

**SUBJECT:** Making certain insurance carrier examination information privileged

**COMMITTEE:** Insurance — favorable, without amendment

**VOTE:** 9 ayes — Phillips, Muñoz, R. Anderson, Gooden, Oliverson, Paul, Sanford, Turner, Vo

0 nays

**WITNESSES:** For — Jay Thompson, AFACT; (*Registered, but did not testify:* Fred Bosse, American Insurance Association; John Marlow, Chubb; Paul Martin, National Association of Mutual Insurance Companies; Joe Woods, Property Casualty Insurers Association of America (PCI); Beaman Floyd, Texas Coalition for Affordable Insurance Solutions; Robert (Bo) Gilbert and Kari King, United Services Automobile Association (USAA))

Against — (*Registered, but did not testify:* Kathleen Field)

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

**BACKGROUND:** Insurance Code, sec. 401.058 makes a final or preliminary financial examination report and any information obtained during an examination of insurer carriers confidential and not subject to disclosure under the Public Information Act. This section applies to an examined carrier under supervision or conservatorship and does not apply to an examination conducted in connection with a liquidation or receivership under the Insurance Code or another state insurance law.

**DIGEST:** HB 2437 would make a final or preliminary financial examination report and any information obtained during an examination privileged for all purposes. The bill would make this information not subject to a subpoena other than a grand jury subpoena or discovery or admissibility in evidence in a civil action.

Under the bill, the privileged and confidential status of such reports and information would not limit the authority of the Commissioner of Insurance to use a final or preliminary examination report and any information obtained during an examination in the furtherance of any legal or regulatory action that the commissioner, in the commissioner's sole discretion, considered appropriate.

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, 2017.

**SUPPORTERS  
SAY:**

HB 2437 would clarify in code long-standing Texas Department of Insurance (TDI) practices regarding confidentiality of insurers' financial examination information. It also would make the section of Insurance Code addressing confidentiality of financial examination information consistent with subsequently adopted statutes governing confidentiality of insurer information obtained by TDI.

The bill would not limit an individual's ability to obtain financial information directly from insurers through a subpoena or discovery. It simply would prohibit TDI from being a conduit between insurers and private parties who wish to obtain this financial information and would prevent the department from becoming involved in disputes and other issues between insurance companies.

Specifying that the commissioner could use insurers' financial examination information only in the furtherance of a legal or regulatory action relating to the administration of the Insurance Code would be unnecessary because that issue already is covered in other parts of statute.

**OPPONENTS  
SAY:**

HB 2437 should change the bill language to mirror Insurance Code, sec. 823.011(h), which specifies that the insurance commissioner could only use insurers' financial examination information in the furtherance of a legal or regulatory action "relating to the administration of" the Insurance Code, rather than an action that "the commissioner, in the commissioner's sole discretion, considers appropriate." This change would make the bill

even more consistent with the existing Insurance Code governing confidentiality and would prevent a rogue commissioner from irresponsibly releasing insurance carriers' financial information.

**NOTES:**

A companion bill, SB 1072 by Hancock, was reported favorably from the Senate Committee on Business and Commerce on April 10 and placed on the Senate intent calendar on April 11.