

BILL ANALYSIS

S.B. 1063
By: Hancock
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Concerns have been raised regarding the efficient operation of the Texas Property and Casualty Insurance Guaranty Association created by the Texas Legislature as a safety net to provide financial protections for insurance consumers in the event a member insurer becomes insolvent. S.B. 1063 seeks to respond to these concerns by making changes to the applicable statutes that will provide the clarity needed to help the association operate more efficiently.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1063 amends the Insurance Code to require the commissioner of insurance to appoint a director to fill a vacancy on the board of directors of the Texas Property and Casualty Insurance Guaranty Association for the unexpired term of a director who serves as a public representative and to specify that board members are required to fill a vacancy by majority vote for the unexpired term of a director who serves as an insurance industry board member. The bill authorizes the board to hold an open meeting by telephone conference call by removing certain preconditions and revises, updates, and sets out certain requirements for such a meeting.

S.B. 1063 entitles the association to recover costs, expenses, and reasonable attorney's fees incurred in defending the association or an impaired insurer's insured against a claim brought by a reinsurer, insurer, self-insurer, insurance pool, or underwriting association, on that entity's own behalf or on behalf of the entity's insured, after the date on which the entity is provided applicable notice by the association.

S.B. 1063 requires a court to award the association the association's costs, expenses, and reasonable attorney's fees incurred in seeking recovery for a claim and costs of defense paid in a bankruptcy or receivership proceeding. The bill removes preconditions relating to the request for an auditor's certification of certain financial information from an insured for purposes of determining the net worth of the insured. The bill entitles the association to recover the association's costs, expenses, and reasonable attorney's fees incurred in contesting a claim based on certain judgments, settlements, or releases on the association's behalf or on behalf of an impaired insurer's insured after the date on which the party asserting the claim is provided applicable notice by the association.

S.B. 1063 authorizes the association to handle a claim through a contract claims adjuster and requires a servicing agreement or loss portfolio transfer agreement for the handling of claims through an insurer designated as a servicing facility. The bill requires the association to reimburse such a facility in a manner that is consistent with the applicable agreement. The bill prohibits a reduction of the proceeds recovered by the association from the sale of salvage property related to a covered claim in the amount of any pre-impairment costs, fees, or expenses related to the salvage property that are not part of a covered claim under statute. The bill prohibits a person or entity in possession of salvage property subject to the association's right of recovery from seeking recovery from the association for any pre-impairment costs, fees, or expenses related to the property that are not a covered claim. The bill extends an association's right to recover the amount of a covered claim for workers' compensation insurance benefits and the costs of administration and defense of the claim to apply to any successor entity to the insured employer under state, federal, or international law. The bill requires a court to award the association costs, expenses, and reasonable attorney's fees incurred in seeking recovery for a covered claim and the cost of the defense relating to a claim for workers' compensation insurance benefits.

EFFECTIVE DATE

September 1, 2019.