

By: Duncan

S.B. No. 891

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the operation of the joint underwriting association  
3 under the Texas Medical Liability Insurance Underwriting  
4 Association Act.

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

6 SECTION 1. Section 3, Article 21.49-3, Insurance Code, is  
7 amended by adding Subsection (d) to read as follows:

8 (d) The association may provide general liability insurance  
9 coverage to be issued in connection with medical liability  
10 insurance issued by the association.

11 SECTION 2. Section 4A, Article 21.49-3, Insurance Code, as  
12 amended by Chapters 921 and 1284, Acts of the 77th Legislature,  
13 Regular Session, 2001, is reenacted and amended to read as follows:

14 Sec. 4A. POLICYHOLDER'S STABILIZATION RESERVE FUND FOR  
15 PHYSICIANS AND HEALTH CARE PROVIDERS OTHER THAN FOR-PROFIT AND  
16 NOT-FOR-PROFIT NURSING HOMES. (a) There is hereby created a  
17 policyholder's stabilization reserve fund for physicians and  
18 health care providers, other than for-profit and not-for-profit  
19 nursing homes, which shall be administered as provided herein and  
20 in the plan of operation of the association. The stabilization  
21 reserve fund created by this section is separate and distinct from  
22 the stabilization reserve fund for for-profit and not-for-profit  
23 nursing homes created by Section 4B of this article.

1           (b) Each policyholder shall pay annually into the  
2 stabilization reserve fund a charge, the amount of which shall be  
3 established annually by advisory directors chosen by health care  
4 providers, other than for-profit and not-for-profit nursing homes,  
5 and physicians eligible for insurance in the association in  
6 accordance with the plan of operation. The charge shall be in  
7 proportion to each premium payment due for liability insurance  
8 through the association. Such charge shall be separately stated in  
9 the policy, but shall not constitute a part of premiums or be  
10 subject to premium taxation, servicing fees, acquisition costs, or  
11 any other such charges.

12           (c) The stabilization reserve fund shall be collected and  
13 administered by the association and shall be treated as a liability  
14 of the association along with and in the same manner as premium and  
15 loss reserves. The fund shall be valued annually by the board of  
16 directors as of the close of the last preceding year.

17           (d) [~~Except as provided by Subsection (e) of this section,~~  
18 ~~collections~~] Collections of the stabilization reserve fund charge  
19 shall continue until such time as the net balance of the  
20 stabilization reserve fund is not less than the projected sum of  
21 premiums for physicians and health care providers, other than  
22 for-profit and not-for-profit nursing homes, to be written in the  
23 year following valuation date.

24           ~~[(e) If in any fiscal year the incurred losses and defense~~  
25 ~~and cost-containment expenses from physicians or any single~~  
26 ~~category of health care provider result in a net underwriting loss~~  
27 ~~and exceed 25 percent of the stabilization reserve fund, as valued~~

1 ~~for that year, the commissioner may by order direct the initiation~~  
2 ~~or continuation of the stabilization reserve fund charge for~~  
3 ~~physicians or that category of health care provider until the fund~~  
4 ~~recovers the amount by which those losses and cost-containment~~  
5 ~~expenses exceed 25 percent of the fund.]~~

6 (e) The stabilization reserve fund shall be credited with  
7 all stabilization reserve fund charges collected from physicians  
8 and health care providers, other than for-profit and not-for-profit  
9 nursing homes, and shall be charged with any deficit sustained by  
10 physicians and health care providers, other than for-profit and  
11 not-for-profit nursing homes, from the prior year's operation of  
12 the association.

13 ~~[(f) The stabilization reserve fund shall be credited with~~  
14 ~~all stabilization reserve fund charges collected from~~  
15 ~~policyholders and shall be charged with any deficit from the prior~~  
16 ~~year's operation of the association.]~~

17 SECTION 3. This Act takes effect September 1, 2003.