

## **BILL ANALYSIS**

Senate Research Center  
80R11051 AJA-F

H.B. 2708  
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Business & Commerce  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Title 10 (Property and Casualty Insurance), Insurance Code, does not currently address the issue of promotional event prize programs.

Currently, companies contract with marketing firms to design, organize, and implement promotional events in order to promote a particular product or enhance name recognition. These transactions are executed by a written contract between two parties. Promotions can be designed to have one or multiple winners that can range from free tacos to cars or cash prizes. Examples of promotional event contracts executed in the state of Texas and carried out all over the country are: Dr Pepper's half time field goal contest for \$1 million; Taco Bell's free taco give-away at sporting events, and even the new hit TV show "Deal or No Deal." As part of the promotional contract a payment may be triggered to the sponsor based on a successful event.

There are several reasons why the Texas Department of Insurance has not been involved in the business of promotional event programs. Unlike insurance, a fortuitous or accidental event does not trigger a payment under a promotional events contract. The promotional events are "designed or manufactured" to happen. Furthermore, an actual economic loss is not required to trigger a payment. Most importantly, all contracts specifically state that these promotional event programs are not insurance.

H.B. 2708 adds Chapter 1810, Insurance Code to clarify, in statute, the difference between "insurance" and "promotional events contracts." The bill defines "promotional event prize program," specifies the requirements of a contract or transaction between parties involved in a promotional event prize program, and establishes that such a program does not constitute the business of insurance.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle A, Title 10, Insurance Code, by adding Chapter 1810, as follows:

#### **CHAPTER 1810. PROMOTIONAL EVENT PRIZE PROGRAMS**

Sec. 1810.001. DEFINITION. Defines "promotional event prize program."

Sec. 1810.002. PROGRAM NOT INSURANCE; NOT COVERED BY GUARANTY ASSOCIATION. Provides that a promotional event prize program does not constitute the business of insurance in this state. Provides that a person's claim for performance under a contract for a promotional event prize program is not a covered claim under Chapter 462 (Texas Property and Casualty Insurance Guaranty Association) and a promotional event prize program is not covered by the Texas Property and Casualty Insurance Guaranty Association or any other state guaranty association.

Sec. 1810.003. CERTAIN MARKETING PROHIBITED. Prohibits a promotional event prize program from being marketed or described as insurance.

SECTION 2. Effective date: upon passage or September 1, 2007.