SUBJECT: Allowable amount of outstanding liability of a mortgage guaranty insurer

COMMITTEE: Insurance — favorable, without amendment

VOTE: 8 ayes — Smithee, Eiland, G. Bonnen, Creighton, Morrison, Muñoz, Sheets, C. Turner

1 nay — Taylor

SENATE VOTE: On final passage, March 13 — 31-0, on Local and Uncontested Calendar

WITNESSES: (*On House companion bill, HB 1136)*
For — Burnie Burner, Mortgage Insurance Companies of America (*Registered, but did not testify*: Daniel Gonzalez, Texas Association of Realtors; Chelsey Thomas, Texas Association of Realtors)

Against — None

On — (*Registered, but did not testify*: Jamie Walker, Texas Department of Insurance)

BACKGROUND: Insurance Code, sec. 3502.158 limits the coverage for mortgage guaranty insurance providers. It requires mortgage guarantee insurers to either: limit the insurer's coverage, net of reinsurance, to a maximum of 25 percent of the entire indebtedness to the insured or pay the entire indebtedness to the insured and acquire title to the authorized real estate security.

DIGEST: SB 147 would repeal the Insurance Code, sec. 3502.158.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

SUPPORTERS SAY: SB 147 would repeal a statute that does not serve its intended purpose but instead creates the need for unnecessary administrative and regulatory requirements for both insurers and the Texas Department of Insurance (TDI), which ultimately makes it more difficult to regulate the risk of the mortgage insurance industry.

The intention of Insurance Code, sec. 3502.158 is to require mortgage insurers to purchase additional reinsurance and thereby lower the default risk associated with an individual insurer. Most insurers have responded to the law by restructuring their companies and spreading risk to subsidiaries instead. By doing so, companies have complied with the law but have not actually reduced their financial risk. The more complex company structure makes it harder for TDI to assess the genuine risk associated with a company and increases reporting requirements for the companies. Repealing this section of the code would increase transparency and reduce administrative requirements for companies and regulators.

OPPONENTS SAY:

The Legislature should adjust the existing regulation to include more sophisticated language that would encourage mortgage insurers to limit exposure rather than throwing out the regulation altogether. The Insurance Code has a loophole that needs to be closed, not a regulatory framework that should be removed.

NOTES:

The companion bill, HB 1136 by Smithee, was left pending in the House Insurance Committee on April 23.