

BILL ANALYSIS

H.B. 1951
By: Taylor, Larry
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Texas first began regulating insurance in 1876, when the Legislature created the Department of Insurance, Statistics, and History, later changing the name of the agency several times and expanding its duties. Today, the Texas Department of Insurance (TDI) regulates insurance companies' solvency, rates, forms, and market conduct; licenses individuals and entities involved in selling insurance policies; provides consumer education and resolves consumer complaints; takes enforcement action against those who violate insurance laws; and provides fire prevention services across the state. The Department also regulates workers' compensation insurance; however, the Division of Workers' Compensation of TDI has its own Sunset date and is addressed in separate legislation.

The Department is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the Legislature. This legislation contains provisions that are substantially similar to the Sunset legislation for the Department filed in the 81st legislative session, which failed to pass. As a result, the Department underwent a special purpose Sunset review, and this bill contains the recommendations that continue to be appropriate for consideration by this Legislature.

The Sunset Commission found that Texas has a clear and ongoing need to regulate insurance, but that changes are needed to improve the transparency and accountability of TDI's current statutory responsibilities. This legislation continues the agency for 12 years and contains several additional statutory modifications. Among other provisions, the bill seeks to bring more predictability and transparency to TDI's regulation of property and casualty insurance rates, requires TDI to collect and publish aggregate information regarding the processing of personal automobile and residential property claims, gives the State Fire Marshal's Office additional tools, and removes 15 unneeded advisory committees from state law.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Commissioner of Insurance in SECTION 2.001, SECTION 3.001, SECTION 3.006, SECTION 4.001, SECTION 4.002, SECTION 4.003, SECTION 4.004, SECTION 6.001, and SECTION 7.001 of this bill and to the Texas Facilities Commission and the State Office of Risk Management Board in SECTION 4.003 of this bill.

ANALYSIS

Defines TDI's use of property and casualty insurance regulatory tools

H.B. 1951 sets a 30-day time limit for the Commissioner to review and administratively disapprove a rate under the file-and-use regulatory system and provides that if the Commissioner does not act within that time frame that the rate is not considered disapproved. The bill provides that the Commissioner of Insurance would be able to extend the review period by another 30

days, for good cause. The bill repeals Section 2251.154, Insurance Code, which outlines the process for requesting additional information in the review process, and rolls the applicable provisions into new Section 2251.1031. The bill clarifies that rates filed under the file-and-use system may be immediately used, and provides a mechanism that stops the computation of the 30-day time frame for rate review, if TDI requests additional information for a rate filing.

H.B. 1951 requires the Department to define the process it uses to request additional information about rate filings from insurers, including the types of information the Department can request and the number of times the Department may make requests. The bill also requires the Department to track, compile, and analyze all information requests and administrative rate disapprovals, making information about best practices for rate development and factors that contribute to disapproval available to the public. The bill specifies what type of information TDI will publicly release about its rate review process and factors that contribute to rate disapproval.

The bill requires the Department to define, in rule, the ratings practices, financial conditions, or statewide insurance emergencies that could result in an insurance company being placed under prior approval regulation. H.B. 1951 also requires the Commissioner to periodically evaluate the need for insurers to remain under prior approval regulation, and requires the Commissioner to notify insurers, in writing, of the actions that need to be taken in order to return to file-and-use rate regulation.

Requires personal automobile and residential property insurance claims information reporting

The bill requires the Department to develop and implement a plan to collect quarterly information relating to the processing of personal automobile and residential property claims from insurance companies on an annual basis. H.B. 1951 also requires the Department to make that information public and publish it on the Department's website. The bill provides that TDI should collect aggregate and not specific personal claims data, and provides that any information provided to the public should be aggregate and not reveal any proprietary information.

Requires the Commissioner to evaluate title rate information

H.B. 1951 requires the Commissioner of Insurance to evaluate what information is needed to promulgate title insurance rates not less frequently than once every five years, to determine whether the Department needs additional or different information.

Eliminates 15 advisory committees from statute

H.B. 1951 repeals 15 TDI advisory committees from statute, including the Agents Study Proposal/Vendor Committee, Consumer Assistance Program for Health Maintenance Organizations Advisory Board, Examination of License Applicants Advisory Board, Fire Alarm Advisory Committee, Fire Extinguisher Advisory Council, Fire Sprinkler Advisory Council, Fireworks Advisory Council, Health Maintenance Organization Solvency Surveillance Committee, Insurance Adjusters Advisory Board, Public Insurance Adjusters Examination Advisory Committee, Technical Advisory Committee on Claims Processing, Technical Advisory Committee on Electronic Data Exchange, Texas Health Coverage Awareness and Education Program Task Force, Texas Residential Property Insurance Market Assistance Program (MAP) Executive Committee, and Utilization Review Advisory Committee. The bill makes conforming changes to ensure that all references to advisory committees that are no longer needed are removed from law, and that any necessary tools provided for in the law are retained, even if the advisory committee is abolished.

The bill also requires the Commissioner of Insurance to adopt rules for the creation and use of advisory committees, ensuring the committees meet standard structure and operating criteria.

H.B. 1951 requires the Commissioner of Insurance to periodically evaluate the need for the Department's advisory committees.

Gives the State Fire Marshal's Office tools to target its fire safety inspections and enforce against non-compliant licensees

The bill requires the State Fire Marshal's Office (SFMO) to periodically inspect state-leased buildings. The bill requires the SFMO, the Texas Facilities Commission, and the State Office of Risk Management to share information on inspections of state-owned and state-leased buildings. H.B. 1951 also requires the Commissioner of Insurance to adopt guidelines, in rule, for a risk-based approach to conducting SFMO routine inspections of state-owned and state-leased buildings. The bill requires the Office to report its findings in conducting state inspections to the governor, lieutenant governor, speaker of the house of representatives, and the standing committees of the legislature each year. H.B. 1951 also requires the Commissioner of Insurance to prescribe a fee for inspections of privately owned buildings, whose owners or occupants request an inspection from the Office.

H.B. 1951 requires the Commissioner of Insurance to delegate, by rule, to the SFMO the authority to take enforcement action against SFMO licensees, including persons engaged in planning, installing, and servicing fire sprinkler systems, fire extinguishers, and fire alarm systems, and who sell fireworks. The bill also requires the Commissioner to establish a penalty schedule for violations by SFMO licensees and provides for a process for referral to the Department upon non-payment of the fine.

Clarifies provisions in the Insurance Code to permit the use of electronic commerce transactions

The bill authorizes regulated entities to conduct business electronically, if both parties to the transaction agree to conduct business electronically. H.B. 1951 also requires the Commissioner of Insurance to adopt standards for electronically delivering documents in rule.

Requires the Commissioner of Insurance to study and report on areas of the state designated as underserved for the purposes of obtaining residential property insurance

H.B. 1951 expands the factors that the Commissioner must consider when designating areas of the state as underserved to include reasonable access to the full range of coverages and policy forms. The bill requires the Commissioner of Insurance to study areas of the state designated as underserved and to determine which areas to designate as underserved not less than once every six years. The bill requires the Commissioner to study the impact of increasing the percentage of the total amount of premiums collected to qualify for reduced rate filing requirements under 2251.252 of the Insurance Code, and to include the study results in the Department's biennial report.

Applies a standard Sunset across-the-board recommendation

H.B. 1951 adds standard Sunset language requiring the Commissioner to develop a policy that encourages the use of negotiated rulemaking and alternative dispute resolution.

Updates the Department's statutory duties

The bill updates the Department's duties by charging the agency with protecting and ensuring the fair treatment of consumers, and ensuring fair competition in the insurance industry in order to foster a competitive market.

Continues the Department for 12 years

H.B. 1951 changes the Department's Sunset review date to 2023 to continue the agency for 12 years.

The bill repeals the following statutory provisions.

Insurance Code, Article 3.70-3D(d), as effective on appropriation in accordance with §5, Chapter 1457 (H.B. 3021), Act of the 76th Legislature, Regular Session, 1999

Insurance Code, Chapter 523

Insurance Code, §524.061

Insurance Code, the heading to Subchapter M, Chapter 843

Insurance Code, §843.435

Insurance Code, §843.436

Insurance Code, §843.437

Insurance Code, §843.438

Insurance Code, §843.439

Insurance Code, §843.440

Insurance Code, Chapter 1212

Insurance Code, §1660.002(2)

Insurance Code, Subchapter B, Chapter 1660

Insurance Code, §1660.101 (c)

Insurance Code, §4002.004

Insurance Code, §4004.002

Insurance Code, §4101.006

Insurance Code, §4102.059

Insurance Code, §4201.003(c) and (d)

Insurance Code, Subchapter C, Chapter 6001

Insurance Code, Subchapter C, Chapter 6002

Insurance Code, Subchapter C, Chapter 6003

Occupations Code, §2154.054

Occupations Code, §2154.055(c)

Insurance Code, §2251.154

EFFECTIVE DATE

September 1, 2011