

By: Keffer of Dallas

H.B. No. 3108

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the rulemaking authority of the Commissioner of
3 Insurance.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 36.001, Insurance Code, is amended to
6 read as follows:

7 Sec. 36.001. [~~Rules for~~] General Rulemaking Authority [~~and~~
8 ~~Uniform Application~~]. (a) The commissioner may adopt any rules
9 necessary and appropriate to implement [~~for the conduct and~~
10 ~~execution of~~] the powers and duties of the department under this
11 code and the other laws of this state [~~only as authorized by~~
12 ~~statute~~].

13 (b) Rules adopted under this section must have general and
14 uniform application.

15 [~~(c) The commissioner shall publish the rules in a format~~
16 ~~organized by subject matter. The published rules shall be kept~~
17 ~~current and be available in a form convenient to any interested~~
18 ~~person.~~]

19 SECTION 2. Section 36.004, Insurance Code, is amended to
20 read as follows:

21 Sec. 36.004. Compliance With National Association of
22 Insurance Commissioners Requirements. Except as provided in
23 Section 36.005, the [~~The~~] department may not require an insurer to
24 comply with a rule, regulation, directive, or standard adopted by

1 the National Association of Insurance Commissioners, including a
2 rule, regulation[~~r~~] directive, or standard relating to policy
3 reserves, unless application of the rule, regulation, directive, or
4 standard is expressly authorized by statute and approved by the
5 commissioner.

6 SECTION 3. Section 36.005, Insurance Code, is added to read
7 as follows:

8 Sec. 36.005. INTERIM RULES TO COMPLY WITH FEDERAL
9 REQUIREMENTS. (a) The commissioner may adopt rules to implement
10 state responsibility in compliance with a federal law or
11 regulation, or action of a federal court relating to a person or
12 activity under the jurisdiction of the department provided:

13 (1) federal law or regulation, or action of a federal
14 court requires

15 (A) a state to adopt the rules; or

16 (B) action by a state to ensure protection of the
17 citizens of the state;

18 (2) the rules will avoid federal preemption of state
19 insurance regulation; or

20 (3) the rules will prevent the loss of federal funds to
21 this state.

22 (b) The federal action necessitating adoption of a rule
23 under this section must occur or take effect between sessions of the
24 Texas Legislature or at such time during a session of the Texas
25 Legislature that sufficient time does not exist to prepare a
26 recommendation for legislative action or permit the Legislature to
27 act. A rule adopted under this section will remain in effect until

1 30 days following the end of the next session of the Texas
2 Legislature, unless a law is enacted that authorizes the subject
3 matter of the rule. If a law is enacted that authorizes the subject
4 matter of the rule, the rule will continue in effect.

5 SECTION 4. Article 3.42(p), Insurance Code, is amended to
6 read as follows:

7 (p) The commissioner is hereby authorized to adopt such
8 reasonable rules [~~and regulations~~] as [~~are~~] necessary to implement
9 and accomplish the [~~specific provisions of this Article and are~~
10 ~~within the standards and~~] purposes of this Article. The
11 commissioner shall adopt rules under this Article in compliance
12 with Chapter 2001, Government Code (Administrative Procedure Act).
13 A rule adopted under this Article may not be repealed or amended
14 until after the first anniversary of the adoption of the rule unless
15 the commissioner finds that it is in the significant and material
16 interests of the citizens of the state or that it is necessary as a
17 result of legislative enactment to amend, repeal, or adopt a rule or
18 a part of a rule [~~in a public hearing after notice that there is a~~
19 ~~compelling public need for the amendment or repeal of the rule or~~
20 ~~part of the rule~~].

21 SECTION 5. Section 36.002, Insurance Code, is repealed.

22 SECTION 6. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2003.