

Amend Amendment No. 25 by Rose to **CSHB 4** (beginning on page 565, amendment packet) as follows:

(1) On page 6 of the amendment, strike line 1, and substitute the following: "a preponderance of the evidence presented by an insurer that:".

(3) On page 8, line 6, after "insured", add provided that the rate was adequate and not artificially inflated prior to or after the determination of constitutionality.

(4) On page 8 of the amendment, strike lines 8 through 10 and substitute the following: "A proceeding under this article is a contested case under Chapter 2001, Government Code. The commissioner shall not grant the exception unless the insurer proves by a preponderance of the evidence that the rate reduction is confiscatory. If the insurer meets this evidentiary burden, the commissioner may grant the exception only to the extent that the reduction is confiscatory."

(A) If the commissioner makes no determination as to a rate reduction in accordance with Article 5.163, Section 1, then an insurer may not charge an insured for professional liability insurance for physicians and health care providers issued or renewed on or after the second anniversary of the 30th day after the effective date of the constitutional amendment containing a \$250,000 cap on noneconomic damages in all health care liability claims or the date the cap was determined to be constitutional and before the third anniversary of the 30th day after the effective date of the constitutional amendment or the date the cap was determined to be constitutional an amount that exceeds 80 percent of the amount the insurer charged or would have charged the insured for the same coverage.

(B) If the commissioner makes no determination as to a rate reduction in accordance with Article 5.163, Section 1, then an insurer may not charge an insured for professional liability insurance for physicians and health care providers issued or renewed on or after the third anniversary of the 30th day after the effective date of the constitutional amendment containing a \$250,000 cap on noneconomic damages in all health care liability claims or the date the cap was determined to be constitutional and

before the fourth anniversary of the 30th day after the effective date of the constitutional amendment or the date the cap was determined to be constitutional an amount that exceeds 75 percent of the amount the insurer charged or would have charged the insured for the same coverage.