

1-1 By: Fraser S.B. No. 1281
1-2 (In the Senate - Filed March 12, 2003; March 19, 2003, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 April 7, 2003, reported favorably by the following vote: Yeas 8,
1-5 Nays 0; April 7, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the rulemaking authority of the commissioner of
1-9 insurance.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 36.001, Insurance Code, is amended to
1-12 read as follows:

1-13 Sec. 36.001. ~~[RULES FOR]~~ GENERAL RULEMAKING AUTHORITY [AND
1-14 UNIFORM APPLICATION]. (a) The commissioner may adopt any rules
1-15 necessary and appropriate to implement ~~[for the conduct and~~
1-16 ~~execution of]~~ the powers and duties of the department under this
1-17 code and other laws of this state [only as authorized by statute].

1-18 (b) Rules adopted under this section must have general and
1-19 uniform application.

1-20 ~~[(c) The commissioner shall publish the rules in a format~~
1-21 ~~organized by subject matter. The published rules shall be kept~~
1-22 ~~current and be available in a form convenient to any interested~~
1-23 ~~person.]~~

1-24 SECTION 2. Section 36.004, Insurance Code, is amended to
1-25 read as follows:

1-26 Sec. 36.004. COMPLIANCE WITH NATIONAL ASSOCIATION OF
1-27 INSURANCE COMMISSIONERS REQUIREMENTS. Except as provided by
1-28 Section 36.005, the [The] department may not require an insurer to
1-29 comply with a rule, regulation, directive, or standard adopted by
1-30 the National Association of Insurance Commissioners, including a
1-31 rule, regulation, directive, or standard relating to policy
1-32 reserves, unless application of the rule, regulation, directive, or
1-33 standard is expressly authorized by statute and approved by the
1-34 commissioner.

1-35 SECTION 3. Subchapter A, Chapter 36, Insurance Code, is
1-36 amended by adding Section 36.005 to read as follows:

1-37 Sec. 36.005. INTERIM RULES TO COMPLY WITH FEDERAL
1-38 REQUIREMENTS. (a) The commissioner may adopt rules to implement
1-39 state responsibility in compliance with a federal law or regulation
1-40 or action of a federal court relating to a person or activity under
1-41 the jurisdiction of the department if:

1-42 (1) federal law or regulation, or an action of a
1-43 federal court, requires:

1-44 (A) a state to adopt the rules; or

1-45 (B) action by a state to ensure protection of the
1-46 citizens of the state;

1-47 (2) the rules will avoid federal preemption of state
1-48 insurance regulation; or

1-49 (3) the rules will prevent the loss of federal funds to
1-50 this state.

1-51 (b) The commissioner may adopt a rule under this section
1-52 only if the federal action requiring the adoption of a rule occurs
1-53 or takes effect between sessions of the legislature or at such time
1-54 during a session of the legislature that sufficient time does not
1-55 remain to permit the preparation of a recommendation for
1-56 legislative action or permit the legislature to act. A rule adopted
1-57 under this section shall remain in effect only until 30 days
1-58 following the end of the next session of the legislature unless a
1-59 law is enacted that authorizes the subject matter of the rule. If a
1-60 law is enacted that authorizes the subject matter of the rule, the
1-61 rule will continue in effect.

1-62 SECTION 4. Subsection (p), Article 3.42, Insurance Code, is
1-63 amended to read as follows:

1-64 (p) The commissioner is hereby authorized to adopt ~~[such]~~

2-1 reasonable rules [~~and regulations~~] as [are] necessary to implement
2-2 and accomplish the [~~specific provisions of this Article and are~~
2-3 ~~within the standards and~~] purposes of this Article. The
2-4 commissioner shall adopt rules under this Article in compliance
2-5 with Chapter 2001, Government Code [~~(Administrative Procedure~~
2-6 ~~Act)~~]. A rule adopted under this Article may not be repealed or
2-7 amended until after the first anniversary of the adoption of the
2-8 rule unless the commissioner finds that it is in the significant and
2-9 material interests of the citizens of the state or that it is
2-10 necessary as a result of legislative enactment to amend, repeal, or
2-11 adopt a [~~in a public hearing after notice that there is a compelling~~
2-12 ~~public need for the amendment or repeal of the~~] rule or part of a
2-13 [~~the~~] rule.

2-14 SECTION 5. Section 36.002, Insurance Code, is repealed.

2-15 SECTION 6. This Act takes effect immediately if it receives
2-16 a vote of two-thirds of all the members elected to each house, as
2-17 provided by Section 39, Article III, Texas Constitution. If this
2-18 Act does not receive the vote necessary for immediate effect, this
2-19 Act takes effect September 1, 2003.

2-20 * * * * *