

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 insure a specific individual as provided by this
chapter.

(3) "Designated insurable individual" means an
individual eligible to be insured by a dedicated personal insurer.

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.

(b) 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.

1 SUBCHAPTER B. ORGANIZATION OF DEDICATED PERSONAL INSURERS

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

6 (1) the entity and designated insurable individual are
7 the same natural person;

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

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

13 Sec. 889.052. CAPITAL REQUIREMENTS. (a) For each type of
14 insurance a dedicated personal insurer is authorized to issue, the
15 insurer shall maintain capital equal to or greater than:

16 (1) for a health insurance policy, \$100,000 except as
17 provided by Subsection (b);

18 (2) for a personal automobile insurance policy, the
19 amount required by Section 601.122, Transportation Code, to
20 establish financial responsibility; and

21 (3) for other insurance policies, the policy's
22 aggregate policy limit.

23 (b) Notwithstanding Subsection (a)(1), the capital required
24 for a health insurance policy is:

25 (1) \$10,000 if the designated insurable individual is
26 younger than 24 years of age; or

27 (2) \$20,000 plus an additional \$10,000 for each

1 additional year beyond age 24 if the designated insurable
2 individual is at least 24 but younger than 32 years of age.

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

5 (1) cash;

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

9 (3) a security that is readily marketable over a
10 national exchange; or

11 (4) another form of security approved by the
12 commissioner.

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

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

17 (2) the account is in the name of the entity presenting
18 the evidence;

19 (3) the statement shows holdings that:

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

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

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

27 (5) the evidence is presented not later than the 60th

1 day after the statement is issued.

2 (b) The required capital may be deposited with the
3 comptroller through the department. The department shall issue a
4 receipt when the deposit is made. The department shall accept a
5 copy of the receipt described by this subsection as evidence of the
6 required capital under Section 889.052.

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

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

13 (2) the name, address, and date of birth of the
14 designated insurable individual;

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

17 (4) each type of insurance policy to be authorized;

18 (5) the respective aggregate policy limit for each
19 type of insurance policy subject to Section 889.052(a)(3);

20 (6) a statement of the total capital required by
21 Section 889.052;

22 (7) evidence of the required capital as required by
23 Section 889.053; and

24 (8) a filing fee of \$20.

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

1 must include the reason for the denial.

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

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

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

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

19 SUBCHAPTER C. AUTHORITY TO ISSUE INSURANCE

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

24 (1) the name and address of the dedicated personal
25 insurer;

26 (2) the name and address of the designated insurable
27 individual;

1 (3) the following language: "Only the designated
2 insurable individual may be covered or insured by an insurance
3 policy authorized by this certificate";

4 (4) the types of insurance policies authorized to be
5 issued and the respective aggregate policy limits;

6 (5) the date issued;

7 (6) the date of expiration; and

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

10 Sec. 889.102. AUTHORITY TO ISSUE AN INSURANCE POLICY. (a)
11 A dedicated personal insurer holding a limited certificate of
12 authority may issue an insurance policy, contract, certificate, or
13 other evidence of coverage consistent with the limitations of that
14 certificate and this chapter.

15 (b) Only the designated insurable individual named on a
16 limited certificate of authority 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) A dedicated

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

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

6 (2) file an application for modification that
7 demonstrates that:

8 (A) the dedicated personal insurer satisfies the
9 requirements for each insurance policy to be issued or outstanding
10 by the insurer after the modification of the limited certificate of
11 authority; and

12 (B) each outstanding insurance policy not
13 authorized under the modified limited certificate of authority is
14 canceled; or

15 (3) surrender the insurer's limited certificate of
16 authority to the department.

17 (b) A dedicated personal insurer that is denied an
18 application for modification submitted under this section shall
19 surrender its limited certificate of authority to the department.

20 Sec. 889.152. RELATIONSHIP REQUIREMENT. A dedicated
21 personal insurer that does not have the relationship required by
22 Section 889.051 with the designated insurable individual specified
23 in the insurer's limited certificate of authority shall surrender
24 the certificate to the department not later than the 10th day after
25 the date the insurer ceases to satisfy the relationship
26 requirement.

27 Sec. 889.153. SURRENDER OF AUTHORITY. On surrender of its

1 limited certificate of authority, the dedicated personal insurer
2 shall:

- 3 (1) notify the department of the surrender;
4 (2) refrain from issuing an insurance policy under
5 that certificate; and
6 (3) cancel each outstanding insurance policy issued by
7 the insurer that may be lawfully canceled.

8 SUBCHAPTER E. CRIMINAL OFFENSES

9 Sec. 889.201. FALSE STATEMENTS. (a) A person commits an
10 offense if the person wilfully makes a false or fraudulent
11 statement or representation in or with reference to an application
12 for a limited certificate of authority as a dedicated personal
13 insurer.

14 (b) An offense under this section is a misdemeanor
15 punishable by:

- 16 (1) a fine of not more than \$500;
17 (2) confinement in jail for a term not longer than 180
18 days; or
19 (3) both a fine and confinement as provided by
20 Subdivisions (1) and (2).

21 (c) If conduct that constitutes an offense under this
22 section also constitutes an offense under any other law not within
23 this chapter, the actor may be prosecuted under this section, the
24 other law, or both.

25 Sec. 889.202. VIOLATION OF CHAPTER. (a) Except as provided
26 by Section 889.201, a person commits an offense if the person
27 violates this chapter.

1 (b) An offense under this section is a misdemeanor
2 punishable by:

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

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

6 (3) both a fine and confinement as provided by
7 Subdivisions (1) and (2).

8 (c) If conduct that constitutes an offense under this
9 section also constitutes an offense under any other law not within
10 this chapter, the actor may be prosecuted under this section, the
11 other law, or both.

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