

CHAPTER 415

S.B. No. 293

AN ACT

relating to the creation, operation, financing, regulation, and taxation of the Texas Insurance Exchange.

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

SECTION 1. Chapter 1, Insurance Code, is amended by adding Article 1.14-3 to read as follows:

Art. 1.14-3. TEXAS INSURANCE EXCHANGE

Sec. 1. DEFINITIONS. *In this article:*

- (1) "Exchange" means the Texas Insurance Exchange.
- (2) "Board" means the State Board of Insurance.
- (3) "Directors" means the board of directors of the exchange.
- (4) "Member" means a person, firm, corporation, or underwriting syndicate authorized by the directors of the exchange to insure or reinsure risks through the exchange.
- (5) "Subscriber" means a person, firm, corporation, or other organization designated by the directors of the exchange as a subscriber on payment of fees or dues required by the constitution and bylaws.

Sec. 2. CREATION OF EXCHANGE. *The Texas Insurance Exchange is created and shall operate under a constitution and bylaws and under regulations promulgated by the board.*

Sec. 3. PURPOSE OF EXCHANGE. *The purpose of the exchange is to provide a facility for underwriting the following:*

- (1) reinsurance of any kind of insurance;
- (2) direct insurance of any kind of risk located entirely outside the United States;
- (3) direct insurance of any kind of risk located in a state of the United States other than this state if the risk qualifies for placement under the excess and surplus lines requirements of the jurisdiction in which the risk is located; and
- (4) a risk located in this state that is submitted to and certified as having been rejected by a committee representative of not fewer than three and not more than seven insurers licensed to do an insurance business in this state and subject to conditions imposed by regulations promulgated by the board.

Sec. 4. MANAGEMENT OF EXCHANGE. *The board shall promulgate regulations under which the exchange shall be operated and managed, and the directors shall operate and manage the exchange in accordance with those regulations.*

Sec. 5. OPERATION OF EXCHANGE. (a) *The exchange shall function under a constitution and bylaws adopted by it and approved by the board.*

(b) *The exchange may amend its constitution and bylaws in accordance with their terms and with the approval of the board.*

(c) *The constitution and bylaws and amendments to the constitution and bylaws are invalid without the approval of the board.*

(d) *Notwithstanding any authority under this article to adopt or amend the constitution and bylaws, the constitution and bylaws must provide for:*

- (1) *the election of not fewer than six but not more than 12 directors, one-third of whom represent the public interest and are not members, subscribers, or agents of the exchange;*

(b) The investment in a member by agents transacting business on the exchange and the investment in an agent transacting business on the exchange by a member, either directly or indirectly, in each case is limited in the aggregate to less than 20 percent of the total investment in the member or agent or to a lesser amount provided by board regulation.

Sec. 11. APPLICATION OF CERTAIN STATUTES. For purposes of Article 1.14-1 of this code, insurance and reinsurance written under Subdivision (4) of Section 3 of this article written by members of the exchange are deemed to have been written in accordance with specific authorization of the laws of this state.

Sec. 12. GUARANTY FUNDS. Performance of the contractual obligations of the exchange or its members entered into under this article is not covered by any of the Texas insurance guaranty funds provided by the laws of this state. This section does not apply to the security fund provided by Subdivision (4) of Subsection (d) of Section 5 of this article.

SECTION 2. Before the adoption of the constitution and bylaws of the Texas Insurance Exchange, the State Board of Insurance by regulation may specify the method to be used to select a board of directors for the exchange. Interim directors selected under that method may not serve for longer than one year from date of selection or until the constitution and bylaws are adopted by the exchange and approved by the State Board of Insurance, whichever time shall first occur.

SECTION 3. This Act takes effect September 1, 1987.

SECTION 4. 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.

Passed the Senate on May 8, 1987, by a viva-voce vote. Passed the House on May 22, 1987, by a non-record vote.

Approved June 17, 1987.

Effective Sept. 1, 1987.