



Center for Economic Freedom: Review of the 82nd Session of the Texas Legislature

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HOMEOWNER'S INSURANCE

- ★ Texas Department of Insurance (TDI) sunset legislation finally passed after two legislative sessions. The bill took modest steps moving Texas closer to a true file and use system for the state of Texas.
- ★ A piece of stand-alone legislation was filed—HB 3156—that would have moved Texas to a true file and use system, as well as shift TDI resources from protecting consumers from “excessive” rates or profits to protection from insolvency and fraudulent behavior. While the bill did not receive a hearing, it was good first step towards moving our insurance regulation in that direction.
- ★ There were also three bills filed that attempted to return Texas to a true prior approval system of regulation. These bills were not granted hearings, and it seems that the legislature has moved past the notion of returning to prior approval.

WINDSTORM INSURANCE

- ★ Neither side could agree on how to reform the Texas Windstorm Insurance Association during the regular session. As a result, the TWIA bill was passed during special session. The debate primarily hinged on whether there will be forced arbitration in the case of windstorm disputes, if the policy holders can sue TWIA in case of a claim dispute, and if so, what damages are recoverable.
- ★ The TWIA bill does not get to the real problem, which is rating practices. Coastal policyholders are still without competition due to TWIA's rating structure, and as such cannot get good policies. In addition, taxpayers and policyholders statewide will continue paying for the subsidized coastal policyholders' rates. Some members of the Legislature have indicated that an interim committee

will be created to look at the rating issue, and one bill has been filed this special session to phase-out TWIA and get the Texas Legislature out of the insurance business.

PROPERTY RIGHTS

- ★ The omnibus eminent domain bill—SB 18—passed, and was signed into law. This bill adds some significant protections for private property rights. Importantly, the bill prohibits eminent domain takings that are not for a public use. In addition, the bill requires any taking entity to give a *bona fide* offer equal to or greater than the appraised value by a certified appraiser prior to instituting eminent domain procedures. It also now requires that certain condemnors take land for a “public use” rather than a “public purpose,” restoring constitutional language in statute. Overall, the bill strengthens property rights in the state of Texas.
- ★ The Legislature passed a bill—HB 364—expanding the ability of Houston to exercise eminent domain authority. However, the Foundation worked to ensure that the bill contains the most restrictive blight language in statute, as well as a sunset provision.

ELECTRICITY AND RENEWABLE ENERGY

- ★ The Public Utility Commission of Texas (PUC) sunset bill—SB 661—was stopped on a point of order on the House floor and did not pass. There were several provisions in the bill that were bad for the Texas electricity market. The first was “cease and desist,” which would have given the PUC the authority to stop a company from competing if it felt that there was a violation, something they can already do now through the courts. That provision would have skirted the court's authority to act as a check on the system. In addition, the bill would have increased fines to companies, which would have passed

through to consumers and increased consumers' electricity bills. The other provision was "disgorgement" which passed as stand-alone legislation.

- ★ House Bill 2133 allows the PUC to force a company to give back—or disgorge—excess revenues resulting from a violation of PUC rules, including market power abuse. The bill is unnecessary because the market is highly competitive and no instance of market power abuse has been found in the market.
- ★ Senate Bill 1125 was the only significant energy efficiency bill passed this session. This bill expands the current energy efficiency goals and seeks to change the energy efficiency goal metric from annual growth to peak demand by a utility transition. This will result in higher electricity bills for Texas consumers and businesses.

CIVIL JUSTICE

- ★ House Bill 274—the "loser pays" bill—passed the Legislature and has been signed into law. The loser pays provision ensures merit based cases by imposing legal fees on the losing party. Additionally, there are other procedural protections from frivolous lawsuits in the bill. For example, Texas will have a motion to dismiss prior to the discovery phase, there will be a sped up docket for claims under \$100,000, and a reform to the interlocutory appeals process. These provisions will help create a more efficient less costly tort system in Texas.
- ★ There were also several attempts by the Legislature to encroach on our ability to enter into voluntary contractual agreements, in the form of anti-indemnity bills. These bills prevent contractors and sub-contracts from allocating risk in their construction contracts. Although initially stopped, the anti-indemnity language was amended on to another bill and has passed into law.

TELECOMMUNICATIONS

- ★ Our research into the telecommunications market helped the passage and signing into law of SB 980, the omnibus telecommunications deregulation bill. This legislation will allow new technology and innovation such as VOIP, broadband, and cable to compete in the market. The law will end specific tariffing requirements and remove monopoly relic regulation. This bill will increase competition in the marketplace and lower costs for Texas consumers.

FINANCIAL REGULATION

- ★ This session there were no less than 18 bills filed to regulate short-term lending in Texas. Three bills, including one that would virtually regulate these businesses out of business gained a lot of momentum as the session moved along. Two of the three bills—HB 2592 and 2594—eventually passed. HB 2592 forces storefronts to post pricing numbers and rates, granting rulemaking authority for the State to do so. HB 2594 requires each storefront to register with the Consumer Finance Commissioner and pay an annual registration fee. Fortunately, these two that passed placed the least restrictions on consumers and businesses of the three.

