

SUBJECT: Requiring notice of supervision or conservatorship to an agent's company

COMMITTEE: Insurance — favorable, without amendment

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

0 nays

WITNESSES: For — (*Registered, but did not testify*: Jay Thompson, AFACT; Kari
King, USAA)

Against — None

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

BACKGROUND: **Supervision.** Insurance Code, sec. 441.053 requires the commissioner of insurance to place on supervision insurance agents who have exceeded their powers, been determined insolvent, or otherwise broken the law. Sec. 441.104 allows the commissioner to prohibit insurers on supervision from certain acts without prior approval, including making investments and loans, transferring property, incurring debt, merging with another company, and terminating a policy.

Conservatorship. Insurance Code, sec. 441.151 allows the commissioner to appoint a conservator for insurance agents who have exceeded their powers, been determined insolvent, or otherwise failed to comply with the commissioner's requirements if the commissioner determines that supervision would be inadequate to rehabilitate the insurer.

Sec. 441.153 requires an appointed conservator to take charge immediately of the insurer and the insurer's property, books, records, and effects, conduct the insurer's business, and attempt to remove the causes and conditions that led to the insurer being placed under conservatorship.

Confidentiality. Insurance Code, sec. 441.201 states that all hearings, orders, notices, correspondence, reports, records, and other information possessed by the Texas Department of Insurance concerning the supervision or conservatorship of an insurer are confidential for the duration of supervision or conservatorship.

Observers note that due to confidentiality requirements, insurance companies being represented by an appointed agent who is under supervision or conservatorship may not be aware of it. Some suggest modifying the confidentiality requirement to ensure notice was given to relevant insurers to enhance accountability and decision-making in regulating insurance agents and practices.

DIGEST: HB 2542 would require the commissioner of insurance to provide written notice of an insurance agent's placement under supervision or conservatorship to each insurer that the agent was appointed to represent. The commissioner would have to provide this notice on the date the agent's supervisor or conservator was appointed.

The bill would take effect September 1, 2017, and would apply to an order of supervision or conservatorship issued on or after that date.