

BILL ANALYSIS

Senate Research Center
83R5627 PMO-F

H.B. 1047
By: Sheets (Estes)
Business & Commerce
5/8/2013
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Bail bonds are an effective means of balancing the interests of those accused of crimes who do not wish to be locked up while under a presumption of innocence and the interests of prosecutors who wish to ensure that the accused appear in court to answer criminal charges. Commercial bail bond agents typically charge a service fee equal to a percentage of the bond because they ultimately are liable for payment of the bond. In the event an agent is unable to pay a forfeited bond, the agent usually relies on a bail bond insurer to pay the bond. Current law does not require such insurers to maintain unearned premium reserves because all bail fees and premiums are fully earned at the bond's inception. Thus, a bail bond insurer records and remits taxes only on the actual premiums collected or receivable. Imposing new requirements for substantial unearned premium reserves or that base taxes on gross bail bond service fees would place significant financial burdens on bond insurers. H.B. 1047 seeks to clarify the financial requirements affecting bail bond insurers by clarifying the taxability of premium receipts or service fees in order to continue the effective issuance of bail bonds.

H.B. 1047 amends the Insurance Code to establish that a surety company is not required to maintain an unearned premium reserve for a bail bond executed or delivered by the company. The bill authorizes direct written premium reported by a surety company in a financial statement filed with the Texas Department of Insurance (TDI) to be calculated excluding any premiums or service fees retained by a licensed bail bond surety or by a property and casualty agent in connection with the execution or delivery of a bail bond and excludes premiums or service fees retained by a licensed bail bond surety or by a property and casualty agent in connection with the execution or delivery of a bail bond from the premium receipts used to determine the taxable premium receipts of the bail bond surety or agent. The bill requires a surety company that executes or delivers a bail bond in Texas to disclose in the company's financial statement filed with TDI the aggregate amount of gross premium for bail bond business reported in the company's surety line of business, premium or service fees retained by the bail bond surety or agent, and premium for bail bond business received by the company, net of amounts retained by the bail bond surety or agent.

H.B. 1047 amends current law relating to the regulation of certain surety companies.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 221.002(c), Insurance Code, as follows:

(c) Provides that the following premium receipts are not included in determining an insurer's taxable premium receipts:

(1)-(3) Makes no change to these subdivisions;

(4)-(5) Makes nonsubstantive changes; and

(6) premiums or service fees retained by a bail bond surety licensed under Chapter 1704 (Regulation of Bail Bond Sureties), Occupations Code, or by a property and casualty agent in connection with the execution or delivery of a bail bond as defined by Section 1704.001 (Definitions), Occupations Code.

SECTION 2. Amends Subchapter E, Chapter 3503, Insurance Code, by adding Sections 3503.202, 3503.203, and 3503.204, as follows:

Sec. 3503.202. **UNEARNED PREMIUM RESERVE FOR BAIL BOND NOT REQUIRED.** Provides that a surety company is not required to maintain an unearned premium reserve for a bail bond, as defined by Section 1704.001, Occupations Code, executed or delivered by the company.

Sec. 3503.203. **DIRECT WRITTEN PREMIUM CALCULATION.** Authorizes direct written premium reported by a surety company in a financial statement filed with the Texas Department of Insurance (TDI) to be calculated excluding any premiums or service fees retained by a bail bond surety licensed under Chapter 1704, Occupations Code, or by a property and casualty agent in connection with the execution or delivery of a bail bond as defined by Section 1704.001, Occupations Code.

Sec. 3503.204. **DISCLOSURE REQUIREMENTS.** Requires a surety company that executes or delivers in this state a bail bond as defined by Section 1704.001, Occupations Code, to disclose in the company's financial statement filed with TDI, the aggregate amount of gross premium for bail bond business reported in the company's surety line of business; premium or service fees retained by the bail bond surety or agent; and premium for bail bond business received by the company, net of amounts retained by the bail bond surety or agent.

SECTION 3. Effective date: September 1, 2013.