

SUBJECT: Ending the financial statement requirement for guaranty association directors

COMMITTEE: Insurance — favorable, without amendment

VOTE: 5 ayes — Smithee, Eiland, Burnam, G. Lewis, Seaman

0 nays

4 absent — J. Moreno, Olivo, Thompson, Wise

WITNESSES: For — Burnie Burner

Against — None

On — Jan Ferguson

BACKGROUND: Guaranty associations are nonprofit, unincorporated legal entities composed of all authorized insurers in the state. These associations are intended to supervise the payment of claims against insurers who become financially or otherwise impaired. The Insurance Code establishes three insurance guaranty associations:

- ! The Texas Title Insurance Guaranty Association;
- ! The Texas Property and Casualty Insurance Guaranty Association; and
- ! The Life, Accident, Health, and Hospital Service Insurance Guaranty Association.

The boards of directors for these associations are made up of unpaid volunteers selected by insurers and the commissioner of insurance. Directors are prohibited from having or acquiring interests in the transactions that they oversee on behalf of the associations. Directors who are public representatives cannot be employed or related to employees in the insurance industry.

Current law requires the directors of these associations to file personal financial statements with the Texas Ethics Commission. These statements become public records subject to disclosure under the Public Information (Open Records) Act.

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DIGEST: HB 1811 would eliminate the requirement that directors of the three guaranty associations file financial statements with the Texas Ethics Commission.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

SUPPORTERS SAY: Qualified people are not volunteering to become guaranty association directors because they do not want to make their finances public. Many people do not want to make their finances public even though they have nothing to hide.

Several director positions have been vacant for months because of a shortage of people interested in volunteering for a complex, time-consuming, and unpaid position on a guaranty association. By eliminating the financial statement requirement, HB 1811 would help open up the pool of volunteers for guaranty associations.

There are strict controls in place on the use of association funds as well as effective provisions in existing law to prevent conflicts of interest. The guaranty associations deal with impaired insurers whose problems have already drawn close scrutiny from the department of insurance. It would be very difficult for a director with a conflict of interest to escape detection. The public and the guaranty associations would not be put at risk by HB 1811.

OPPONENTS SAY: If directors no longer are required to file financial statements, how would the commissioner know for sure that a director did not have a conflict of interest? The state should be wary of anyone who is unwilling to file a financial statement for what is an important position of financial responsibility.