HOUSE
RESEARCH
ORGANIZATION bill analysis 5/5/97

HB 1789
G. Lewis

SUBJECT: Limiting insurers from withdrawing from certain markets

COMMITTEE: Insurance — favorable, without amendment

VOTE: 9 ayes — Smithee, Van de Putte, Averitt, Bonnen, Burnam, Eiland, G. Lewis, Olivo, Wise

0 nays

WITNESSES: For — Birny Birnbaum; Don Lambe; Robert Schneider, Consumers Union

Against — Robert Simpson, State Farm Insurance Company

BACKGROUND: Texas law requires an insurer to file a plan for orderly withdrawal of coverage when it proposes to withdraw from writing a certain line of insurance or to reduce its total annual premium volume by 75 percent or more.

DIGEST: HB 1789 would require an insurance company to file a withdrawal plan with the commissioner of insurance if it proposed to reduce its total annual premium volume in a particular rating territory by 25 percent or more. The bill would also require such a plan if the insurer proposed to significantly restrict an agent's authority to solicit or bind a personal line of motor vehicle liability or residential property insurance in a rating territory.

The insurance commissioner could impose a two-year moratorium upon the approval of a withdrawal plan and renew that moratorium annually upon finding at a public hearing that a catastrophe had occurred, making it unlikely that certain lines of insurance would be available to substantial numbers of policyholders within Texas or, in the case of motor vehicle liability or residential property insurance, within a rating territory. The commissioner could limit the scope and effect of a moratorium to certain geographic areas of Texas.

The bill would take effect September 1, 1997, and apply only to reductions or restrictions made on or after that date.

SUPPORTERS SAY:

HB 1789 would assure the citizens of Texas of access to the insurance market. Over the last few years, there have been numerous incidents of insurers cancelling or refusing to renew coverage and pulling out of a particular area of the state following a natural disaster or other calamity. When the Dallas-Fort Worth area suffered a damaging hailstorm, for example, numerous property insurers left the area over the next few months. Following Hurricane Andrew, Allstate attempted to drop almost 300,000 policyholders in Florida. Only prompt imposition of a moratorium in Florida prevented the public from being harmed by this type of arbitrary market pullout.

Current law does not offer sufficient protection to the Texas consumer, since it requires a plan only when an insurer withdraws 75 percent of its Texas coverage. With HB 1789, an insurer would have to file a plan for withdrawal anytime it reduced total premium volume by 25 percent or more in a particular rating territory, which could be a city or part of that city or metropolitan area, a county, or a group of counties. HB 1789 would provide the insurance commissioner with needed flexibility to respond to circumstances in different parts of the state, just as the insurers do.

HB 1789 would not prevent insurers from dealing with renegade agents. There are established procedures for handling internal problems. Companies should do a thorough job of training and monitoring their agents to keep performance issues from developing in the first place. This bill would focus on situations where the company makes an executive decision to limit coverage in a territory not because of agent performance problems but because of increased risk of claims.

OPPONENTS SAY:

HB 1789 would neither assist consumers to obtain coverage nor help maintain the availability of insurance. Increasing the barriers to withdrawal from an insurance market could cause insurers to abandon plans to even try and enter certain markets, thus lowering both insurance availability and the competition needed to reduce premiums.

The bill would interfere with the contractual relationship between an insurer and its independent or exclusive agents, and would tie a company's hands when it had to deal with agents who failed to write coverage according to strict company standards. As a result, it could have the unintended consequence of forcing up the price of insurance. For example, an insurer could be forced to pay in cases where the agent had written coverage for a substandard risk, such as for mobile homes located in a tornado zone like Wichita Falls. The insurer would end up suffering far higher losses than would have occurred had it could have limited the agent's ability to bind the company.

Insurance companies should not be used as convenient scapegoats for the changes produced by competitive or other free market forces in a given geographic area of the state. A major discount by a competitor in auto insurance rates, for example, could sometimes result in a 25 percent reduction in an insurer's market share without any intentional executive decision to lower premium volume. If a company was not directly responsible for such a reduction in volume, it should not be required to concoct a withdrawal plan.