

SUBJECT: Specifying the commissioner of insurance's investigative authority

COMMITTEE: Insurance — favorable, without amendment

VOTE: 8 ayes — Frullo, Muñoz, G. Bonnen, Guerra, Meyer, Paul, Sheets, Vo

0 nays

1 absent — Workman

SENATE VOTE: On final passage, April 9 — 30-1 (Huffines) on local and uncontested calendar

WITNESSES: (*On House companion bill, HB 2198:*)

For — Beaman Floyd, Texas Coalition for Affordable Insurance Solutions; (*Registered, but did not testify:* Jay Thompson, AFACT; Thomas Ratliff, American Insurance Association; Lee Loftis, Independent Insurance Agents of Texas; Paul Martin, National Association of Mutual Insurance Companies)

Against — None

On — (*Registered, but did not testify:* Chris Davis and Kyson Johnson, Texas Department of Insurance)

BACKGROUND: Insurance Code, sec. 701.001(2) defines a fraudulent insurance act as a violation of the penal law that is committed or attempted in relation to the insurance business.

Sec. 701.102 gives the commissioner of insurance authority to investigate a person the commissioner believes has engaged in, is engaging in, has committed or is about to commit a fraudulent insurance act or the offense of insurance fraud under Penal Code, sec. 35.02(a). The offense is defined as a person preparing or presenting (or causing to be prepared or presented) a statement to an insurer that the person knows contains false or misleading material information with the intent to deceive the insurer.

The commissioner may conduct any investigation necessary to determine whether an act or offense occurred or to aid in enforcing laws on fraudulent insurance acts or insurance fraud.

DIGEST:

HB 2198 would remove the insurance commissioner's authority to investigate a person that the commissioner believed had engaged in, was engaging in, had committed, or was about to commit the offense of insurance fraud under Penal Code, sec. 35.02(a). It would preserve the commissioner's authority to investigate a fraudulent insurance act.

The insurance commissioner could provide technical or litigation assistance to other governmental agencies in enforcing laws related to fraudulent insurance acts.

The bill would take effect September 1, 2015.

**SUPPORTERS
SAY:**

SB 782 would remove an outdated reference in the Insurance Code to the insurance commissioner's authority to investigate insurance fraud under a provision of the Penal Code that has been amended to reflect the complicated nature of modern insurance fraud. The insurance commissioner has broad authority to investigate possible instances of insurance fraud, which is necessary because many crimes have elements of fraud but fall short of that offense. The bill would clarify the insurance commissioner's broad authority by removing the reference to a specific offense under the Penal Code.

The bill also would clarify that the insurance commissioner has the authority to aid other agencies and prosecutors in investigating insurance fraud, including by providing technical or litigation assistance. Because of the complexity of insurance fraud, the insurance commissioner occasionally provides assistance to district attorneys and other state agencies.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES: The House companion bill, HB 2198 by Smithee, was placed on the General State Calendar for second reading on May 12 but was not considered.