

BILL ANALYSIS

H.B. 4291
By: Smithee
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law requires the Texas Department of Insurance to hold a hearing before denying an application for a certificate of authority for a company that desires to enter the Texas market as an insurer. In contrast, the current process allows the commissioner of insurance to deny an application for the acquisition of control of an existing insurer (Form A) without first holding a hearing and entitles the applicant to a hearing if the commissioner denies the application.

The statutory hearing requirements prolong the review process and divert valuable resources from other applications and regulatory functions of the department. Providing an applicant with a hearing after denial of an application maintains the applicant's due process rights, allows the department to require strict adherence to the standards for the issuance of a certificate of authority, and minimizes the time spent on unqualified applications.

H.B. 4291 grants the department the authority to approve, deny, or disapprove an application for a certificate of authority without being required to first hold a hearing and provides an applicant the right to request a hearing after a denial to provide the applicant an opportunity to demonstrate whether it meets all requirements for issuance of a certificate of authority.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 4291 amends Insurance Code provisions relating to insurers and related entities to require the Texas Department of Insurance to approve, deny, or disapprove an application for a certificate of authority to act as an insurer and, if the department determines that the applicant has complied with the law, to approve the application. The bill requires the commissioner of insurance to hold a hearing on the denial of such an application on the applicant's request and to request a hearing date not later than the 30th day after the date of the applicant's request for a hearing. The bill removes language that requires the department to deny such an application or revoke the certificate only after written notice and hearing. The bill amends the definition for "insurer" as it applies to these provisions to include a group hospital service corporation, a health maintenance organization, and a nonprofit legal services corporation.

H.B. 4291 applies the changes relating to a hearing upon the denial of an application for a certificate of authority to provisions governing an application for a certificate of authority submitted by a life, health, or accident insurance company; a multiple employer welfare arrangement; and a foreign or alien insurance company. The bill also applies those changes to an application for a charter submitted by an insurance company other than a life, health, or accident insurance company; a mutual life insurance company; and a stipulated insurance company; and for an application for a permit to solicit insurance submitted by a farm mutual insurance company.

H.B. 4291 authorizes an interested party of a life, health or accident insurance company or a stipulated premium insurance company to participate fully and in all respects in any proceeding related to an application, and provides that an intervenor has the rights and privileges of a proper or necessary party in a civil suit in Texas courts, including the right to be represented by counsel. The bill requires the commissioner to immediately make or cause to be made a full and thorough examination of a stipulated premium insurance company after making a determination on an application, and requires the company to pay for the examination. The bill makes technical corrections and conforming changes.

H.B. 4291 repeals the following sections in the Insurance Code:

- Section 822.057(c)
- Section 822.058(a)
- Section 822.059
- Section 841.060
- Section 843.081
- Section 882.058(c)

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.