

## **BILL ANALYSIS**

Senate Research Center  
76R4648 PB-F

H.B. 3086  
By: Wise  
Economic Development  
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Engrossed

### **DIGEST**

Article 1.14-1 (Unauthorized Insurance), Insurance Code, regulates the business of insurance in Texas. An entity that wishes to engage in the business of insurance must obtain a license or certificate of authority from the Texas Department of Insurance. Unless exempted by the statute, an unlicensed person or company may not engage in the business of insurance. The article outlines those practices which constitute doing insurance business in Texas. If unlicensed companies and agents do engage in the business of insurance, the article provides for a criminal penalty. However, the determination of what constitutes a violation must be made in conjunction with other provisions of the Insurance Code. Because of this difficulty, prosecutors are often reluctant to file criminal charges against those who operate outside the regulatory framework. Lack of criminal prosecution may result in inadequate regulation of unlicensed insurers. H.B. 3086 sets forth that a person commits an offense if the person engages in the business of insurance without authority from the Texas Department of Insurance to do so or without being exempted from authorization by the department, or after the person's authority to engage in the practice of insurance has been revoked or suspended by the commissioner of insurance. Under this bill, a person means an individual, a corporation, an association, a partnership, a reciprocal exchange, an interinsurance exchange, a Lloyd's plan, a fraternal benefit society, and any other legal entity engaged in the business of insurance, including an agent, a broker, an adjuster, or a life insurance counselor.

### **PURPOSE**

As proposed, H.B. 3086 sets forth provisions regarding the regulation of unauthorized insurance

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Section 2, Article 1.14-1, Insurance Code, as follows:

Sec. 2. New heading: ENGAGING IN THE BUSINESS OF INSURANCE; DEFINITIONS.

SECTION 2. Amends Section 2, Article 1.14-1, Insurance Code, by amending Subsections (a) and (c) and adding Subsection (d), to delete the definition of "insurer" as used in this article (Unauthorized Insurance) and replaces it with a new definition of "insurer" (a person engaged as a principal in the business of insurance). Defines "person" to mean an individual, a corporation, an association, a partnership, a reciprocal exchange, an interinsurance exchange, a Lloyd's plan, a fraternal benefit society, and any other legal entity engaged in the business of insurance, including an agent, a broker, an adjuster, or a life insurance counselor. Makes conforming and nonsubstantive changes. Specifies that venue of an act described by Section (a)(1) of this section that is committed by mail is in the location where the matter transmitted by mail is delivered and takes effect.

SECTION 3. Amends Section 3(b), Article 1.14-1, Insurance Code, to make conforming changes.

SECTION 4. Amends Section 13(a), Article 1.14-1, Insurance Code, to set forth that a person commits an offense if the person engages in the business of insurance without authority from the Texas Department of Insurance (department) to do so or without being exempted from authorization from the department, or after the person's authority to engage in the practice of insurance has been revoked or suspended by the commissioner of insurance, rather than if the person violates Section 3(b) (Unauthorized Insurance Prohibited) of this article.

SECTION 5. Repealers: Sections 3(a) (Unauthorized Insurance Prohibited) and 13(c) (Criminal Penalty), Article 1.14-1, Insurance Code.

SECTION 6. Makes application of Section 4 of this Act prospective.

SECTION 7. Effective date: September 1, 1999.

SECTION 8. Emergency clause.