

BILL ANALYSIS

Senate Research Center

S.B. 2179
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently under Texas law there is no regulation regarding the practice of fronting. Generally speaking, fronting occurs when an insurance company insures property under its own name, but has little or no involvement in the underwriting of the property, including the establishment of the rates being charged for the risks, the adjustment or payment of claims, or in the profits or losses on the property being insured. Instead, another insurance company, the real insurer of the property, uses the fronting insurer's name as the insurer on the insurance policy issued to the policyholder. The fronting insurer receives compensation for the use of its name and policy, with little or no risk of loss.

Chapter 911 of the Insurance Code provides farm mutual insurance companies statutory distinctions such as not being subject to Texas Windstorm Insurance Association assessments as well being required to pay premium taxes and maintenance taxes. Unfortunately, there have been instances where insurance companies have used a farm mutual as a fronting company to take advantage of the statutory distinction afforded farm mutual companies. While this practice is limited to a few bad actors, their actions place the entire farm mutual industry at risk.

S.B. 2179 provides that to the extent a farm mutual desires to front for another insurer, both the fronting farm mutual and the other insurer will not benefit from the statutory distinctions found in Chapter 911, thus providing regulatory certainty and ensuring that companies that comply with the requirements of Chapter 911 would not be adversely affected due to other insurance companies subject to the same regulations failing to conduct their business as the statute intends.

As proposed, S.B. 2179 amends current law relating to the applicability of certain insurance laws to certain farm mutual insurance companies.

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 221.001, Insurance Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Provides that this chapter (Property and Casualty Insurance Premium Tax) does not apply to a farm mutual insurance company operating under Chapter 911 (Farm Mutual Insurance Companies), unless the company is acting as a fronting insurer.

(c) Defines "fronting insurer."

SECTION 2. Amends Section 252.005, Insurance Code, to provide that this chapter (Fire and Allied Lines Insurance) does not apply to a farm mutual insurance company operating under Chapter 911, unless the company is acting as a fronting insurer as defined by Section 221.001(c).

SECTION 3. Amends Section 2210.006(b), Insurance Code, to provide that this chapter (Texas Windstorm Insurance Association) does not apply to a farm mutual insurance company operating

under Chapter 911, unless the company is acting as a fronting insurer as defined by Section 221.001(c).

SECTION 4. (a) Provides that Sections 221.001 and 252.005, Insurance Code, as amended by this Act, do not affect tax liability accruing before the 2017 calendar year. Provides that that liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

(b) Makes application of Section 2210.006(b), Insurance Code, as amended by this Act, prospective.

SECTION 5. Effective date: upon passage or September 1, 2017.