BILL ANALYSIS

Senate Research Center
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S.B. 147
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Private mortgage insurance helps lenders make funds available to home buyers for low down payment mortgages by insuring these institutions against a significant portion of the financial risk or default. The private mortgage insurance industry's mission is to help put as many people as possible into homes sooner for less money down, and to ensure that they stay in those homes. By insuring conventional low down payment mortgages, private mortgage insurers have made homeownership a reality for more than 800,000 Texans.

The purpose of the bill is to repeal the retained risk and reinsurance provisions of Section 3502.158 (Limit on Coverage for Certain Insureds), Texas Insurance Code, because those requirements have become counterproductive and costly.

The repeal of the statute will significantly reduce costs for companies and the Texas Department of Insurance (TDI) without any increase in risk since the risk is currently retained in the company and its affiliates.

The 25 percent limitation contained in this statute has never achieved its intended purpose, which was to shift a portion of the risk of default to third-party reinsurers. Third-party reinsurance for mortgage guaranty insurance turned out to be non-existent. As a result, reinsurance to meet the statutory requirement is now provided by affiliated reinsurers set up for that purpose. These transactions provide no new capital and only add to costs.

In order to meet the demand by lenders for higher coverage, the statutory requirement forces these companies to establish, license, and maintain separate affiliated entities, and to capitalize them to meet minimum statutory requirements as well as expected losses. Separate books and records, periodic reports, and licenses must also be maintained for each entity both by the companies and TDI. Incurring these significant costs and administrative burdens is of no benefit when all of the risk remains within the company and its affiliates.

As proposed, S.B. 147 amends current law relating to the amount of outstanding total liability of a mortgage guaranty insurer.

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 Section 3502.156(b), Insurance Code, to delete existing text requiring a mortgage guaranty insurer to compute the insurer's liability for the purposes of this section on the basis of the insurer's liability under the election as provided by Section 3502.158 (Limit on Coverage for Certain Insureds).

SECTION 2. Repealer: Section 3502.158 (Limit on Coverage for Certain Insureds), Insurance Code.

SECTION 3. Effective date: upon passage or September 1, 2013.