

1-1 By: Carona S.B. No. 1592
1-2 (In the Senate - Filed March 11, 2005; March 22, 2005, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 April 11, 2005, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; April 11, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to special deposits required of certain insurers.
1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-10 SECTION 1. Chapter 1, Insurance Code, is amended by adding
1-11 Article 1.33 to read as follows:

1-12 Art. 1.33. SPECIAL DEPOSITS

1-13 Sec. 1. DEFINITION. In this article, "insurer" includes:

- 1-14 (1) a capital stock insurance company;
1-15 (2) a reciprocal or interinsurance exchange;
1-16 (3) a Lloyd's plan;
1-17 (4) a fraternal benefit society;
1-18 (5) a mutual company, including a mutual assessment
1-19 company;
1-20 (6) a statewide mutual assessment company;
1-21 (7) a local mutual aid association;
1-22 (8) a burial association;
1-23 (9) a county mutual insurance company;
1-24 (10) a farm mutual insurance company;
1-25 (11) a fidelity, guaranty, or surety company;
1-26 (12) a title insurance company;
1-27 (13) a stipulated premium company;
1-28 (14) a group hospital service corporation;
1-29 (15) a health maintenance organization;
1-30 (16) a risk retention group; and
1-31 (17) any other organization or person engaged in the
1-32 business of insurance.

1-33 Sec. 2. APPLICABILITY OF ARTICLE. This article applies to a
1-34 person or organization engaged in the business of insurance without
1-35 regard to whether the person or organization is listed in Section 1
1-36 of this article, unless another statute specifically cites this
1-37 article and exempts the person or organization from this article.

1-38 Sec. 3. STANDARDS AND CRITERIA. The commissioner, in the
1-39 commissioner's sole discretion, may require an insurer to make a
1-40 deposit under this article if the commissioner determines that one
1-41 of the following conditions, if not rectified, may potentially be
1-42 hazardous to the insurer's policyholders, enrollees, or creditors,
1-43 or to the public:

- 1-44 (1) the financial or operating condition of the
1-45 insurer, when reviewed in conjunction with the kinds and nature of
1-46 risks insured;
1-47 (2) the insurer's method of operation;
1-48 (3) the insurer's relationship with affiliates;
1-49 (4) the nature and amount of the insurer's
1-50 investments;
1-51 (5) the insurer's contracts that may lead to a
1-52 contingent liability; or
1-53 (6) the insurer's agreements with respect to guaranty
1-54 and surety.

1-55 Sec. 4. REQUIRED DEPOSIT; FORM OF SECURITY. A deposit
1-56 required under Section 3 of this article must be made with the
1-57 comptroller and approved by the commissioner. The deposit must be
1-58 made in:

- 1-59 (1) cash;
1-60 (2) securities authorized under this code to be a
1-61 legal investment for the insurer that:
1-62 (A) are readily marketable over a national
1-63 exchange with a maturity date of not more than one year, are listed
1-64 by the Securities Valuation Office of the National Association of

2-1 Insurance Commissioners, and qualify as admitted assets; or
2-2 (B) are clean, irrevocable, unconditional
2-3 letters of credit, issued or confirmed by a financial institution
2-4 organized and licensed under the laws of the United States or a
2-5 state of the United States; or

2-6 (3) another form of security acceptable to the
2-7 commissioner.

2-8 Sec. 5. DURATION OF DEPOSIT. Subject to Section 6 of this
2-9 article, the comptroller shall hold a deposit required under this
2-10 article until the commissioner issues a written order finding that
2-11 the condition for which the deposit was required no longer exists.

2-12 Sec. 6. SUBSTITUTION OR WITHDRAWAL OF DEPOSIT. (a) An
2-13 insurer may file a written application with the commissioner
2-14 requesting:

2-15 (1) withdrawal of all or a portion of the deposit held
2-16 by the comptroller under this article; or

2-17 (2) substitution of all or a part of the deposited
2-18 securities held by the comptroller under this article.

2-19 (b) The application must state the basis for the request to
2-20 withdraw the deposit or to substitute the deposited security.

2-21 (c) If the application is for the substitution of a
2-22 deposited security, the insurer's application must provide
2-23 specific information regarding the security to be deposited as a
2-24 substitute for the security held by the comptroller.

2-25 (d) The commissioner shall issue an order approving or
2-26 denying an application under this section not later than the 30th
2-27 day after the date the department receives the application. If the
2-28 commissioner does not approve or deny the application within that
2-29 period, the application is denied.

2-30 (e) The commissioner may, in the commissioner's sole
2-31 discretion, approve an application to withdraw a deposit or
2-32 substitute a deposited security if the commissioner determines that
2-33 the withdrawal or substitution will not be hazardous to the
2-34 insurer's policyholders, enrollees, or creditors, or to the public.

2-35 (f) The comptroller may not release a deposit made under
2-36 this article, or any part of the deposit, and may not accept a
2-37 substitute for a deposited security unless the commissioner issues
2-38 an order approving the withdrawal or substitution.

2-39 Sec. 7. APPEAL. An insurer may appeal an action of the
2-40 commissioner under this article in accordance with Subchapter D,
2-41 Chapter 36, of this code.

2-42 Sec. 8. CUMULATIVE OF OTHER DEPOSITS. A deposit required to
2-43 be made under this article is in addition to any other deposit that
2-44 the insurer is required or authorized to make under this code.

2-45 SECTION 2. This Act takes effect immediately if it receives
2-46 a vote of two-thirds of all the members elected to each house, as
2-47 provided by Section 39, Article III, Texas Constitution. If this
2-48 Act does not receive the vote necessary for immediate effect, this
2-49 Act takes effect September 1, 2005.

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