

## **BILL ANALYSIS**

C.S.S.B. 1449  
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Insurance  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties have raised concerns regarding the role of the federal government and certain interstate and international entities in regulating the business of insurance in Texas. C.S.S.B. 1449 seeks to address these concerns by revising the exceptions to the prohibition against the Texas Department of Insurance requiring an insurer to comply with a rule, regulation, directive, or standard adopted by the National Association of Insurance Commissioners.

### **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**

C.S.S.B. 1449 amends the Insurance Code to include among the conditions triggering an exception to the prohibition against the Texas Department of Insurance (TDI) requiring an insurer to comply with a rule, regulation, directive, or standard adopted by the National Association of Insurance Commissioners the condition that a statute authorizes the commissioner to adopt rules consistent with the rule, regulation, directive, or standard. The bill removes approval by the commissioner of insurance from the exception to the prohibition that is based on application of the rule, regulation, directive, or standard being expressly authorized by statute. The bill excludes certain statutes, reporting, and other items under the Insurance Code from the applicability of the prohibition.

C.S.S.B. 1449 authorizes the commissioner to adopt an interim rule to require compliance with a rule, regulation, directive, or standard adopted by the National Association of Insurance Commissioners if the commissioner finds the rule is technical or nonsubstantive in nature or necessary to preserve TDI accreditation and, before the adoption of the rule, the commissioner provides the standing committees of the senate and house of representatives with primary jurisdiction over TDI with written notice of the commissioner's intent to adopt the rule. The bill establishes that a substantive interim rule adopted by the commissioner under such authorization remains in effect only until 30 days following the end of the next session of the legislature unless a law is enacted that authorizes the subject matter of the rule and establishes that the rule will continue in effect if such a law is enacted.

C.S.S.B. 1449 requires TDI, not later than December 31 of each even-numbered year, to submit to the standing committees of the senate and house of representatives with primary jurisdiction over TDI a written report that includes the specific statutes in the Insurance Code and rules

adopted by the commissioner that are based on National Association of Insurance Commissioners model laws or regulations, statutory changes that may be necessary to maintain TDI accreditation, and the most recent standards the National Association of Insurance Commissioners has adopted or published that are necessary to maintain TDI accreditation.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

**COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 1449 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

**SENATE ENGROSSED**

SECTION 1. Section 36.004, Insurance Code, is amended to read as follows:

Sec. 36.004. COMPLIANCE WITH NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS REQUIREMENTS; INTERIM RULES. (a) Except as provided by Subsection (c) and Section 36.005 ~~and notwithstanding any other law~~, the department may not require an insurer to comply with a rule, regulation, directive, or standard adopted by the National Association of Insurance Commissioners, including a rule, regulation, directive, or standard relating to policy reserves, unless application of ~~that version of~~ the rule, regulation, directive, or standard is expressly authorized by statute ~~[and approved by the commissioner]~~.

~~(b) For purposes of Subsection (a), a version of a rule, regulation, directive, or standard is expressly authorized by statute if:~~

~~(1) the statute explicitly authorizes that version; or~~

~~(2) that version is the latest version of the rule, regulation, directive, or standard on the date that the statute was enacted.~~

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Section 36.004, Insurance Code, is amended to read as follows:

Sec. 36.004. COMPLIANCE WITH NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS REQUIREMENTS; INTERIM RULES; REPORT. (a) Except as provided by Subsection (b) or (c) or Section 36.005, the department may not require an insurer to comply with a rule, regulation, directive, or standard adopted by the National Association of Insurance Commissioners, including a rule, regulation, directive, or standard relating to policy reserves, unless: (1) application of the rule, regulation, directive, or standard is expressly authorized by statute; or (2) a statute authorizes the commissioner to adopt rules consistent with the rule, regulation, directive, or standard ~~[and approved by the commissioner]~~.

~~(b) Subsection (a) does not apply to:~~

~~(1) any statute that is based on or substantially similar to a National Association of Insurance Commissioners model law or regulation;~~

~~(2) Sections 401.010 and 421.001(c);~~

~~(3) securities valuations by the Securities Valuation Office of the National~~

(c) The commissioner may adopt an interim rule to require compliance with a rule, regulation, directive, or standard adopted by the National Association of Insurance Commissioners if:

(1) the commissioner finds the rule is technical or nonsubstantive in nature or necessary to preserve the department's accreditation; and

(2) before the adoption of the rule, the commissioner provides the standing committees of the senate and house of representatives with primary jurisdiction over the department with written notice of the commissioner's intent to adopt the rule.

(d) Unless the legislature during the following regular legislative session enacts a law expressly approving or reflecting the substance of an interim rule adopted under Subsection (c), the rule is effective until the earlier of:

(1) the day after the date on which the session ends; or

(2) the effective date of a law that expressly disapproves of or supersedes the rule.

Association of Insurance Commissioners under this code;

(4) mortality and reserve tables under Chapters 425 and 1105;

(5) financial reporting under Chapter 443;

(6) fraud reporting under Chapters 701 and 1111A;

(7) actuarial standards for reserve reporting under Chapters 401, 802, and 2551;

(8) the Own Risk and Solvency Assessment Guidance Manual and confidentiality agreements under Chapter 830; or

(9) the Interstate Insurance Product Regulation Compact under Chapter 5001.

(c) The commissioner may adopt an interim rule to require compliance with a rule, regulation, directive, or standard adopted by the National Association of Insurance Commissioners if:

(1) the commissioner finds the rule is technical or nonsubstantive in nature or necessary to preserve the department's accreditation; and

(2) before the adoption of the rule, the commissioner provides the standing committees of the senate and house of representatives with primary jurisdiction over the department with written notice of the commissioner's intent to adopt the rule.

(d) A substantive rule adopted under Subsection (c) shall remain in effect only until 30 days following the end of the next session of the legislature unless a law is enacted that authorizes the subject matter of the rule. If a law is enacted that authorizes the subject matter of the rule, the rule will continue in effect.

(e) Not later than December 31 of each even-numbered year, the department shall submit to the standing committees of the senate and house of representatives with primary jurisdiction over the department a written report that includes:

(1) the specific statutes in this code and rules adopted by the commissioner that are based on National Association of Insurance Commissioners model laws or regulations;

(2) statutory changes that may be necessary to maintain the department's accreditation; and

(3) the most recent standards the National Association of Insurance Commissioners has adopted or published that are necessary

to maintain the department's accreditation.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

SECTION 2. Same as engrossed version.