

BILL ANALYSIS

Senate Research Center

S.B. 1450
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Enrolled

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 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, the Federal Insurance Office 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. 1450 seeks to prohibit any rule set forth by the commissioner of insurance to implement an interstate, national, or international agreement that infringes on the authority of this state to regulate the business of insurance. Furthermore, the bill clarifies any such agreement would have no effect if not first approved by the state legislature. (Original Author's / Sponsor's Statement of Intent)

S.B. 1450 amends current law relating to the regulatory authority of the commissioner of insurance and the Texas Department of Insurance.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance (commissioner) in SECTION 1 (Section 36.004, Insurance Code) and SECTION 3 (Section 551.1041, Insurance Code) of this bill.

Rulemaking authority previously granted to the commissioner of insurance is modified in SECTION 2 (Section 36.007, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

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

Sec. 36.004. New heading: COMPLIANCE WITH NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS REQUIREMENTS; RULES. (a) Creates this subsection from existing text. Creates an exception under Subsection (c). Prohibits the Texas Department of Insurance (TDI) from requiring an insurer to comply with a certain rule, regulation, directive, or standard adopted by the National Association of Insurance Commissioners (NAIC), unless application of the rule, regulation, directive or standard is

expressly authorized by statute, rather than is expressly authorized by statutes 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 the commissioner to adopt rules consistent with the rule, regulation, directive, or standard 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 a rule to require compliance with a rule, regulation, directive, or standard adopted by NAIC if the commissioner finds the rule is technical or nonsubstantive in nature or necessary to preserve TDI's accreditation and 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.

SECTION 2. Amends Subchapter A, Chapter 36, Insurance Code, by adding Section 36.007, as follows:

Sec. 36.007. RULES RELATING TO AGREEMENTS LIMITING STATE AUTHORITY TO REGULATE INSURANCE PROHIBITED; EFFECT OF AGREEMENT. (a) Prohibits the commissioner from adopting or enforcing a rule that implements an interstate, national, or international agreement that infringes on the authority of this state to regulate the business of insurance in this state and was not approved by the legislature.

(b) Provides that an agreement described by Subsection (a) has no effect on the authority of this state to regulate the business of insurance in this state unless the agreement is approved by the legislature.

SECTION 3. Amends Subchapter C, Chapter 551, Insurance Code, by adding Section 551.1041, as follows:

Sec. 551.1041. RULEMAKING AUTHORITY RELATING TO NOTICE OF CANCELLATION OF CERTAIN PERSONAL AUTOMOBILE INSURANCE COVERAGES. Requires the commissioner to exercise the commissioner's rulemaking authority to adopt rules under which an insurer that cancels a personal automobile insurance policy that provides comprehensive or collision physical damage coverage for an automobile that is subject to a purchase money lien is required to notify the lienholder, if known, that the coverage will be canceled.

SECTION 4. Provides that Section 36.004, Insurance Code, as amended by this Act, applies only to a rule adopted or amended on or after the effective date of this Act. Provides that a rule adopted before the effective date of this Act and not amended on or after that date is governed by the law applicable to the rule immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5. Effective date: upon passage or September 1, 2017.