HOUSE
RESEARCH
ORGANIZATION bill analysis 4/17/97

HB 2193
Wise

SUBJECT: Raising financial solvency requirements for foreign surplus lines insurers

COMMITTEE: Insurance — favorable, without amendments

VOTE: 9 ayes — Smithee, Van de Putte, Averitt, Bonnen, Burnam, Eiland, G. Lewis, Olivo, Wise

0 nays

WITNESSES: For — None

Against — None

On — Kevin Brady, Texas Department of Insurance

BACKGROUND: Alien surplus lines insurers are foreign non-licensed companies that sell specialized property or liability coverage not available in Texas. These insurers are subject to minimum capital and surplus requirements (net worth) and deposit requirements mandated by the Texas Department of Insurance (TDI). The deposit funds must be placed in a trust in a Federal Reserve System member bank. The trust funds are the primary solvency protection for U.S. policyholders because there is no guaranty fund coverage protection in the event of insolvency. Licensed companies are required to have guaranty fund coverage, which is basically insurance against insurer insolvency.

DIGEST: HB 2193 would amend the Insurance Code by increasing the deposit requirement for alien surplus lines insurers from $1.5 million to $5.4 million.

HB 2193 would apply to surplus lines insurance placed with an insurer on or after the bill's effective date of September 1, 1997.

SUPPORTERS SAY: HB 2193 would make a needed change to ensure greater solvency to protect policyholders and the public. The current amount of $1.5 million is woefully inadequate to sustain a substantial loss. Texas' deposit requirement is one of the lowest in the nation because most other states require a minimum of $5.4 million.

Most foreign surplus lines insurers are scrupulous companies providing a legitimate service. However, some are fly-by-night entities, formed off-shore in countries with little or no regulation, allowed to operate in Texas. The trust funds are an important solvency protection measure because surplus lines insurers are generally subject only to very limited regulation by TDI. Increasing the deposit requirement would make it harder for smaller companies with a questionable level of net worth to penetrate the Texas market. For those companies that do become insolvent, there would be more money with which to pay claims.

HB 2193 would implement a recommendation by Insurance Commissioner Elton Bomer in his biennial report to the 75th Legislature.

OPPONENTS SAY: No apparent opposition.