

BILL ANALYSIS

C.S.H.B. 3543
By: Morrison, Geanie W.
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that some farm mutual insurance companies are serving as a means for another underwriting insurer to sell insurance without having to comply with certain state requirements, a practice known as "fronting." C.S.H.B. 3543 seeks to maintain the value that farm mutual companies bring to rural communities and to limit the practice of fronting.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3543 amends the Insurance Code to remove the exemption from the property and casualty insurance premium tax for a farm mutual insurance company acting as a fronting insurer, defined by the bill as a farm mutual insurance company that either cedes 85 percent or more of the company's direct written premium to one or more nonaffiliated reinsurers or a farm mutual insurance company issuing an insurance policy that is the result of marketing by an insurer not affiliated with the farm mutual insurance company, of an application submitted by a consumer to an insurer not affiliated with the farm mutual insurance company, or of an agreement with an insurer that is not a farm mutual insurance company solely for the purpose of being regulated under statutory provisions relating to farm mutual insurance companies. The bill subjects a farm mutual insurance company acting as a fronting insurer to the fire and allied lines insurance maintenance tax and the Texas Windstorm Insurance Association Act. The bill's provisions regarding the property and casualty insurance premium tax and the fire and allied lines insurance maintenance tax expressly do not affect tax liability accruing before the 2017 calendar year.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3543 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 221.001, Insurance Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

- (b) This chapter does not apply to:
 - (1) a fraternal benefit society, including a fraternal benefit society operating under Chapter 885;
 - (2) a group hospital service corporation operating under Chapter 842;
 - (3) a stipulated premium company operating under Chapter 884;
 - (4) a mutual assessment association, company, or corporation regulated under Chapter 887; [øø]

(5) a purely cooperative or mutual fire insurance company carried on by its members solely for the protection of their own property and not for profit, except as provided by Section 221.002(b)(13); or

(6) a farm mutual insurance company operating under Chapter 911, unless the company is acting as a fronting insurer.

(c) In this section, "fronting insurer" means a farm mutual insurance company issuing an insurance policy that is the result of:

- (1) marketing by an insurer not affiliated with the farm mutual insurance company;
- (2) an application submitted by a consumer to an insurer not affiliated with the farm mutual insurance company; or
- (3) an agreement with an insurer that is not a farm mutual insurance company solely for the purpose of being regulated under Chapter 911.

SECTION 2. Section 252.005, Insurance Code, is amended.

SECTION 3. Section 2210.006(b), Insurance Code, is amended.

SECTION 4. (a) Sections 221.001 and 252.005, Insurance Code, as amended by this Act, do not affect tax liability accruing before the 2017 calendar year. That liability continues in effect as if this Act had not been enacted, and the former law is

HOUSE COMMITTEE SUBSTITUTE

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 - (2) a group hospital service corporation operating under Chapter 842;
 - (3) a stipulated premium company operating under Chapter 884;
 - (4) a mutual assessment association, company, or corporation regulated under Chapter 887; [øø]

(5) a purely cooperative or mutual fire insurance company carried on by its members solely for the protection of their own property and not for profit, except as provided by Section 221.002(b)(13); or

(6) a farm mutual insurance company operating under Chapter 911, unless the company is acting as a fronting insurer.

(c) In this section, "fronting insurer" means a farm mutual insurance company:

(1) issuing an insurance policy that is the result of:

- (A) marketing by an insurer not affiliated with the farm mutual insurance company;
- (B) an application submitted by a consumer to an insurer not affiliated with the farm mutual insurance company; or
- (C) an agreement with an insurer that is not a farm mutual insurance company solely for the purpose of being regulated under Chapter 911; or

(2) that cedes 85 percent or more of the farm mutual insurance company's direct written premium to one or more nonaffiliated reinsurers.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

(b) Section 2210.006(b), Insurance Code, as amended by this Act, applies only to participation in the Texas Windstorm Insurance Association on or after the effective date of this Act, including the payment of assessments the liability for which accrues on or after that date. Participation in the Texas Windstorm Insurance Association before the effective date of this Act, including the payment of assessments the liability for which accrued before that date, is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

SECTION 5. Same as introduced version.