

BILL ANALYSIS

H.B. 2613
By: Eiland
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Insurance regulators nationwide have become increasingly more aware of the benefits to the insurance consuming public of a more effective, efficient means to get particular types of insurance products reviewed and approved, and to market sooner so that those consumers have quicker access to competitive, approved products. To attain this goal, the National Association of Insurance Commissioners two years ago adopted for consideration by individual states the Interstate Insurance Product Regulation Compact. The Compact is a model representing an agreement among member states to create, implement and refine a streamlined system of insurance product regulation through the employment of national uniform product standards. Such standards are required by the Compact to effectively prohibit use of inconsistent, misleading or ambiguous provisions in a product, as well as to prohibit products the commission determines are unfair, inequitable or against public policy.

The Compact creates a multi-state commission to receive, review and make decisions on insurance product filings according to such national uniform standards, thereby (1) reducing the number of variations of the same product a company must produce to meet each state's specific product standards, and (2) permitting insurers to market approved products in all compacting states in which they are authorized.

The Compact reflects state insurance regulator commitment to a more efficient review-approval process for four specific product lines: life insurance, annuities, disability income, and long-term care insurance. The Compact provides for a multi-state commission that includes one member from each member state. The commission is to adopt by rule a set of bylaws to govern its activities. A management committee of 14 members is to oversee the day-to-day activities of the Compact. The committee is to include one member from each of the six largest states, four members from mid-sized states and one member from smaller states from four regional zones.

HB 2613 permits Texas to serve as a member of the management committee, since Texas is among the six largest states in premium volume for products covered by the Compact. It permits Texas to participate with other states to create and refine uniform product standards by a rulemaking process, once 26 states – or states representing 40% of the premium volume for designated products – have adopted the Compact. It permits Texas to exercise approval authority for such standards, both as a member of the management committee and a participating state. HB 2613 permits Texas to materially participate, through the commissioner of insurance as commission representative, in the following: (1) establishment of uniform standards for life insurance, annuities, disability income insurance and long-term care insurance; (2) receipt and review of product filings by insurance companies; (3) approval of such filings that satisfy applicable product standards; and (4) assistance to compacting states in evaluating whether adopted product standards have been adhered to in particular compacting states.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Interstate Insurance Product Regulation Commission in Article II, Article IV, Article VII, Article VIII, Article X, Article XI (Title 15 of the Insurance Code) of this bill.

ANALYSIS

SECTION 1. Amends the Insurance Code by adding Title 15, to read: INTERSTATE INSURANCE COMPACTS. Adds Chapter 5001, INTERSTATE INSURANCE PRODUCT REGULATION COMPACT, to the Title 15, as follows:

Sec. 5001.001 ADOPTION OF COMPACT; REPRESENTATIVE TO COMMISSION. Provides that Texas joins with other states that have adopted the Interstate Insurance Product Regulation Compact to establish and become a member of the Interstate Insurance Product Regulation Commission. Appoints the commissioner of insurance as the state's commission representative.

Sec. 5001.002 TERMS OF COMPACT.

Article I. PURPOSES. Provides the seven specific purposes of the Compact.

Article II. DEFINITIONS. Provides 15 essential definitions for terms used in the Compact.

Article III. ESTABLISHMENT OF THE COMMISSION AND VENUE. Provides for establishment of the commission, declares it to be an instrumentality of the compacting states, provides that it alone is responsible for its liabilities except as otherwise provided in the Compact, and provides that venue for any proceedings is exclusive to a court of competent jurisdiction in the state where the commission is located.

Article IV. POWERS OF THE COMMISSION. Enumerates in detail the 26 powers of the commission under the Compact.

Article V. ORGANIZATION OF THE COMMISSION. Provides for the following: (1) membership, voting and bylaws; (2) management committee officers and personnel, (3) legislative and advisory committees and respective functions, (4) maintenance of corporate records of the commission, and (5) qualified immunity, defense and indemnification provisions applicable to members, officers and employees of the commission.

Article VI. MEETINGS AND ACTS OF THE COMMISSION. Provides for meetings at least annually, for other meetings, and for voting procedures.

Article VII. RULES AND OPERATING PROCEDURES; RULEMAKING FUNCTIONS OF THE COMMISSION AND OPTING OUT OF UNIFORM STANDARDS. Provides rulemaking authority and procedures for rule promulgation by the commission. Provides for compacting states to opt out of particular uniform standards, and sets out the procedure for, and effect of, opt-out by a particular compacting state. Provides for petition by a compacting state for stay of a particular standard during the pendency of the opt out process.

Article VIII. COMMISSION RECORDS AND ENFORCEMENT. Requires the commission to establish conditions and procedures for public inspection of information and official records. Provides that except as to privileged records and data, the laws of compacting states regarding confidentiality or nondisclosure do not relieve a compacting state of its duty to disclose relevant records to the commission. Provides for compliance monitoring of compacting states to assure that commission rules and procedures are followed. Provides that compacting states are to continue overseeing market regulation according to particular state law; provides for commissioner enforcement of compliance with the Compact.

Article IX. DISPUTE RESOLUTION. Provides for resolution by the commission of Compact issue disputes that may arise between compacting states.

Article X. PRODUCT FILING AND APPROVAL. Requires product filing and payment of filing fee to the commission prior to any approval action by the commission. Requires the commission to establish filing-review processes and procedures. Provides that commission-approved products may be sold or issued in compacting states where the insurer is authorized to do business.

Article XI. REVIEW OF COMMISSION DECISIONS REGARDING FILINGS. Provides procedures and timeframes for review of intended commission action set out in notices of disapproval of products or advertisements filed with commission.

Article XII. FINANCE. Provides for start-up funding and expense payment, for collection of filing fees by the commission from participating insurers, for the submission and approval of a fiscal year budget following notice-and-comment, for commission exemption from compacting state taxation, for the appropriate establishment management and maintenance of accounts under its control. Provides for annual reporting to governors and legislatures of compacting states. Provides for periodic performance and management audits of the commission not less than every three years.

Article XIII. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT. Provides that any state is eligible to become a compacting state, provides for date that the Compact becomes effective and binding on compacting states, and for the effective date of the commission. Provides for a Compact amendment process.

Article XIV. WITHDRAWAL, DEFAULT AND TERMINATION. Provides for withdrawal from the Compact by a compacting state, for process and procedures pertinent to withdrawal, and for responsibilities of the withdrawing state. Provides for termination of a compacting state's participation in the Compact upon a determination it has defaulted in performance of Compact duties and obligations. Provides that reinstatement requires reenactment of the Compact. Provides for procedures and effect of Compact dissolution.

Article XV. SEVERABILITY AND CONSTRUCTION. Provides for severability of Compact provisions, and that such provisions be liberally construed to effectuate its purposes.

Article XVI. BINDING EFFECT OF COMPACT AND OTHER LAWS. Provides that except for rules, standards and commission requirements regarding products approved by the commission, compacting states may enforce all laws applicable to such products. Provides for the binding effect of the Compact and prospective issuance of advisory opinions by the commission regarding meaning or interpretation of particular actions. Recites that Compact provisions are subject to constitutional limits placed on the legislature of any compacting state.

SECTION 2. Effective date

EFFECTIVE DATE

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