

Amend CSSB 14 as follows:

(1) On page 6, line 17 between "(a)" and "An" insert "Notwithstanding any other law, Article 5.26-1 applies to rates for residential property insurance during the rollback period identified in Article 5.26-1".

(2) Strike SECTION 3.07 of the bill by adding a new Article to the bill, appropriately numbered, as follows:

ARTICLE _____ RATE ROLLBACK FOR HOMEOWNERS INSURANCE

SECTION _____.01. Subchapter C, Chapter 5, Insurance Code, is amended by adding Article 5.26-1 to read as follows:

Article 5.26-1. Rate Rollback

Sec. 1. No insurer may charge rates for residential property insurance on policies issued or renewed during the rollback period that are greater than the insurer's rates for the same type of coverage that were in effect on January 1, 2001.

Sec. 2. "The rollback period" begins October 1, 2003, and ends September 30, 2004.

Sec. 3. In the event of any conflict between this article and Article 5.26 of this chapter, Article 5.142 of this code, or any other law, this article shall prevail.

Sec. 4. A replacement value policy in effect during the rollback period is the same type of policy as an HOB policy in effect on January 1, 2001 and an actual cash value policy in effect during the rollback period is the same type of policy as an HOA policy in effect on January 1, 2001. If an insurer was not writing insurance in this state on January 1, 2001, then its rates shall be deemed to be the benchmark rates set by the Commissioner in effect on January 1, 2001.

Sec. 5. Every insurer subject to this article shall file with the Department no later than July 1, 2003 a copy of all of its rates and rating factors in effect in this state on January 1, 2001, and shall include a sworn affidavit from an officer of the company attesting that the rates filed were the rates in effect on January 1, 2001.

Sec. 6. During the rollback period, the Commissioner may permit an insurer to charge higher rates than those provided in section (1) of this article only if higher rates are required by the

Texas or United States Constitution. In that event, the Commissioner shall only permit the insurer to increase rates to the minimum level required to comply with the Texas and United States constitutions. Any insurer that seeks to charge rates in excess of the amounts provided in section (1) of this article must file with the Commissioner, no later than July 1, 2003, a written request to do so. The request must include all evidence the insurer will rely on at the hearing, including a written and sworn copy of all testimony and all exhibits that will be offered. An insured, the public insurance counsel, and any other interested person may participate in the hearing. Notwithstanding any other provision of this code or the Government Code, the hearing shall not be conducted by the State Office of Administrative Hearings, but directly by the commissioner. The burden of proof is on the insurer to show that the rate reduction specified in section (1) would produce rates in violation of the Texas or U.S. constitution. The Commissioner shall conduct the hearing no later than September 1, 2003, and issue an order on the request no later than September 5, 2003. Not later than the 10th day after the date of the commissioner's order, the insurer, an insured, the public insurance counsel, or any other interested person may file a petition for judicial review in a district court in Travis County. The standard of review of the commissioner's order is substantial evidence. During the appeal brought by an insurer, the insurer may charge rates above those in effect on January 1, 2001. If on final appeal the court finds that rates below those actually charged by the insurer would have complied with the Texas and U.S. constitutions, the insurer shall refund the difference in overcharged premium to each policyholder (calculated by subtracting the premium under the rates determined by the court to comply with the Texas and U.S. constitutions from the premiums actually charged by the insurer), plus twelve percent simple interest per annum.

Sec. 7. This article applies to all insurers, including a reciprocal or interinsurance exchange, mutual, capital stock company, fraternal benefit society, farm mutual, local mutual aid association, county mutual insurance company, association, Lloyd's plan company, and any other entity writing residential property

insurance.