

BILL ANALYSIS

Senate Research Center
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The regulation and oversight of business and the protection of consumers are powers that have traditionally and historically been reserved for state governments.

State legislatures are the proper governmental entities to determine public policy on insurance issues, as provided under the McCarran-Ferguson Act of 1945, which reserves the regulation of the business of insurance to the states.

State legislatures are uniquely positioned to respond quickly to the needs of local constituents due to their knowledge regarding market conditions in their respective states and their awareness of the type of insurance products and regulations that would best meet their states' specific market demands.

State legislatures and organizations such as the National Conference of Insurance Legislators (NCOIL), the National Conference of State Legislatures (NCSL), and the National Association of Insurance Commissioners (NAIC) have recognized that certain difficulties in the marketplace have resulted in regulatory hurdles in certain states and have delayed the introduction of insurance products to consumers.

State legislatures, NCOIL, and NAIC have addressed and will continue to address uniformity among the states by adopting model laws relating to such insurance issues as market conduct, product approval, agent licensing, and rate deregulation.

Many state governments derive general revenue from the regulation of the business of insurance, including \$1.045 billion from premium taxes generated for the state of Texas in 2003.

The State Modernization and Regulatory Transparency (SMART) Act, which would create mandatory federal insurance standards preempting state laws and undermining the sovereignty of state governments, is being contemplated by certain members of the United States Congress.

This proposed legislation would "federalize" insurance regulation and thereby threaten the power of state legislators, governors, insurance commissioners, and attorneys general to oversee, regulate, and investigate the business of insurance, thereby impairing, eroding, and limiting the ability of state officials to protect the interests of their constituents.

Many states, including Texas, recently enacted or amended their insurance laws to modernize market regulation, providing insurers with greater ability to respond quickly to changes in market conditions and providing consumers with additional protections.

RESOLVED

That the 79th Legislature of the State of Texas express its strong opposition to the SMART Act and any similar federal legislation that would impair, erode, and limit the ability of state governments to regulate the business of insurance.

That the Texas secretary of state forward official copies of this resolution to the chair of the U.S. Senate Committee on Commerce, Science, and Transportation; to the chair of the U.S. House Committee on Financial Services; and to all the members of the Texas delegation to the United States Congress.