

## **BILL ANALYSIS**

Senate Research Center

H.B. 578  
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Economic Development  
3-13-97  
Engrossed

### **DIGEST**

Currently, Texas law requires all out-of-state insurers to use some form of Texas-based company to do business in this state, either through countersignature or a local recording agent. This added expense to out-of-state insurers could, in turn, hinder competition in the state. This bill would authorize nonresident insurers to directly do business in this state if the insurers' license requirements from another state are substantially equivalent to those of this state. Additionally, this bill sets forth related guidelines for such nonresident insurers.

### **PURPOSE**

As proposed, H.B. 578 authorizes nonresident insurers to directly do business in this state if the insurers' license requirements from another state are substantially equivalent to those of Texas, and sets forth related guidelines.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the commissioner of insurance in SECTION 1 (Section 5, Article 21.11, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 21.11, Insurance Code, as follows:

Article 21.11. New title: NONRESIDENT AGENT

Sec. 1. NONRESIDENT AGENT LICENSE. Requires the Department of Insurance (department), notwithstanding Sections 3(a) and (b), Article 21.14, Insurance Code, to license a person who is not a resident of this state to act as a nonresident agent in accordance with Article 21.14, Insurance Code, subject to the limitations of this article. Requires an applicant for issuance of a license under this section to meet the requirements for issuance of a license under Article 21.14, Insurance Code, except the department is required to waive any of those license requirements for an applicant with a valid license from another state or jurisdiction that has license requirements substantially equivalent to those of this state.

Sec. 2. RIGHTS OF LICENSE HOLDER. Provides that except as provided by this section, a license issued under this article to an individual who is not a resident of this state grants the same rights and privileges afforded under a license issued under Article 21.14, Insurance Code. Prohibits a person who holds a license under this article from maintaining an office in this state; soliciting insurance business in this state by any method; and employing solicitors or others to directly or indirectly solicit insurance in this state. Requires the commissioner of insurance (commissioner) to impose on a resident of another state or jurisdiction of the U.S. who is an applicant for a license or a holder of a license issued under this article any requirement or restriction that the other state or jurisdiction of the U.S. imposes on a resident of this state who is a nonresident applicant or license holder in that state or jurisdiction; and is in addition to or stricter than the requirements or restrictions imposed under the insurance law of this state on an applicant or license holder who is not a resident of this state. Defines "requirement or restriction."

Sec. 3. LIMITATIONS. Provides that this article does not permit any person or firm licensed solely as a broker in the person's or firm's state of residence to be granted a license under this article; a holder of a license issued under this article to act as a surplus line agent under Article 1.14-2, Insurance Code, or to perform any of the acts permitted under Article 1.14-2, Insurance Code, except as provided under Section 10, Article 21.54, Insurance Code; or any person or firm who holds a license issued under this article to engage in any form of direct solicitation of insurance within this state. Requires the commissioner to revoke a nonresident agent's license issued under this article if the commissioner finds that the license was obtained or is being used for the purpose of transacting insurance through a local recording agent in a manner that permits the individual licensed under this article, by subterfuge, to transact insurance as a local recording agent. Requires the commissioner to also revoke the license of the affected local recording agent. Provides that a license revoked under this section is not subject to reissuance before the fifth anniversary of the date the revocation is effective. Requires the commissioner to order that any insurance transacted under an arrangement described by this section to be cancelled. Provides that Article 21.01-2, Insurance Code, applies to licensing of a nonresident agent under this article. Deletes provisions relating to commissions of nonresidents as insurance agents. Makes conforming and nonsubstantive changes.

Sec. 4. HOME OFFICE EMPLOYEE. Provides that this article does not affect the authority established under Section 20, Article 21.14, Insurance Code, of an actual full-time home office salaried employee of an insurance carrier to do business in this state.

Sec. 5. RULES. Authorizes the commissioner to adopt rules to implement this article.

SECTION 2. Repealer: Article 21.09, Insurance Code (Resident Agents, Companies Excepted).

SECTION 3. Makes application of this Act prospective.

SECTION 4. Emergency clause.  
Effective date: upon passage.