

BILL ANALYSIS

S.B. 1008
By: Eltife
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The National Association of Insurance Commissioners' (NAIC) Accounting Manual contains detailed guidance for insurance companies on how to account for business transactions and investments in a company's statutory financial statements filed with state insurance regulators. Informed observers note that certain accounting principles set forth in the NAIC Accounting Manual expressly contemplate insurance companies investing in real estate mezzanine loans and suggest an insurance company can record real estate mezzanine loans as assets in its statutory financial statements if various conditions are satisfied. These parties further contend that real estate mezzanine loans can be attractive and prudent investment vehicles for large insurance companies with sophisticated investment departments in today's current challenging investment environment for institutional investors.

However, there are concerns that although such accounting principles are included as part of the NAIC Accounting Manual, which has been adopted by the Texas Department of Insurance, applicable statutory provisions do not currently specifically authorize investments in real estate mezzanine loans. S.B. 1008 seeks to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1008 amends the Insurance Code to authorize certain domestic capital stock life, health, or accident insurance companies with more than \$10 billion in admitted assets to invest in a mezzanine real estate loan, defined in the bill as a loan secured by a pledge of direct or indirect equity interests in an entity that owns real estate, contingent on the loan documents requiring each pledgor to abstain from granting an additional security interest in the equity interest pledged; employing techniques to minimize the likelihood or impact of a bankruptcy filing by the real estate owner or the mezzanine real estate loan borrower; and requiring the real estate owner or the mezzanine real estate loan borrower to hold no assets other than the real estate in the case of the owner and the equity interests in the entity in the case of the borrower, to not engage in any business other than the ownership and operation of the real estate in the case of the owner and holding an ownership interest in the owner in the case of the borrower, and to not incur additional debt, other than limited trade payables, a first mortgage loan, or the mezzanine real estate loan.

S.B. 1008 requires such an insurance company, before making an initial investment in a mezzanine real estate loan, to corroborate that the sum of the first mortgage on the real estate and

the mezzanine real estate loan does not exceed 100 percent of the value of the current appraised value of the real estate. The bill caps such an insurance company's cumulative investment in a mezzanine real estate loan at three percent of the insurance company's admitted assets.

EFFECTIVE DATE

September 1, 2015.