

By: Deuell

S.B. No. 1855

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain foreign insurers to engage in the business of health and accident insurance in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 982.113, Insurance Code, is amended by adding Subsections (c-1), (c-2), (c-3), and (e) to read as follows:

(c-1) Notwithstanding Subsections (a)-(c), the commissioner may waive any requirement for the issuance of a certificate of authority and issue to a foreign health and accident insurance company a certificate of authority to engage in the business of health and accident insurance in this state if:

(1) the company holds a license, certificate of authority, or similar authorization issued by another state to engage in the health and accident insurance business in that state;

(2) the state that issued the license, certificate of authority, or similar authorization to the company has licensing, certification, or authorization requirements, including financial solvency requirements, that are substantially equivalent to the requirements of this subchapter;

(3) the company maintains risk-based capital in an amount of at least 300 percent of the company action level and trend test level most recently established by the National Association of Insurance Commissioners before the issuance of the certificate of authority under this section; and

1           (4) the company's operational history demonstrates  
2 that the expanded operation of the company in this state, or the  
3 company's operations outside this state, will not create a  
4 condition that might be hazardous to the company's policyholders or  
5 creditors or the public.

6           (c-2) Except as provided by Subsection (c-3), if a foreign  
7 health and accident insurance company holding a certificate of  
8 authority issued under Subsection (c-1) attains a market share of  
9 more than three percent of the accident and health insurance market  
10 in this state, including the company's affiliated companies or  
11 group, the commissioner shall require the company to:

12                   (1) obtain a certificate of authority under Subsection  
13 (b); or

14                   (2) cease issuing new health and accident insurance  
15 business in this state.

16           (c-3) The commissioner may waive the requirements of  
17 Subsection (c-2) if the commissioner determines that a foreign  
18 health and accident insurance company meets a minimum loss ratio  
19 standard, as determined by commissioner rule.

20           (e) The commissioner may adopt rules as necessary to  
21 implement this section.

22           SECTION 2. Subchapter C, Chapter 982, Insurance Code, is  
23 amended by adding Section 982.1131 to read as follows:

24           Sec. 982.1131. APPLICABILITY OF OTHER LAWS. (a) Except as  
25 provided by this section, a foreign insurance company that holds a  
26 certificate of authority issued under Section 982.113(c-1) is  
27 subject to this code in the same manner as a company that holds a

1 certificate of authority issued under Section 982.113(b).

2 (b) Sections 1507.007 and 1507.057 do not apply to a foreign  
3 insurance company that holds a certificate of authority under  
4 Section 982.113(c-1).

5 (c) A foreign insurance company that holds a certificate of  
6 authority issued under Section 982.113(c-1) may petition the  
7 commissioner for an exemption from a provision of Title 8 or 9 or a  
8 related regulation. The commissioner for good cause shown may  
9 exempt some or all of the company's insurance products from the  
10 application of the provision or regulation. In determining whether  
11 good cause exists, the commissioner shall consider:

12 (1) the availability of other coverage in this state;  
13 (2) the level of fair competition among insurance  
14 companies in this state; and

15 (3) irreconcilable differences between the insurance  
16 laws or regulations of the company's home state and the insurance  
17 laws or regulations of this state.

18 (d) The commissioner may adopt rules relating to the  
19 determination of whether good cause exists to exempt a foreign  
20 health and accident insurance company from a provision of this code  
21 or a related regulation.

22 (e) The commissioner may enter into an agreement with the  
23 equivalent agency of another state regarding the provisions of law  
24 or regulations that will apply in this state to the business of a  
25 foreign accident and health insurance company holding a certificate  
26 of authority issued under Section 982.113(c-1).

27 (f) A foreign health and accident insurance company that

1 holds a certificate of authority under Section 982.113(c-1) that  
2 issues a policy or certificate of accident or health insurance that  
3 covers at the time of issuance a resident of this state and that  
4 does not contain a state-mandated health benefit, as defined by  
5 Section 1507.003, or that has been exempted from a requirement of  
6 this code by the commissioner under Subsection (d), shall include:

7 (1) on the first page of an application to be  
8 completed, the following statement, or a similar statement approved  
9 by the commissioner, in boldface type: "This coverage is offered by  
10 a non-Texas insurer which may be exempt from some Texas insurance  
11 laws, including some consumer protection requirements. The  
12 coverage may provide fewer health plan benefits than those normally  
13 included in Texas policies."; and

14 (2) in any policy or certificate issued directly or  
15 indirectly to a resident of this state, on the first or second page:

16 (A) the following statement, or a similar  
17 statement approved by the commissioner, in boldface type: "This  
18 coverage is provided by a non-Texas insurer which may be exempt from  
19 some Texas insurance laws, including some consumer protection  
20 requirements."; and

21 (B) a description of any statutory or regulatory  
22 requirements from which the policy is exempt under this section.

23 SECTION 3. Section 101.053(b), Insurance Code, is amended  
24 to read as follows:

25 (b) Sections 101.051 and 101.052 do not apply to:

26 (1) the lawful transaction of surplus lines insurance  
27 under Chapter 981;

- 1           (2) the lawful transaction of reinsurance by insurers;
- 2           (3) a transaction in this state that:
- 3                 (A) involves a policy that:
- 4                         (i) is lawfully solicited, written, and
- 5 delivered outside this state; and
- 6                         (ii) covers, at the time the policy is
- 7 issued, only subjects of insurance that are not resident, located,
- 8 or expressly to be performed in this state; and
- 9                 (B) takes place after the policy is issued;
- 10          (4) a transaction:
- 11                 (A) that involves an insurance contract
- 12 independently procured by the insured from an insurance company not
- 13 authorized to do insurance business in this state through
- 14 negotiations occurring entirely outside this state;
- 15                 (B) that is reported; and
- 16                 (C) on which premium tax is paid in accordance
- 17 with Chapter 226;
- 18          (5) a transaction in this state that:
- 19                 (A) involves group life, health, or accident
- 20 insurance, other than credit insurance, and group annuities in
- 21 which the master policy for the group was lawfully issued and
- 22 delivered to an employer or to the trustee of a fund established by
- 23 an employer or a labor union in a state in which the insurer or
- 24 person was authorized to do insurance business; and
- 25                 (B) is authorized by a statute of this state;
- 26          (6) an activity in this state by or on the sole behalf
- 27 of a nonadmitted captive insurance company that insures solely:

1 (A) directors' and officers' liability insurance  
2 for the directors and officers of the company's parent and  
3 affiliated companies;

4 (B) the risks of the company's parent and  
5 affiliated companies; or

6 (C) both the individuals and entities described  
7 by Paragraphs (A) and (B);

8 (7) the issuance of a qualified charitable gift  
9 annuity under Chapter 102; or

10 (8) a lawful transaction by a servicing company of the  
11 Texas workers' compensation employers' rejected risk fund under  
12 Section 4.08, Article 5.76-2, as that article existed before its  
13 repeal.

14 SECTION 4. Section 1507.007, Insurance Code, is amended to  
15 read as follows:

16 Sec. 1507.007. ADDITIONAL POLICIES. (a) A health carrier  
17 that offers one or more standard health benefit plans under this  
18 subchapter must also offer at least one accident or sickness  
19 insurance policy that provides state-mandated health benefits and  
20 is otherwise authorized by this code.

21 (b) This section does not apply to a foreign accident and  
22 health insurance company that holds a certificate of authority  
23 issued under Section 982.113(c-1).

24 SECTION 5. The changes in law made by this Act apply  
25 beginning on September 1, 2012.

26 SECTION 6. This Act takes effect September 1, 2011.