

By: Middleton

S.B. No. 2340

A BILL TO BE ENTITLED

AN ACT

relating to innovation waivers for certain insurance laws, regulations, and requirements; authorizing a fee.

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

SECTION 1. Subtitle B, Title 2, Insurance Code, is amended by adding Chapter 87 to read as follows:

CHAPTER 87. REGULATORY SANDBOX AND INNOVATION WAIVERS

Sec. 87.001. AUTHORITY TO GRANT WAIVERS. (a) The commissioner may grant a waiver, including a variance, with respect to any specific insurance law, regulation, or requirement if a person subject to that law, regulation, or requirement demonstrates to the commissioner's satisfaction that:

(1) application of the law, regulation, or requirement would prohibit the introduction of an innovative or more efficient insurance product or service that the applicant intends to offer during the period for which the proposed waiver is granted;

(2) the public policy goals of the law, regulation, or requirement will be or have been achieved by other means;

(3) the waiver will not substantially or unreasonably increase any risk to consumers; and

(4) the waiver is in the public interest.

(b) The commissioner may not grant a waiver under this chapter with respect to:

(1) any law, regulation, or requirement that is not

1 subject to the commissioner's jurisdiction;

2 (2) any law, regulation, or requirement concerning the  
3 assets, deposits, investments, capital, surplus, or other solvency  
4 requirements applicable to insurers;

5 (3) the required participation in any assigned risk  
6 plan, residual market, or guaranty fund;

7 (4) any applicable provisions of this code related to  
8 insurer authorization requirements or insurance trade practices;

9 (5) any law, regulation, or requirement required for  
10 the department to maintain its accreditation by the National  
11 Association of Insurance Commissioners unless the law or regulation  
12 permits variances or waivers;

13 (6) the application of any taxes or fees; or

14 (7) any other law, regulation, or requirement  
15 determined ineligible by the commissioner.

16 (c) The authority granted to the commissioner under this  
17 section may not be construed to:

18 (1) allow the commissioner to grant or extend a waiver  
19 that would abridge the recovery rights of consumers; or

20 (2) limit or otherwise affect the authority of the  
21 commissioner to exercise discretion to waive or enforce  
22 requirements as permitted under any other law.

23 Sec. 87.002. APPLICATION FOR WAIVER. An application for a  
24 waiver described by Section 87.001 must be in the form and manner  
25 prescribed by the commissioner and include:

26 (1) the identity of the person applying for the  
27 waiver;

1           (2) the identity of the directors and executive  
2 officers of the applicant, any persons who are beneficial owners of  
3 10 percent or more of the voting securities of the applicant, and  
4 any individuals with authority to direct the management and  
5 policies of the applicant;

6           (3) a description of the product or service to be  
7 offered if the waiver is granted, including how the product or  
8 service functions and the manner and terms under which it will be  
9 offered;

10           (4) a description of the potential benefits to  
11 consumers of the product or service;

12           (5) a description of the potential risks to consumers  
13 posed by the product or service or the approval of the proposed  
14 waiver and how the applicant proposes to mitigate such risks;

15           (6) an identification of each statutory or regulatory  
16 provision that prohibits the introduction, sale, or offering of the  
17 product or service;

18           (7) a filing fee in an amount determined by the  
19 commissioner; and

20           (8) any additional information required by the  
21 commissioner.

22           Sec. 87.003. PUBLIC NOTICE. (a) Not later than the 30th  
23 day before the date the commissioner grants a waiver under this  
24 chapter, the commissioner shall provide public notice of the  
25 proposed waiver by publishing:

26           (1) each specific law, regulation, or requirement to  
27 which the proposed waiver applies;

1           (2) the proposed terms and limitations of the proposed  
2 waiver;

3           (3) the proposed duration of the proposed waiver; and

4           (4) any additional information considered appropriate  
5 by the commissioner.

6           (b) If a waiver is granted under this chapter, the  
7 commissioner shall provide public notice of the existence of the  
8 waiver by providing:

9           (1) each specific law, regulation, or requirement to  
10 which the waiver applies;

11           (2) the name of the person who applied for and received  
12 the waiver;

13           (3) the duration of and any other terms or limitations  
14 of the waiver; and

15           (4) any additional information considered appropriate  
16 by the commissioner.

17           (c) The commissioner may satisfy a public notice  
18 requirement under this section by publishing the information on the  
19 department's Internet website.

20           Sec. 87.004. WAIVER LENGTH; EXTENSION. (a) The  
21 commissioner may grant a waiver under this chapter for an initial  
22 period not to exceed 12 months.

23           (b) Before the end of the initial waiver period, the  
24 commissioner may grant a one-time extension of the waiver not to  
25 exceed an additional 12 months.

26           (c) Not later than the 30th day before the end of the initial  
27 waiver period, the person who received the waiver may apply to the

1 commissioner for an extension of the waiver in the form and manner  
2 prescribed by the commissioner. The extension application must  
3 include the length of the extension period requested and specific  
4 reasons why the extension is necessary.

5 (d) The commissioner shall grant or deny an extension  
6 request before the end of the initial waiver period.

7 Sec. 87.005. CONTESTED CASE PROVISIONS NOT APPLICABLE. The  
8 commissioner's decision to grant or deny a waiver or extension  
9 under this chapter is not subject to the contested case provisions  
10 of Chapter 2001, Government Code.

11 Sec. 87.006. WAIVER TERMS AND LIMITATIONS. (a) A waiver  
12 granted under this chapter must include any terms and limitations  
13 determined appropriate by the commissioner, including limits on the  
14 amount of premium that may be written in relation to the underlying  
15 product or service and the number of consumers that may purchase or  
16 use the underlying product or service.

17 (b) A violation of the terms and limitations described by  
18 Subsection (a) is considered a violation of this chapter for  
19 purposes of enforcement under this subtitle.

20 (c) A person who receives a waiver under this chapter may  
21 not sell or provide a product or service subject to the waiver to  
22 more than 10,000 consumers.

23 Sec. 87.007. WRITTEN DISCLOSURE. A product or service  
24 offered under a waiver granted under this chapter must include the  
25 following written disclosures to consumers in a clear and  
26 conspicuous form:

27 (1) the name and contact information of the person

1 providing the product or service;

2 (2) that the product or service is authorized under an  
3 innovation waiver for a temporary period of time and may be  
4 discontinued at the end of the waiver period, the date of which must  
5 be specified;

6 (3) contact information for the department, including  
7 the method for a consumer to file a complaint with the department  
8 regarding the product or service; and

9 (4) any additional disclosures required by the  
10 commissioner.

11 Sec. 87.008. FINANCIAL RESPONSIBILITY REQUIREMENTS. A  
12 person who receives a waiver under this chapter shall possess or  
13 obtain one or a combination of the following forms of security in an  
14 amount and subject to conditions and purposes determined by the  
15 commissioner to be necessary for the protection of consumers:

16 (1) a contractual liability insurance policy;

17 (2) a surety bond issued by an authorized surety;

18 (3) securities of the type eligible for deposit by  
19 authorized insurers in this state;

20 (4) evidence that the person has established an  
21 account payable to the commissioner in a federally insured  
22 financial institution in this state and has deposited United States  
23 currency in an amount equal to the amount required by the  
24 commissioner that is not available for withdrawal except by direct  
25 order of the commissioner;

26 (5) a letter of credit issued by a qualified United  
27 States financial institution; or

1           (6) another form of security authorized by the  
2 commissioner.

3           Sec. 87.009. REVOCATION OF WAIVER. The commissioner may  
4 revoke a waiver if:

5           (1) the person who obtains the waiver fails to comply  
6 with this chapter, a rule adopted under this chapter, or any terms  
7 or limitations for the waiver established by the commissioner; or

8           (2) the waiver is causing consumer harm.

9           Sec. 87.010. ADOPTION OF RULES. (a) The commissioner by  
10 rule shall adopt procedures for the submission, granting, denying,  
11 monitoring, and revocation of a waiver under this chapter.

12           (b) The rules must:

13           (1) provide requirements for the ongoing monitoring,  
14 examination, and supervision of, and reporting by, each person  
15 granted a waiver under this chapter;

16           (2) permit the commissioner to impose reasonable terms  
17 or limitations on the conduct permitted under a waiver;

18           (3) provide for an expedited application process for a  
19 product or service that is substantially similar to one for which a  
20 waiver has previously been granted by the commissioner; and

21           (4) include an opportunity for public comment on  
22 proposed waivers under consideration by the commissioner.

23           Sec. 87.011. EFFECT OF WAIVER EXPIRATION OR REVOCATION. On  
24 the expiration or revocation of a waiver granted under this  
25 chapter, the person who received the waiver shall cease all  
26 activities that were permitted only as a result of the waiver and  
27 comply with all applicable laws.

1       Sec. 87.012. REPORT. Not later than January 1 of each year,  
2 the commissioner shall submit a report to the governor, lieutenant  
3 governor, speaker of the house of representatives, and chairs of  
4 the house and senate standing committees with primary jurisdiction  
5 over the department providing:

6           (1) the total number of applications for waivers under  
7 this chapter that have been received, granted, and denied by the  
8 commissioner;

9           (2) the information specified by Section 87.003(b) for  
10 each waiver granted;

11           (3) a list of any regulations or requirements that  
12 have been adopted or amended as a result of or in connection with a  
13 waiver granted under this chapter;

14           (4) with respect to each law to which a waiver applies,  
15 the commissioner's recommendation as to whether that law should be  
16 continued, repealed, or amended to promote innovation and establish  
17 a uniform regulatory system for all regulated entities; and

18           (5) a list of any waivers that have lapsed or been  
19 revoked, and, if revoked, a description of other regulatory or  
20 disciplinary actions, if any, that resulted in, accompanied, or  
21 resulted from that revocation.

22       Sec. 87.013. RECIPROCITY. The commissioner may enter into  
23 agreements with other states that have enacted laws that are  
24 substantially similar to this chapter to:

25           (1) advance the purposes of this chapter; and

26           (2) facilitate the consideration of applications for  
27 waivers under this chapter from persons who have:



1                   (A) satisfied the requirements of this chapter;

2 and

3                   (B) received similar waivers in other states.

4           SECTION 2. As soon as practicable after the effective date  
5 of this Act, the commissioner of insurance shall adopt rules  
6 necessary to implement this Act.

7           SECTION 3. This Act takes effect September 1, 2023.