HOUSE RESEARCH ORGANIZATION bill analysis 4/1/87

HB 316
Gavin
(CSHB 316 by Patrick)

SUBJECT: Termination protections for insurance agents

COMMITTEE: Insurance: committee substitute recommended

VOTE: 7 ayes--Gavin, S. Hudson, Criss, Patrick, Shea, Taylor, S. Thompson

0 nays

2 absent--Cavazos, Price

WITNESSES: For--Steven Hacker and Walter Derr, Professional Insurance Agents of Texas

Against--Richard Geiger, Association of Fire and Casualty Companies of Texas (Testified on original bill; no opposition to CSHB 316)

BACKGROUND: A 1971 law requires an insurance company ending a relationship with an independent agent to renew the agent's fire and casualty contracts for six months after the termination. This gives the agent's customers continued insurance protection and gives the agent time to find a new carrier.

Termination protections in current law do not apply if, 60 days before a policy's renewal date, the company informs an agent that the insured property does not meet current standards for underwriting policies. In addition, termination protections in current law do not apply if an agent signs a contract waiving them.

DIGEST: CSHB 316 would place three additional requirements on insurance companies during the six months when they must renew fire and casualty policies for independent agents they have terminated. First, companies would have to pay the agent the same commission on renewals paid before termination. Second, companies could not require these agents to meet terms or periods of payment different from those in effect for agents still under contract. Third, a company could not use different underwriting standards for customers of terminated agents and those of other agents.

SUPPORTERS SAY:

The Legislature intended to protect both consumers and insurance agents when it created a six-month waiting period for a fire and casualty insurance company to quit renewing the policies of customers of an agent whom the company cuts off. When a company wants to withdraw from a market, it is much easier to cancel agency contracts than to cancel thousands of individual policies. The initial legislation was enacted to protect Gulf Coast property owners after widespread cancellations occurred after hurricane damage.

This law would ensure a smooth transition for consumers, since policies are renewed one more time before an agent has to find another carrier. Legitimate companies have no quarrel with this law, but in the past two years some unscrupulous companies have begun evading it.

Some out-of-state companies have been cutting agent commissions on these mandatory renewals so drastically that they erase the protections the law was designed to provide. CSHB 316 would close this loophole.

CSHB 316 would also stop companies from indirectly blocking policy renewals by setting underwriting standards for customers of a terminated agency that are different from those used for customers of agencies still under contract. It also would require that terms of payment for agents still under contract and other agents be the same, since some companies have turned the screws on agents they want to dump by drastically cutting the customary 45-to-60 day period allowed an agent for collecting and sending in premiums.

Arguments that this law interferes with private contracts are beside the point. The law was written to give consumers and agents a reasonable transition when a company no longer wishes to renew. The Legislature frequently intervenes when contracting parties fail to act in good faith.

Current law adequately covers companies that no longer want to do business with an agent who has not paid premiums owed. The company may simply quit doing business with that agent in the future.

Extra protections removed by the committee substitute from the original version of HB 316 were not necessary and only stirred opposition from legitimate companies.

The law already requires companies to provide written explanations of underwriting standards at consumer request. In addition, agents are expert enough at reading contracts not to need a 24-point type warning that an amendment or addendum to a contract may void termination protections.

OPPONENTS SAY:

This bill is an unnecessary, unwarranted intrusion by the state into the ways private companies conduct business with insurance agents. The state should not become involved in making or terminating contracts. This bill would wind up dictating commissions, payment terms and underwriting standards to insurance companies, which should have the right to make these decisions themselves under a free enterprise system.

A company has the right to decide what standards to require of consumers before a policy is issued or continued. A company should have the freedom to require different standards of different policyholders as the need arises. And a company should be able to make its own decisions on agent commissions without meddling from the state.

This bill does not address the problem of insurance agents who fall behind in payments owed the companies. It would remove the power of a company to change terms of payment, which may be a necessary way of disciplining an agent who has proved unworthy of a company's trust.

OTHER OPPONENTS SAY:

Several key provisions were deleted from the original bill by the committee, including a requirement that agents be warned in capital letters if something in in a new contract voids the termination protections. The fact that some Texas agents have unwittingly signed such contracts proves this protection is needed.

Current law says consumers can request written explanations of their policies from insurance companies. Adding a requirement that companies must furnish agents a written explanation of reasons a consumer fails to meet company underwriting standards would strengthen this provision.

NOTES:

Current law allows agents to waive termination procedures if they do so in writing. The original bill said contracts with these waivers must contain a warning printed in capital letters in 24-point type that this may void the termination protections; the committee substitute deleted this provision.

Also removed from the original bill was a provision requiring companies to furnish agents a written explanation of reasons why a consumer no longer meets current underwriting requirements.