

SUBJECT: Regulating insurance holding company systems

COMMITTEE: Insurance — committee substitute recommended

VOTE: 7 ayes — Smithee, Eiland, G. Bonnen, Morrison, Muñoz, Taylor, C. Turner
0 nays
2 absent — Creighton, Sheets

WITNESSES: For — Ted Kennedy, AIG; (*Registered, but did not testify:* Allan Akens, Texas Funeral Directors Association; Fred Bosse, American Insurance Association; Jennifer Cawley, Texas Association of Life and Health Insurers; Lloyd W. Graham; James May; Brenda Nation, American Council of Life Insurers)

Against — None

On — (*Registered, but did not testify:* Kevin Brady, Texas Department of Insurance)

BACKGROUND: Insurance Code, sec. 823.006 describes an insurance holding company system as being composed of two or more affiliates, at least one of which is an insurer. Ch. 823 provides guidance to the insurance commissioner and the Texas Department of Insurance (TDI) in their oversight of insurance company solvency and regulates the relationships and transactions between insurance companies and their affiliates or subsidiaries.

In 2011, the Legislature adopted SB 1431 by Carona, which amended ch. 823 to align it to the National Association of Insurance Commissioners' (NAIC) Insurance Holding Company System Model Act. The NAIC has revised the Model Act since SB 1431 was enacted.

DIGEST: **Confidentiality.** CSHB 3460 would require the insurance commissioner to keep confidential the information obtained from an insurer's registration, a disclaimer of affiliation, a transaction made within an insurance holding company system, an investigation of an insurer's

financial condition or the legality of their conduct, or an enterprise risk report.

The bill would allow the commissioner to disclose this information to state, federal, or international regulatory agencies, provided he or she verified the agencies' legal authority to maintain the information's confidentiality prior to its release.

Transactions. CSHB 3460 would modify the insurance transactions subject to insurer notification requirements and could be disapproved by the insurance commissioner. Regarding sales, purchases, loans, or investments with any entity in the insurer's holding company system:

- nonlife insurers would become subject to the requirements if a transaction was at least the lesser of 3 percent of the insurer's admitted assets or 25 percent of the insurer's surplus as regards policyholders; and
- life insurers would be subject to the requirements if the transaction was at least 3 percent of the insurer's admitted assets on December 31 of the preceding year.

A loan made to an entity that was not an affiliate of the insurer to invest in, buy assets of, or extend credit to an affiliate, would be subject to insurer notification requirements. It could be disapproved in these cases:

- for nonlife insurers if the transaction was at least the lesser of 3 percent of the insurer's admitted assets or 25 percent of the insurer's surplus as regards policyholders as of December 31 of the preceding year; and
- for life insurers if the transaction was at least 3 percent of the insurer's admitted assets as of December 31 of the preceding year.

Effective date. This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

**SUPPORTERS
SAY:**

CSHB 3460 would increase economic growth, insurance competition, and Texas' regulatory influence on the national level by attracting an increased number of insurance companies to the state.

Texas' current standards for transactions and confidentiality are not

aligned with the NAIC's Insurance Holding Company System Model Act, which is being adopted by an increasing number of states. This discrepancy makes Texas' regulatory environment regarding which transactions are subject to commissioner disapproval relatively more restrictive than other states. The bill would also strengthen the confidentiality requirements governing insurer information, giving companies more confidence in doing business in the state.

The bill also would discourage the possibility of national regulations being adopted to regulate insurance holding companies. Aligning Texas' standards with other states' would best balance companies' interest in uniform regulatory requirements with the state's interest in maintaining its jurisdiction over Texas' unique insurance market. It would also be an extension of TDI's current activities.

Because it is based on model legislation approved by the NAIC, CSHB 3460 would strike a balance between improving the regulatory environment for insurance companies while protecting consumers' and investors' interests.

**OPPONENTS
SAY:**

CSHB 3460 would increase the role of government. The bill would increase the regulatory powers of the commissioner of insurance and impose new mandates on the insurance market, which would violate free market economic principles and be economically inefficient.