

SUBJECT: Repealing the countersignature requirement for nonresident insurance agents

COMMITTEE: Insurance — committee substitute recommended

VOTE: 7 ayes — Smithee, Van de Putte, Bonnen, Burnam, G. Lewis, Olivo, Wise

0 nays

2 absent — Averitt, Eiland

WITNESSES: For — Robert Huxell, Texas Association of Insurance Agents; Bobby Burns

Against — None

BACKGROUND : The Texas Insurance Code prohibits out-of-state insurance agents, firms or corporations from directly doing business in Texas. Such nonresident agents and companies may issue policies in Texas only with the countersignature of a local recording agent — an independent Texas insurance agent or firm that represents insurance companies in selling and servicing property and casualty insurance. Under the code, nonresident companies or agents must pay their local recording agent the same commission that Texas agents must pay to do business in their states. Qualified nonresident agents, however, can secure a Non-Resident Insurance Agent's License that allows them to provide insurance services to Texas policyholders. The license requires the holder to divide commissions with Texas agents.

Laws governing insurance sales by nonresident agents vary from state to state. Texas is one of 19 states and territories that require countersignatures by a resident agent. Seven states require countersignatures by a licensed agent, while 14 require countersignatures only if an agent's home state has such a requirement. Fifteen states have no countersignature requirement at all.

DIGEST: (Rep. Craddick, the author of HB 578, plans to introduce a floor substitute to CSHB 578, digested here in lieu of CSHB 578.) The floor substitute for HB 578 would repeal the countersignature requirement and allow licensed

nonresident agents to conduct authorized insurance transactions without the countersignature of a local recording agent.

The floor substitute would not apply to full-time salaried agents of insurance companies in Texas.

The bill would take effect September 1, 1997, and apply only to business conducted on or after that date. Nonresident agents who currently hold Non-Resident Insurance Agent licenses could continue to conduct business under the existing law.

**SUPPORTERS
SAY:**

CSHB 578, as substituted, would eliminate an outdated administrative function that poses unnecessary costs and paperwork while providing no real benefit to Texas agents or policyholders. In fact, the countersignature law may even be harmful to agents because an agent who countersigns a policy could be held liable for it, even if that agent had little or nothing to do with arranging the terms of the policy.

Countersignature laws were enacted decades ago, presumably to protect both Texas insurance agents and policyholders from piracy by out of state agents. But they no longer serve any real purpose; the Texas Department of Insurance has safeguards in place that protect policyholders and prevent unfair competition with Texas agents.

The current law inhibits economic growth because the expense and inconvenience of adhering to countersignature requirements discourages out- of-state firms from doing business in Texas. In one case, a company is withholding its decision to set up an office to Texas, a move that would create approximately 500 new jobs, until the countersignature law is repealed.

Currently, 14 states require countersignatures only if an agent's home state requires them. By eliminating the countersignature requirement here, the bill would free Texas agents and companies from having to comply with countersignature requirements in states with this reciprocal mandate.

Eliminating the countersignature requirement would not have a significant effect on how business is now conducted. Countersignatures are a formality

that many companies have found ways to work around. For example, countersignatures are often kept on file in computers or faxed to a company by a local recording agent who may not even see the policy before it is countersigned.

The majority of states either do not require countersignatures or require them only in reciprocity to the mandates placed on their agents by other states. A bill has been introduced in Congress to eliminate countersignature requirements in every state, reflecting increased awareness that this archaic provision hampers business activity.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

The floor substitute to CSHB 578 would correct references to nonresident agents and local recording agents. The floor substitute also would specify that a nonresident agent may not maintain an office in Texas or employ solicitors or others to directly or indirectly sell insurance in Texas.

SB 750 by Bivins, which is almost identical to the floor substitute for CSHB 578, is pending in the Senate Economic Development Committee.