

BILL ANALYSIS

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S.B. 1594
By: Moncrief
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DIGEST AND PURPOSE

Currently, there is only one insurance carrier writing new policies in the long-term care industry. Premiums for the liability policies have increased exponentially over the past year, causing many facilities to go without insurance. As proposed, S.B. 1594 creates the long-term care facility liability insurance fund (fund) to write long-term care facility liability insurance and authorizes the issuance of bonds to capitalize the fund.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of directors of the long-term care facility liability insurance fund in SECTION 1 (Section 5, Article 5.151, Insurance Code) and to the long-term care facility liability insurance fund in SECTION 1 (Sections 8 and 11, Article 5.151, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 5, Insurance Code, by adding Subchapter P, as follows:

SUBCHAPTER P. LONG-TERM CARE FACILITY LIABILITY INSURANCE

Art. 5.151. LONG-TERM CARE FACILITY LIABILITY INSURANCE FUND.

Sec. 1. DEFINITIONS. Defines “board,” “facility,” “fund,” “long-term care facility,” and “long-term care facility liability insurance.”

Sec. 2. CREATION; OPERATION. (a) Creates the long-term care facility liability insurance fund (fund) as a corporate body with the powers provided by this subchapter and with all general corporate powers incident to its operation as a corporate body. Requires the fund to perform certain functions.

(b) Provides that the fund is subject to Chapter 551 (Open Meetings) and 552 (Public Information), Government Code, except as otherwise provided by this subsection. Authorizes the board of directors of the fund (board) to hold closed meetings to consider and refuse to release information relating to claims, rates, the fund’s underwriting guidelines, and other information that would give advantage to competitors or bidders.

(c) Provides that a decision by the fund to deny, cancel, or refuse to renew a policy or risk insured under Article 5.151-1 of this code is appealable to the board not later than the 30th day after the date on which the affected party received actual notice that the act occurred or that the decision was made. Requires the board to hear the appeal not later than the 30th day after the date on which the request for hearing is made and to notify the fund and the appellant in writing of the time and place of the hearing not later than the 10th day before the date of the hearing. Requires the board to affirm, reverse,

or modify the act appealed to the board not later than the 30th day after the last day of the hearing. Provides that a hearing under this subsection does not suspend the operation of the act, ruling, decision, or order of the fund unless the board specifically so orders.

(d) Provides that a decision of the board under this section is subject to review by the commissioner of insurance (commissioner) in the manner provided by Chapter 2001 (Administrative Procedure), Government Code. Provides that the commissioner's review of a decision by the board does not suspend the operation of any act, ruling, decision, or order of the fund unless the commissioner specifically so orders under certain circumstances.

(e) Authorizes a person aggrieved by the decision of the commissioner to appeal that decision to the district court. Provides that judicial review under this section is governed by the substantial evidence rule.

(f) Provides that the fund is subject to Chapter 325 (Sunset Law), Government Code. Provides that unless continued in effect as provided by that chapter, the fund is abolished September 1, 2005.

(g) Provides that the fund has the legal rights of a private person in this state and the power to sue in its own name, in addition to other rights of the fund under this article. Provides that no procedure established under this article is a prerequisite to the exercise of the power by the fund to sue.

(h) Requires the fund to annually prepare a complete and detailed written report accounting for all funds received and disbursed by the fund during the preceding fiscal year. Requires the annual report to meet the reporting requirements applicable to financial reporting provided by the General Appropriations Act.

Sec. 3. BOARD OF DIRECTORS. (a) Provides that the board is governed by a board of directors composed of nine members, all of whom are required to be citizens of this state. Requires the members to be appointed by the governor with the advice and consent of the senate, and requires vacancies to be filled in the same manner.

(b) Provides that the members of the board serve staggered six-year terms, with the terms of three members expiring February 1 of each odd-numbered year. Requires a member of the board whose term has expired to continue to serve until the member's replacement is appointed by the governor.

(c) Requires the governor, in making appointments to the board, to attempt to reflect the social, geographic, and economic diversity of the state. Authorizes the governor, to ensure balanced representation, to consider the geographic location of a prospective appointee's domicile and the prospective appointee's experience in business and insurance matters, including experience in the business of providing long-term care. Requires the governor to consider those factor in appointing members to fill vacancies on the board. Requires appointments to the board to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(d) Prohibits a person from serving as a member of the board if the person, an individual related to the person within the second degree by consanguinity or affinity, or an individual residing in the same household with the person meets certain requirements.

(e) Sets forth the conditions for a ground for removal of a member from the board.

(f) Provides that the validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(g) Requires the fund's president, if the president has knowledge that a potential ground for removal exists, to notify the chairman of the board of the potential ground. Requires the chairman to notify the governor and the attorney general that a potential ground for removal exists. Requires the president, if the potential ground for removal involves the chairman, to notify the next highest officer of the board, who is required to notify the governor and the attorney general that a potential ground for removal exists.

(h) Provides that Subsection (d) of this section does not prohibit a person who is only a consumer of insurance or insurance products from serving as a member of the board.

(i) Prohibits a person who is ineligible to serve on the board under Subsection (d) of this section from serving as a member of the board for one year after the date on which the condition that makes the person ineligible ends.

(j) Requires each member to receive actual and necessary travel expenses and expenses incurred in the performance of the member's duties as a member.

(k) Requires the governor to designate a member of the board as the chairman of the board to serve in that capacity at the pleasure of the governor. Requires the members of the board to elect annually from their number a vice-chair and a secretary.

(l) Requires the board to hold meetings at least once each calendar quarter and at other times at the call of the chairman and at times established by board rule. Authorizes special meetings to be called by any two members of the board on two days notice.

(m) Provides that a majority of the board members constitutes a quorum.

(n) Requires the board to maintain the principal office of the fund in Austin, Texas.

(o) Requires as many functions as possible to be performed by the fund, for cost control purposes and as is determined to be cost-effective.

(p) Prohibits a person from serving as a member of the board or acting as the general counsel to the board or the fund if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for compensation on behalf of any person or entity other than the fund.

(q) Requires the board to develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the president and the staff of the fund.

Sec. 4A. TRAINING PROGRAM FOR BOARD MEMBER. Requires a member of the board to complete the training program established under this section before the member may assume the member's duties. Requires a training program established under this section to provide certain information to the member.

Sec. 5. AUTHORITY AND PURPOSE. (a) Requires the board, on behalf of the fund and according to this article and the plan of operation, to perform certain functions, including the adoption of necessary bylaws and rules for the operation of the fund.

(b) Prohibits the fund from having affiliates, interlocking boards of directors, spinoffs, or subsidiaries that write lines of insurance other than long-term care facility liability

insurance.

(c) Requires the board to appoint an internal auditor in compliance with Chapter 2102 (Internal Auditing), Government Code. Provides that an internal auditor serves at the pleasure of the board.

(d) Requires the attorney general, if the fund obtains legal services through the use of outside counsel, to review annually the use of outside counsel by the fund to ensure that the use of outside counsel meets certain conditions.

(e) Requires the board to provide requested information to appropriate legislative committees in the manner requested by those committees.

Sec. 6. PLAN OF OPERATION. Requires the initial board to prepare and adopt a plan of operation that is consistent with this article. Requires the plan to provide for certain items. Provides that the initial plan is subject to approval by the Texas Department of Insurance (TDI). Authorizes the board, with consent of TDI, to amend the plan of operation to provide for operation of the fund in a manner consistent with this article.

Sec. 7. PRESIDENT AND CHIEF EXECUTIVE OFFICER. (a) Requires the board to appoint a person to serve as president and chief executive officer of the fund who serves at the pleasure of the board. Requires the board to appoint other officers as necessary to manage the fund prudently.

(b) Requires an individual to have had at least 10 years of administrative or professional experience and training and experience in the field of insurance to be eligible for appointment as president.

(c) Requires the president to manage and conduct the affairs of the fund under the general supervision of the board and to perform duties as provided by this article and as directed by the board.

(d) Requires the president, in addition to any other duties provided by this article or by the board, to perform certain duties.

(e) Requires the president, in addition to any other authority provided by this article or by the board, to have full power and authority, in the name of the fund, to perform certain functions.

(f) Requires the president to develop a career ladder program that addresses opportunities for mobility and advancement for employees within the fund. Requires the program to require internal posting of all positions concurrently with any public posting.

(g) Requires the president to develop a system of annual performance evaluations that are based on documented employee performance. Requires all merit pay for fund employees to be based on the system established under this subsection.

(h) Requires the president to prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. Requires the policy statement to include certain items.

(i) Requires a policy statement prepared under Subsection (h) of this section to comply with certain requirements.

(j) Requires the governor's office to deliver a biennial report to the legislature based on the information received under Subsection (i) of this section. Authorizes the report to be made separately or as a part of other biennial reports made to the legislature.

(k) Requires the president to provide to members of the board and to fund employees, as often as necessary, information regarding their qualifications for office or employment under this article and their responsibilities under applicable laws relating to standards of conduct for board members or employees.

(l) Requires the president, in hiring employees for the fund under this article, to ensure that the fund complies with the minority hiring practices guidelines adopted for state agencies and institutions by the General Appropriations Act.

Sec. 8. APPLICATIONS. (a) Requires applications for the fund to be submitted on forms prescribed by the board and be made in a certain manner.

(b) Requires the fund to adopt such rules as required to provide for the financing of all or part of the premiums by the fund or a person licensed under Chapter 24 of this code. Requires those rules to require that the fund receive a minimum initial premium sufficient to cover the administrative costs of issuing and booking the policy in the event of cancellation. Requires those rules to not unfairly discriminate against applicants based on the amount of premium to be paid by the applicant for long-term care facility liability coverage. Authorizes the premium financing rules adopted by the fund, notwithstanding the foregoing, to provide that premium financing shall not be offered to any applicant who appears to present an unacceptable credit risk.

(c) Provides that a deferred payment earns interest payable to the fund at an annual rate determined by the board if the premium is financed by the fund as provided by Subsection (b) of this section.

(d) Authorizes the fund to refuse to write insurance coverage if an applicant is identified as a credit risk and does not perform certain actions.

(e) Requires the fund, if the policy is written through a licensed agent, to pay the agent a reasonable commission. Requires the commission to be paid at the time of the initial deposit, based on the annual estimated premium, and to be adjusted at the final audit.

(f) Provides that the fund, notwithstanding any other provision of this code or another insurance law of this state, is not required to appoint a local recording agent to act as an agent for the fund. Provides that an agent transacting business with the fund does so as an agent for the applicant and not as an agent for the fund.

(g) Provides that information submitted to the fund by a licensed agent on behalf of a facility, including a policy expiration date, is the work product of that agent and prohibits the fund from using that information in any marketing or direct sales activity. Prohibits the fund, except as required or permitted by Chapter 552, Government Code, from providing information obtained from a licensed agent to any other licensed agent. Provides that this subsection does not prevent a facility from designating another licensed agent or the fund as the agent of record and does not prevent the fund from using the information submitted to the fund under this subsection for the purpose of underwriting or fraud investigation. Requires the fund to adopt reasonable guidelines in the plan of operation to implement this subsection.

Sec. 9. LIABILITY. Provides that neither a member of the board nor the president or any officer or employee of the fund is personally liable in the person's private capacity for any act

performed or for any contract or other obligation entered into or undertaken in an official capacity in good faith and without intent to defraud in connection with the administration, management, or conduct of the fund, its business, or other related affairs.

Sec. 10. RATES. (a) Requires the board, except as otherwise provided by this subsection, to have full power and authority to propose rates to be charged by the fund for insurance.

Requires the board to engage the services of an independent actuary who is a member in good standing with the Casualty Actuarial Society or the American Academy of Actuaries to develop and recommend actuarially sound rates.

(b) Requires rates to be set in amounts sufficient, when invested, to perform certain functions.

(c) Authorizes the fund, notwithstanding any other provision of this code or other insurance law of this state, to establish multitiered premium systems to price long-term care facility liability insurance policies to insureds in the fund's competitive programs as well as to insureds to whom policies are offered by the fund under Article 5.151-1 of this code. Authorizes the systems to provide for higher or lower premium payments by insureds based on the fund's evaluation of the underwriting characteristics of the individual risk and the appropriate premium to be charged for the policy coverages.

Sec. 11. ACCIDENT PREVENTION. (a) Authorizes the fund to make and enforce rules for the prevention of injuries to residents of its policyholders or applicants for insurance under this article. Requires certain individuals, for this purpose, to be granted free access to the premises of each policyholder or applicant during regular working hours.

(b) Provides that failure or refusal by any policyholder or applicant to comply with any rule prescribed by the fund for the prevention of injuries or failure or refusal to make full disclosure of all information pertinent to the insuring or servicing of the policyholder or applicant constitutes sufficient grounds for the fund to cancel a policy or deny an applicant for insurance.

(c) Requires a policyholder in the fund who is insured under Article 5.151-1 of this code to obtain a safety consultation under certain circumstances.

(d) Requires a policyholder in the fund who is insured under Article 5.151-1 of this code to obtain a safety consultation as required by the fund under certain conditions.

(e) Requires the policyholder to obtain a safety consultation not later than the 30th day after the effective date of the policy and obtain the safety consultation from certain entities. Requires the safety consultant to file a written report with the Texas Department of Human Services (TDHS) and with the policyholder setting out any hazardous conditions or practices identified by the safety consultation.

(f) Requires the policyholder and the consultant to develop a specific injury prevention plan that addresses the hazards identified by the consultant. Authorizes the safety consultant to approve an existing injury prevention plan. Requires the policyholder to comply with the injury prevention plan.

(g) Authorizes the department to investigate injuries occurring at the facilities of a policyholder for whom a plan has been developed under Subsection (f) of this section and monitor the implementation of the injury prevention plan as it finds necessary.

(h) Requires TDHS, in accordance with TDHS rules, not earlier than 90 days or later than six months after the development of an injury prevention plan under Subsection (f)

of this section, to conduct a follow-up inspection of the policyholder's premises. Authorizes TDHS to require the participation of the safety consultant who performed the initial consultation and developed the safety plan. Requires TDHS to certify, if it so determines, that the policyholder has complied with the terms of the injury prevention plan or has implemented other accepted corrective measures. Authorizes a policyholder to elect to cancel coverage not later than the 30th day after the date of determination of TDHS if the policyholder fails or refuses to implement the injury prevention plan or other suitable hazard abatement measures. Authorizes the fund, if the policyholder does not elect to cancel, to cancel the coverage. Authorizes TDHS, if the policyholder does not elect to cancel, to assess an administrative penalty not to exceed \$5,000. Provides that each day of noncompliance constitutes a separate violation. Requires penalties collected under this section to be deposited in the general revenue fund to the credit of TDHS or reappropriated to TDHS to offset the costs of implementing and administering this section.

(i) Authorizes TDHS, in assessing an administrative penalty, to consider any matter that justice may require. Requires the TDHS, in assessing an administrative penalty, to consider certain items.

(j) Requires that the procedures established under this section be followed each year the policyholder meets the qualifications established under Subsection (c) of this section and is insured through Article 5.151-1 of this code.

(k) Requires TDHS to charge the policyholder for the reasonable cost of services provided under Subsection (e), (f), and (h) of this section. Requires the fees for those services to be set at a cost-reimbursement level including a reasonable allocation of TDHS' administrative costs.

Sec. 12. CONTROL OF FRAUD. (a) Requires the fund to develop and implement a program to identify and investigate fraud and violations of this code relating to long-term care facility liability insurance by an applicant, policyholder, claimant, agent, insurer, health care provider, or other person. Requires the fund to contract with the department to compile and maintain information necessary to detect practices or patterns of conduct that violate this code relating to the long-term care facility liability insurance.

(b) Authorizes the fund to conduct investigations of cases of suspected fraud and violations of this code relating to long-term care facility liability insurance. Requires the fund to take certain actions.

(c) Authorizes the fund to enter into interdepartmental funding agreements with local prosecutors for the prosecution of offenses against the fund.

(d) Requires restitution collected under Subsection (b) to be deposited to the fund.

(e) Requires penalties collected under Subsection (b) to be deposited in the general revenue fund to the credit of TDHS and be appropriated to TDHS to offset the costs of this program.

(f) Provides that the board, fund, and employees of the fund are not liable in a civil action for any action made in good faith in the execution of duties under this section, including the identification and referral of a person for investigation and prosecution for a possible administrative violation or criminal offense.

Sec. 13. INVESTIGATION FILES CONFIDENTIAL. Provides that information maintained in the investigation files of the fund is confidential and prohibits the information from

being disclosed except under certain circumstances. Provides that fund investigation files are not open records for purposes of Chapter 552, Government Code. Provides that information in an investigation file that is information in or derived from a claim file, or an employer injury report is governed by the confidentiality provisions relating to that information. Defines “investigation file.”

Sec. 14. PAYMENT OF TAXES AND FEES; GUARANTY ASSOCIATION. Requires the fund to pay premium taxes, maintenance taxes, and the maintenance tax surcharge established under Article 5.151-2 of this code in the same manner as an insurance carrier authorized by the department to write commercial liability insurance in this state. Requires the fund to pay taxes and fees or any payments due in lieu of taxes in the same manner as an insurance carrier authorized and admitted by the department to do insurance business in this state. Provides that the fund is a member of and is protected by the Texas Property and Casualty Insurance Guaranty Association. Provides that the fund is subject to assessment under the Texas Property and Casualty Insurance Guaranty Act (Article 21.28-C, Insurance Code).

Sec. 15. FINANCIAL ADMINISTRATION. (a) Sets forth the revenues of the fund.

(b) Requires administrative expenses of the fund to be paid from the fund at the direction of the board.

(c) Requires money in the fund to be paid from the fund, without legislative appropriation, on vouchers approved by the board. Requires the money to be held exclusively for the purposes stated in this article and prohibits the money from being used or appropriated for any other purpose.

(d) Requires money in the fund to be invested, subject to a policy developed by the board and approved by TDHS, in the types of investments authorized by law or an insurer authorized to write commercial liability insurance in this state.

(e) Requires the fund to establish and maintain reserves for losses on an actuarially sound basis.

(f) Requires the fund to maintain a ratio of net written premiums on policies written after reinsurance to surplus of not more than 3.0 to one.

(g) Authorizes the board, not more than once in any calendar year, to use up to 20 percent of any surplus that exceeds the ratio specified in Subsection (f) to assist in prepaying or retiring the bonds issued under Article 5.151-2 before maturity.

(h) Authorizes the fund to pay cash dividends or allow credit on renewal premium for each policyholder insured with the fund other than a policyholder insured under Article 5.151-1. Provides that a dividend or credit requires prior approval of TDI.

(i) Requires the fund to file annual statements with the TDI and TDHS.

(j) Provides that, if the fund incurs a deficit for any reason, no other insurer is liable for or subject to an assessment for that deficit.

Sec. 16. REPORT TO BOARD. Requires the president to make periodic reports to the board with regard to the status of the fund and its investments.

Sec. 17. POLICY FORMS. Requires the fund to use the uniform policy and standard policy forms prescribed by TDI.

Sec. 18. CANCELLATION AND RENEWAL. Authorizes the fund to cancel or refuse to renew coverage on a policyholder. Requires the fund, if it cancels a policy of long-term care facility insurance or does not renew a policy by the anniversary date of the policy, to deliver notice of the cancellation or nonrenewal by certified mail or in person to the facility and TDHS not later than certain dates. Provides that failure of the fund to give notice as required by this section extends the policy until the date on which the required notice is provided to the facility and TDHS.

Sec. 19. ANNUAL REPORT; OTHER REPORTS. Requires the board to publish an independently audited report analyzing the fund's activities and fiscal condition during the preceding fiscal year and file the report with TDI. Requires the board to file the audited report with TDI for submission simultaneously with its annual financial report. Requires the board's annual financial report to be submitted by TDI by the date provided for in the General Appropriations Act. Requires the fund to file with TDI and TDHS all reports required of other long-term care facility liability insurers.

Sec. 20. ADDITIONAL AUDIT REQUIREMENTS; INTERNAL AUDIT REPORT. Requires the state auditor to periodically identify issues related to the operational efficiency, effectiveness, and statutory compliance of the fund. Requires the fund to include all issues identified by the state auditor in the fund's annual independent and internal audit plans. Requires each person who conducts an independent audit or internal audit of the fund to send a copy of the audit report prepared by the person to the office of the state auditor. Requires the state auditor to summarize the audit reports presented under this section in an annual memorandum to the Legislative Audit Committee. Requires the internal auditor appointed under Section 5 of this article to submit the internal audit report directly to the board and to provide a summary of the report to certain individuals.

Sec. 21. EXAMINATION OF FUND. Requires TDI to conduct an examination of the fund in the manner and under the conditions provided by Articles 1.15 through 1.19 of this code for the examination of insurance carriers. Requires the board to pay the costs of the examination of the fund. Provides that the fund is subject to all provisions of this code and to the jurisdiction of TDI in the same manner as private insurers.

Sec. 22. ASSISTANCE FROM INSURANCE DEPARTMENT. Requires TDI, on the request of the board, to provide technical assistance to the board and the president as reasonably necessary to implement this article.

Sec. 23. PUBLIC INFORMATION; ACCESSIBILITY. Requires the fund to prepare information of public interest describing the functions of the fund and the procedures by which complaints are filed with and resolved by the fund. Requires the fund to make the information available to the public and appropriate state agencies. Requires the board to establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the fund for the purpose of directing complaints to the fund. Authorizes the board to provide for that notification in a certain manner. Requires the fund to comply with federal and state laws related to program and facility accessibility. Requires the president to also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the fund's programs and services. Requires the board to develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the fund.

Sec. 24. COMPLAINT RESOLUTION. Requires the fund to keep information about each written complaint submitted to the fund. Requires the information to include certain items. Requires the fund, for each written complaint that the fund has the authority to resolve, to provide to the person filing the complaint and the persons or entities complained about the fund's policies and procedures pertaining to complaint investigation and resolution. Requires

the fund, at least quarterly and until final disposition of the complaint, to notify the person filing the complaint and the person or entities complained about of the status of the complaint unless the notice would jeopardize an undercover investigation.

Sec. 25. FUND SOLVENCY. Requires the commissioner, in addition to other regulatory authority granted the commissioner, to perform certain duties if the commissioner finds that the fund does not own assets at least equal to all liabilities and required reserves, together with the minimum basic surplus required under this article, or that the condition of the fund is such that continuing operation of the fund is hazardous to the public or to the policyholders of the fund. Requires the commissioner, if the fund fails to comply with the recommendations of the commissioner not later than the 60th day after the date of the recommendations, to notify the governor, the lieutenant governor, and the speaker of the house of representatives of the recommendations with which the fund is not in compliance, together with solutions and estimations of all fiscal implications.

Sec. 26. APPLICABILITY OF OTHER STATUTES. Provides that all regulatory authority granted the commissioner relating to a stock or mutual insurance company is applicable to the fund. Provides that the fund is not a state agency unless specifically defined as a state agency in a specific statute.

Art. 5.151-1. FUND AS INSURER OF LAST RESORT. (a) Prohibits the fund, except as otherwise provided by this article and by Section 18, Article 5.151 of this code, from refusing to insure any risk that tenders the necessary premium and any applicable injury prevention service fees.

(b) Prohibits the rejection of a risk if the applicant would be rejected for long-term care facility liability insurance under the fund's underwriting standards. Requires such an applicant to be insured at a higher premium as provided by the fund's rules. Authorizes the risk to be required to meet other conditions considered necessary to protect the fund's interests.

(c) Requires the fund to develop statistical and other information as necessary to allow the fund to distinguish between its writings in the voluntary market and its writings as the insurer of last resort.

(d) Requires the fund to decline to insure any risk if insuring that risk would cause the fund to exceed the premium-to-surplus ratios established by Article 5.151 of this code or if the risk is not in good faith entitled to insurance through the fund. Defines "good faith."

(e) Requires TDI to develop and publish classification relativities specifically designed for the risks insured under this article.

(f) Authorizes the fund, if the fund suspects fraud or identifies conditions that may result in acts of fraud, to require an applicant for long-term care facility liability insurance coverage who is identified as a risk for purposes of Subsection (b) to insure all business entities that are commonly owned or commonly controlled by the applicant.

Art. 5.151-2. REVENUE BOND PROGRAM AND PROCEDURES.

Sec. 1. LEGISLATIVE FINDING; PURPOSE. Sets forth the legislative finding regarding long-term care facility liability insurance coverage and the purpose of this section.

Sec. 2. DEFINITIONS. Defines "bond resolution," "board," and "fund."

Sec. 3. BONDS AUTHORIZED; APPLICATION OF TEXAS PUBLIC FINANCE AUTHORITY ACT. Requires the Texas Public Finance Authority (authority), on behalf of the fund, to issue revenue bonds for certain purposes. Provides that, to the extent that it is not inconsistent with this article, Chapter 1232 (Texas Public Finance Authority), Government Code, applies to bonds issued under this article, and that in the event of a conflict, this article controls.

Sec. 4. APPLICABILITY OF OTHER STATUTES. Provides that Chapters 1201 (Public Security Procedures Act), 1202 (Examination and Registration of Public Securities), 1204 (Interest Rate), 1205 (Public Security Declaratory Judgement Actions), 1231 (Bond Review Board), and 1371 (Obligations for Certain Public Improvements), Government Code, apply to bonds issued under this article to the extent consistent with this article.

Sec. 5. LIMITS. Authorizes the authority to issue, on behalf of the fund, bonds in a total amount not to exceed \$300 million.

Sec. 6. CONDITIONS. Authorizes bonds to be issued at public or private sale. Requires bonds to mature not more than 20 years after the date issued. Requires bonds to be issued on the name of the fund.

Sec. 7. ADDITIONAL COVENANTS. Authorizes the board, in a bond resolution, to make additional covenants with respect to the bonds and the designated income and receipts of the fund pledged to their payment and to provide for the flow of funds and the establishment, maintenance, and investment of funds and accounts with respect to the bonds.

Sec. 8. SPECIAL ACCOUNTS. Authorizes a bond resolution to establish special accounts including an interest and sinking fund account, reserve account, and other accounts. Requires the president of the fund, or the president's designee, to administer the accounts in accordance with Article 5.151 of this code.

Sec. 9. SECURITY. Provides that bonds are payable only from sources the fund is authorized to levy, charge, and collect in connection with paying any portion of the bonds. Provides that bonds are obligations solely of the fund. Provides that bonds do not create a pledging, giving, or lending of the faith, credit, or taxing authority of this state. Requires each bond to include a statement that the state is not obligated to pay any amount on the bond and that the faith, credit, and taxing authority of this state are not pledged, given, or lent to those payments. Requires each bond issued under this article to state on its face that the bond is payable solely from the revenues pledged for that purpose and that the bond does not and may not constitute a legal or moral obligation of the state.

Sec. 10. TAX EXEMPT. Provides that the bonds issued under this article, and any interest from the bonds, and all assets pledged to secure the payment of the bonds are free from taxation by the state or a political subdivision of the state.

Sec. 11. AUTHORIZED INVESTMENTS. Provides that the bonds issued under this article constitute authorized investments under Article 2.10 and Part IA, Article 3.39 of this code.

Sec. 12. STATE PLEDGE. Provides that the state pledges to and agrees with the owners of any bonds issued in accordance with this article that the state will not limit or alter the rights vested in the fund to fulfill the terms of any agreements made with the owners of the bonds or in any way impair the rights and remedies of those owners until the bonds, any premium or interest, and all costs and expenses in connection with any action or proceeding by or on behalf of those owners are fully met and discharged. Authorizes the fund to include this pledge and agreement of the state in any agreement with the owners of the bonds.

Sec. 13. ENFORCEMENT BY MANDAMUS. Provides that a writ of mandamus and all other legal and equitable remedies are available to any party at interest to require the fund and any other party to carry out agreements and to perform functions and duties under this article, the Texas Constitution, or a bond resolution.

SECTION 2. Effective date: January 1, 2002.