

BILL ANALYSIS

H.B. 2834
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Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Insurer Receivership Act provides for receiverships of insurers and other entities in the insurance business. Interested parties note that this legislation was drafted based on a model produced by a nationally recognized insurance-related association. It has been reported that a number of changes were made to the final version of the act that resulted in incorrect cross-references, inadvertent variances from the model, misplaced provisions, and other technical errors that have resulted in confusion and could ultimately result in unnecessary litigation.

H.B. 2834 seeks to remedy these issues in the act by incorporating technical corrections and eliminating unintended variances from the national model on which it was based.

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. 2834 amends the Insurance Code to create an exception to the prohibition against a delinquency proceeding being commenced under the Insurer Receivership Act by a person other than the commissioner of insurance for an action as authorized by the federal Dodd-Frank Wall Street Reform and Consumer Protection Act. The bill specifies that a claim or counterclaim brought by a party in arbitration against a receivership estate of an insurer is subject to all provisions of the Insurer Receivership Act, rather than only provisions of the act relating to setoffs of all mutual debts or mutual credits of an insurer and another person.

H.B. 2834 authorizes a receiver to appoint a special deputy for purposes of rehabilitating or liquidating an insurer without soliciting competitive bids in the event of an emergency and establishes that an emergency exists if a court has made a determination relating to the default of a company as described in the federal Dodd-Frank Wall Street Reform and Consumer Protection Act or if the receiver concludes that the competitive bidding process would delay the appointment of a special deputy and that the delay could be hazardous to the insurer's policyholders or creditors or the general public.

H.B. 2834 creates an exception to the requirement that any formal delinquency proceeding against a person under the Insurer Receivership Act be commenced by filing a petition in the name of the commissioner or the Texas Department of Insurance (TDI) for an action as authorized by the federal Dodd-Frank Wall Street Reform and Consumer Protection Act.

H.B. 2834 expands the grounds for the filing of a petition for an order of rehabilitation or liquidation of an insurer domiciled in Texas or an unauthorized insurer to include a court's determination relating to the default of a company as described in the federal Dodd-Frank Wall Street Reform and Consumer Protection Act.

H.B. 2834 authorizes a rehabilitator to exercise all powers possessed on August 31, 2005, by a receiver appointed for the purpose of rehabilitating an insurer or conferred on a rehabilitator after that date by state laws that are not inconsistent with the Insurer Receivership Act.

H.B. 2834 includes claims for benefits under a health care plan issued by a health maintenance organization and claims under insurance policies or contracts for benefits issued by an unauthorized insurer among the unsecured claims classified as Class 2 claims for purposes of the priority of payment of unsecured claims. The bill makes a technical correction to specify that Class 3 claims consist of claims of the federal government not included in Class 2, rather than Class 3.

H.B. 2834 redefines "distributable assets," for purposes of provisions of law relating to early access payments to guaranty associations, to make a technical correction by replacing a cross-reference to certain Class 3 claims with a reference to certain Class 2 claims. The bill prohibits a liquidator from distributing distributable assets to the guaranty associations in excess of the anticipated entire claims of the guaranty associations falling within Class 1 and Class 2 claims, rather than Class 2 and Class 3 claims.

H.B. 2834 makes conforming and nonsubstantive changes and makes technical corrections.

EFFECTIVE DATE

September 1, 2011.