

BILL ANALYSIS

Senate Research Center
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S.B. 841
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas currently prohibits insurance companies from investing in residential real estate. This prohibition is inconsistent with many states' policies on real estate investment, as well as the National Association of Insurance Commissioners' Model Act.

The Texas Department of Insurance, in its biennial report to the 83rd Legislature identified allowing "additional investment authority for the largest, most financially stable insurers" as a way of attracting more companies to Texas.

S.B. 841 addresses this issue by amending Chapters 424 (Investments for Certain Insurers) and 425 (Reserves and Investments for Life Insurance Companies and Related Entities) of the Insurance Code to allow insurers with admitted assets of more than \$500 million to invest in residential real estate.

Additionally, S.B. 841 clarifies the ability of an insurance company to invest in securities of a company domiciled in a foreign jurisdiction.

As proposed, S.B. 841 amends current law relating to certain authorized investments under the Insurance Code.

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 Section 424.064(b), Insurance Code, as follows:

(b) Authorizes an insurer with admitted assets of more than \$500 million to individually or in conjunction with other investors acquire, own, hold, develop, and improve real property that is essentially residential or commercial in character, even though the property is subject to an existing mortgage or the insurer subsequently mortgages the property. Provides that an investment in real property is authorized if the property is materially enhanced in value by certain factors. Deletes existing text authorizing an insurer with admitted assets of more than \$500 million to own investment real property other than real property authorized by another provision of this code, or participations in that other investment real property, if the property is materially enhanced in value by certain factors.

SECTION 2. Amends Section 424.068, Insurance Code, as follows:

Sec. 424.068. AUTHORIZED INVESTMENTS: INVESTMENT IN FOREIGN JURISDICTION. (a) Authorizes an insurer, in addition to the investments in Canada authorized by Sections 424.051 (General Investment Authority Specified by Law), 424.058 (Authorized Investments: Form of Minimum Capital and Surplus), 424.059 (Authorized Investments: Government Obligations), 424.060 (Authorized Investments: Stock of National or State Bank), 424.061 (Authorized Investments: Deposits in Certain

Financial Institutions), 424.062 (Authorized Investments: Certain Obligations of Partnership or Corporation), 424.063 (Authorized Investments: Mutual Funds), 424.064 (Authorized Investments: Real Property), 424.065 (Acting as Real Estate Broker or Salesperson Prohibited), 424.066 (Authorized Investments: Obligations Secured by Real Property Loans), 424.067 (Authorized Investments: Transportation Equipment), 424.068 (Authorized Investments: Investment in Foreign Jurisdiction), 424.069 (Authorized Investments: Certain Loans), 424.070 (Authorized Investments: Obligations of Local Governmental Entities), 424.071 (Authorized Investments: The University of Texas), and 424.074 (Other Specifically Authorized Investments) and subject to this section, to make investments within another foreign county or a commonwealth, territory, or possession of the United States. Deletes existing text authorizing an insurer, in addition to the investments in Canada authorized by Sections 424.051, 424.058-424.071, and 424.074 and subject to this section, to invest the insurer's funds in excess of minimum capital and surplus in an investment in a foreign commonwealth, territory, or possession of the United States, a foreign country other than Canada, or a foreign security originating in one of those commonwealths, territories, possessions, or countries if certain criteria is fulfilled.

(b) Requires that an investment made under this section be substantially the same type as an investment authorized to be made within the United States or Canada by this subchapter. Deletes existing text prohibiting the aggregate amount of an insurer's investments under Sections 424.051, 424.058-424.071, and 424.074 in a single foreign jurisdiction from exceeding certain percentages.

(c) Prohibits the sum of the amount of investments made under this section and the amount of similar investments made within the United States and Canada from exceeding any limitation imposed by Sections 424.051, 424.058-424.071, and 424.074. Deletes existing text prohibiting the amount of investments made under this section from exceeding the sum of the amounts authorized by Section 424.073 (Authorized Investments: Insurer Engaged in Business in Foreign Country) and 20 percent of the insurer's assets.

(d) Prohibits the aggregate amount of an insurer's investments under this section from exceeding the sum of the amount of the insurer's reserves attributable to insurance business in force in foreign countries, if any, and any additional investments required by a foreign country as a condition of engaging in business in that county and 20 percent of the insurer's assets. Deletes existing text prohibiting the amount of investments made under this section, the amount of similar investments made within the United States and Canada, and any amounts of investments authorized by Section 424.073 from exceeding any limitation prescribed by Sections 424.051, 424.058-424.071, and 424.074.

(e) Prohibits an insurer from investing more than 10 percent of the insurer's assets in investments denominated in foreign currency that are not hedged under Subchapter E (Risk Control Transactions).

SECTION 3. Amends Section 425.119(f), Insurance Code, as follows:

(f) Authorizes an insurance company, in addition to an investment authorized by Subsection (g) (relating to an insurance company investing in other real property acquired by certain criteria), to individually or in conjunction with other investors acquire, own, hold, develop, and improve real property that is essentially residential or commercial in character, even though the property is subject to an existing mortgage or the insurance company subsequently mortgages the property. Deletes existing text prohibiting an insurance company, except as provided by Subsection (g), from owning, developing or holding an equity interest in any residential property or subdivision, single or multiunit family dwelling property, or undeveloped real property to subdivide for or develop residential or single or multiunit family dwellings.

SECTION 4. Repealer: Section 424.064(d) (relating to prohibiting an insurer from owning, developing, or holding an equity interest in any kind of residential property), Insurance Code.

SECTION 5. Effective date: September 1, 2013.