

BILL ANALYSIS

C.S.H.B. 2681
By: Hartnett
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, property and casualty insurance rate filings and any supporting information are open to public inspection. When an insurer makes rate filings and files supporting information, those filings may contain trade secret information that is developed by an insurer at a substantial economic cost and is based on that individual insurer's own loss and expense experiences in the insurance marketplace over many years. Insurers prefer to keep this information confidential and do not typically share it with other insurers because insurers contend that sharing lessens competition in the Texas insurance marketplace. Thus, the information is not only of substantial economic value to the insurer who developed it, but it also has substantial economic value to competing insurers in the marketplace who otherwise cannot obtain that information. If an insurer obtains the confidential trade secret information of another insurer, that insurer gains a competitive advantage over that other insurer. Accordingly, permitting the public inspection of confidential trade secret information of insurers developed for the individual insurer's use in predicting loss for calculating rates may lessen competition in the Texas insurance marketplace and could lead to higher rates for Texas consumers. C.S.H.B. 2681 seeks to resolve this issue and serves to promote competition among insurers in Texas.

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

C.S.H.B. 2681 amends the Insurance Code to specify that each filing made and any supporting information filed under statutory provisions governing property and casualty insurance rates is public information subject to the state's open records law, including any applicable exception from required disclosure under that law, rather than open to public inspection as of the date of the filing. The bill redefines "supporting information," for purposes of statutory provisions governing property and casualty insurance rates, to include any information the Texas Department of Insurance (TDI) receives from a filer as a response to a TDI inquiry to any insurance company, agent, or other holder of an authorization issued under insurance law relating to the person's business condition or any matter connected with the person's transactions deemed necessary by TDI, rather than any information TDI requires to be filed.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2681 differs from the original, in the provision subjecting each filing made and any supporting information filed under statutory provisions governing property and casualty insurance rates to the state's open records law, by specifying that the open records law to which

such information is subject includes any applicable exception from required disclosure under that law, whereas the original does not include that specification. The substitute differs from the original in nonsubstantive ways.