

By: Hancock

H.B. No. 2708

A BILL TO BE ENTITLED

AN ACT

relating to what constitutes the business of insurance.

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

SECTION 1. Subsection (b), Section 101.053, Insurance Code, is amended to read as follows:

(b) Sections 101.051 and 101.052 do not apply to:

(1) the lawful transaction of surplus lines insurance under Chapter 981;

(2) the lawful transaction of reinsurance by insurers;

(3) a transaction in this state that:

(A) involves a policy that:

(i) is lawfully solicited, written, and delivered outside this state; and

(ii) covers, at the time the policy is issued, only subjects of insurance that are not resident, located, or expressly to be performed in this state; and

(B) takes place after the policy is issued;

(4) a transaction:

(A) that involves an insurance contract independently procured by the insured from an insurance company not authorized to do insurance business in this state through negotiations occurring entirely outside this state;

(B) that is reported; and

(C) on which premium tax is paid in accordance

1 with Chapter 226;

2 (5) a transaction in this state that:

3 (A) involves group life, health, or accident
4 insurance, other than credit insurance, and group annuities in
5 which the master policy for the group was lawfully issued and
6 delivered in a state in which the insurer or person was authorized
7 to do insurance business; and

8 (B) is authorized by a statute of this state;

9 (6) an activity in this state by or on the sole behalf
10 of a nonadmitted captive insurance company that insures solely:

11 (A) directors' and officers' liability insurance
12 for the directors and officers of the company's parent and
13 affiliated companies;

14 (B) the risks of the company's parent and
15 affiliated companies; or

16 (C) both the individuals and entities described
17 by Paragraphs (A) and (B);

18 (7) the issuance of a qualified charitable gift
19 annuity under Chapter 102; ~~[or]~~

20 (8) a lawful transaction by a servicing company of the
21 Texas workers' compensation employers' rejected risk fund under
22 Section 4.08, Article 5.76-2, as that article existed before its
23 repeal; or

24 (9) a transaction in this state between two or more
25 entities for commercial marketing or promotional purposes in which
26 a monetary risk is transferred from one or more of the entities
27 under a written contract that:

1 (A) contains a clear and conspicuous
2 acknowledgment by the parties that the contract is not an insurance
3 contract and is not protected by any state guaranty association;

4 (B) does not require any actual economic loss by
5 the party transferring the risk as a condition precedent to
6 imposing contractual liability on the party accepting the risk; and

7 (C) does not require submission of proof of
8 economic loss by the party transferring the risk as a condition
9 precedent to imposing contractual liability on the party accepting
10 the risk.

11 SECTION 2. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2007.