

By: Taylor

S.B. No. 850

A BILL TO BE ENTITLED

AN ACT

relating to the residual market for workers' compensation insurance in this state and to the operation, governance, and organization of the Texas Mutual Insurance Company.

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

ARTICLE 1. RESIDUAL MARKET FOR WORKERS' COMPENSATION INSURANCE

SECTION 1.01. WORKERS' COMPENSATION ASSIGNED RISK PROGRAM.

Subtitle E, Title 10, Insurance Code, is amended by adding Chapter 2056 to read as follows:

CHAPTER 2056. WORKERS' COMPENSATION ASSIGNED RISK PROGRAM

Sec. 2056.001. DEFINITIONS. In this chapter:

(1) "Assigned risk program" means the program established under Section 2056.002 by which insurers provide workers' compensation insurance to residual market employers.

(2) "Insurer" means an insurance company as defined by Section 2053.001.

(3) "Residual market employer" means an employer that is unable to obtain workers' compensation insurance through the voluntary insurance market in this state.

Sec. 2056.002. ASSIGNED RISK PROGRAM; PLAN OF OPERATION.

(a) The commissioner by rule shall:

(1) establish an assigned risk program through which residual market employers may obtain workers' compensation insurance in this state; and

1           (2) approve a plan of operation for the assigned risk  
2 program established under this section, which must:

3           (A) specify the eligibility criteria and  
4 procedures for obtaining insurance through the assigned risk  
5 program; and

6           (B) provide for the implementation and  
7 administration of the assigned risk program, including reasonable  
8 service standards, policies, forms, and contracts.

9           (b) The commissioner may contract with a licensed  
10 statistical agent for workers' compensation in this state to  
11 administer the assigned risk program.

12           (c) The commissioner shall require each insurer to  
13 participate in the assigned risk program in proportion to the  
14 insurer's voluntary market share in this state as a condition of the  
15 insurer's authority to engage in the business of insurance in this  
16 state.

17           (d) The commissioner may provide for an insurer to meet the  
18 insurer's obligation under this section through direct policy  
19 assignment, reinsurance, pooling, or otherwise.

20           Sec. 2056.003. RATES AND FUNDING. (a) The statistical  
21 agent, if any, contracted to administer the assigned risk program  
22 under Section 2056.002 shall file rates for review under Subchapter  
23 B, Chapter 2053.

24           (b) Rates for insurance procured through the assigned risk  
25 program must be actuarially sufficient to cover all incurred losses  
26 and administrative expenses of the program.

1           ARTICLE 2. OPERATION AND ORGANIZATION OF TEXAS

2                           MUTUAL INSURANCE COMPANY

3           SECTION 2.01. ARTICLES OF INCORPORATION. (a) Not later  
4 than January 1, 2015, the board of directors of the Texas Mutual  
5 Insurance Company shall file with the commissioner of insurance  
6 articles of incorporation, which must state:

7                   (1) the name of the company;

8                   (2) the purpose of the company;

9                   (3) the location of the company's principal or home  
10 office; and

11                   (4) the name and address of each member of the board of  
12 directors.

13           (b) Notwithstanding any other law, the articles of  
14 incorporation filed under this Act shall be considered restated  
15 articles of incorporation.

16           SECTION 2.02. BOARD OF DIRECTORS. (a) Not later than  
17 December 31, 2014, the Texas Mutual Insurance Company shall hold a  
18 meeting of its policyholders to elect a board of directors to govern  
19 the company beginning January 1, 2015.

20           (b) The board of directors established under Section  
21 2054.051, Insurance Code, is abolished effective January 1, 2015.

22           SECTION 2.03. CONTINUATION OF CORPORATE EXISTENCE. (a) The  
23 corporate existence of the Texas Mutual Insurance Company  
24 continues, and all assets, liabilities, earned surplus, rights,  
25 licenses, and permits of the company as it existed under Chapter  
26 2054, Insurance Code, before January 1, 2015, remain in full force  
27 and effect as the assets, liabilities, earned surplus, rights,

1 licenses, and permits of the company.

2 (b) All policies of insurance and other contracts entered  
3 into or issued by the Texas Mutual Insurance Company before January  
4 1, 2015, remain in full force and effect in accordance with their  
5 respective terms.

6 (c) The certificate of authority issued to the Texas Mutual  
7 Insurance Company as the company existed under Chapter 2054,  
8 Insurance Code, before January 1, 2015, continues in effect.

9 (d) Effective January 1, 2015, the Texas Mutual Insurance  
10 Company operates under Chapter 883, Insurance Code, and is neither  
11 subject to obligations or limitations not imposed on, nor given  
12 advantages not granted to, other mutual insurance companies  
13 operating under Chapter 883, Insurance Code.

14 ARTICLE 3. CONFORMING AMENDMENTS

15 SECTION 3.01. REPEALER. The following laws are repealed:

- 16 (1) Section 552.0225(c), Government Code;  
17 (2) Section 552.143(f), Government Code;  
18 (3) Section 462.008, Insurance Code;  
19 (4) Section 2051.153(b), Insurance Code; and  
20 (5) Chapter 2054, Insurance Code.

21 SECTION 3.02. CONFORMING AMENDMENT TO LABOR CODE. Section  
22 418.002(c), Labor Code, is amended to read as follows:

23 (c) The court may order a person to pay restitution to an  
24 insurance company [~~including the Texas Mutual Insurance Company,~~]  
25 if the person commits an offense under this section.

26 SECTION 3.03. CONFORMING AMENDMENTS TO INSURANCE CODE. (a)  
27 Section 2052.004(a), Insurance Code, is amended to read as follows:

1 (a) Subject to Subsections (b) and (c), this subtitle may  
2 not be construed to prohibit an insurance company~~[, including the~~  
3 ~~Texas Mutual Insurance Company,]~~ from issuing participating  
4 policies.

5 (b) Section 2053.001(2), Insurance Code, is amended to read  
6 as follows:

7 (2) "Insurance company" means a person authorized to  
8 engage in the business of workers' compensation insurance in this  
9 state. The term includes:

- 10 (A) ~~[the Texas Mutual Insurance Company,~~  
11 ~~(B)]~~ a Lloyd's plan under Chapter 941; and  
12 (B) ~~(C)]~~ a reciprocal and interinsurance  
13 exchange under Chapter 942.

14 (c) Section 2053.154(a), Insurance Code, is amended to read  
15 as follows:

16 (a) For purposes of this section, "insurance company" means  
17 a stock company, mutual insurance company, reciprocal or  
18 interinsurance exchange, or Lloyd's plan authorized to engage in  
19 the business of workers' compensation insurance in this state.  
20 ~~[The term includes the Texas Mutual Insurance Company.]~~

21 SECTION 3.04. EFFECTIVE DATE OF ARTICLE. This article  
22 takes effect January 1, 2015.

23 ARTICLE 4. TRANSITION

24 SECTION 4.01. TRANSITION. (a) As soon as practicable after  
25 the effective date of this Act, but not later than January 1, 2015,  
26 the commissioner of insurance shall adopt rules necessary to  
27 implement the assigned risk program required by Chapter 2056,

1 Insurance Code, as added by this Act.

2 (b) As soon as practicable after the Texas Mutual Insurance  
3 Company files articles of incorporation with the commissioner of  
4 insurance and elects a board of directors as required by Article 2  
5 of this Act, the commissioner shall adopt any rules necessary to  
6 reflect the fact that the Texas Mutual Insurance Company is a mutual  
7 insurance company organized under and governed by Chapter 883,  
8 Insurance Code, and other laws applicable to mutual insurance  
9 companies in this state.

10 ARTICLE 5. EFFECTIVE DATE

11 SECTION 5.01. EFFECTIVE DATE OF ACT. Except as otherwise  
12 provided by this Act, this Act takes effect September 1, 2013.