

By: Farabee

H.B. No. 4217

A BILL TO BE ENTITLED

1 AN ACT

2 Relating to the establishment of the Texas Individual Health
3 Insurance Association and to the efficient operation of that system

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

5 SECTION 1. Subtitle _____, Title _____, Insurance code,
6 is amended by adding Chapter _____ to read as follows: CHAPTER
7 _____ Texas Individual Health Insurance Association.

8 Sec. _____. DEFINITIONS

9 In this chapter:

10 (1) "Association" means the Texas Individual Health
11 Insurance Association.

12 (2) "Authorized insurer" means an insurer authorized by the
13 Texas Department of Insurance to write individual health coverage
14 under this title.

15 (3) "Insurance" means an insurance policy that meets the
16 requirements of Chapter _____, Insurance Code.

17 Sec. _____. NATURE AND COMPOSITION OF ASSOCIATION.

18 (a) The Texas Healthy Individual Insurance Association is a
19 nonprofit corporate body composed of all authorized insurers.

20 (b) Each authorized insurer must be a member of the
21 association as a condition of the insurer's authority to write
22 individual health insurance in this state

23 Sec. _____. GOVERNANCE OF THE ASSOCIATION:

24 (a) the association is administered by a governing

1 committee under a plan of operation.

2 (b) The governing committee of the Association is composed
3 of 12 members appointed by the Texas Commissioner of Insurance to be
4 selected as follows:

5 (1) six members who represent the interests of insurers,
6 elected by the association members according to a method the
7 members determine;

8 (2) four public members selected by the commissioner; and

9 (3) two members who are Texas health insurance agents

10 (c) To be eligible to serve on the governing committee as a
11 representative of insurers, an individual must be a full-time
12 employee of or contractor with an authorized insurer.

13 (d) An individual may not serve on the governing committee
14 as a public member if the individual, another individual related to
15 that individual within the second degree by consanguinity or
16 affinity, or another individual residing in the same household with
17 that individual:

18 (1) is required to be registered or licensed under this code
19 or another insurance law of this state;

20 (2) is employed by or acts as a consultant to a person
21 required to be registered or licensed or required to hold a
22 certificate of authority under this code or another insurance law
23 of this state;

24 (3) is the owner of, has a financial interest in, or
25 participates in the management of an organization required to be
26 registered or licensed or required to hold a certificate of
27 authority under this code or another insurance law of this state;

1 (4) is an officer, employer, or consultant of an association
2 in the field of insurance; or

3 (5) is required to register as a lobbyist under Chapter 305,
4 Government Code.

5 Sec. _____. IMMUNITY FROM LIABILITY

6 (a) The association, a member of the governing committee, or
7 an employee of the association is not personally liable for:

8 (1) an act performed in good faith within the scope of the
9 person's authority as determined under this chapter or the plan of
10 operation; or

11 (2) damages occasioned by the person's official act or
12 omission except an act or omission that is corrupt or malicious.

13 (b) The association shall provide counsel to defend an
14 action brought against a member of the governing committee or an
15 employee because of the person's official act or omission
16 regardless of whether the person has terminated service with the
17 association when the action is instituted.

18 (c) This section is cumulative of and does not affect or
19 modify a common law or statutory privilege of the association or its
20 governing committee.

21 Sec. _____. POWERS AND DUTIES OF ASSOCIATION

22 The association has the powers granted to a nonprofit
23 corporation under the Business Organizations Code.

24 Sec. _____. ASSIGNMENT OF INSURANCE; ELIGIBILITY.

25 (a) The association shall provide for the assignment of
26 insurance to an authorized insurer. Such assignment will be made to
27 carriers in proportion to each insurer's percentage of premium of

1 the individual health market for

2 (b) An applicant is not eligible for insurance assignment
3 through the association unless the applicant and the health agent
4 certify as part of the application to the association that the
5 applicant has been rejected for insurance by at least two insurers
6 that are authorized to engage in business in this state and that are
7 writing individual health insurance in this state. the last
8 calendar year.

9 (c) The assigned risk will be administered by the assigned
10 insurer.

11 (d) Assignment of risks to the members of the Association
12 shall be made on a guaranteed issue basis.

13 Sec. _____. ASSESSMENTS FOR OPERATIONS EXPENSES.

14 (a) The association may assess authorized insurers to
15 provide money to operate the association.

16 (b) The amount assessed against an authorized insurer must
17 be in proportion to the insurer's writing of automobile liability
18 insurance in this state.

19 (c) The association may bring an action to collect an
20 assessment against an authorized insurer that does not pay the
21 assessment within a reasonable time. In addition, the association
22 may report an authorized insurer's failure to pay the assessment to
23 the commissioner. The commissioner may institute a disciplinary
24 action against the insurer for failure to pay the assessment.

25 Sec. _____. PLAN OF OPERATION

26 (a) The Association shall be administered in compliance
27 with the plan of operation of the Association.

1 (b) The plan of operation must provide for the efficient,
2 economical, fair, and nondiscriminatory administration of the
3 association; and provide a means by which insurance may be
4 provided.

5 (c) Subject to the commissioner's approval, the governing
6 committee may amend the plan of operation. If the commissioner at
7 any time believes that any part of the plan of operation is
8 inconsistent with the purposes of this Chapter, the commissioner
9 shall notify the governing committee in writing so that the
10 governing committee may take corrective action.

11 (d) The Plan of Operation shall be effective upon approval
12 of the Commissioner.

13 (e) The Association shall be subject to the Open Meetings
14 Act and the Open Records Act.

15 Sec. _____. REINSURANCE

16 (a) The Association will also operate as a reinsurance
17 system, and insurers assigned a risk under this chapter may
18 reinsure such risk with the Association if notice of such
19 reinsurance is given to the Association within thirty days of the
20 assignment of the risk to the insurer.

21 (b) Reinsurance retention levels and premiums shall be set
22 by the Governing Board of the Association and shall be set in
23 accordance with sound actuarial science, and such matters will be
24 set forth in full in the plan of operation.

25 Sec. _____. PAYMENT OF EXCESS REINSURANCE LOSSES; PREMIUM
26 TAX CREDIT.

27 (a) Should there be a deficit for a calendar year caused by

1 the reinsurance losses greater than reinsurance premiums and
2 expenses of operation, carriers will be assessed during the
3 following year for this deficit in proportion to their individual
4 health premiums participation in the Association for the year in
5 which the deficit occurred in accordance with (b).

6 (b) The first \$25 million shall be assessed against the
7 members of the association as stated above; the losses in excess of
8 \$25 million shall be paid from reserve trust fund established by the
9 plan of operation and collected by fee on each policy assigned by
10 the plan and from any reinsurance program established by the
11 association; and any greater losses will be paid by an assessment of
12 the members of the association in the same proportion as set forth
13 in (a) above; and insurers may credit an amount paid in accordance
14 with this final portion of the assessment against the insurer's
15 premium tax. The tax credit authorized herein shall be allowed at a
16 rate not to exceed 20 percent per year for five or more successive
17 years beginning the calendar year that the assessments under this
18 section are paid.

19 Sec. _____. The Commissioner may adopt rules necessary to
20 implement this chapter.

21 SECTION 2

22 Effective January 1, 2010.