

Suspending limitations on conference committee  
jurisdiction, S.B. No. 14

By: Jackson

S.R. No. 1052

SENATE RESOLUTION

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on Senate Bill No. 14, relating to certain insurance rates, forms, and practices; providing penalties, to consider and take action on the following matter:

Senate Rule 12.03(4), is suspended to permit the committee to add the following new subdivision to Section 4(c), Article 5.142, Insurance Code, as added by the bill:

(2) a "new insurer" is defined as an insurer that, as of the effective date of S.B. 14, Acts of the 78th Legislature, Regular Session, 2003, is not authorized to write residential property insurance in this state and not affiliated with another insurer that is authorized to write and is writing residential property insurance as of the effective date of S.B. 14, Acts of the 78th Legislature, Regular Session, 2003;

Explanation: This subdivision is necessary to clarify certain filing requirements for certain insurers that were not writing residential property insurance or that were not affiliated with an insurer that was writing residential property

insurance on the effective date of the bill.

Senate Rule 12.03(4), is suspended to permit the committee to add the following new article to the bill:

ARTICLE 16. RULEMAKING

SECTION 16.01. Section 36.001, Insurance Code, is amended to read as follows:

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

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

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

SECTION 16.02. Section 36.004, Insurance Code, is amended to read as follows:

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

policy reserves, unless application of the rule, regulation, directive, or standard is expressly authorized by statute and approved by the commissioner.

SECTION 16.03. Subchapter A, Chapter 36, Insurance Code, is amended by adding Section 36.005 to read as follows:

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

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

(A) a state to adopt the rules; or

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

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

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

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

only until 30 days following the end of the next session of the legislature unless a law is enacted that authorizes the subject matter of the rule. If a law is enacted that authorizes the subject matter of the rule, the rule will continue in effect.

SECTION 16.04. Article 3.42(p), Insurance Code, is amended to read as follows:

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

SECTION 16.05. Section 36.002, Insurance Code, is repealed.

Explanation: This article is necessary to broaden the commissioner's general rulemaking authority and to give the commissioner the authority to adopt certain interim rules.

Senate Rule 12.03(4), is suspended to permit the committee

to add the following new article to the bill:

ARTICLE 20A. INSURER INTERESTS IN CERTAIN REPAIR FACILITIES

SECTION 20A.01. Section 2306.001(4), Occupations Code, as added by H.B. 1131, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(4) "Insurer" means an insurer authorized by the Texas Department of Insurance to write motor vehicle insurance in this state, including a county mutual insurance company, a Lloyd's plan, and a reciprocal or interinsurance exchange if that insurer owns an interest in a repair facility in this state. The term includes an entity that is an affiliate of an insurer as described by Section 823.003, Insurance Code.

SECTION 20A.02. Section 2306.001(4), Occupations Code, as amended by this article, is contingent on the passage of H.B. 1131, Acts of the 78th Legislature, Regular Session. If that legislation does not become law, Section 2306.001(4), Occupations Code, as amended by this article, has no effect.

Explanation: This article is necessary to clarify that an insurer who owns an interest in a motor vehicle repair facility in this state is subject to Chapter 2306, Occupations Code.

Senate Rule 12.03(4), is suspended to permit the committee to add the following new section to the bill:

SECTION 21.405. Subchapter A, Chapter 912, Insurance Code, is amended by adding Section 912.005 to read as follows:

Sec. 912.005. LIMITATION ON TRANSFER OF BUSINESS TO COUNTY MUTUAL INSURANCE COMPANY. An insurer may not transfer

more than 10 percent of the insurer's insurance policies to a county mutual insurance company without the prior approval of the commissioner.

Explanation: This section is necessary to prevent insurers from shifting business into markets that are less strictly regulated.

Senate Rule 12.03(2), is suspended to permit the committee to omit text which is not in disagreement:

SECTION 21.47. The following laws are repealed:

- (1) Articles 5.03-2, 5.03-3, 5.03-4, and 5.03-5, Insurance Code;
- (2) Articles 5.26(h), 5.33C, and 5.50, Insurance Code;
- (3) Section 5(b), Article 5.13-2, Insurance Code;
- (4) Section 4C, Article 5.73, Insurance Code;
- (5) Article 5.33B, Insurance Code, as added by Chapter 337, Acts of the 74th Legislature, Regular Session, 1995;
- (6) Articles 5.14, 5.15, and 5.15B, Insurance Code;
- (7) Article 5.97(e), Insurance Code; and
- (8) Section 4(b)(2), Article 21.49-3, Insurance Code.

Explanation: This section is necessary to preserve certain hearing requirements for the operation of the flexible rating program under Article 5.101, Insurance Code.

Senate Rule 12.03(4), is suspended to permit the committee to add the following new section to the bill:

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SECTION 21.48. Article 5.33A, Insurance Code, is repealed.

Explanation: This section is necessary to conform the bill to the elimination of certain insurance premium discounts.

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President of the Senate

I hereby certify that the above Resolution was adopted by the Senate on June 1, 2003, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate