

By: Fraser

S.B. No. 1281

A BILL TO BE ENTITLED

AN ACT

1 relating to the rulemaking authority of the commissioner of
2 insurance.
3

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 other laws of this state [~~only as authorized by statute~~].

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

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

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

20 Sec. 36.004. COMPLIANCE WITH NATIONAL ASSOCIATION OF
21 INSURANCE COMMISSIONERS REQUIREMENTS. Except as provided by
22 Section 36.005, the [~~The~~] department may not require an insurer to
23 comply with a rule, regulation, directive, or standard adopted by
24 the National Association of Insurance Commissioners, including a

1 rule, regulation, directive, or standard relating to policy
2 reserves, unless application of the rule, regulation, directive, or
3 standard is expressly authorized by statute and approved by the
4 commissioner.

5 SECTION 3. Subchapter A, Chapter 36, Insurance Code, is
6 amended by adding Section 36.005 to read as follows:

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

12 (1) federal law or regulation, or an action of a
13 federal court, requires:

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

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

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

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

21 (b) The commissioner may adopt a rule under this section
22 only if the federal action requiring the adoption of a rule occurs
23 or takes effect between sessions of the legislature or at such time
24 during a session of the legislature that sufficient time does not
25 remain to permit the preparation of a recommendation for
26 legislative action or permit the legislature to act. A rule adopted
27 under this section shall remain in effect only until 30 days

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

5 SECTION 4. Subsection (p), Article 3.42, Insurance Code, is
6 amended to 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~~
13 ~~Act)~~]. A rule adopted under this Article may not be repealed or
14 amended until after the first anniversary of the adoption of the
15 rule unless the commissioner finds that it is in the significant and
16 material interests of the citizens of the state or that it is
17 necessary as a result of legislative enactment to amend, repeal, or
18 adopt a [~~in a public hearing after notice that there is a compelling~~
19 ~~public need for the amendment or repeal of the~~] rule or part of a
20 [~~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.