

SUBJECT: Oversight of insurance companies that write bail bonds

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Talton, Dunnam, Farrar, Hinojosa, Nixon, A. Reyna
0 nays
3 absent — Place, Galloway, Keel

WITNESSES: For — Roger Moore, Bail Insurance Companies

Against — Don Davis, Dallas County District Attorneys Office; Bruce Carr, Harris County Sheriffs Department; Kathleen Braddock, Harris County District Attorneys Office; J. Sutton Taylor, Professional Bondsman of Dallas; Edward J. Dees, Jr., Professional Bondsmen of Texas

BACKGROUND : Two types of private persons can be licensed to write bail bonds as sureties for appearance in criminal court. Property bondsmen pledge their property as trust for bail bonds, and corporate surety bondsmen work for insurance companies that are licensed write bail bonds. Bail bondsmen are licensed and overseen by local county bail bond boards or local sheriffs.

DIGEST: HB 3412 would require that corporations licensed to write bail bonds hold certificates of authority from the Texas Department of Insurance (TDI). The insurance commissioner would be authorized to promulgate rules relating to corporations and local recording agents acting as sureties on criminal court appearance bonds. The bill would include persons who are licensed agents of a corporation in the current list of those who can be bail bondmen. Persons licensed as local recording agents would be authorized to write bail bonds if licensed as a bondsman.

HB 3412 would prohibit corporations acting as sureties from being granted licenses for individuals to act as their agents if an agent has in any county an outstanding final judgment on any forfeited bail bond pending that has not been paid within 30 days of the final judgment. Corporations would be unable to renew licenses of agents who at the time of renewal had pending an outstanding final judgment on any forfeited bail bond in any court in the

county of the agent if the judgment had not been paid within 30 days of the final judgment.

**SUPPORTERS
SAY:**

Provisions in HB 3412 requiring corporations licensed to write bail bonds to hold certificates of authority from TDI and including licensed agents of corporations in the list of those who can write bail bonds would just clarify the law to allow what is currently being done.

HB 3412 would authorize TDI to promulgate rules concerning insurance companies that write surety bonds so that companies would be able to operate under some uniform guidelines. Currently, because regulations concerning these companies are promulgated on the local level, there can be wide variations in regulatory standards, making it difficult for companies to operate from county to county. HB 3412 would allow TDI to harmonize and standardize these rules, making it easier for these companies to write bail bonds. HB 3412 would not usurp local authority because persons and corporations issuing bail bonds would continue to be licensed at the local level.

The bill would not dilute the standards that may be considered when licensing corporations that write bail bonds. The certificate of authority issued by TDI would be conclusive evidence only concerning the sufficiency of the security, the corporation's solvency or its credits, not for all facets of regulation. Because TDI already regulates these insurance companies, it would be the proper entity to have authority to promulgate rules concerning insurance companies that write bail bonds. Bail bonds should be regulated as another insurance line for these companies.

HB 3412 would address a problem that has arisen when property bondsmen become agents of corporate surety companies while they have outstanding judgments against them. The bill would prohibit corporations from being granted initial licenses or renewals if the agent had outstanding judgments. This would increase accountability of bondsmen by prohibiting persons who owe money to counties for bonds that they have written as a property bondsman from walking away from their debt and working as a bondsman for an insurance company.

OPPONENTS
SAY:

The overly broad provision in HB 3412 that would authorize the insurance commissioner to promulgate rules related to corporations that write bail bonds would unwisely give the Department of Insurance almost unlimited authority over these companies. This would inappropriately take regulation of insurance companies writing bail bonds from the local level and split the regulation of the bail bonds industry between the state and localities.

Currently, while insurance companies that write bail bonds must have an authorization certificate from TDI, the daily regulation of both types of bail bonds is done by either a bail bond board or a local sheriff. All bail bonds are best regulated at the local level because local authorities are best able to respond to the differing situations in each county. It would be hard for the state to oversee an industry that has a large volume of activity in some counties, with some having over 100,000 bail bond transactions annually. Having one segment of the industry regulated by the state instead of locally could result in that segment receiving less regulation. The Department of Insurance does not have the experience, expertise or resources necessary to regulate a type of bail bonds on the local level.

Other broad provisions in the bill could be interpreted as restricting what local authorities can consider when licensing corporations that write bail bonds. The bill says that the certificate of authority issued by the TDI shall be conclusive evidence as to the sufficiency of the security, the corporation's solvency or its credits *for all purposes under the act*. This could be interpreted as meaning that only a certificate from the TDI could be considered when licensing companies and not other factors such as a company's performance in other counties.

Another provision in the bill saying that corporations may not renew licenses for agents with outstanding judgments is unclear and could be interpreted as removing local authority to make decisions about renewing these licenses. In addition, the bill would give the corporations discretion concerning renewing these licenses when the bill should be clear that these licenses should not be renewed by either localities or corporations.