

BILL ANALYSIS

S.B. 1367
By: Creighton
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In an era of quickly advancing technology and economic innovation, businesses are seeking a more robust range of insurance products at competitive prices to keep pace with ever-evolving risks and better address specific business needs. Unfortunately, regulatory filing and review requirements can limit the range of product choice by discouraging new market entrants, making it harder for existing competitors to develop new products, and slowing the speed at which innovative products can reach the marketplace. S.B. 1367 seeks to enact market-oriented reforms that will facilitate robust product offerings by exempting any line of certain kinds of commercial insurance from applicable rate and policy form filing requirements.

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 rulemaking authority is expressly granted to the commissioner of insurance in SECTIONS 3 and 6 of this bill.

ANALYSIS

S.B. 1367 amends the Insurance Code to exempt any line of the following kinds of insurance written under a commercial insurance policy or contract issued by an insurer authorized to engage in the business of insurance in Texas from applicable rate and form filing requirements:

- surety bonds;
- fidelity bonds;
- commercial inland marine;
- boiler and machinery;
- environmental impairment or pollution liability;
- kidnap and ransom;
- political risk or expropriation;
- commercial excess liability or umbrella liability;
- directors' and officers' liability;
- fiduciary liability;
- employment practices liability;
- errors and omission and professional liability other than medical professional liability;
- media liability;
- product liability, product recall, or completed operations;
- commercial cybersecurity, including first- and third-party commercial lines coverage for losses arising out of or relating to data privacy breaches, network security, computer viruses, and similar exposures;

- highly protected commercial property that is subject to a much lower than normal probability of loss due to low-hazard occupancy or property type, superior construction, special fire protection equipment and procedures, and management commitment to loss prevention;
- commercial flood insurance not provided through the National Flood Insurance Program; or
- any combination of only the kinds of insurance included in this list or otherwise exempted from the requirements under the bill's provisions.

S.B. 1367 authorizes the commissioner of insurance by rule to exempt an additional commercial line of insurance or commercial risk not listed above from those rate and form filing requirements to promote enhanced competition or more effectively use the resources of the Texas Department of Insurance that might otherwise be used to review commercial lines filings. The bill authorizes the commissioner to reinstate the requirements for one of the listed kinds of insurance for a period of not longer than one year if, after notice and hearing, the commissioner issues an order that does the following:

- includes a finding that a reasonable degree of competition does not exist for that specific kind of insurance; and
- specifies the relevant tests and test results used to determine the degree of competition for that kind of insurance.

The bill establishes that, in the absence of such a finding with respect to a specific kind of insurance, a competitive market is presumed to exist for that kind of insurance.

S.B. 1367 authorizes the commissioner to adopt reasonable and necessary rules to implement the bill's provisions exempting lines of certain kinds of insurance from applicable rate and form filing requirements. The bill makes certain restrictions on the provision of surplus lines insurance inapplicable to an insurance policy issued by an eligible surplus lines insurer for any line of the kinds of insurance exempted under those provisions, other than those for which the commissioner has temporarily reinstated the rate and form filing requirements.

S.B. 1367 makes the requirement for an insurer to file with the commissioner all rates, applicable rating manuals, supplementary rating information, and additional information as required by the commissioner inapplicable to rates for use with an insured that has the following:

- total insured property values of \$5 million or more;
- total annual gross revenues of \$10 million or more; or
- a total premium of \$25,000 or more for property insurance, \$25,000 or more for general liability insurance, or \$50,000 or more for multi-peril insurance.

EFFECTIVE DATE

September 1, 2021.