

BILL ANALYSIS

Senate Research Center
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H.B. 4358
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Insurance Code and related administrative rules impose a number of technical requirements on persons licensed by the Texas Department of Insurance (TDI). Currently, if a TDI program area wants to initiate an action for a violation, the program area must refer each violation to the enforcement division. Attorneys in the enforcement division typically negotiate and draft a consent order, which must then be reviewed and signed by the commissioner of insurance. Consent orders resolving these violations generally include an administrative penalty in an amount between \$500 and \$10,000. Violations that cannot be resolved by consent order must be adjudicated at the State Office of Administrative Hearings.

TDI would benefit from minimizing the use of attorney and litigation support resources to address issues that could be resolved at the program area level through the use of automatic fines. The attorney resources could then be reallocated to projects involving consumer harm or serious misconduct. Currently, TDI is authorized to resolve certain violations through a fine, including the failure of insurance agents to complete continuing education, to file address changes, and to report disciplinary actions by other states.

This bill authorizes the commissioner of insurance to adopt and enforce reasonable rules necessary to accomplish the purposes of provisions relating to administrative penalties, allowing the resolution of more types of violations through fines and the use of staff resources more efficiently. The bill also provides that it does not limit the commissioner's authority to take any action authorized by law.

H.B. 4358 amends current law relating to rulemaking authority for administrative penalties assessed for violations of the Insurance Code.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Section 84.004, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 84, Insurance Code, by adding Section 84.004, as follows:

Sec. 84.004. **RULEMAKING AUTHORITY.** (a) Authorizes the commissioner of insurance (commissioner) to adopt and enforce reasonable rules that the commissioner determines necessary to accomplish the purposes of this chapter.

(b) Authorizes the commissioner to establish by rule the amount of an administrative penalty to be imposed under Section 84.022 (Penalty Amount) for a specific violation.

(c) Provides that the existence or absence of a rule adopted under this chapter does not limit the commissioner's authority to take any action authorized by law.

SECTION 2. Effective date: upon passage or September 1, 2009.