

By: Taylor

H.B. No. 3374

A BILL TO BE ENTITLED

AN ACT

relating to the dissolution, suspension, and reactivation of the Texas Health Reinsurance System.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter G, Chapter 1501, Insurance Code, is amended by adding Sections 1501.327 and 1501.328 to read as follows:

Sec. 1501.327. DISSOLUTION OF SYSTEM AND SUSPENSION OF SYSTEM OPERATIONS. (a) In this section, "plan" means the plan of dissolution and suspension required by this section.

(b) The board shall develop and submit to the commissioner a plan of dissolution of the system and suspension of system operations in accordance with this section. The plan must:

(1) ensure the fair, reasonable, and equitable winding down and dissolution of the system and suspension of system operations; and

(2) provide for the sharing of any remaining system assets on a proportionate basis in accordance with this section.

(c) The commissioner may approve the plan if the commissioner determines the plan meets the requirements of Subsections (b) and (e). The plan is effective on the written approval of the commissioner.

(d) If the board fails to submit a suitable plan, the commissioner, after notice and hearing, shall adopt a plan.

1 (e) The plan must:

2 (1) specify the date after which a small employer
3 health benefit plan issuer that is not a reinsured health benefit
4 plan issuer on the effective date of the plan may not:

5 (A) become a reinsured health benefit plan issuer
6 under Sections 1501.310, 1501.311, and 1501.312; and

7 (B) reinsure with the system a small employer
8 group, or any risk, covered under any small employer health benefit
9 plan;

10 (2) specify the date after which a small employer
11 health benefit plan issuer that is a reinsured health benefit plan
12 issuer on the effective date of the plan may not:

13 (A) reinsure with the system additional small
14 employer groups in accordance with Section 1501.314; or

15 (B) cede additional eligible lives to the system
16 in accordance with Section 1501.314;

17 (3) provide for:

18 (A) the filing, receipt, processing, and payment
19 of all claims against and debts of the system, and extinguishment of
20 all liabilities of the system, including balances on any lines of
21 credit that may have been established by or on behalf of the system;

22 (B) the collection and receipt of all assessments
23 made with respect to reinsured health benefit plan issuers,
24 including any deferred assessments and any final assessment made
25 under Subsection (h);

26 (C) a final audit of the system by the state
27 auditor as provided by Subsection (i); and

1 (D) the distribution of any surplus assets of the
2 system that remain after the closing date, in a manner that shares
3 the remaining system assets on a proportionate basis and in
4 accordance with this subsection; and

5 (4) specify, as the closing date, the effective date
6 of the closing of the transactions required by the plan and
7 addressed in this subsection.

8 (f) The closing date may not be later than the 270th day
9 after the effective date of the plan.

10 (g) On and after the closing date, a reinsured health
11 benefit plan issuer that has not elected to change status before
12 that date operates as a risk-assuming health benefit plan issuer
13 with respect to risks the issuer reinsured with the system before
14 that date.

15 (h) The board may make a final assessment of the small
16 employer health benefit plan issuers that, for any portion of
17 calendar year 2005, were reinsured health benefit plan issuers. An
18 assessment under this subsection may be made only if the board
19 determines the assessment is necessary to recover net losses of the
20 system, as provided in Sections 1501.319-1501.326, including
21 administrative expenses for transactions essential to complete
22 execution of the plan, and the cost of the final audit by the state
23 auditor. For a health benefit plan issuer that changed its status
24 to risk-assuming health benefit plan issuer on or after January 1,
25 2005, but before the closing date of the plan, the assessment must
26 be prorated based on small employer premium received as a reinsured
27 health benefit plan issuer for the portion of calendar year 2005

1 that the issuer was reinsured with the system.

2 (i) The transactions necessary to complete execution of the
3 plan are subject to audit by the state auditor under Chapter 321,
4 Government Code. The state auditor shall report the cost of the
5 final audit conducted under this section to the board and the
6 comptroller, and the board shall remit that amount to the
7 comptroller for deposit to the general revenue fund.

8 (j) The system shall continue the system's corporate
9 existence until the third anniversary of the closing date
10 established by the plan solely for the purpose of prosecuting or
11 defending in the system's corporate name any action or proceeding
12 by or against the system.

13 (k) During the three-year period established by Subsection
14 (j), the board members serving at the time of dissolution shall
15 continue to manage the affairs of the system for the sole purpose
16 stated by that subsection and have the powers and immunities
17 necessary to accomplish that sole purpose, in accordance with
18 Sections 1501.305 and 1501.307.

19 (l) If during the three-year period established by
20 Subsection (j) a board member fails to serve, the commissioner
21 shall appoint a replacement member in accordance with Section
22 1501.303. A member appointed under this subsection to replace a
23 member described by Section 1501.303(b) must be a representative of
24 a health benefit plan issuer that was a reinsured issuer
25 immediately before the closing date and selected from individuals
26 nominated by small employer health benefit plan issuers in this
27 state according to procedures developed by the commissioner.

1 Sec. 1501.328. REACTIVATION OF SYSTEM. (a) After the
2 system is dissolved and the system's operations are suspended under
3 Section 1501.327, the commissioner, after notice and hearing in
4 accordance with this section, may reactivate the system.

5 (b) The commissioner shall hold a hearing under this section
6 on petition of an association of health benefit plan issuers in this
7 state or a group of at least 15 small employer health benefit plan
8 issuers operating in this state or may hold the hearing if the
9 commissioner believes that small employer health benefit plan
10 issuers in this state are threatened with the inability to secure
11 reinsurance coverage in the open market.

12 (c) Not later than the 15th day before the date of a hearing
13 under this section, the department shall provide notice of the
14 hearing to each small employer health benefit plan issuer.

15 (d) If, after hearing, the commissioner finds that
16 reactivation of the system is in the public interest, the
17 commissioner shall order the reactivation. The reactivation must
18 be effective at least 15 days, but not more than 60 days, after the
19 date the order is entered, as specified in the order. On the date
20 specified for reactivation, Sections 1501.301-1501.326 become
21 effective as if those provisions had been reenacted effective on
22 the date specified in the order.

23 SECTION 2. The board of directors of the Texas Health
24 Reinsurance System shall submit to the commissioner a plan of
25 dissolution and suspension of the Texas Health Reinsurance System,
26 as required by Section 1501.327, Insurance Code, as added by this
27 Act, not later than the 90th day following the effective date of

1 this Act. If the board fails to timely submit the plan, the
2 commissioner of insurance shall adopt a plan in accordance with
3 Section 1501.327(d), Insurance Code, as added by this Act.

4 SECTION 3. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2005.