

BILL ANALYSIS

Senate Research Center

S.B. 567
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State Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association (association), created by the Texas Legislature in 1973, and currently enabled by Chapter 463 (Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association) of the Insurance Code, provides coverage for policy benefits of Texas resident policy holders, subject to certain limits, in the event of an insolvency of a member insurance company. Participation in the association is mandatory for insurers licensed to write life, accident, health, and annuity contracts in Texas.

S.B. 567 changes the name of the association to the Texas Life and Health Insurance Guaranty Association to more accurately reflect its purpose. The bill also amends current law relating to certain amounts payable by and the operation of the association. Most important, the coverage limit has not changed since the law was enacted. S.B. 567 increases the coverage limit from \$100,000 to \$250,000 to match the current National Association of Insurance Commissioners Model Act and most other states.

S.B. 567 amends current law relating to the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Chapter 463, Insurance Code, to read as follows:

CHAPTER 463. TEXAS LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

SECTION 2. Amends Section 463.001, Insurance Code, to provide that this chapter may be cited as the Texas Life and Health Insurance Guaranty Association Act, rather than the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association Act.

SECTION 3. Amends Section 463.003(1), Insurance Code, to redefine "association."

SECTION 4. Amends Section 463.051(a), Insurance Code, to provide that the Texas Life and Health Insurance Guaranty Association (association) is a nonprofit legal entity existing to pay benefits and continue coverage as provided by this chapter.

SECTION 5. Amends Subchapter B, Chapter 463, Insurance Code, by adding Section 463.059, as follows:

Sec. 463.059. MEETINGS BY TELEPHONE AND VIDEOCONFERENCE. (a) Authorizes the board of directors of the association or a committee of the board, notwithstanding Chapter 551 (Open Meetings), Government Code, or any other law, to meet by telephone conference call, videoconference, or other similar telecommunication method if immediate action is required and convening a quorum of the board or

committee of the board at a single location is not reasonable or practical. Provides that a board or committee member who is unable to attend a meeting in person and who is participating in a board or committee meeting by telephone conference call, videoconference, or other similar telecommunication method may be counted to establish a quorum and to vote.

(b) Provides that a meeting authorized by this section is subject to the notice requirements that apply to other meetings.

(c) Requires that the notice of a meeting authorized by this section specify that the location of the meeting is the location at which meetings of the board and committees of the board are usually held.

(d) Requires that each part of a meeting authorized by this section that must be open to the public be audible to the public at the location specified by Subsection (c).

(e) Requires that two-way audio communication be made available during the entire meeting between all members of the board or committee attending a meeting authorized by this section and prohibits, if the two-way audio communication is disrupted so that a quorum of the board or committee is no longer participating in the meeting, the meeting from continuing until the two-way audio communication is reestablished.

(f) Requires that an audio or digital recording of a meeting authorized by this section be made in accordance with the association's bylaws. Requires that the recording of the open portion of the meeting be made available to the public.

(g) Requires that a vote during a meeting authorized by this section be taken in such a manner that the vote of each member is audible and may be verified as the vote of the member.

SECTION 6. Amends Section 463.153(c), Insurance Code, to prohibit the total amount of assessments on a member insurer for each account under Section 463.105 (Accounts) from in one calendar year exceeding two percent of the insurer's average annual premiums on the policies covered by the account during the three calendar years preceding the year in which the insurer became an impaired or insolvent insurer.

SECTION 7. Amends Section 463.203(b), Insurance Code, to provide that this chapter does not provide coverage for certain policies or contracts, including a policy or contract providing a hospital, medical, prescription drug, or other health care benefit under 42 U.S.C. Sections 1395w-21 et seq. and 1395w-101 et seq. (Medicare Parts C and D) or a regulation adopted under those federal statutes.

SECTION 8. Amends Section 463.204, Insurance Code, as follows:

Sec. 463.204. **OBLIGATIONS EXCLUDED.** Provides that a contractual obligation does not include certain amounts, including an amount in excess of \$250,000, rather than \$100,000, in the present value under one or more annuity contracts issued with respect to a single life under individual annuity policies or group annuity policies, or \$5 million in unallocated annuity contract benefits with respect to a single contract owner regardless of the number of those contracts; an amount in excess of \$250,000, rather than \$100,000, in present value annuity benefits, in the aggregate, including any net cash surrender and net cash withdrawal values, with respect to each individual participating in a governmental retirement benefit plan established under Section 401, 403(b), or 457, Internal Revenue Code of 1986 (26 U.S.C. Sections 401, 403(b), and 457), covered by an unallocated annuity contract or the beneficiary or beneficiaries of the individual if the individual is deceased; an amount in excess of \$250,000, rather than \$100,000, in present value annuity benefits, in the aggregate, including any net cash surrender and net cash

withdrawal values, with respect to each payee of a structured settlement annuity or the beneficiary or beneficiaries of the payee if the payee is deceased.

SECTION 9. Amends Section 463.263(b), Insurance Code, to entitle the association to retain a portion of any amount paid to the association under this section equal to the percentage determined by dividing the aggregate amount of policy owners' claims related to that insolvency for which the association has provided statutory benefits by the aggregate amount of all policy owners' claims in this state related to that insolvency and to require the association to remit to the domiciliary receiver the amount paid to the association less the amount retained under this section, rather than the amount paid to the association and retained under this section.

SECTION 10. Amends Subchapter F, Chapter 463, Insurance Code, by adding Section 463.264, as follows:

Sec. 463.264. REINSURANCE. (a) Authorizes the association to elect to succeed to the rights of an insolvent insurer under a contract of reinsurance to which the insolvent insurer is a party to the extent of the contractual obligations of the covered policies for which the association may become obligated, and that the reinsurance contract provides coverage for losses occurring after the association is obligated to provide coverage.

(b) Requires the association, as a condition to making an election under Subsection (a), to pay all unpaid premiums due under the reinsurance contract to which Subsection (a) refers for coverage relating to a period before and after the date the association is obligation to provide coverage.

SECTION 11. Amends Section 154.359(c), Finance Code, to make a conforming change.

SECTION 12. Amends Section 609.113(b), Government Code, to prohibit a plan administrator from approving a vendor's application if the vendor is a certain entity, including an insurance company that is not a member of the association, or is an impaired or insolvent insurer under Chapter 463, rather than Article 21.28-D, Insurance Code. Makes a conforming change.

SECTION 13. Amends Section 609.712(b), Government Code, to make conforming changes.

SECTION 14. (a) Provides that effective September 1, 2011:

(1) the name of Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association is changed to the association, and all powers, duties, rights, and obligations of the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association are the powers, duties, rights, and obligations of the association;

(2) a member of the board of directors of the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association is a member of the board of directors of the association; and

(3) a reference in law to the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association is a reference to the association.

(b) Provides that the association is the successor to the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association in all respects. Provides that all personnel, equipment, data, documents, facilities, contracts, items, other property, rules, decisions, and proceedings of or involving the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association are unaffected by the change in the name of the association.

SECTION 15. (a) Provides that the change in law made by this Act to Section 463.153(c), Insurance Code, applies to assessments authorized on or after October 1, 2008, with respect to an insurer that first became impaired or insolvent after September 1, 2005; all other changes in law

made by this Act apply only to an insurer that first becomes an impaired or insolvent insurer on or after the effective date of this Act.

(b) Provides that, except as provided by Subsection (a) of this section, an insurer that becomes an impaired or insolvent insurer before the effective date of this Act is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

SECTION 16. Effective date: September 1, 2011.