

BILL ANALYSIS

C.S.H.B. 2155
By: Smithee
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

When insurance agents are sued, they are usually sued under both the Deceptive Trade Practices Act and Chapter 541 of the Insurance Code in addition to being sued for professional negligence. This is true even though the Deceptive Trade Practices Act and the provisions in Chapter 541 of the Insurance Code were enacted at the same time to accomplish the same purpose of protecting consumers from unscrupulous sales tactics. Over the years, the statutes have become substantially different, resulting in insurance agents lacking some of the common defenses available to other sellers of goods and services. This situation also results in increased defense costs in cases where an agent is sued under both statutes.

The intent of HB 2155 is to prevent insurance agents from being sued under both the DTPA and Chapter 541 of the Insurance Code.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Section 1: Amends subchapter D, section 541 of the Insurance Code as effective April 1, 2005, by adding Section 541.163. Prohibits a person from bringing an action against or recovering damages from an insurance agent under the Deceptive Trade Practices-Consumer Protection Act for the same act or practice for which the person brings an action against or recovers damages from the agent under this subchapter.

Section 2 : Prospective application

Section 3: Effective date

EFFECTIVE DATE

Upon passage, or if the Act does not receive the necessary number of votes, the Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute does not contain the provisions in sections 1-4 of the original. Section 1 of the substitute adds new language stating that a person may not bring an action against an agent for the same act under both the DTPA and the Chapter 541 of the Insurance Code. The prospective application and effective date in Sections 5 and 6 of the original are contained in Sections 2 and 3 of the substitute.