SUBJECT: Prohibiting non-regulated auto insurers from charging standard market rates

COMMITTEE: Insurance — committee substitute recommended

VOTE: (*After second recommittal*):
8 ayes — Smithee, Averitt, Bonnen, Burnam, Eiland, G. Lewis, Olivo, Wise

0 nays

1 absent — Van de Putte

WITNESSES: For — None

Against — Burnie Burner, Texas Guaranty Mutual Association; Will Davis, USAA, Foremost County Mutual; Richard Geiger, Vesta Insurance Group; Jay Thompson, Association of Fire and Casualty Companies of Texas

BACKGROUND: The Texas auto insurance market is divided into three major segments. The standard market generally serves drivers with clean driving records and other characteristics required by the insurance company. Rates in the standard market are regulated by the state, and must fall within a flexibility band — or flexband — established by the insurance commissioner.

County mutual companies typically insure drivers who cannot get coverage in the standard market because of a poor driving record, poor credit, or other characteristics. The rates charged by county mutuals are not regulated by the state.

The Texas Automobile Insurance Plan Association (TAIPA) is the state's "insurer of last resort," providing coverage for drivers who have been rejected by at least two county mutual companies. The insurance commissioner sets the rates for TAIPA at a percentage above the top of the standard market flexband. Any insurer that sells coverage in the standard auto market is required to sell policies in TAIPA, based on its share of the standard market. County mutuals are not required to provide coverage through TAIPA.

DIGEST:

CSHB 1662 would prohibit certain county mutual insurance companies from charging a rate for an automobile insurance policy that was lower than the highest rate allowed under the flexband for that line. The bill would apply only to county mutuals controlled by a holding company that also controls another company selling auto insurance in Texas.

CSHB 1662 would apply to rates for policies delivered, issued, or renewed on or after September 1, 1997.

SUPPORTERS SAY:

CSHB 1662 would prevent insurance companies from trying to get around the state's rate regulation system by moving all of their auto insurance business, for both good drivers and bad, into a county mutual company. County mutuals have traditionally provided a safety net for people who could not get insurance through the standard market. Because they serve as a market for high risk drivers, who typically cost more to insure, county mutuals are exempted from rate regulation and participation in TAIPA. The entire auto rating structure in Texas is founded on the understanding that county mutuals serve as a safety net for high risk drivers.

Recently, however, standard market companies have begun to move their business into county mutual companies to avoid rate regulation in the standard market. Most notably, USAA, one of the state's largest standard market auto insurers, recently purchased a county mutual company and moved about half of its standard market business into that company. In making this move, USAA essentially thumbed its nose at the Legislature by making an end run around the state's automobile insurance rating structure. If this continues, Texas will essentially have rate deregulation, which the Legislature has not approved.

Companies that move out of the standard market into county mutuals also reduce their participation in TAIPA. County mutuals are not required to provide coverage through TAIPA because they have traditionally insured high risk drivers. By moving into a county mutual, USAA and other companies that insure good drivers are avoiding the responsibility of participating in TAIPA, and leaving other companies that continue to sell in the standard market with a larger share of responsibility for the most difficult-to-insure drivers.

OPPONENTS SAY:

CSHB 1662 would not solve the problem it is intended to address and would unfairly punish companies for making logical business decisions that could benefit consumers. The bill does not deal with the fundamental problem that arises from having two regulatory schemes — rate regulation for some and no regulation for others. In such a situation, competitive pressures compel insurers to move business to the non-regulated insurers.

The real problem is that county mutuals are not subject to rate regulation and are free from any regulatory requirement that their rates be fair, reasonable and not excessive. Rather than trying to prevent companies from moving into the county mutual market, the state should subject county mutuals to the same regulations as those governing standard market companies.

CSHB 1662 would unfairly punish USAA for using its county mutual to write at rates below the top of the flexband. The multimillion dollar investment in acquiring a county mutual license would become useless simply because USAA acted within its legal right. The bill would unfairly protect county mutuals from competition from USAA and other lower cost insurers.

USAA moved a large share of its business to the county mutual so that it could use a nationwide rating system that resulted in lower rates for 80 percent of its Texas policyholders. HB 1662 would require that rates be jacked back up for those people. Rather than defending a rating law that has outlived its usefulness, the Legislature should either deregulate rates for all insurers or subject county mutuals to rate regulation.

OTHER OPPONENTS SAY:

County mutuals would have difficulty complying with CSHB 1662 because of problems inherent in comparing rates and coverages. A county mutual that offered a variety of discounts could inadvertently find itself in violation of the law because the discounted rate was lower than the top of the flexband.

NOTES:

The committee substitute specified that the intent of the bill was to avoid circumvention of the flexible rating program and that the bill would apply to policies delivered, issued or renewed after September 1, 1997, rather than January 1, 1998.

CSHB 1662 was recommitted to the Insurance Committee on points of order on May 2 and May 8, and the committee substitute after second recommittal is identical to the committee substitute when the bill was initially reported and on first recommittal.