

By: Workman

H.B. No. 2732

A BILL TO BE ENTITLED

AN ACT

relating to the authorization, regulation, and function of dedicated personal insurers; creating offenses; imposing a fee.

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

SECTION 1. Subtitle E, Title 6, Insurance Code, is amended by adding Chapter 889 to read as follows:

CHAPTER 889. DEDICATED PERSONAL INSURERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 889.001. DEFINITIONS. In this chapter:

(1) "Aggregate policy limit" means 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.

(2) "Dedicated personal insurer" means an entity authorized to issue an insurance policy to a designated insurable individual under Section 889.102.

(3) "Designated insurable individual" means an individual with whom a dedicated personal insurer has the relationship required by Section 889.051.

(4) "Qualified dependent" means a dependent that is a qualified child as defined by 26 U.S.C. Section 152(c).

Sec. 889.002. LIMITED EXEMPTION FROM INSURANCE LAWS. (a) Except as expressly provided by this code, a provision of this code, other than this chapter, does not apply to a dedicated personal insurer.

1 (b) A law enacted after January 1, 2013, does not apply to a
2 dedicated personal insurer unless dedicated personal insurers are
3 expressly designated in the law.

4 SUBCHAPTER B. ORGANIZATION OF DEDICATED PERSONAL INSURERS

5 Sec. 889.051. FORM AND RELATIONSHIP OF INSURER. To be
6 granted or maintain a limited certificate of authority as a
7 dedicated personal insurer, an entity must be related to a
8 designated insurable individual in the following manner:

9 (1) the entity and designated insurable individual are
10 the same natural person;

11 (2) the entity is a trust and the designated insurable
12 individual is the sole beneficiary of that trust; or

13 (3) the entity is a for-profit corporation or limited
14 liability company and the designated insurable individual is the
15 sole owner of that entity.

16 Sec. 889.052. CAPITAL REQUIREMENTS. (a) Except as
17 provided by Subsection (b), for a health insurance policy issued by
18 a dedicated personal insurer, the insurer shall maintain capital
19 equal to or greater than \$100,000.

20 (b) Notwithstanding Subsection (a), if the designated
21 insurable individual is the only individual covered by a health
22 insurance policy, the capital required for the policy is:

23 (1) \$10,000 if the designated insurable individual is
24 younger than 24 years of age; or

25 (2) \$20,000 plus an additional \$10,000 for each
26 additional year beyond age 24 if the designated insurable
27 individual is at least 24 but younger than 32 years of age.

1 (c) Capital in the amount required by this section must be
2 held in the form of any combination of:

3 (1) cash;

4 (2) a bond or other evidence of indebtedness of the
5 United States, this state, or a political subdivision of this
6 state;

7 (3) a security that is readily marketable over a
8 national exchange; or

9 (4) another form of security approved by the
10 commissioner.

11 Sec. 889.053. EVIDENCE OF REQUIRED CAPITAL. (a) The
12 department shall accept an account statement as evidence of the
13 required capital if:

14 (1) the statement is issued by a bank or broker;

15 (2) the account is in the name of the entity presenting
16 the evidence;

17 (3) the statement shows holdings that:

18 (A) have a market value at least equal to the
19 amount required by Section 889.052; and

20 (B) are in a form authorized by Section 889.052;

21 (4) the deposits and securities held with the bank or
22 broker are insured by the Federal Deposit Insurance Corporation,
23 the Securities Investor Protection Corporation, or a similar
24 institution acceptable to the commissioner; and

25 (5) the evidence is presented not later than the 60th
26 day after the statement is issued.

27 (b) The required capital may be deposited with the

1 comptroller through the department. The department shall issue a
2 receipt when the deposit is made. The department shall accept a
3 copy of the receipt described by this subsection as evidence of the
4 required capital under Section 889.052.

5 Sec. 889.054. APPLICATION FOR LIMITED CERTIFICATE OF
6 AUTHORITY. (a) An entity satisfying the requirements of this
7 chapter may apply to the department for a limited certificate of
8 authority as a dedicated personal insurer. The application must
9 include:

10 (1) the name and address of the applicant;

11 (2) the name, address, and date of birth of the
12 designated insurable individual and, if intended to be covered or
13 insured, the individual's spouse and each of the individual's
14 qualified dependents;

15 (3) the relationship between the applicant and the
16 designated insurable individual as required by Section 889.051;

17 (4) the respective aggregate policy limit for an
18 insurance policy to be authorized;

19 (5) a statement of the total capital required by
20 Section 889.052;

21 (6) evidence of the required capital as required by
22 Section 889.053; and

23 (7) a filing fee of \$20.

24 (b) If the commissioner determines that the application
25 does not satisfy the requirements of Subsection (a), the
26 commissioner shall deny the application in writing. The denial
27 must include the reason for the denial.

1 (c) If the commissioner does not deny the application under
2 Subsection (b), the commissioner shall approve the application.
3 On approval, the department shall issue under the department's seal
4 a limited certificate of authority authorizing the entity as a
5 dedicated personal insurer.

6 Sec. 889.055. EXPIRATION OF CERTIFICATE. A limited
7 certificate of authority issued under this chapter expires on the
8 first anniversary of the date the certificate is issued or renewed.

9 Sec. 889.056. RENEWAL OF CERTIFICATE. (a) A dedicated
10 personal insurer holding a limited certificate of authority may
11 apply for a renewal of the certificate by submitting an application
12 meeting the requirements of Section 889.054 and indicating the
13 application is a renewal of the original application.

14 (b) The department may not approve an application for
15 renewal of a certificate filed before the 60th day before the
16 expiration of the certificate.

17 SUBCHAPTER C. AUTHORITY TO ISSUE INSURANCE

18 Sec. 889.101. LIMITED CERTIFICATE OF AUTHORITY. A limited
19 certificate of authority issued by the department to a dedicated
20 personal insurer shall state, in a format determined by the
21 commissioner by rule:

22 (1) the name and address of the dedicated personal
23 insurer;

24 (2) the name and address of the designated insurable
25 individual;

26 (3) the following language: "Only the designated
27 insurable individual, the individual's spouse, and the individual's

1 qualified dependents may be covered or insured by an insurance
2 policy authorized by this certificate";

3 (4) the aggregate policy limits for a policy
4 authorized to be issued;

5 (5) the date issued;

6 (6) the date of expiration; and

7 (7) any other information specified by the
8 commissioner by rule.

9 Sec. 889.102. AUTHORITY TO ISSUE AN INSURANCE POLICY. (a)
10 A dedicated personal insurer holding a limited certificate of
11 authority may issue a health insurance policy only to the
12 designated insurable individual, consistent with the limitations
13 of that certificate and this chapter.

14 (b) Only the designated insurable individual named on a
15 limited certificate of authority, the individual's spouse, and the
16 individual's qualified dependents may be covered or insured by a
17 dedicated personal insurer under a policy authorized by that
18 certificate.

19 (c) An insurance policy issued by a dedicated personal
20 insurer must be issued for a term that expires on or before the
21 expiration of the dedicated personal insurer's limited certificate
22 of authority.

23 (d) A dedicated personal insurer may not issue an insurance
24 policy unless the insurer satisfies the capital requirements of
25 Section 889.052 at the time the insurance policy is issued.

26 SUBCHAPTER D. FAILURE TO SATISFY OPERATING REQUIREMENTS

27 Sec. 889.151. SOLVENCY REQUIREMENT. A dedicated personal

1 insurer that does not satisfy the requirements of Section 889.052,
2 not later than the 10th day after the date the insurer ceases to
3 satisfy those requirements, shall:

4 (1) obtain sufficient capital to meet the
5 requirements; or

6 (2) surrender the insurer's limited certificate of
7 authority to the department.

8 Sec. 889.152. RELATIONSHIP REQUIREMENT. A dedicated
9 personal insurer that does not have the relationship required by
10 Section 889.051 with the designated insurable individual specified
11 in the insurer's limited certificate of authority shall surrender
12 the certificate to the department not later than the 10th day after
13 the date the insurer ceases to satisfy the relationship
14 requirement.

15 Sec. 889.153. SURRENDER OF AUTHORITY. On surrender of its
16 limited certificate of authority, the dedicated personal insurer
17 shall:

18 (1) notify the department of the surrender;

19 (2) refrain from issuing an insurance policy under
20 that certificate; and

21 (3) cancel each outstanding insurance policy issued by
22 the insurer that may be lawfully canceled.

23 SUBCHAPTER E. PRIVACY

24 Sec. 889.201. PRIVACY. (a) Except as provided by
25 Subsection (b), the department may not disclose:

26 (1) personal identifying information of a designated
27 insurable individual, the individual's spouse, and the individual's

1 qualified dependents; or

2 (2) identifying and financial information of an
3 applicant for a limited certificate of authority as a dedicated
4 personal insurer.

5 (b) The department may disclose information described by
6 Subsection (a) if the individual or entity requesting the
7 information demonstrates in the manner prescribed by the
8 commissioner that:

9 (1) the designated insurable individual or dedicated
10 personal insurer that is the subject of the information request has
11 provided written consent for the disclosure to the requestor; or

12 (2) the use of the information will be strictly
13 limited to the performance of a governmental agency's or court's
14 functions by that agency or court or a private individual or entity
15 acting on behalf of the agency or court.

16 SUBCHAPTER F. CRIMINAL OFFENSES

17 Sec. 889.251. FALSE STATEMENTS. (a) A person commits an
18 offense if the person wilfully makes a false or fraudulent
19 statement or representation in or with reference to an application
20 for a limited certificate of authority as a dedicated personal
21 insurer.

22 (b) An offense under this section is a misdemeanor
23 punishable by:

24 (1) a fine of not more than \$500;

25 (2) confinement in jail for a term not longer than 180
26 days; or

27 (3) both a fine and confinement as provided by

1 Subdivisions (1) and (2).

2 (c) If conduct that constitutes an offense under this
3 section also constitutes an offense under any other law not within
4 this chapter, the actor may be prosecuted under this section, the
5 other law, or both.

6 Sec. 889.252. VIOLATION OF CHAPTER. (a) Except as provided
7 by Section 889.251, a person commits an offense if the person
8 violates this chapter.

9 (b) An offense under this section is a misdemeanor
10 punishable by:

11 (1) a fine of not more than \$500;

12 (2) confinement in jail for a term of not more than 180
13 days; or

14 (3) both a fine and confinement as provided by
15 Subdivisions (1) and (2).

16 (c) If conduct that constitutes an offense under this
17 section also constitutes an offense under any other law not within
18 this chapter, the actor may be prosecuted under this section, the
19 other law, or both.

20 SECTION 2. This Act takes effect September 1, 2013.