

BILL ANALYSIS

H.B. 3458
By: Eiland
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The legislature recently passed certain legislation relating to market conduct examinations, but, according to some interested parties, clarifying language regarding registration is needed in order to allow the Texas Department of Insurance (TDI) to more effectively ensure that out-of-state examinations of Texas companies on behalf of other states are being handled fairly and in an efficient, cost-effective, and proper manner. Interested parties contend that out-of-state independent contract examiners have been targeting various Texas-domiciled insurers for repetitive market conduct examinations, marketing their services to regulators from state to state with, in many cases, information already available to the regulators, and that there is little recourse against examiners who conduct themselves in a less-than-honorable manner.

While market conduct examinations serve a useful purpose as a regulatory tool, it is apparent to some that abuse in the marketplace outside Texas is occurring. While Texas is limited in regulating examiners in other states, the state can seek to require these contract examiners to register and provide information regarding the scope of an examination regarding a Texas-domiciled company. H.B. 3458 seeks to address these issues by establishing provisions relating to the registration with TDI of certain contract examiners.

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. 3458 amends the Insurance Code, under provisions relating to audits and examinations and under the Insurance Market Conduct Surveillance Act, to require a person with whom another state contracts to perform any respective market analysis or examination initiated by the other state of an insurer domiciled in Texas to provide to, in addition to registering with, the Texas Department of Insurance's (TDI) chief examiner, among other information, an estimate of the examination costs to be charged to the insurer to be examined, a copy of any contract between the person and the state regulatory body that initiated the examination and a letter authorizing the examination, and a list of the previous examinations conducted on the same insurer on behalf of any state within the last three years. The bill requires TDI, on accepting a person's registration, to send written confirmation of the acceptance to the person, the insurer to be examined, and the state regulatory body that initiated the examination.

H.B. 3458, under provisions relating to managing general agents, requires a person with whom another state contracts to perform any examination initiated by the other state of a licensed managing general agent to provide to, in addition to registering with, the chief examiner, among other information, an estimate of the examination costs to be charged to the managing general agent to be examined, a copy of any contract between the person and the state regulatory body that initiated the examination and the letter authorizing the examination, and a list of the previous examinations conducted on the same managing general agent on behalf of any state

within the last three years. The bill requires TDI, on accepting a person's registration, to send written confirmation of the acceptance to the person, the managing general agent to be examined, and the state regulatory body that initiated the examination.

H.B. 3458 makes the changes in law made by the bill's provisions applicable only to an examination commencing on or after September 1, 2011, and establishes that an examination commencing before such date is subject to the law in effect on the date the examination was commenced and that such law is continued in effect for that purpose.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.