

BILL ANALYSIS

H.B. 3306
By: Smithee
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been noted that the National Association of Insurance Commissioners (NAIC) is the standard-setting and regulatory support organization that coordinates the regulation of multistate insurers. Concerns have been raised regarding the accreditation of Texas under the NAIC if the state fails to adopt certain standards relating to the disclosure of information concerning the corporate governance structure of certain insurers and related entities. It has been suggested that the failure to adopt these standards will place a heavy burden on domestic insurers based in Texas. H.B. 3306 seeks to address this issue by adopting these standards.

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 rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 of this bill.

ANALYSIS

H.B. 3306 amends the Insurance Code to require an insurer or the insurance group of which the insurer is a member, not later than June 1 of each calendar year, to submit to the commissioner of insurance an annual disclosure of the insurer or insurance group's corporate governance structure, policies, and practices, which must include an attestation that the insurer has implemented the practices described in the disclosure. The bill requires an insurer that is a member of an insurance group to submit the report to the commissioner of insurance of the lead state for the insurance group, in accordance with the laws of the lead state, as determined by the procedures adopted by the National Association of Insurance Commissioners. The bill requires an insurer not otherwise required to submit a disclosure to submit a disclosure on the request of the Texas commissioner of insurance. The bill expressly does not require an insurer to file the disclosure before June 1, 2020.

H.B. 3306 provides for the following with regard to the disclosure:

- authorized level of reporting;
- review;
- requests for additional information;
- provision for substantially similar information provided in the disclosure and other documents provided to the commissioner; and
- contents of the disclosure, which must be prepared consistent with commissioner rules.

The bill establishes that the disclosure and any additional information requested by the

commissioner and provided to the Texas Department of Insurance (TDI) as described by the bill is considered part of the process of examination of insurers under the Insurance Code.

H.B. 3306 provides for the confidentiality of documents, materials, or other information, including a disclosure, in possession or control of TDI under the bill's provisions, and establishes that such documents, materials, and information are not subject to disclosure under state public information law, to subpoena, or to discovery or admissible in evidence in any private civil action. The bill sets out provisions relating to the use, receipt, and sharing of the documents, materials, or other information and establishes that such sharing by the commissioner does not constitute a delegation of regulatory authority or rulemaking and that the commissioner is solely responsible for the administration, execution, and enforcement of the bill's provisions. The bill establishes that privilege or claim of confidentiality in such documents, materials, or information is not waived as a result of disclosure or sharing as authorized under the bill's provisions.

H.B. 3306 sets out provisions relating to the commissioner of insurance retaining or entering into an agreement with third-party consultants or the National Association of Insurance Commissioners for certain activities authorized by the bill and subjects such a third-party consultant and the association to the same confidentiality standards and requirements as the commissioner.

H.B. 3306 creates an administrative penalty for an insurer that, without good cause, fails to file the disclosure timely and makes each day the violation continues a separate violation. The bill authorizes the commissioner to reduce the amount of the penalty assessed if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer. The bill sets out provisions relating to its purpose and applicability. The bill requires the commissioner to adopt rules as necessary to enforce the bill's provisions and establishes that such a rule is not subject to Government Code provisions relating to rules increasing costs to regulated persons.

EFFECTIVE DATE

September 1, 2019.