

Amend **CSSB 14** by striking Section 2.02 (on page 35, line 22 through page 38, line 16) and substituting the following:

SECTION 2.02. Subchapter E, Chapter 21, Insurance Code, is amended by adding Article 21.49-2V to read as follows:

Article 21.49-2V. Regulation of Underwriting Guidelines.

Sec. 1. DEFINITIONS. In this article:

(1) "Actuarially sound" means the underwriting guideline is shown to differentiate among consumers who have different expected costs associated with the transfer of risk, all other relevant factors being the same. The burden of proof in any proceeding regarding whether an underwriting guideline is actuarially sound shall be on the party that used or intends to use the underwriting guideline to show that the underwriting guideline is actuarially sound.

(2) "Credit scoring" and "insurance scoring" mean an underwriting guideline based in whole or in part on information related to an individual's credit, credit worthiness, credit standing, credit capacity, credit history, payment habits, or financial responsibility.

(3) "Person" means any individual, insurance company, reciprocal or interinsurance exchange, mutual, farm mutual insurance company, capital stock company, fraternal benefit society, local mutual aid association, county mutual insurance company, association, Lloyd's plan company, farm mutual company, and any other legal entity engaged in the business of insurance, including agents.

(4) "Personal automobile insurance" means an automobile insurance policy providing insurance coverages for the ownership, maintenance, or use of private passenger, utility, and miscellaneous type motor vehicles and trailers including mobile homes and recreational trailers, and not primarily used for the delivery of goods, materials, or services, unless such use is in farm or ranch operations and provided that such vehicles are owned or leased by an individual or individuals.

(5) "Residential property insurance" means insurance against loss to real or tangible personal property at a fixed location provided in a homeowners policy, a tenant policy, a

condominium owners policy, or a residential fire and allied lines policy.

(6) "Underwriting guideline" means a rule, standard, marketing decision, guideline, or practice, whether written, oral or electronic, used by an insurer or its agent to examine, bind, accept, reject, renew, nonrenew, cancel, or limit coverages made available to classes of consumers or individual consumers.

Sec. 2. PROHIBITION. No person shall use an underwriting guideline for personal automobile insurance or residential property insurance, other than underwriting guidelines covered in section 3 of this article, without the prior approval of the commissioner. If the commissioner has not issued an order approving the filing within 30 days after the filing of the application, the insurer may request a hearing on the application, to be held at the State Office of Administrative Hearings under Government Code Chapter 2001. The burden of proof in any such hearing shall be on the insurer. The hearings examiner must issue a proposal for decision within 30 days after the filing of the request for a hearing. The hearings examiner's proposed order shall be final unless the commissioner issues a different order within 15 days after the commissioner receives the proposed order.

Sec. 3. PERMISSIBLE UNDERWRITING GUIDELINES. An insurer is not required to obtain the commissioner's approval to use an underwriting guideline that complies with paragraph (1), (2), or (3) of this section:

(1) Underwriting guidelines for personal automobile insurance that are based on the following characteristics:

(A) average miles driven in a year or other specified time period;

(B) accidents in which a person to be insured under the policy can reasonably be considered to have been at fault and which resulted in bodily injury or property damage;

(C) a final conviction in any court in the United States, forfeiture of bond, or payment of a fine or an amount accepted by the court if the conviction, forfeiture or payment was a result of an allegation that a violation of a law regulating the operation of motor vehicles was committed;

(D) the making of a fraudulent insurance claim;
or

(E) number of years of driving experience or
number of years licensed to drive.

(2) Underwriting guidelines for residential property
insurance that are based on the following characteristics:

(A) the physical condition of the property to be
insured, provided the underwriting guideline has specific and
objective measures to evaluate the hazard;

(B) claim experience on a residential property
policy arising out of the owner's negligence;

(C) if a structure to be insured is vacant or
unoccupied for more than 60 days;

(D) the making of a fraudulent insurance claim;
or

(E) an act of arson.

(3) underwriting guidelines promulgated by the
commissioner by rule, if the commissioner determines after a
hearing that the underwriting guideline:

(A) is actuarially sound;

(B) promotes the mitigation of losses; and

(C) does not have an adverse impact based on
income level.

Sec. 4. PRIOR APPROVAL STANDARDS. The commissioner shall
not approve the use of an underwriting guideline unless the
underwriting guideline:

(A) is actuarially sound;

(B) promotes the mitigation of losses; and

(C) does not have an adverse impact based on income
level.