

BILL ANALYSIS

H.B. 2732
By: Workman
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The federal Patient Protection and Affordable Care Act requires individuals to obtain qualifying health insurance by 2014 or pay a tax penalty. Interested parties report that under current state law, creating an insurance company generally requires millions in capital, extensive paperwork, multiple personnel, and high annual fees. While the federal Employee Retirement Income Security Act of 1974 contains some provisions relating to self-funded health care, interested parties note that program qualifications may be changed by the U.S. Secretary of Labor without legislative approval. H.B. 2732 seeks to provide a reasonable mechanism for fiscally responsible individuals to formally self-insure.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 of this bill.

ANALYSIS

H.B. 2732 amends the Insurance Code to set out provisions regulating dedicated personal insurers. The bill establishes that a provision of the Insurance Code, other than the portion added by the bill, does not apply to a dedicated personal insurer and that a law enacted after January 1, 2013, does not apply to a dedicated personal insurer unless dedicated personal insurers are expressly designated in the law.

H.B. 2732 requires an entity, in order to be granted or to maintain a limited certificate of authority as a dedicated personal insurer, to be related to a designated insurable individual such that the entity and designated insurable individual are the same natural person; the entity is a trust and the designated insurable individual is the sole beneficiary of that trust; or the entity is a for-profit corporation or limited liability company and the designated insurable individual is the sole owner of that entity. The bill requires the dedicated personal insurer, for each type of insurance the insurer is authorized to issue, to maintain capital, for a health insurance policy, equal to or greater than \$100,000, with certain exceptions; for a personal automobile insurance policy, equal to or greater than the amount required to establish financial responsibility; and, for other insurance policies, equal to or greater than the policy's aggregate policy limit, defined in the bill as the sum of the maximum losses that may be sustained under each policy outstanding at any one time, as specified by the maximum limits in each policy. The bill sets the capital required for a health insurance policy as \$10,000 if the designated insurable individual is younger than 24 years of age or, if the designated insurable individual is at least 24 but younger than 32 years of age, \$20,000 plus an additional \$10,000 for each additional year beyond age 24.

H.B. 2732 sets out the authorized forms in which such capital must be held and requires the Texas Department of Insurance (TDI) to accept an account statement as evidence of required capital if the statement is issued by a bank or broker; if the account is in the name of the entity presenting the evidence; if the statement shows holdings that have a market value at least equal to the prescribed amounts and are in an authorized form; if the deposits and securities held with

the bank or broker are insured by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or a similar institution acceptable to the commissioner of insurance; and if the evidence is presented not later than the 60th day after the statement is issued. The bill authorizes the required capital to be deposited with the comptroller of public accounts through TDI and requires TDI to issue a receipt when the deposit is made. The bill requires TDI to accept a copy of the receipt as evidence of the required capital.

H.B. 2732 authorizes an entity satisfying the requirements specified by the bill to apply to TDI for a limited certificate of authority as a dedicated personal insurer and prescribes the required filing fee and contents of the application. The bill requires the commissioner, on determining that the application does not satisfy the application requirements, to deny the application in writing and to include the reason for the denial. The bill requires the commissioner to approve the application if the commissioner does not deny it and, on approval, requires TDI to issue under its seal a limited certificate of authority authorizing the entity as a dedicated personal insurer. The bill establishes that such a limited certificate expires on the first anniversary of the date it is issued or renewed. The bill authorizes a dedicated personal insurer holding a limited certificate of authority to apply for a renewal or modification of the certificate by submitting an application as if for original certification and indicating that the application is a renewal or modification of the original application. The bill prohibits TDI from approving an application for renewal of a certificate filed before the 60th day before the certificate's expiration.

H.B. 2732 requires a limited certificate of authority issued by TDI to a dedicated personal insurer to state certain specified information in a format determined by the commissioner by rule. The bill authorizes a dedicated personal insurer holding a limited certificate of authority to issue an insurance policy, contract, certificate, or other evidence of coverage consistent with the limitations of that certificate and the bill's provisions. The bill authorizes only the designated insurable individual named on a limited certificate of authority to be covered or insured by a dedicated personal insurer under a policy authorized by that certificate. The bill requires an insurance policy issued by a dedicated personal insurer to be issued for a term that expires on or before the expiration of the dedicated personal insurer's limited certificate of authority. The bill prohibits a dedicated personal insurer from issuing an insurance policy unless the insurer satisfies the applicable capital requirements at the time the insurance policy is issued.

H.B. 2732 requires a dedicated personal insurer that does not meet the applicable capital requirements, not later than the 10th day after the date the insurer ceases to satisfy those requirements, to do the following: to obtain sufficient capital to meet the requirements; to file an application for modification demonstrating that the dedicated personal insurer satisfies the requirements for each insurance policy to be issued or outstanding by the insurer after the modification of the limited certificate of authority and demonstrating that each outstanding insurance policy not authorized under the modified limited certificate of authority is canceled; or to surrender the insurer's limited certificate of authority to TDI. The bill requires a dedicated personal insurer that is denied an application for modification to surrender its limited certificate of authority to TDI. The bill requires a dedicated personal insurer that does not have the required relationship with the designated insurable individual specified in the insurer's limited certificate of authority to surrender the certificate to TDI not later than the 10th day after the date the insurer ceases to satisfy the relationship requirement. The bill requires the dedicated personal insurer, on surrender of its limited certificate of authority, to notify TDI of the surrender, to refrain from issuing an insurance policy under the certificate, and to cancel each outstanding insurance policy issued by the insurer that may be lawfully canceled.

H.B. 2732 makes it a misdemeanor offense for a person to violate the bill's provisions or to wilfully make a false or fraudulent statement or representation in or with reference to an application for a limited certificate of authority as a dedicated personal insurer. The bill makes the offenses punishable by a fine of not more than \$500, confinement in jail for a term not longer than 180 days, or both a fine and confinement. The bill authorizes an actor whose conduct constitutes an offense under the bill's provisions and any other law to be prosecuted under the

bill's provisions, the other law, or both.

EFFECTIVE DATE

September 1, 2013.