

CHAPTER 256

S.B. No. 370

AN ACT

relating to the capital and surplus requirements of insurance companies other than certain life, health, and accident insurance companies.

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

SECTION 1. Articles 2.02 and 2.20, Insurance Code, as amended, are amended to read as follows:

Art. 2.02. ARTICLES OF INCORPORATION. Such Articles of Incorporation shall contain:

1. The name of the company; and the name selected shall not be so similar to that of any other insurance company as to be likely to mislead the public;
2. The locality of the principal business office of such company;
3. The kind of insurance business in which the company proposes to engage; for the purposes of determining the amount of capital and surplus required under this Code of a

capital stock company, or the amount of surplus required of a mutual company, reciprocal exchange, or the amount of guaranty fund and surplus required of a Lloyds, full coverage automobile insurance shall be construed as one line of casualty insurance;

4. The amount of its capital stock and its surplus, which shall in no case be less than \$1 million [~~\$300,000~~] capital and \$1 million [~~\$500,000~~] surplus.

At the time of incorporation all of said capital and surplus shall be in cash.

Art. 2.20. INCREASE OF CAPITAL AND SURPLUS. If *an* [~~a domestic~~] insurance company chartered under this chapter or *a foreign or alien insurance company authorized to do business in this state that is* [~~otherwise~~] subject to the capital and surplus requirements of this chapter [~~or a foreign or alien insurance company doing business in Texas as an authorized fire or casualty insurer, or both, on the effective date hereof~~] has less than \$1 million [~~\$300,000~~] capital and \$1 million surplus, it may continue to transact the kind or kinds of insurance business for which it *holds* [~~held~~] a Texas certificate of authority. *However, the insurance company must* [~~on that date, provided that it~~] increase its capital and surplus to [~~so that it has~~] at least \$1 million [~~\$300,000~~] capital and \$1 million surplus, [~~either at the time of or~~] immediately after any change of control of the insurance company or change of control of any holding company controlling the insurance company if, *after the effective date of this Act when considered cumulatively, there has been a change of control of at least 50 percent of the voting securities of the insurance company or holding company or other means of control if the insurance company or holding company is not controlled by voting securities* [~~at any time after the change of control the controlling person or persons will in the aggregate own, hold, or control at least 50 percent of the voting securities of the company. However, the company is not required to increase its surplus except as necessary to comply with Article 1.10 of this code~~]. For the purposes of this article, however, a transfer of ownership that occurs because of death, irrespective of whether the decedent died testate or intestate, may not be considered a change of control of an insurance company or change of control of a holding company, if ownership is transferred solely to one or more natural persons each of whom would be an heir of the decedent if the decedent had died intestate.

SECTION 2. (a) Section 2.02, Insurance Code, as amended by this Act, applies only to articles of incorporation filed with the State Board of Insurance on or after the effective date of this Act. Articles of incorporation filed before that date are governed by the law that existed at the time the articles of incorporation were filed with the State Board of Insurance, and that law is continued in effect for that purpose.

(b) Any change of control approved by the commissioner of insurance pursuant to an acquisition statement filed with the commissioner before the effective date of this Act shall be deemed to have occurred the day before the effective date of the Act for purposes of determining capital and surplus requirements.

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 25, 1987, by the following vote: Yeas 27, Nays 0; and that the Senate concurred in House amendment on May 15, 1987, by the following vote: Yeas 30, Nays 0. Passed the House, with amendment, on May 14, 1987, by the following vote: Yeas 143, Nays 0, three present not voting.

Approved May 29, 1987.

Effective May 29, 1987.