

- SUBJECT:** Regulating bail bond insurers' taxing and reserve requirements
- COMMITTEE:** Insurance — favorable, without amendment
- VOTE:** 9 ayes — Smithee, Eiland, G. Bonnen, Creighton, Morrison, Muñoz, Sheets, Taylor, C. Turner
- 0 nays
- WITNESSES:** For — Joe Flack, Jr., Financial Casualty & Surety, Inc.; James Hooker, Financial Casualty & Surety, Inc.; Kandice Sanaie, Texas Association of Business
- Against — None
- On — (*Registered, but did not testify:* Jeff Hunt, Texas Department of Insurance)
- BACKGROUND:** Occupations Code, sec. 1704.001 defines a bail bond surety, also known as a bail bondsman, as an individual or corporation that for compensation deposits cash or another security to ensure the appearance in court of a person accused of a crime. A bail bond insurer, or surety company, insures commercial bail bondsmen against their inability to pay a forfeited bond.
- Typically, a bondsman charges a bond service fee equal to 10 percent of the face value of the bond in exchange for incurring the bond's liability should the defendant fail to appear in court. A surety (bail bond insurer) typically receives a premium of 1 percent of the face value of the bond.
- It is a long-established practice by bail bond insurers to record as premiums collected in their financial statements the actual amount received by the bail bond surety and not the service fees collected by bail bond agents. Bail bond insurers also do not customarily maintain an unearned premium reserve, a fund containing the portion of premiums that have been paid in advance for insurance yet to be provided. Neither practice is specified by law, and regulators have questioned the interpretation of statute in regard to these practices.
- DIGEST:** HB 1047 would prohibit a bail bondsman's service fees from being

included in a bail bond insurer's premium receipts when determining the insurer's premium taxes. It also would allow bail bond insurers to continue to operate without an unearned premium reserve.

The bill would allow surety companies' financial statements filed with Texas Department of Insurance to exclude as direct written premium service fees retained by a bail bondsman.

For disclosure purposes, HB 1047 would require that in addition to including reported gross premiums, surety companies' financial statements contain the service fees retained by the bail bondsmen and the net total of these amounts.

The bill would take effect September 1, 2013.

**SUPPORTERS  
SAY:**

HB 1047 would clarify the bail bond market's regulation, financially protect bail bond companies, and preserve the important role that these surety companies play in the legal system by insuring bail bond companies.

Some interested parties have suggested that surety companies should be regulated like traditional insurance companies, which, among other things, are required to have a large unearned premium reserve to pay unused portions of premiums if a policyholder cancels a policy.

Bail bond insurers, or surety companies, do not operate this way since all bail bond service fees and surety premiums are paid prior to a defendant's release; none of its premiums are ever unearned. HB 1047 would rightly acknowledge this. Placing current taxing practices for bail bond insurers into law could prevent surety companies' taxes from increasing roughly 10-fold, which would fundamentally alter the bail bond market.

Preserving bail bond insurers' *de facto* exemption from requirements to maintain unearned premium reserves would prevent the imposition of significant new financial burdens. Imposing unnecessary financial requirements on bail bond insurers would threaten surety companies' solvency, reduce access to bail bonds, and increase costs to taxpayers.

Requiring bail bond insurers to clarify in their financial statements the difference between the gross premiums they collect and the service fees retained by their insured bondsmen would increase financial transparency

and help distinguish the two entities' roles.

Since HB 1047 merely places current bail bond taxing practice into statute, the bill would not result in any change in state tax revenue.

**OPPONENTS  
SAY:**

HB 1047 could impose a cost to the state by exempting bail bond surety service fees from surety companies' taxable insurance premiums. In their fiscal analysis, the Legislative Budget Board found the revenue loss to the state was indeterminate, as they could not estimate the decrease in premium tax revenue.

**NOTES:**

The companion bill, SB 1397 by Estes, was left pending in the Senate Business and Commerce committee on April 30.