7, 2021,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1367 By: Creighton

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the regulation of commercial property and casualty
 1-22 insurance and insurance for certain large risks.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 981.004, Insurance Code, is amended by
 1-25 adding Subsection (g) to read as follows:

1-26 (g) Except with respect to a line of insurance for which the
 1-27 commissioner has temporarily reinstated the requirements for rate
 1-28 and form filings under Section 2251.0031(d) or 2301.0031(d),
 1-29 Subsections (a)(1) and (b) do not apply to an insurance policy
 1-30 issued by an eligible surplus lines insurer for any line of the
 1-31 kinds of insurance described by Sections 2251.0031(a) and
 1-32 2301.0031(a) or exempted under Section 2251.0031(c) or
 1-33 2301.0031(c).

1-34 SECTION 2. Section 2251.003(b), Insurance Code, is amended
 1-35 to read as follows:

1-36 (b) Except as provided by Section 2251.0031, this [This]
 1-37 subchapter and Subchapters B, C, and D apply to all lines of the
 1-38 following kinds of insurance written under an insurance policy or
 1-39 contract issued by an insurer authorized to engage in the business
 1-40 of insurance in this state:

- 1-41 (1) general liability insurance;
- 1-42 (2) residential and commercial property insurance,
 1-43 including farm and ranch insurance and farm and ranch owners
 1-44 insurance;
- 1-45 (3) personal and commercial casualty insurance,
 1-46 except as provided by Section 2251.004;
- 1-47 (4) medical professional liability insurance;
- 1-48 (5) fidelity, guaranty, and surety bonds other than
 1-49 criminal court appearance bonds;
- 1-50 (6) personal umbrella insurance;
- 1-51 (7) personal liability insurance;
- 1-52 (8) guaranteed auto protection (GAP) insurance;
- 1-53 (9) involuntary unemployment insurance;
- 1-54 (10) financial guaranty insurance;
- 1-55 (11) inland marine insurance;
- 1-56 (12) rain insurance;
- 1-57 (13) hail insurance on farm crops;
- 1-58 (14) personal and commercial automobile insurance;
- 1-59 (15) multi-peril insurance; and
- 1-60 (16) identity theft insurance issued under Chapter

2-1 706.

2-2 SECTION 3. Subchapter A, Chapter 2251, Insurance Code, is
 2-3 amended by adding Section 2251.0031 to read as follows:

2-4 Sec. 2251.0031. EXCEPTIONS FOR CERTAIN LINES. (a) Except
 2-5 as provided by Subsection (d), Subchapter C does not apply to any
 2-6 line of the following kinds of insurance written under a commercial
 2-7 insurance policy or contract issued by an insurer authorized to
 2-8 engage in the business of insurance in this state:

- 2-9 (1) surety bonds;
- 2-10 (2) fidelity bonds;
- 2-11 (3) commercial inland marine;
- 2-12 (4) boiler and machinery;
- 2-13 (5) environmental impairment or pollution liability;
- 2-14 (6) kidnap and ransom;
- 2-15 (7) political risk or expropriation;
- 2-16 (8) commercial excess liability or umbrella
 2-17 liability;
- 2-18 (9) directors' and officers' liability;
- 2-19 (10) fiduciary liability;
- 2-20 (11) employment practices liability;
- 2-21 (12) errors and omission and professional liability
 2-22 other than medical professional liability;
- 2-23 (13) media liability;
- 2-24 (14) product liability, product recall, or completed
 2-25 operations;
- 2-26 (15) commercial cybersecurity, including first- and
 2-27 third-party commercial lines coverage for losses arising out of or
 2-28 relating to data privacy breaches, network security, computer
 2-29 viruses, and similar exposures;
- 2-30 (16) highly protected commercial property;
- 2-31 (17) commercial flood insurance not provided through
 2-32 the National Flood Insurance Program; or
- 2-33 (18) any combination of only the kinds of insurance
 2-34 listed in this subsection or exempted under Subsection (c).

2-35 (b) For purposes of Subsection (a), "highly protected
 2-36 commercial property" is commercial property that is subject to a
 2-37 much lower than normal probability of loss due to low-hazard
 2-38 occupancy or property type, superior construction, special fire
 2-39 protection equipment and procedures, and management commitment to
 2-40 loss prevention.

2-41 (c) The commissioner by rule may exempt a commercial line of
 2-42 insurance or commercial risk not listed in Subsection (a) from the
 2-43 rate filing requirements of Subchapter C to promote enhanced
 2-44 competition or more effectively use the resources of the department
 2-45 that might otherwise be used to review commercial lines filings.

2-46 (d) Notwithstanding Subsection (a), the commissioner may
 2-47 temporarily require rate filings under Subchapter C for a specific
 2-48 kind of insurance listed in Subsection (a) for a period of not
 2-49 longer than one year if, after notice and hearing, the commissioner
 2-50 issues an order that:

- 2-51 (1) includes a finding that a reasonable degree of
 2-52 competition does not exist for that specific kind of insurance; and
- 2-53 (2) specifies the relevant tests and test results used
 2-54 to determine the degree of competition for that kind of insurance.

2-55 (e) In the absence of a finding described by Subsection (d)
 2-56 with respect to a specific kind of insurance, a competitive market
 2-57 is presumed to exist for that kind of insurance.

2-58 (f) The commissioner may adopt reasonable and necessary
 2-59 rules to implement this section.

2-60 SECTION 4. Section 2251.101, Insurance Code, is amended by
 2-61 adding Subsection (c) to read as follows:

2-62 (c) This section does not apply to rates for use with an
 2-63 insured that has:

- 2-64 (1) total insured property values of \$5 million or
 2-65 more;
- 2-66 (2) total annual gross revenues of \$10 million or
 2-67 more; or
- 2-68 (3) a total premium of \$25,000 or more for property
 2-69 insurance, \$25,000 or more for general liability insurance, or

3-1 \$50,000 or more for multi-peril insurance.

3-2 SECTION 5. Section 2301.003(b), Insurance Code, is amended
3-3 to read as follows:

3-4 (b) Except as provided by Section 2301.0031, this [This]
3-5 subchapter applies to all lines of the following kinds of insurance
3-6 written under an insurance policy or contract issued by an insurer
3-7 authorized to engage in the business of insurance in this state:

3-8 (1) general liability insurance;

3-9 (2) residential and commercial property insurance,
3-10 including farm and ranch insurance and farm and ranch owners
3-11 insurance;

3-12 (3) personal and commercial casualty insurance,
3-13 except as provided by Section 2301.005;

3-14 (4) medical professional liability insurance;

3-15 (5) fidelity, guaranty, and surety bonds other than
3-16 criminal court appearance bonds;

3-17 (6) personal umbrella insurance;

3-18 (7) personal liability insurance;

3-19 (8) guaranteed auto protection (GAP) insurance;

3-20 (9) involuntary unemployment insurance;

3-21 (10) financial guaranty insurance;

3-22 (11) inland marine insurance;

3-23 (12) rain insurance;

3-24 (13) hail insurance on farm crops;

3-25 (14) personal and commercial automobile insurance;

3-26 (15) multi-peril insurance; and

3-27 (16) identity theft insurance issued under Chapter
3-28 706.

3-29 SECTION 6. Subchapter A, Chapter 2301, Insurance Code, is
3-30 amended by adding Section 2301.0031 to read as follows:

3-31 Sec. 2301.0031. EXCEPTIONS FOR CERTAIN LINES. (a) Except
3-32 as provided by Subsection (d), Sections 2301.006, 2301.007(a) and
3-33 (b), and 2301.008 do not apply to any line of the following kinds of
3-34 insurance written under a commercial insurance policy or contract
3-35 issued by an insurer authorized to engage in the business of
3-36 insurance in this state:

3-37 (1) surety bonds;

3-38 (2) fidelity bonds;

3-39 (3) commercial inland marine;

3-40 (4) boiler and machinery;

3-41 (5) environmental impairment or pollution liability;

3-42 (6) kidnap and ransom;

3-43 (7) political risk or expropriation;

3-44 (8) commercial excess liability or umbrella
3-45 liability;

3-46 (9) directors' and officers' liability;

3-47 (10) fiduciary liability;

3-48 (11) employment practices liability;

3-49 (12) errors and omission and professional liability
3-50 other than medical professional liability;

3-51 (13) media liability;

3-52 (14) product liability, product recall, or completed
3-53 operations;

3-54 (15) commercial cybersecurity, including first- and
3-55 third-party commercial lines coverage for losses arising out of or
3-56 relating to data privacy breaches, network security, computer
3-57 viruses, and similar exposures;

3-58 (16) highly protected commercial property;

3-59 (17) commercial flood insurance not provided through
3-60 the National Flood Insurance Program; or

3-61 (18) any combination of only the kinds of insurance
3-62 listed in this subsection or exempted under Subsection (c).

3-63 (b) For purposes of Subsection (a), "highly protected
3-64 commercial property" is commercial property that is subject to a
3-65 much lower than normal probability of loss due to low-hazard
3-66 occupancy or property type, superior construction, special fire
3-67 protection equipment and procedures, and management commitment to
3-68 loss prevention.

3-69 (c) The commissioner by rule may exempt a commercial line of

4-1 insurance or commercial risk not listed in Subsection (a) from the
4-2 form filing requirements of this subchapter to promote enhanced
4-3 competition or more effectively use the resources of the department
4-4 that might otherwise be used to review commercial lines filings.

4-5 (d) Notwithstanding Subsection (a), the commissioner may
4-6 temporarily impose the requirements of Sections 2301.006,
4-7 2301.007(a) and (b), and 2301.008 for a specific kind of insurance
4-8 listed in Subsection (a) for a period of not longer than one year
4-9 if, after notice and hearing, the commissioner issues an order
4-10 that:

4-11 (1) includes a finding that a reasonable degree of
4-12 competition does not exist for that specific kind of insurance; and

4-13 (2) specifies the relevant tests and test results used
4-14 to determine the degree of competition for that kind of insurance.

4-15 (e) In the absence of a finding described by Subsection (d)
4-16 with respect to a specific kind of insurance, a competitive market
4-17 is presumed to exist for that kind of insurance.

4-18 (f) The commissioner may adopt reasonable and necessary
4-19 rules to implement this section.

4-20 SECTION 7. The changes in law made by this Act apply only to
4-21 an insurance policy that is delivered, issued for delivery, or
4-22 renewed on or after September 1, 2021. An insurance policy
4-23 delivered, issued for delivery, or renewed before September 1,
4-24 2021, is governed by the law as it existed immediately before the
4-25 effective date of this Act, and that law is continued in effect for
4-26 that purpose.

4-27 SECTION 8. This Act takes effect September 1, 2021.

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