

CHAPTER 254

S.B. No. 190

AN ACT

relating to the definition of doing an insurance business in this state.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Subsection (a), Section 2, Article 1.14-1, Insurance Code, is amended to read as follows:

(a) Any of the following acts in this state effected by mail or otherwise is defined to be doing an insurance business in this state. The venue of an act committed by mail is at the point where the matter transmitted by mail is delivered and takes effect. Unless otherwise indicated, the term insurer as used in this Article includes all corporations, associations, partnerships and individuals engaged as principals in the business of insurance and also includes interinsurance exchanges, ~~and~~ mutual benefit societies, *and insurance exchanges and syndicates as defined by rules promulgated by the State Board of Insurance.*

1. The making of or proposing to make, as an insurer, an insurance contract.
2. The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety.

3. The taking or receiving of any application for insurance.
4. The receiving or collection of any premium, commission, membership fees, assessments, dues or other consideration for any insurance or any part thereof.
5. The issuance or delivery of contracts of insurance to residents of this state or to persons authorized to do business in this state.
6. Directly or indirectly acting as an agent for or otherwise representing or aiding on behalf of another any person or insurer in the solicitation, negotiation, procurement or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or in any other manner representing or assisting a person or insurer in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this state. The provisions of this subdivision shall not operate to prohibit full-time salaried employees of a corporate insured from acting in the capacity of an insurance manager or buyer in placing insurance in behalf of such employer.
7. Contracting to provide indemnification or expense reimbursement in this state to persons domiciled in this state or for risks located in this state, whether as an insurer, agent, administrator, trust, funding mechanism, or by any other method, for any type of medical expenses including, but not limited to surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether this coverage is by direct payment, reimbursement, or otherwise. This provision shall not apply to:
  - (i) ~~(a)~~ any program otherwise authorized by law that is established by any political subdivision of this state or under the provisions of The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes) or by a state agency; or
  - (ii) ~~(b)~~ a multiple employer welfare arrangement which is fully insured as defined in 29 U.S.C.A. Section 1144(b)(6) except that the Commissioner may apply any laws that regulate the business of insurance in this state to the extent that such laws provide (1) standards requiring the maintenance of specified levels of contributions, which any such plan, or any trust established under such a plan, must meet in order to be considered under such law able to pay benefits in full when due, and (2) provisions to enforce such standards.
8. The doing of any kind of insurance business specifically recognized as constituting the doing of an insurance business within the meaning of the statutes relating to insurance.
9. The doing or proposing to do any insurance business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of the statutes.
10. Any other transactions of business in this state by an insurer.

SECTION 2. Section 2, Article 1.14-1, Insurance Code, is amended by adding Subsection (c) to read as follows:

*(c) The State Board of Insurance shall promulgate rules defining insurance exchanges and syndicates covered by Subsection (a) of this section.*

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on February 17, 1987, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 15, 1987, by a viva-voce vote. Passed the House, with amendment, on May 14, 1987, by a non-record vote.

Approved May 28, 1987.

Effective August 31, 1987, 90 days after date of adjournment.