

Texas Supreme Court Holds Sale of Stop-Loss Insurance is Subject to State Insurance Code Regulation

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In a recent decision, the Texas Supreme Court held that an insurer's sale of stop-loss insurance to a self-funded group health plan is subject to taxes and other regulatory requirements under the Texas State Insurance Code (the "Code"). The court of appeals previously held that the employer's self-funded group health plan was an insurer under the Code and thus the plan's purchase of stop-loss insurance was reinsurance that was beyond the regulatory scope of the Texas Department of Insurance. The insurer argued that stop-loss insurance fell within the Code's exception for reinsurance, but the Supreme Court reversed the decision of the court of appeals and found that stop-loss insurance sold to the self-funded employee health plan is not reinsurance, but rather direct insurance subject to regulation under the Code. *Texas Dept. of Insurance v. American National Insurance Co.*, No. 10-0374 (Tex. May 18, 2012).