

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1449
By: Taylor, Larry
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to the Texas Department of Insurance (TDI) biennial report to the 85th Legislature, state-based insurance regulation dates back to the mid-1800s, and in 1871 state insurance regulators formed the National Association of Insurance Commissioners (NAIC) to coordinate regulation among the states.

However, the federal government is showing an increased interest in regulating insurance, as evidenced by the Affordable Care Act and the creation of the Federal Insurance Office (FIO) as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

International developments may also impact Texas' authority. The Financial Stability Board, an international body that monitors and makes recommendations about the global financial system, has provided direction to the International Association of Insurance Supervisors (IAIS) to develop global insurance regulation standards, which can form the basis for subsequent federal preemption of state laws. In addition, FIO and the United States trade representative negotiated a covered agreement with the European Union on January 13, 2017, under the outgoing presidential administration. The agreement has the potential to preempt Texas' statutory authority, if no such action is taken.

S.B. 1449 seeks to preclude any rule, regulation, directive, or standard adopted by the NAIC, unless it is explicitly authorized under state law. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 1449 amends current law relating to an insurer's compliance with National Association of Insurance Commissioners requirements.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas commissioner of insurance in SECTION 1 (Section 36.004, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 36.004, Insurance Code, as follows:

Sec. 36.004. COMPLIANCE WITH NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS REQUIREMENTS; INTERIM RULES. (a) Creates this subsection from existing text. Prohibits the Texas Department of Insurance (TDI), except as provided by Subsection (c) and Section 36.005 (Interim Rules to Comply with Federal Requirements) and notwithstanding any other law, from requiring an insurer to comply with a rule, regulation, directive, or standard adopted by the National Association of Insurance Commissioners (NAIC), including certain policy reserves, unless application of that version of the rule, regulation, directive, or standard is expressly authorized by statute, rather than is expressly authorized by statute and approved by the commissioner of insurance (commissioner).

(b) Provides that for purposes of Subsection (a), a version of a rule, regulation, directive, or standard is expressly authorized by statute if the statute explicitly

authorizes that version or that version is the latest version of the rule, regulation, directive, or standard on the date that the statute was enacted.

(c) Authorizes the commissioner to adopt an interim rule to require compliance with a rule, regulation, directive, or standard adopted by NAIC if:

(1) the commissioner finds the rule is technical or nonsubstantive in nature or necessary to preserve accreditation of TDI; 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 TDI with written notice of the commissioner's intent to adopt the rule.

(d) Provides that 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 certain dates.

SECTION 2. Effective date: upon passage or September 1, 2017.