

By: Workman

H.B. No. 2243

A BILL TO BE ENTITLED

AN ACT

relating to the authorization, regulation, and function of
dedicated personal insurers; requiring a certificate of authority;
imposing fees.

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) "Adjusted gross income" has the meaning assigned
by 26 U.S.C. Section 62.

(2) "Dedicated personal insurer" means an entity
authorized to issue an insurance policy to a designated insurable
individual under Section 889.152.

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

(4) "Medical care" has the meaning assigned by 26
U.S.C. Section 213.

(5) "Medically related unemployment" means
unemployment while an individual has a medical condition that
substantially interferes with the individual's ability to work.

(6) "Qualified dependent" means a dependent that is a

1 qualified child as defined by 26 U.S.C. Section 152(c).

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

6 (b) A law enacted after January 1, 2015, does not apply to a
7 dedicated personal insurer unless dedicated personal insurers are
8 expressly designated in the law.

9 SUBCHAPTER B. ORGANIZATION OF DEDICATED PERSONAL INSURERS

10 Sec. 889.051. FORM AND RELATIONSHIP OF INSURER; USE OF
11 INSURANCE-RELATED TERMS PROHIBITED. (a) To be granted or maintain
12 a limited certificate of authority as a dedicated personal insurer,
13 an entity must be related to a designated insurable individual in
14 the following manner:

15 (1) the entity and designated insurable individual are
16 the same natural person; or

17 (2) the entity is a for-profit corporation or limited
18 liability company and the designated insurable individual is the
19 sole owner of that entity.

20 (b) Notwithstanding Section 2.003, Business Organizations
21 Code, an entity may operate as a dedicated personal insurer under
22 this chapter.

23 (c) An entity formed for the purpose of operating as a
24 dedicated personal insurer may not use in its name, contracts, or
25 literature the word "insurance" or any other words that are
26 descriptive of the insurance, casualty, or surety business.

27 Sec. 889.052. APPLICATION FOR LIMITED CERTIFICATE OF

1 AUTHORITY. (a) An entity satisfying the requirements of this
2 chapter may apply to the department for a limited certificate of
3 authority as a dedicated personal insurer. The application must
4 include:

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

6 (2) the name, address, and date of birth of the
7 designated insurable individual; and

8 (3) the application fee required by Section 889.205.

9 (b) If the commissioner determines that the application
10 does not satisfy the requirements of this subchapter, the
11 commissioner shall deny the application in writing. The denial
12 must include the reason for the denial.

13 (c) If the commissioner does not deny the application under
14 Subsection (b), the commissioner shall approve the application.
15 On approval, the department shall issue under the department's seal
16 a limited certificate of authority authorizing the entity as a
17 dedicated personal insurer.

18 Sec. 889.053. TRANSFER OF CERTIFICATES PROHIBITED. A
19 limited certificate of authority issued under this chapter may not
20 be transferred or sold.

21 SUBCHAPTER C. MANAGEMENT OF FUNDS

22 Sec. 889.101. DEPOSIT REQUIREMENTS. (a) For each calendar
23 quarter in which a dedicated personal insurer holds a limited
24 certificate of authority issued under this chapter, the dedicated
25 personal insurer shall deposit funds to the credit of the insurer in
26 accordance with this section.

27 (b) A quarterly deposit under this section must be

one-fourth of the aggregate amount of:

(1) at least eight percent of the designated insurable individual's adjusted gross income for the preceding calendar year; and

(2) if applicable, at least eight percent of each designated insurable individual's spouse's adjusted gross income for the preceding calendar year.

(c) Notwithstanding Subsection (a), a dedicated personal insurer is not required to make a deposit under this section if the total balance of funds deposited in all accounts to the credit of the insurer is at least \$60,000.

(d) Funds required by this section must be held in:

(1) cash;

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

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

(4) another form of security approved by the commissioner; or

(5) a combination of the forms described by Subdivisions (1), (2), (3), and (4).

(e) The dedicated personal insurer's deposit account or accounts must be with a bank or broker that is insured by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or a similar institution approved by the commissioner.

1 (f) A dedicated personal insurer shall deposit funds
2 according to Subsection (a) not later than:

3 (1) for the initial deposit, the 30th day after the
4 date the limited certificate of authority is issued under this
5 chapter; or

6 (2) the 30th day after the last day of the calendar
7 quarter for which the deposit is required by this section.

8 Sec. 889.102. AUTHORIZED EXPENDITURES. (a) Funds required
9 to be in a dedicated personal insurer's deposit account under
10 Section 889.101 may only be disbursed for:

11 (1) medical care expenses of an individual covered by
12 a policy issued by the insurer;

13 (2) reinsurance or stop-loss insurance premiums;

14 (3) maintenance fees required by Section 889.205; or

15 (4) expenses incurred by the designated insurable
16 individual during a period of medically related unemployment.

17 (b) Nothing in this section may be construed to restrict
18 payments or transfers made by a dedicated personal insurer using
19 funds in excess of the funds required to be in the insurer's deposit
20 account under Section 889.101(b).

21 SUBCHAPTER D. AUTHORITY TO ISSUE INSURANCE

22 Sec. 889.151. LIMITED CERTIFICATE OF AUTHORITY. A limited
23 certificate of authority issued by the department to a dedicated
24 personal insurer shall state in a format determined by the
25 commissioner by rule:

26 (1) the name of the designated insurable individual;

27 (2) the following language: "Only the designated

1 insurable individual, the individual's spouse, and the individual's
2 qualified dependents may be covered or insured by an insurance
3 policy authorized by this certificate"; and

4 (3) any other information required by the commissioner
5 by rule.

6 Sec. 889.152. AUTHORITY TO ISSUE AN INSURANCE POLICY;
7 REINSURANCE AUTHORIZED. (a) A dedicated personal insurer holding
8 a limited certificate of authority issued under this chapter may
9 issue a health insurance policy only to the designated insurable
10 individual, consistent with the limitations of that certificate and
11 this chapter.

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

17 (c) A dedicated personal insurer may obtain reinsurance for
18 a risk that the insurer is authorized to insure.

19 Sec. 889.153. PROHIBITED ACTS. (a) A dedicated personal
20 insurer may not take, receive, facilitate, or process an insurance
21 application.

22 (b) A dedicated personal insurer may not charge a premium.
23 Nothing in this subsection may be construed to prohibit a
24 designated insurable individual from providing capital to the
25 insurer.

26 Sec. 889.154. EXCLUSION FROM GUARANTY FUND. A dedicated
27 personal insurer is not a member insurer required to participate in

1 the Texas Life and Health Insurance Guaranty Association and a
2 policy issued by a dedicated personal insurer is not a covered
3 policy for purposes of Chapter 463.

4 SUBCHAPTER E. ENFORCEMENT AND FUNDING

5 Sec. 889.201. ANNUAL REPORT OF FUNDS. (a) A dedicated
6 personal insurer shall file an annual report with the department
7 that includes:

8 (1) a statement or return showing the designated
9 insurable individual's adjusted gross income and the adjusted gross
10 income of each spouse covered during any part of the year by a
11 policy issued by the insurer;

12 (2) an account statement issued by a bank or broker
13 demonstrating compliance with Section 889.101; and

14 (3) a statement of disbursements made under Section
15 889.102.

16 (b) A dedicated personal insurer shall file the maintenance
17 fee required by Section 889.205 with the report required by this
18 section.

19 (c) A dedicated personal insurer shall file the report
20 required by this section not later than March 31 following a year in
21 which the insurer holds a limited certificate of authority issued
22 under this chapter during any part of that year.

23 Sec. 889.202. AUDIT OF OPERATIONS; REVOCATION OF LIMITED
24 CERTIFICATE OF AUTHORITY. (a) The department shall audit the
25 operations of a dedicated personal insurer according to this
26 section.

27 (b) The department shall conduct a random audit of dedicated

personal insurers, and the department shall ensure that the probability that a particular insurer is audited under this subsection during a year is not more than 1 in 100.

(c) If the department determines there is a reasonable suspicion that a dedicated personal insurer is not in compliance with this chapter, the department may conduct an audit of the insurer.

(d) A dedicated personal insurer shall comply with the audit and provide the department information and records necessary to conduct the audit.

(e) If an audit results in a finding that a dedicated personal insurer is not substantially in compliance with this chapter, the department shall revoke the insurer's limited certificate of authority issued under this chapter.

Sec. 889.203. SURRENDER OF LIMITED CERTIFICATE OF AUTHORITY. (a) A dedicated personal insurer that does not have a relationship required by Section 889.051 with the designated insurable individual specified in the insurer's limited certificate of authority issued under this chapter shall surrender the certificate to the department.

(b) A dedicated personal insurer that does not satisfy the requirements of Subchapter C shall surrender the insurer's limited certificate of authority issued under this chapter to the department.

(c) A dedicated personal insurer may voluntarily surrender the insurer's limited certificate of authority issued under this chapter to the department.

1 Sec. 889.204. CONSEQUENCES OF CERTIFICATE REVOCATION OR
2 SURRENDER. (a) On surrender or revocation of a dedicated personal
3 insurer's limited certificate of authority issued under this
4 chapter, the insurer shall terminate each outstanding insurance
5 policy issued by the insurer.

6 (b) The department may not issue a limited certificate of
7 authority under this chapter for a period of:

8 (1) one year after the surrender of a certificate
9 listing the same designated insurable individual; and

10 (2) five years after the revocation of a certificate
11 listing the same designated insurable individual.

12 Sec. 889.205. FUNDING FOR ADMINISTRATION OF CHAPTER. (a)
13 The department shall collect:

14 (1) a nonrefundable application fee from an entity
15 applying for a limited certificate of authority under this chapter;
16 and

17 (2) a maintenance fee from a designated personal
18 insurer submitting a report under Section 889.201.

19 (b) The department shall deposit the fees collected under
20 this section to the credit of the Texas Department of Insurance
21 operating account.

22 (c) The department shall set each fee collected under this
23 section in an amount reasonable and necessary to implement this
24 chapter, not to exceed \$90. The department may use any portion of
25 the fee to enforce this chapter.

26 SUBCHAPTER F. PRIVACY

27 Sec. 889.251. PRIVACY. (a) Except as provided by

1 Subsection (b), the department may not disclose:

2 (1) personal identifying information of a designated
3 insurable individual, the individual's spouse, and the individual's
4 qualified dependents; or

5 (2) identifying and financial information of an
6 applicant for a limited certificate of authority issued under this
7 chapter.

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

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

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

19 SECTION 2. This Act takes effect September 1, 2015.