

By: Estes

S.B. No. 1171

A BILL TO BE ENTITLED

AN ACT

relating to the suspension and reactivation of the operation of the Texas Health Reinsurance System.

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

SECTION 1. Section 1501.302, Insurance Code, is amended to read as follows:

Sec. 1501.302. TEXAS HEALTH REINSURANCE SYSTEM. (a) The Texas Health Reinsurance System is a nonprofit entity administered by a board of directors and subject to the supervision and control of the commissioner.

(b) The system may operate only during the period an order authorizing operation of the system under Section 1501.3021 is in effect. The system may not operate after the effective date of an order of suspension of operation of the system under Section 1501.3022 until a subsequent order authorizing the operation of the system under Section 1501.3021, if any, is effective.

SECTION 2. Subchapter G, Chapter 1501, Insurance Code, is amended by adding Sections 1501.3021 and 1501.3022 to read as follows:

Sec. 1501.3021. AUTHORIZATION OF OPERATION. (a) The commissioner shall hold a hearing if:

(1) the commissioner believes small employer health benefit plan issuers in this state are threatened with the inability to secure reinsurance coverage in the open market; or

1 (2) the commissioner receives a petition requesting
2 the hearing from an association of health benefit plan issuers in
3 this state or a group of at least 15 small employer health benefit
4 plan issuers operating in this state.

5 (b) If, after a hearing under Subsection (a), the
6 commissioner finds that the operation of the system is in the public
7 interest, the commissioner by order shall:

8 (1) authorize the operation of the system;

9 (2) appoint a board of directors under Section
10 1501.303; and

11 (3) direct the board to develop a plan of operation
12 under Section 1501.306 to ensure the system is fully implemented on
13 a date specified in the order that is not later than the 60th day
14 after the effective date of the order.

15 (c) Sections 1501.307-1501.326 apply to the operation of
16 the system after the date the system is implemented as described by
17 Subsection (b)(3).

18 Sec. 1501.3022. SUSPENSION OF OPERATION. (a) The
19 commissioner shall hold a hearing if the system is operating or is
20 authorized to operate and:

21 (1) the commissioner believes small employer health
22 benefit plan issuers in this state are not threatened with the
23 inability to secure reinsurance coverage in the open market; or

24 (2) the commissioner receives a petition requesting
25 the hearing from an association of health benefit plan issuers in
26 this state or a group of at least 15 small employer health benefit
27 plan issuers operating in this state.

1 (b) If, after a hearing under Subsection (a), the
2 commissioner finds that suspension of the operation of the system
3 is in the public interest, the commissioner by order shall direct
4 the board to submit to the commissioner for approval, not later than
5 the 60th day after the date of the order, a plan of suspension of
6 operation of the system.

7 (c) A plan of suspension under Subsection (b) must:

8 (1) specify the date after which a health benefit plan
9 issuer that is a risk-assuming health benefit plan issuer on the
10 effective date of the plan of suspension may not:

11 (A) become a reinsured health benefit plan issuer
12 under Sections [1501.310](#), [1501.311](#), and [1501.312](#); and

13 (B) reinsure with the system a small employer
14 group, or any risk, covered under any small employer health benefit
15 plan;

16 (2) specify the date after which a health benefit plan
17 issuer that is a reinsured health benefit plan issuer on the
18 effective date of the plan of suspension may not:

19 (A) reinsure with the system additional small
20 employer groups in accordance with Section [1501.314](#); or

21 (B) cede additional eligible lives to the system
22 in accordance with Section [1501.314](#);

23 (3) provide for:

24 (A) the filing, receipt, processing, and payment
25 of all claims against and debts of the system, and extinguishment of
26 all liabilities of the system, including balances on any lines of
27 credit that may have been established by or on behalf of the system;

1 (B) the collection and receipt of all assessments
2 made with respect to reinsured health benefit plan issuers,
3 including any deferred assessments and any final assessment made
4 under Subsection (f); and

5 (C) a final audit of the system by the state
6 auditor as provided by Subsection (g);

7 (4) specify that the transactions required by the plan
8 of suspension and addressed in Subdivisions (1)-(3) must be closed
9 not later than the effective date of the suspension of the operation
10 of the system as specified under Subdivision (5);

11 (5) state the effective date of the suspension of the
12 operation of the system; and

13 (6) provide for the proportionate distribution of any
14 surplus assets of the system that remain after the date specified
15 under Subdivision (5).

16 (d) The effective date of the suspension of the operation of
17 the system as specified under Subsection (c)(5) may not be later
18 than the 270th day after the date the commissioner by order approves
19 the plan of suspension.

20 (e) If the board fails to submit a suitable plan of
21 suspension, the commissioner, after notice and hearing, shall adopt
22 a plan in accordance with Subsection (c).

23 (f) The board may make a final assessment of the small
24 employer health benefit plan issuers that, for any portion of the
25 last year in which the system operated, were reinsured health
26 benefit plan issuers. An assessment under this subsection may be
27 made only if the board determines the assessment is necessary to

1 recover net losses of the system, as provided in Sections
2 1501.319-1501.326, including administrative expenses for
3 transactions essential to complete execution of the plan of
4 suspension, and the cost of the final audit by the state auditor.

5 (g) The transactions necessary to complete execution of the
6 plan of suspension are subject to audit by the state auditor under
7 Chapter 321, Government Code. The state auditor shall report the
8 cost of the final audit conducted under this section to the board
9 and the comptroller, and the board shall remit that amount to the
10 comptroller for deposit to the general revenue fund.

11 (h) The board serving immediately before the effective date
12 of the suspension of the operation of the system is discharged on
13 the effective date of the suspension of the operation of the system
14 as specified under Subsection (c)(5).

15 (i) After the effective date of the suspension of the
16 operation of the system as specified under Subsection (c)(5), the
17 commissioner shall take any action necessary under Subsection
18 (c)(6) to distribute the surplus assets of the system until all
19 remaining assets are distributed.

20 (j) During a period in which the operation of the system is
21 suspended, Sections 1501.307-1501.326 have no effect.

22 SECTION 3. The board of directors of the Texas Health
23 Reinsurance System serving on the effective date of this Act shall
24 submit to the commissioner of insurance a plan of suspension of the
25 operation of the Texas Health Reinsurance System, as described by
26 Section 1501.3022(c), Insurance Code, as added by this Act, not
27 later than the 90th day after the effective date of this Act. If the

1 board fails to timely submit the plan, the commissioner of
2 insurance shall adopt a plan in accordance with Sections
3 1501.3022(c)-(i), Insurance Code, as added by this Act.

4 SECTION 4. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2017.