

BILL ANALYSIS

Senate Research Center

H.B. 2449
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law requires the commissioner of insurance (commissioner) to make recommendations relating to an insurer's amount of required capital and surplus and to provide evidence on which those recommendations are based. In 1991, the legislature increased capital requirements for most insurers in response to the failure of a large number of insurance companies, but allowed a limited exemption for certain non-capital stock property and casualty insurers, including independent county mutual insurance companies. The 1991 legislation was subsequently amended to narrow the exemption so that it applies if those insurers only write business in Texas.

Most other insurance companies are subject to risk-based capital, which recognizes that insurers vary in size, exposure, and types of risks assumed. Risk-based capital indexes the amount of capital a particular insurer needs based on its own unique risk profile. The commissioner currently has authority to adopt risk-based capital regulations for most other insurers based upon any of the following risks: the nature and type of risks the insurer underwrites; the premium volume for the insurer; the composition, quality, and liquidity of an insurer's investments; fluctuations in the market value of securities held by an insurer; and the adequacy of an insurer's reserves. Currently, certain specialty companies that write business only in Texas, including companies operating pursuant to Chapter 912, do not have capital stock and are not subject to these higher financial solvency requirements of risk-based capital.

H.B. 2449 amends current law relating to requirements for county mutual insurance companies.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 3 (Section 912.056, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 822.205(a), Insurance Code, as follows:

- (a) Provides that except as provided by Section 912.308 (Amount and Investment of Surplus), this section applies only to an insurance company that writes insurance only in this state and is not required by law to have capital stock. Makes a nonsubstantive change.

SECTION 2. Amends Section 912.308(b), Insurance Code, as follows:

- (b) Provides that except as provided by Section 912.056 (Creation of Local Chapters and Districts), a county mutual insurance company is subject to Subchapter B (Organization of County Mutual Insurance Company; Directors), Chapter 404 (Financial Condition), and Sections 822.203 (Capital Required Generally), 822.210 (Commissioner May Require Larger Capital and Surplus Amounts), and 822.212 (Increase of Capital and Surplus), rather than Sections 822.203, 822.205 (Unencumbered Surplus or Guaranty Fund Requirements for Certain Insurance Companies), 822.210, and 822.212.

SECTION 3. Amends Section 912.056, Insurance Code, by adding Subsections (d), (e), (f), and (g), as follows:

(d) Authorizes a company organized and operating under this chapter that, as of September 1, 2001, and continuously thereafter, appointed managing general agents, created districts, or organized local chapters to manage a portion of the company's business independent of all other business of the company to continue to operate in that manner and to appoint and contract with one or more managing general agents in accordance with this code only if the company cedes 85 percent or more of the company's direct and assumed risks to one or more reinsurers, and has a private passenger automobile insurance business with a market share of not greater than five percent or that is predominantly nonstandard.

(e) Requires a company described by Subsection (d) to file, for each managing general agent, district, or local chapter program, the rating information required by the commissioner of insurance (commissioner) by rule. Requires each managing general agent, district, or local chapter program to be treated as a separate insurer for the purposes of Chapters 544 (Prohibited Discrimination), 2251 (Rates), 2253 (Rating Territories), and 2254 (Premium Refund for Certain Personal Lines).

(f) Requires a company operating under Subsection (d) that cedes 85 percent or more of the company's direct and assumed risks to one or more nonaffiliated reinsurers, notwithstanding any other provision of this code, to maintain unencumbered surplus, or guaranty fund and unencumbered surplus, equal to the greater of \$2 million or five percent of the company's recoverable for reinsurance after taking full credit against the recoverable as otherwise permitted for premium payable to ceding insurers, net of any ceding commission due the company; collateral held as required by Section 493.104 (Credit for Funds Securing Reinsurance Obligations), letters of credit and security trusts that secure the collection of the reinsurance; and reinsurance through reinsurers whose financial strength is rated "A" or better by the A.M. Best Company, Incorporated, or another nationally recognized statistical rating organization acceptable to the commissioner.

(g) Requires the commissioner by rule to adopt a transition period for insurance companies subject to Subsection (f) to meet the requirements of that subsection and for the pro rata elimination of any deficiencies in the amounts required under that subsection. Requires that the transition period adopted under this subsection be for a period of not less than five years.

SECTION 4. Effective date: September 1, 2009.