

BILL ANALYSIS

S.B. 1592
By: Carona
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Texas Department of Insurance (TDI) believes that the current law regarding voluntary deposits under Article 1.10, Section 17, of the Insurance Code should be clarified to specify that the commissioner may require and hold special deposits to address case specific instances of an insurer's potentially hazardous financial condition.

Often, TDI is involved with insurers whose financial conditions merit special attention but do not need to be formally designated as being in hazardous financial condition. In such cases, to supplement TDI monitoring of the insurer and address TDI's concerns about the insurer's financial condition, it is often appropriate for the commissioner to require the insurer to make a special deposit to be held by the comptroller. Current law does not clearly state that the commissioner has the authority to request and hold this type of special deposit. Clarifying the current law would ensure that a certain amount of funds will be available to pay claims owed consumers in the event of an insurer's failure. Clarification of the law would help protect the state's general revenue since certain costs of an insurer's receivership may be recouped via credits (deductions) against premium taxes that would otherwise be paid to the State of Texas.

Article 1.10, Section 17, permits an insurance company to make a voluntary deposit with the comptroller when another state or jurisdiction requires the insurer to maintain a deposit as a condition of doing business in that state. The deposit is held for the protection of policyholders or creditors of the insurer, either in a specific state or jurisdiction or for all policyholders and creditors of the insurer wherever they may be located. Once deposited, the money may only be withdrawn after the insurer satisfactorily demonstrates to the commissioner that the company does not have any unsecured liabilities or potential policy liabilities or obligations in the state or jurisdiction for which the deposit was made.

As proposed, S.B. 1592 clarifies the law to specify that the commissioner of insurance may require and hold special deposits to address case specific instances of an insurer's potentially hazardous financial condition.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 1, Insurance Code, by adding Article 1.33, as follows:

ARTICLE 1.33. SPECIAL DEPOSITS

Sec. 1. DEFINITION. Defines "insurer."

Sec. 2. APPLICABILITY OF ARTICLE. Provides that this article applies to a person or organization engaged in the business of insurance without regard to whether they are categorized as an insurer under Section 1 of this article. Provides an exception.

Sec. 3. STANDARDS AND CRITERIA. Authorizes the commissioner of insurance (commissioner), upon the commissioner's sole discretion, to require an insurer to make a deposit under this article if the commissioner makes certain determinations.

Sec. 4. REQUIRED DEPOSIT; FORM OF SECURITY. Requires a deposit made under Section 3 of this article to be made with the comptroller and be approved by the commissioner. Sets forth requirements regarding how deposits are made.

Sec. 5. DURATION OF DEPOSIT. Requires the comptroller to hold a deposit required under this article until a written order finding that the condition for which the deposit was required no longer exists is issued by the commissioner, subject to Section 6 of this article.

Sec. 6. SUBSTITUTION OR WITHDRAWAL OF DEPOSIT. (a) Authorizes an insurer to make certain requests regarding the deposit by filing a written application with the commissioner.

(b) Requires the application to state the basis for the request to withdraw the deposit or to substitute the deposited security.

(c) Requires the insurer's application to provide specific information regarding the security to be deposited as a substitute for the security held by the comptroller if the application is for substitution of a deposited security.

(d) Requires the commissioner to issue an order approving or denying an application under this section within the specified period of time. Provides that the application is denied if the commissioner does not approve or deny the application within that period.

(e) Authorizes the commissioner, upon the commissioner's sole discretion, to approve an application to withdraw a deposit or substitute a deposited security if the commissioner makes a specific determination.

(f) Prohibits the comptroller from releasing a deposit made under this article, or any part of the deposit, and from accepting a substitute for a deposited security, unless the commissioner issues an order approving the withdrawal or substitution.

Sec. 7. APPEAL. Authorizes an insurer to appeal an action of the commissioner under this article in accordance with Subchapter D, Chapter 36 (Department Rules and Procedures), of this code.

Sec. 8. CUMULATIVE OF OTHER DEPOSITS. Provides that a deposit required under this article is in addition to any other deposit that the insurer is required or authorized to make under this code.

SECTION 2. Effective date: upon passage or September 1, 2005.

EFFECTIVE DATE

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