

AN ACT

relating to special deposits required of certain insurers.

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

SECTION 1. Chapter 1, Insurance Code, is amended by adding Article 1.33 to read as follows:

Art. 1.33. SPECIAL DEPOSITS

Sec. 1. DEFINITION. In this article, "insurer" includes:

- (1) a capital stock insurance company;
- (2) a reciprocal or interinsurance exchange;
- (3) a Lloyd's plan;
- (4) a fraternal benefit society;
- (5) a mutual company, including a mutual assessment company;
- (6) a statewide mutual assessment company;
- (7) a local mutual aid association;
- (8) a burial association;
- (9) a county mutual insurance company;
- (10) a farm mutual insurance company;
- (11) a fidelity, guaranty, or surety company;
- (12) a title insurance company;
- (13) a stipulated premium company;
- (14) a group hospital service corporation;
- (15) a health maintenance organization;
- (16) a risk retention group; and

1 (17) any other organization or person engaged in the
2 business of insurance.

3 Sec. 2. APPLICABILITY OF ARTICLE. This article applies to a
4 person or organization engaged in the business of insurance without
5 regard to whether the person or organization is listed in Section 1
6 of this article, unless another statute specifically cites this
7 article and exempts the person or organization from this article.

8 Sec. 3. STANDARDS AND CRITERIA. The commissioner, in the
9 commissioner's sole discretion, may require an insurer to make a
10 deposit under this article if the commissioner determines that one
11 of the following conditions, if not rectified, may potentially be
12 hazardous to the insurer's policyholders, enrollees, or creditors,
13 or to the public:

14 (1) the financial or operating condition of the
15 insurer, when reviewed in conjunction with the kinds and nature of
16 risks insured;

17 (2) the insurer's method of operation;

18 (3) the insurer's relationship with affiliates;

19 (4) the nature and amount of the insurer's
20 investments;

21 (5) the insurer's contracts that may lead to a
22 contingent liability; or

23 (6) the insurer's agreements with respect to guaranty
24 and surety.

25 Sec. 4. REQUIRED DEPOSIT; FORM OF SECURITY. A deposit
26 required under Section 3 of this article must be made with the
27 comptroller and approved by the commissioner. The deposit must be

1 made in:

2 (1) cash;

3 (2) securities authorized under this code to be a
4 legal investment for the insurer that:

5 (A) are readily marketable over a national
6 exchange with a maturity date of not more than one year, are listed
7 by the Securities Valuation Office of the National Association of
8 Insurance Commissioners, and qualify as admitted assets; or

9 (B) are clean, irrevocable, unconditional
10 letters of credit, issued or confirmed by a financial institution
11 organized and licensed under the laws of the United States or a
12 state of the United States; or

13 (3) another form of security acceptable to the
14 commissioner.

15 Sec. 5. DURATION OF DEPOSIT. Subject to Section 6 of this
16 article, the comptroller shall hold a deposit required under this
17 article until the commissioner issues a written order finding that
18 the condition for which the deposit was required no longer exists.

19 Sec. 6. SUBSTITUTION OR WITHDRAWAL OF DEPOSIT. (a) An
20 insurer may file a written application with the commissioner
21 requesting:

22 (1) withdrawal of all or a portion of the deposit held
23 by the comptroller under this article; or

24 (2) substitution of all or a part of the deposited
25 securities held by the comptroller under this article.

26 (b) The application must state the basis for the request to
27 withdraw the deposit or to substitute the deposited security.

1 (c) If the application is for the substitution of a
2 deposited security, the insurer's application must provide
3 specific information regarding the security to be deposited as a
4 substitute for the security held by the comptroller.

5 (d) The commissioner shall issue an order approving or
6 denying an application under this section not later than the 30th
7 day after the date the department receives the application. If the
8 commissioner does not approve or deny the application within that
9 period, the application is denied.

10 (e) The commissioner may, in the commissioner's sole
11 discretion, approve an application to withdraw a deposit or
12 substitute a deposited security if the commissioner determines that
13 the withdrawal or substitution will not be hazardous to the
14 insurer's policyholders, enrollees, or creditors, or to the public.

15 (f) The comptroller may not release a deposit made under
16 this article, or any part of the deposit, and may not accept a
17 substitute for a deposited security unless the commissioner issues
18 an order approving the withdrawal or substitution.

19 Sec. 7. APPEAL. An insurer may appeal an action of the
20 commissioner under this article in accordance with Subchapter D,
21 Chapter 36, of this code.

22 Sec. 8. CUMULATIVE OF OTHER DEPOSITS. A deposit required to
23 be made under this article is in addition to any other deposit that
24 the insurer is required or authorized to make under this code.

25 SECTION 2. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

1 Act does not receive the vote necessary for immediate effect, this
2 Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1592 passed the Senate on April 21, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1592 passed the House on May 25, 2005, by the following vote: Yeas 144, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor