

BILL ANALYSIS

Senate Research Center
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S.B. 1072
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current Texas law provides that Texas Department of Insurance (TDI) financial examination reports are confidential and not subject to disclosure under the Open Records Act. In addition, the Texas Legislature codified the confidentiality of examination documents in subsequent statutes passed after the legislation creating Section 401.058, Insurance Code.

Although TDI has historically treated information under Section 401.058 as confidential for all purposes, including civil subpoenas, there is still a technical inconsistency between Section 401.058 and other sections of the Texas Insurance Code that address examination confidentiality.

Accordingly, S.B. 1072 amends Section 401.058, Insurance Code, to align it with other examination confidentiality provisions by clarifying that information received by TDI during financial examinations is privileged for all purposes and not subject to subpoena or discovery.

S.B. 1072 does not limit an individual's ability to obtain financial information directly from insurers via subpoena and discovery. The bill merely prohibits the agency from being a conduit between insurers and private parties wishing to obtain this information.

S.B. 1072 codifies longstanding TDI practices regarding examination confidentiality and makes the provisions of Section 401.058, Insurance Code, consistent with subsequently adopted statutes governing confidentiality of insurer information obtained by TDI.

As proposed, S.B. 1072 amends current law relating to confidentiality of reports and related information for a solvency examination of an insurance carrier.

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 401.058, Insurance Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Provides that, except as provided by Subsection (c), a final or preliminary examination report and any information obtained during an examination are confidential and privileged for all purposes. Provides that this information is not subject to:

- (1) creates this subdivision from existing text and makes a nonsubstantive change;
- (2) a subpoena, other than a grand jury subpoena; or
- (3) discovery or admissibility in evidence in a civil action.

(c) Provides that Subsection (a) does not limit the commissioner of insurance's (commissioner) authority 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, considers appropriate.

SECTION 2. Effective date: upon passage or September 1, 2017.