

BILL ANALYSIS

Senate Research Center

S.B. 14
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DIGEST AND PURPOSE

The commissioner of insurance (commissioner) establishes benchmark rates for automobile and residential property insurance. Most homeowners and many automobile owners are insured by companies not subject to benchmark rate regulation. S.B. 14 regulates the rates of personal automobile and homeowners insurance under a prior approval system with a 30-day review period by the Texas Department of Insurance (TDI) and one 30-day extension. If the rate has not been approved or disapproved during the first 30-day review period, and TDI does not request an extension, the rate is deemed approved. If the rate has not been approved or disapproved during either the first 30-day review period or the 30-day extension, the rate is deemed approved. The prior approval system would apply to insurers writing homeowners and personal auto insurance in Texas, including county mutuals, Lloyd's plan companies, and reciprocal or interinsurance exchanges. Under the prior approval system, an insurer is required to file rates, rating manuals, supplementary supporting data, and policy and service fees. The bill also addresses rate standards, public disclosure requirements, rights of insureds and the public insurance counsel, required quarterly legislative reports, rate hearings, appeals, judicial review, and circumstances for refund of overcharged premiums.

Policy forms for automobile insurance are currently promulgated by the commissioner, and all insurers writing automobile insurance in the state are required to use the promulgated standard forms. Currently, residential property insurers may use either promulgated standard forms or forms of national insurers or national organizations of insurers that have been approved or adopted by the commissioner. S.B. 14 regulates both personal automobile and residential property insurance forms under a prior approval system with a 60-day period for review by the insurance department. If a filed form is not approved or disapproved during the 60-day review period, the form is deemed approved and may be used by the insurer. The bill also addresses form standards, public disclosure requirements, and the public insurance counsel's participation in the form filing process.

The bill also regulates commercial automobile insurance rates and forms under the same system as commercial property insurance.

Currently, the use of credit scoring by automobile and residential property insurers is not regulated, and many insurers use credit scoring in determining whether to write a risk or how to rate the risk. S.B. 14 regulates the use of credit scoring through specified restrictions, disclosure requirements, filing of credit models, and required appeal procedures. The bill restricts the use of credit information by insurers including prohibitions on (1) using disputed credit information subject to a pending dispute, medical bill collection information, and number of insurance inquiries or non-consumer-initiated credit inquiries; (2) making a determination in whole or in part on the fact that a person has little or no credit history or on a person's ownership or possession of a particular type of credit card, charge card, or debit card; (3) using credit information that is arbitrary, capricious, or unfairly discriminatory; (4) using the race, color, religion, or national origin of an insured or applicant; and (5) using the gender of an insured or applicant. The bill requires insurers to file credit scoring models with the insurance department; such models are subject to disclosure under the public information act. The bill prohibits consumer reporting agencies, with certain exceptions, from providing or selling data or lists that include any information submitted in conjunction with an insurance inquiry about a consumer's credit information or a request for a credit report or insurance score. The bill requires an insurer to indemnify, defend, and hold its agents harmless from and against all liability, fees, and costs

that arise out of or relate to the actions, errors, or omissions of an agent who obtains or uses credit information or insurance scores for the insurer if the agent follows the instructions of or procedures established by the insurer and complies with applicable law or rule.

S.B. 14 requires residential property insurers to file the insurer's initial rates, supporting information, and supplementary rating information not later than the 10th day after the effective date of the article. The insurer may notify TDI that the insurer is using the rate filing required under S.B. 310 passed earlier this session or the insurer may file a new rate and supporting information. The filed rates are subject to approval or modification by TDI not later than the 20th day after the effective date of this article for each insurer with \$10 million or more in direct written premium during 2002, and not later than the 80th day after the effective date of this article for each insurer with less than \$10 million in direct written premium during 2002. The insurer may appeal TDI's modification of its rates to the commissioner not later than the 10th day after the date of receipt by the insurer of the notification of the modification. The bill addresses hearing procedures for the appealed rates, judicial review procedures, and use of existing rates or modified rates during the pendency of the appeal. The bill requires an insurer writing personal automobile insurance in this state to file its initial rates with TDI in accordance with a schedule determined by the commissioner.

Currently, insurers for all lines of insurance must file their underwriting guidelines with TDI upon request. The filed guidelines are confidential. S.B. 14 requires all personal automobile and residential property insurers to file their underwriting guidelines with TDI. The guidelines are subject to disclosure under the public information act. The bill continues TDI's authority to request underwriting guidelines for other lines of insurance.

Currently, some insurers are exempt from the filing of a withdrawal plan upon withdrawing from writing insurance in the state or reducing the insurer's total annual premium volume by 75 percent or more in any line, including Lloyd's plan insurers, reciprocals or interinsurance exchanges, and county mutuals. Currently, the commissioner is required to approve a withdrawal plan unless the commissioner holds a hearing before the 31st day after the date the plan is filed. S.B. 14 provides that all insurers, including Lloyd's plan insurers, reciprocals or interinsurance exchanges, and county mutuals, are subject to the requirements of the withdrawal plan statute. The bill authorizes the commissioner to determine the date that the withdrawal is to begin and to modify, restrict, or limit the withdrawal in any manner if the commissioner finds that any line of insurance described in the filed withdrawal plan is not offered in the state in a quantity or manner adequate to cover the risks or protect the interests of the citizens of Texas.

The bill creates a property and casualty legislative oversight committee comprised of seven members, including the chair of the Senate Business and Commerce Committee, the chair of the House Committee on Insurance, two members of the senate appointed by the lieutenant governor, two members of the house of representatives appointed by the speaker of the house, and the public insurance counsel. The purpose of the committee is to (1) monitor the progress of property and casualty insurance regulation reform, including the fairness of rates, underwriting guidelines, rating manuals, the availability of coverage, the effect of rate rollbacks, credit scoring, and regulation of the homeowners and auto insurance markets; (2) receive information about rules relating to property and casualty insurance; and (3) review insurance department legislative recommendations. The committee shall report not later than November 15 of each even-numbered year to the governor, lieutenant governor, and speaker of the house of representatives on an analysis of any problems caused by property and casualty insurance regulation reform and make legislative recommendations to address problems and foster stability and availability within the industry. The committee is abolished September 1, 2007.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1.01 (Section 3, Section 4, and Section 16, Article 5.142, and Article 5.171, Insurance Code), SECTION 2.01 (Section 6, Article 5.145, Insurance Code), SECTION 3.01 (Section 13, Article 21.49-2U, Insurance Code), SECTION 5.03 (Section 2, Article 5.13-2 Insurance Code), SECTION 6.06 (Section 5, Article 5.13-2, Insurance Code), SECTION 6.08 (Section 13, Article

5.13-2, Insurance Code), SECTION 6.10 (Section 15, Article 5.13-2, Insurance Code), SECTION 9.02 (Section 5, Article 21.49, Insurance Code), SECTION 9.03 (Section 6A, Article 21.49, Insurance Code), SECTION 9.04 (Section 6C, Article 21.49, Insurance Code), SECTION 9.05 (Section 6D, Article 21.49, Insurance Code), SECTION 12.05 (Section 2A and 2B, Article 21.74, Insurance Code), SECTION 15.03 (Section 36.005, Insurance Code) SECTION 21.40 (Section 912.002, Insurance Code), and SECTION 21.43 (Section 941.003, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1.01. Amends Chapter 5, Insurance Code, by adding Subchapter Q, S, and U as follows:

SUBCHAPTER Q. RATES FOR CERTAIN LINES

Art. 5.142. RATES FOR RESIDENTIAL PROPERTY INSURANCE COVERAGE

Sec. 1. SCOPE. Provides that this article governs the regulation of rates for residential property insurance.

Sec. 2. DEFINITIONS. (a) Defines “advisory organization,” “classification,” “disallowed expenses,” “filer,” “insurer,” “line,” “rate,” “rating manual,” “residential property insurance,” “supplementary rating information,” and “supporting information.”

(b) Provides that for purposes of this subchapter, a rate is excessive if it meets certain conditions, inadequate if it meets certain conditions, or unfairly discriminatory if it meets certain conditions.

Sec. 3. RATING CRITERIA. (a) Requires an insurer to set rates for each line in accordance with this section.

(b) Requires an insurer to consider certain factors in setting rates.

(c) Authorizes an insurer to group risks by classification for the establishment of rates and minimum premiums and modify classification rates to produce rates for individual risks in accordance with rating plans that establish standards for measuring variations in those risks on the basis of any factors listed in Subsection (b) of this section.

(d) Prohibits rates established under this section from being excessive, inadequate, unreasonable, or unfairly discriminatory for the risks to which they apply.

(e) Requires an insurer to use its own historical premium and loss data, as well as its own data for expenses and for profit and contingency factors, in setting rates applicable to policyholders in this state. Authorizes the commissioner of insurance (commissioner) to require an audit of the insurer’s historical premium and loss data. Authorizes the insurer to separately supplement its own historical premium and loss data with industry-wide historical premium and loss data for this state as necessary. Authorizes the commissioner by rule to establish requirements for reporting historical premium and loss data under this subsection.

Sec. 4. RATE FILINGS. (a) Requires an insurer to file with the Texas Department of Insurance (TDI) all rates, supplementary rating information, supporting information, and all applicable rating manuals for risks written in this state. Requires the insurer to include in the filing any statistics or other information to support the rates to be used by the insurer and as required by the commissioner by rule, including information necessary to evidence that the computation of the rate does not include disallowed expenses. Requires an insurer to include in the filing all information concerning policy fees, service fees, and other fees that are charged or collected by the insurer under Article 21.35B of this code.

(b) Requires the insurer to file with each rate filing a certificate by an officer of the insurer that all rate classifications, the rates applicable to those classifications, and the risk factors to which those classifications apply are based on reasonably sound and verifiable actuarial principles and that no classifications are unfairly discriminatory.

(c) Authorizes the commissioner to simplify filing requirements by rule for small insurers and new insurers, subject to certain limitations.

Sec. 5. PRIOR APPROVAL REQUIRED. (a) Prohibits an insurer from using a rate until the rate has been filed with TDI and approved by the commissioner as provided by this section. Provides that for purposes of this section, a rate is filed with TDI the date the rate filing is received by TDI.

(b) Requires the commissioner, not later than the 30th day after the date the rate is filed with TDI to approve the rate if the commissioner determines that the rate complies with the requirements of this article or disapprove the rate if the commissioner determines that the rate does not comply with the requirements of this article.

(c) Requires the commissioner to provide written or electronic notification of the approval to the insurer, if the commissioner approves a rate filing. Authorizes the insurer to use the rate, on receipt of the notice of the commissioner's approval of a rate.

(d) Provides that the rate is deemed approved and authorizes the insurer to use the rate, except as provided by Subsection (e) of this section or Section 9 of this article, if the rate has not been approved or disapproved by the commissioner before the expiration of the 30-day period described by Subsection (b) of this section.

(e) Authorizes the commissioner to extend the period for approval or disapproval of a rate filing for an additional 30-day period on the expiration of the 30-day period described by Subsection (b) of this section. Provides that if the rate has not been approved or disapproved by the commissioner before the expiration of the additional 30-day period described in this subsection, the rate is deemed approved and the insurer is authorized to use the rate. Prohibits the commissioner from extending the period for approval or disapproval of a rate filing beyond the additional 30-day period described in this subsection.

(f) Requires that if TDI has requested additional information from the insurer during the first 30-day review period provided under Subsection (b) of this section or under the second 30-day review period provided under Subsection (e) of this section, the period of time between the date of TDI's submission of the request for additional information to the insurer and the date of the receipt of the additional information by TDI from the insurer not be counted in the days to determine what constitutes the first 30-day review period or the second 30-day review period. Provides that for purposes of this subsection, the date of TDI's submission of the request for additional information is the date of the email or telephone call or postmarked date on the letter pertaining to the request for additional information.

(g) Requires that from the date of the filing of the rate with the commissioner to the effective date of the new rate, the insurer's previously filed rate that is in effect as provided in this article remain in effect.

Sec. 6. DISAPPROVAL; WITHDRAWAL OF APPROVAL. (a) Requires the commissioner to disapprove a rate filed under this article if the commissioner determines that the rate does not meet the requirements of this article. Authorizes the commissioner to consider the extent and nature of market competition in the personal automobile

insurance and residential property insurance markets and the availability or lack of availability of personal automobile insurance and residential property insurance in determining whether to disapprove any rates filed under this article.

(b) Requires the commissioner to issue an order specifying in what respects the rate filing fails to meet the requirements of this article, if the commissioner disapproves a rate filing before the 30th day after the date of the filing of the rate with TDI, as provided in Section 5(b)(2) of this article and Subsection (e) of this section, or before the expiration of the additional 30-day period as provided in Section 5(e) of this article and Subsection (e) of this section. Requires the commissioner's order to include the rates and terms which the commissioner would approve for use by the insurer, if the insurer has filed all of the information required to be filed under Section 4 of this article. Provides that filer is entitled to a hearing on written request to the commissioner not later than the 30th day after the effective date of the disapproval order.

(c) Requires the commissioner to notify in writing the insurer that made the filing and authorizes issuance of a withdrawal of approval order only after a hearing held not sooner than the 20th day after the date of the written notice, if the commissioner withdraws approval of a rate that is in effect,. Requires the order to be issued not later than the 15th day after the close of the hearing and to specify how the rate fails to meet the requirements of this article. Requires the order to state the future date on which the further use of the disapproved rate is prohibited and, if applicable, specify the interim rate as provided in Subsection (d) of this section.

(d) Authorizes the commissioner to specify an interim rate at the time the order is issued, if an insurer has no legally effective rate because of an order withdrawing the approval of rates that are in effect. Authorizes the interim rate to be modified by the commissioner on the commissioner's own motion or on motion by the insurer. Requires the interim rate or any modification of that rate to take effect on the date specified in the commissioner's order.

(e) Requires a commissioner's order disapproving a rate or withdrawing the previous approval of a rate, and any notice of the commissioner's intent to withdraw a previous approval, to state the grounds for the disapproval or for the withdrawal of previous approval in sufficient detail to reasonably inform the filer of the grounds.

(f) Prohibits an insurer from using a rate in this state after disapproval or withdrawal of approval of the rate by the commissioner, except as provided by Section 13(b) of this article.

Sec. 7. SUPERVISION REQUIREMENT. Authorizes the commissioner to require the insurer to file with the commissioner all rates, supplementary rating information, and any supporting information prescribed by the commissioner, if the commissioner determines after a hearing that an insurer's rates require supervision because of the insurer's financial condition or the insurer's rating practices.

Sec. 8. PUBLIC INFORMATION. Provides that each rate filing and any supporting information filed under this article are subject to disclosure under Chapter 552 (Public Information), Government Code, as of the date the filing is received by the commissioner.

Sec. 9. RIGHTS OF INSUREDS, PUBLIC INSURANCE COUNSEL, AND OTHERS. Authorizes an insured, the public insurance counsel, and any other interested person to make a written application to the commissioner not later than the 20th day after the date of a rate filing under Section 5 of this article requesting a hearing on the rate filing. Requires the application to specify the grounds on which the applicant is requesting the hearing. Requires the commissioner to conduct a hearing under Chapter 2001

(Administrative Procedure), Government Code, if the commissioner finds that the application is made in good faith and that the applicant establishes reasonable grounds to justify holding the hearing. Provides that after that hearing, the commissioner has 30 days to disapprove the filing under Section 6 of this article, or it is deemed approved.

Sec. 10. QUARTERLY LEGISLATIVE REPORT. (a) Requires each insurer subject to this article to file with the commissioner on a quarterly basis information relating to changes in losses, premiums, and market share.

(b) Requires the commissioner to report on a quarterly basis to the governor, the lieutenant governor, and the speaker of the house of representatives on the information provided by the insurers' reports, summary information obtained from market conduct examinations and analyses to the extent such information is not confidential by law, and consumer complaints received by the TDI.

Sec. 11. RATE HEARINGS; ADMINISTRATIVE PROCEDURES. Provides that Chapter 2001, Government Code, applies to all hearings on rates conducted under this article. Provides that to the extent of any conflict between this article and Chapter 2001, Government Code, this article prevails.

Sec. 12. APPEAL. Authorizes an insurer, the public insurance counsel, or an interested person described by Section 9 of this article aggrieved by an order of the commissioner issued under this article to, not later than the 30th day after the date the commissioner issued the order, appeal the order in accordance with Chapter 36 D, of this code.

Sec. 13. JUDICIAL REVIEW. (a) Authorizes an insurer to file a petition for judicial review in a district court in Travis County not later than the 10th day after the date of receipt of the commissioner's order under Section 6(c) of this article. Provides that the standard of review of the commissioner's order is substantial evidence.

(b) Authorizes an insurer to charge either its existing rates or the rates as ordered by the commissioner, during the pendency of the appeal.

Sec. 14. REFUND REQUIRED. Requires an insurer to refund the difference in overcharged premium to each policyholder, plus interest, if on final appeal the court upholds the commissioner's determination as to rates. Provides that the interest rate is the prime rate plus one percent as published in *The Wall Street Journal* on the first day of each calendar year that is not a Saturday, Sunday, or legal holiday.

Sec. 15. NOTICE TO POLICYHOLDER. Requires an insurer to send to each holder of a policy of insurance subject to this article notice of any rate increase scheduled to take effect on the renewal of the policy that exceeds 10 percent of the amount paid by the policyholder for coverage under the policy immediately before renewal.

Sec. 16. RULES. Requires the commissioner to adopt rules as necessary to implement this article.

Sec. 17. EXPIRATION. Provides that this article expires December 1, 2004.

SUBCHAPTER S. REFUND

Art. 5.144. REFUND OF EXCESSIVE OR DISCRIMINATORY PREMIUM;
DISCOUNT. (a) Defines "insurer," "personal automobile insurance," and "residential property insurance."

(b) Authorizes the commissioner, except as provided by Subsection (d) of this article, if the commissioner determines that an insurer has charged a rate for personal automobile insurance or residential property insurance that is excessive or unfairly discriminatory, as described by Article 5.13-2 or 5.101 of this code,

to:

(1) issue a refund of the excessive or unfairly discriminatory portion of the premium directly to each affected policyholder if the amount of that portion of the premium is at least 7.5 percent of the total premium charged for the coverage; or

(2) if the amount of that portion of the premium is less than 7.5 percent:
(A) provide each affected policyholder who renews the policy a future premium discount in the amount of the excessive or unfairly discriminatory portion of the premium; and
(B) provide each affected policyholder who does not renew or whose coverage is otherwise terminated a refund in the amount described by Subdivision (1) of this subsection.

(c) Authorizes an insurer, on or before the 20th day after the date an order is issued under this article, to request a rate hearing to be conducted by the State Office of Administrative Hearings to determine whether the rate that is subject to the order is excessive and discriminatory. Authorizes the office of public insurance counsel to participate in a hearing conducted under this subsection and present evidence at the hearings.

(d) Authorizes the administrative law judge, after completion of the rate hearing under Subsection (c) of this section, to prepare a proposal for decision under Section 40.058 of this code and remand the case to the commissioner recommending:

(1) that the commissioner affirm the commissioner's order; or
(2) additional review of the order by the commissioner to be completed not later than the 10th day after the date the commissioner receives the administrative law judge's proposal, that the parties enter into negotiations, or that the commissioner take other appropriate action with respect to the order within a time period specified by the administrative law judge.

(e) Provides that an action or failure to act of the commissioner under Subsection (d) of this section is subject to appeal under Subchapter D, Chapter 36 of this code.

(f) Provides that this article does not apply to rates for personal automobile insurance or residential property insurance for which an insurer has obtained prior approval of those rates under Section 5A, Article 5.13-2 of this code.

(g) Provides that Subsection (b) of this section applies prospectively to a rate filed on or after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003.

SUBCHAPTER U. RATING TERRITORIES FOR CERTAIN LINES

Art. 5.171. RATING TERRITORIES. Prohibits an insurer from using rating territories that subdivide a county unless the county is subdivided and the rate for any subdivisions within that county is not greater than 15 percent higher than the rate used in any other subdivisions in the county by that insurer, except that the commissioner may by rule allow a greater rate difference for residential property insurance or personal automobile insurance.

Art. 5.172. APPLICATION TO CERTAIN INSURERS. Provides that this subchapter does not apply to a county mutual insurance company, a Lloyd's plan, and a reciprocal or interinsurance exchange, before January 1, 2004, notwithstanding Sections 912.002, 941.003, 942.003, or any other provision of this code.

PART B. RATES FOR CERTAIN PERSONAL AUTOMOBILE INSURANCE

SECTION 1.02. Amends the heading to Article 5.101, Insurance Code, to read as follows:

Art. 5.101. FLEXIBLE RATING PROGRAM FOR PERSONAL AUTOMOBILE INSURANCE

SECTION 1.03. Amends Section 1, Article 5.101, Insurance Code, as follows:

Sec. 1. New heading: APPLICABILITY. (a) Provides that this article applies only to personal automobile insurance.

(b) Redesignated from Subsection (c).

SECTION 1.04. Amends Section 2, Article 5.101, Insurance Code, by adding Subdivision (6) to define "personal automobile insurance."

SECTION 1.05. Amends Section 3, Article 5.101, Insurance Code, by amending Subsection (e) and adding Subsection (r), as follows:

(e) Authorizes an insurer to continue to use its previously filed rates or make additional rate filings based on the previous benchmark rate for new policies or policies renewing prior to the specified effective date of its new rate, subject to certain limitations. Deletes language requiring rates proposed in filings made under this subsection to be just, reasonable, adequate and not excessive for the risks to which they apply.

(r) Provides that an insurer who writes insurance in a line subject to this article is subject to the rating standards described by Section 3A of this article.

SECTION 1.06. Amends Article 5.101, Insurance Code, by adding Sections 3A, 3B, 3C, and 7, as follows:

Sec. 3A. RATING STANDARDS. (a) Prohibits rates used by insurers subject to this article to be excessive, inadequate, unreasonable, or unfairly discriminatory for the risks to which they apply.

(b) Provides that for purposes of this section, a rate is:

- (1) excessive if the rate is likely to produce a long-term profit that is unreasonably high in relation to the insurance coverage provided;
- (2) inadequate if the rate is insufficient to sustain projected losses and expenses to which the rate applies, and continued use of the rate:
 - (A) endangers the solvency of an insurer using the rate; or
 - (B) has the effect of substantially lessening competition or creating a monopoly within any market; or
- (3) unfairly discriminatory if the rate:
 - (A) is not based on sound actuarial principles;
 - (B) does not bear a reasonable relationship to the expected loss and expense experience among risks; or
 - (C) is based wholly or partly on the race, creed, color, ethnicity, or national origin of the policyholder or an insured.

Sec. 3B. CHANGE OF RATE WITHIN FLEXIBILITY BAND; REQUIRED FILING. Requires an insurer who changes a rate used by the insurer that is established within the flexibility band to file the changed rate with TDI in the manner prescribed by rule by the commissioner, notwithstanding Section 3(e) of this article.

Sec. 3C. REFUND. Authorizes the commissioner to order the insurer to make a refund in the manner prescribed by Article 5.144 of this code, if the commissioner determines

that rates of an insurer do not comply with the rating standards established under this article and are excessive or discriminatory.

Sec. 7. EXPIRATION. Provides that this article expires December 1, 2004.

PART C. TRANSITION

SECTION 1.07. Requires an insurer's initial filing under Section 10, Article 5.142, Insurance Code, as added by this article, to include the information required under that section beginning with the calendar quarter beginning January 1, 2003.

ARTICLE 2. POLICY FORMS AND ENDORSEMENTS

SECTION 2.01. Amends Chapter 5, Insurance Code, by adding Subchapter T, as follows:

SUBCHAPTER T. POLICY FORMS FOR CERTAIN LINES

Art. 5.145. POLICY FORMS FOR PERSONAL AUTOMOBILE INSURANCE COVERAGE AND RESIDENTIAL PROPERTY INSURANCE COVERAGE

Sec. 1. DEFINITIONS. Defines "insurer," "personal automobile insurance," and "residential property insurance."

Sec. 2. REGULATION OF POLICY FORMS AND ENDORSEMENTS. (a) Provides that an insurer is governed by the provisions of Section 8, Article 5.13-2 of this code, relating to policy forms and endorsements for personal automobile insurance and residential property insurance, notwithstanding any other provision in this code and except as provided by this section.

(b) Authorizes an insurer to continue to use the policy forms and endorsements promulgated, approved, or adopted under Articles 5.06 and 5.35 of this code on notification to the commissioner in writing that the insurer will continue to use those forms.

Sec. 3. REQUIREMENTS FOR FORMS; PLAIN LANGUAGE REQUIREMENT. (a) Requires each form filed under this article to comply with applicable state and federal law.

(b) Requires each form for a policy of personal automobile insurance to provide the coverages mandated under Articles 5.06-1 and 5.06-3 of this code unless the coverages are rejected by the named insured in the manner provided by those articles.

(c) Prohibits use of a form if it is not in plain language. Provides that for the purposes of this section, a form is written in plain language if it achieves the minimum score established by the commissioner on the Flesch reading ease test or an equivalent test selected by the commissioner or, at the option of the commissioner, if it conforms to the language requirements in a National Association of Insurance Commissioners model act relating to plain language. Provides that this section does not apply to policy language that is mandated by state or federal law.

Sec. 4. PERSONAL AUTOMOBILE INSURANCE. (a) Provides that a contract or agreement that is not written into the application for insurance coverage and the personal automobile insurance policy is void and of no effect and violates this article and Subchapter A of this chapter.

(b) Provides that a contract or agreement described by Subsection (a) of this

section constitutes grounds for the revocation of the certificate of authority of an insurer to write personal automobile insurance in this state.

Sec. 5. PUBLIC INSURANCE COUNSEL. Authorizes the office of public insurance counsel to submit written comments to the commissioner and otherwise participate regarding individual company filings made under Article 5.13-2 of this code, notwithstanding Article 1.35A of this code.

Sec. 6. RULEMAKING. Authorizes the commissioner to adopt reasonable and necessary rules to implement this article.

ARTICLE 3. USE OF CREDIT SCORING

PART A. CREDIT SCORING

SECTION 3.01. Amends Subchapter E, Chapter 21, Insurance Code, by adding Article 21.49-2U, as follows:

Art. 21.49-2U. USE OF CREDIT SCORING IN CERTAIN PERSONAL LINES OF INSURANCE

Sec. 1. DEFINITIONS. Defines "adverse effect," "agent," "applicant for insurance coverage," "consumer," "consumer reporting agency," "credit information," "credit report," "credit score," "insurance score," "insured," "insurer," and "personal insurance."

Sec. 2. APPLICATION. Provides that this article applies to an insurer that writes personal insurance coverage and uses credit information or credit reports for the underwriting or rating of that coverage.

Sec. 3. PROHIBITED USE OF CREDIT INFORMATION. (a) Prohibits an insurer from:

- (1) using a credit score that is computed using factors that constitute unfair discrimination;
- (2) denying, cancelling, or nonrenewing a policy of personal insurance solely on the basis of credit information without consideration of any other applicable underwriting factor independent of credit information; or
- (3) taking an action that results in an adverse effect against a consumer because the consumer does not have a credit card account without consideration of any other applicable factor independent of credit information.

(b) Prohibits an insurer from considering an absence of credit information or an inability to determine credit information for an applicant for insurance coverage or insured as a factor in underwriting or rating an insurance policy unless the insurer:

- (1) has statistical, actuarial, or reasonable underwriting information that:
 - (A) is reasonably related to actual or anticipated loss experience;
 - and
 - (B) shows that the absence of credit information could result in actual or anticipated loss differences;
- (2) treats the consumer as if the applicant for insurance coverage or insured had neutral credit information, as defined by the insurer; or
- (3) excludes the use of credit information as a factor in underwriting and uses only other underwriting criteria.

Sec. 4. NEGATIVE FACTORS. (a) Prohibits an insurer from using any of the following as a negative factor in any credit scoring methodology or in reviewing credit information to underwrite or rate a policy of personal insurance:

- (1) a credit inquiry that is not initiated by the consumer;

- (2) an inquiry relating to insurance coverage, if so identified on a consumer's credit report; or
- (3) a collection account with a medical industry code, if so identified on the consumer's credit report.

(b) Requires multiple lender inquiries made within 30 days of a prior inquiry, if coded by the consumer reporting agency on the consumer's credit report as from the home mortgage industry, to be considered by an insurer as only one inquiry.

(c) Requires multiple lender inquiries made within 30 days of a prior inquiry, if coded by the consumer reporting agency on the consumer's credit report as from the motor vehicle lending industry, to be considered by an insurer as only one inquiry.

Sec. 5. EFFECT OF EXTRAORDINARY EVENTS. (a) Requires an insurer, on written request from an applicant for insurance coverage or an insured, to provide reasonable exceptions to the insurer's rates, rating classifications, or underwriting rules for a consumer whose credit information has been directly influenced by a catastrophic illness or injury, by the death of a spouse, child, or parent, by temporary loss of employment, by divorce, or by identity theft. Provides that in such a case, the insurer may consider only credit information not affected by the event or shall assign a neutral credit score.

(b) Authorizes an insurer to require reasonable written and independently verifiable documentation of the event and the effect of the event on the person's credit before granting an exception. Provides that an insurer is not required to consider repeated events or events the insurer reconsidered previously as an extraordinary event.

(c) Authorizes an insurer to also consider granting an exception to an applicant for insurance coverage or an insured for an extraordinary event not listed in this section.

(d) Provides that an insurer is not out of compliance with any law or rule relating to underwriting, rating, or rate filing as a result of granting an exception under this article.

Sec. 6. DISPUTE RESOLUTION; ERROR CORRECTION. (a) Requires the insurer to re-underwrite and re-rate the insured not later than the 30th day after the date of receipt of the notice, if it is determined through the dispute resolution process established under Section 611(a)(5), Fair Credit Reporting Act (15 U.S.C. Section 1681i), as amended, that the credit information of a current insured was inaccurate or incomplete or could not be verified and the insurer receives notice of that determination from the consumer reporting agency or from the insured.

(b) Requires the insurer to make any adjustments necessary within 30 days, consistent with the insurer's underwriting and rating guidelines, after re-underwriting or re-rating the insured. Requires the insurer to credit the amount of overpayment if an insurer determines that the insured has overpaid premium. Requires the insurer to compute the overpayment back to the shorter of:

- (1) the last 12 months of coverage; or
- (2) the actual policy period.

Sec. 7. DISCLOSURE TO CONSUMERS FOR USE OF CREDIT SCORING. (a) Authorizes an insurer to use credit scoring to develop rates, rating classifications, or underwriting criteria regarding lines of insurance subject to this article except for factors that constitute unfair discrimination.

(b) Requires an insurer that uses credit scoring in the underwriting or rating of

insurance subject to this article to disclose to each applicant for insurance coverage that the applicant's credit report may be used in the underwriting or rating of the applicant's policy. Requires the disclosure to be provided at the time of application by the insurer or agent and provides that it may be given orally, in writing, or electronically.

(c) Provides that if a policy is issued to the applicant for insurance coverage, an insurer or agent is not required to make the disclosure required under Subsection (b) of this section on any subsequent renewal of the coverage.

(d) Requires an insurer or its agents to disclose to its customers, on a form promulgated by the commissioner, whether credit information will be obtained on the applicant or insured or on any other member or members of the applicant's or insured's household and used as part of the insurance credit scoring process. Requires the insurer to disclose to the applicant the name of each person on whom credit information was obtained or used and how each person's credit information was used to underwrite or rate the policy, if credit information is obtained or used on the applicant or insured, or on any member of the applicant's or insured's household.

Sec. 8. NOTICE OF ACTION RESULTING IN ADVERSE EFFECT. (a) Requires an insurer that takes an action resulting in an adverse effect with respect to an applicant for insurance coverage or insured based in whole or in part on information contained in a credit report, to provide certain information to the applicant or insured within 30 days.

(b) Requires the insurer to include a description of not more than four factors that were the primary influences of the action resulting in the adverse effect.

(c) Provides that the use by the insurer of a generalized term such as "poor credit history," "poor credit rating," or "poor credit score" does not constitute sufficient notice under this section of the action resulting in the adverse effect.

(d) Provides that standardized credit explanations provided by a consumer reporting agency or other third-party vendors are also sufficient to comply with this section.

Sec. 9. MANDATED FILING WITH DEPARTMENT. Requires an insurer that uses credit scores to underwrite and rate risks to file the credit scoring models or other credit scoring processes with TDI. Authorizes another entity to file credit scoring models on behalf of an insurer. Provides that a filing that includes credit scoring may include loss experience justifying the use of credit information.

Sec. 10. PUBLIC INFORMATION. Provides that a credit scoring model filed for purposes of compliance with this article, as of the date the filing is received by the department:

- (1) is public information;
- (2) is not subject to any exceptions to disclosure under Chapter 552, Government Code; and
- (3) cannot be withheld from disclosure under any other law.

Sec. 11. INDEMNIFICATION. (a) Requires an insurer to indemnify, defend, and hold its agent harmless from and against all liability, fees, and costs that arise out of or relate to the actions, errors, or omissions of an agent who obtains or uses credit information or credit scores for the insurer if the agent follows the instructions of or procedures established by the insurer and complies with any applicable law or rule.

(b) Prohibits this section from being construed to establish a cause of action that does not exist in the absence of this section.

Sec. 12. SALE OF POLICY TERM INFORMATION BY CONSUMER REPORTING AGENCY PROHIBITED. (a) Prohibits a consumer reporting agency from providing or selling data or lists that include any information that, in whole or in part, was submitted in conjunction with an insurance inquiry about a consumer's credit information or a request for a credit report or credit score, including:

- (1) the expiration dates of an insurance policy or any other information that may identify periods during which a consumer's insurance may expire; and
- (2) the terms and conditions of the consumer's insurance coverage.

(b) Provides that the restriction under Subsection (a) of this section does not apply to data or lists that the consumer reporting agency provides to:

- (1) the agent from whom information was received;
- (2) the insurer on whose behalf the agent acted; or
- (3) that insurer's affiliates.

(c) Prohibits this section from being construed to restrict the ability of an insurer to obtain a claims history report or a report regarding a motor vehicle.

Sec. 13. RULES. (a) Authorizes the commissioner to adopt rules as necessary to implement this article.

(b) Requires the commissioner to promulgate by rule the allowable differences in rates charged by insurers due solely to the difference in credit scores.

Sec. 14. EFFECT OF VIOLATION. Provides that an insurer that violates this article or a rule adopted under this article commits an unfair practice in violation of Article 21.21 of this code and is subject to sanctions under Chapter 82 of this code.

Sec. 15. REPORT. (a) Requires the commissioner to submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the members of the 79th Legislature on the information collected from the insurer filings required under this article and other information obtained by TDI regarding the use of credit information by insurers. Requires the report to be submitted before January 1, 2005.

(b) Requires the report required under this section to include certain information.

(c) Provides that this section expires March 1, 2005.

Sec. 16. DUTIES OF DEPARTMENT. Requires TDI to:

- (1) update insurer profiles maintained on TDI's Internet website to provide information to consumers stating whether or not an insurer uses credit scoring; and
- (2) post the report required under Section 15 of this article on TDI's Internet website.

PART B. TRANSITION

SECTION 3.02. Requires an insurer that is using an insurance credit score system on the effective date of this Act to file the insurance credit scoring models described by Section 9, Article 21.49-2U, Insurance Code, as added by this article, with the commissioner of insurance not later than the 90th day after the effective date of this Act. Requires an insurer that uses an insurance credit score system after the effective date of this Act to file the insurer's insurance credit scoring models with the commissioner of insurance before using those models.

SECTION 3.03. (a) Provides that this article applies only to a residential property or personal

automobile insurance policy:

- (1) that is delivered, issued for delivery, or renewed on or after January 1, 2004;
- (2) the application for which is submitted on or after January 1, 2004; or
- (3) that is subject to determination of denial, cancellation, or nonrenewal on or after January 1, 2004.

(b) Provides that a residential property or personal automobile insurance policy delivered, issued for delivery, or renewed before January 1, 2004, or the application for which is submitted before January 1, 2004, or that is subject to determination of denial, cancellation, or nonrenewal before January 1, 2004, is governed by the law as it existed immediately before January 1, 2004, and that law is continued in effect for that purpose.

ARTICLE 4. INITIAL RATE FILINGS; RATE REDUCTION

SECTION 4.01. Amends Subchapter C, Chapter 5, Insurance Code, by adding Article 5.26-1, as follows:

Art. 5.26-1. RESIDENTIAL PROPERTY INSURANCE INITIAL RATE FILINGS; RATE REDUCTION

Sec. 1. APPLICATION; DEFINITIONS. (a) Provides that this article applies only to residential property insurance.

(b) Provides that the definitions adopted under Article 5.142 of this code apply to this article.

Sec. 2. INITIAL RATE FILING. (a) Requires each insurer subject to Article 5.142 of this code to file the insurer's rates, supporting information, and supplementary rating information with the commissioner, not later than the 20th day after the effective date of this article. Authorizes the insurer to notify TDI that the insurer is using the rate filing submitted under Article 5.141 of this code to comply with the requirements of this article, or the insurer may file an update to the material filed under Article 5.141 of this code. Requires an insurer to use a rate filed under this subsection not later than the 30th day after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003.

(b) Authorizes TDI to approve the rate filed by an insurer under Subsection (a) of this section or modify a filed rate not later than the 60th day after the effective date of this article for each insurer with \$10 million or more in direct written residential property insurance premium in this state during 2002 and not later than the 90th day after the effective date of this article for each insurer with less than \$10 million in direct written residential property insurance premium. Requires an approved or modified rate under this subsection to be just, reasonable, adequate, not excessive, and not unfairly discriminatory for the risks to which it applies. Provides that TDI has exclusive jurisdiction to determine a rate under this subsection. Requires TDI to notify the insurer of the applicable rate. Requires the rate determined by TDI under this subsection or determined under Subsection (c) of this section to take effect on the date specified by the insurer, but not later than the later of:

- (1) the 30th day after the date the commissioner notifies the insurer of the rate determination under this subsection; or
- (2) the 30th day after the date the rate filed by the insurer is deemed approved under Subsection (c) of this section.

(c) Provides that a rate filed by an insurer under Subsection (a) of this section that is not modified on or before the applicable deadline for modification described by Subsection (b) is deemed approved on the date of the applicable deadline for

modification.

Sec. 3. APPEAL TO COMMISSIONER. Authorizes an insurer to appeal TDI's decision to the commissioner, not later than the 10th day after the date of receipt by the insurer of notification from TDI of rates determined by TDI under Section 2(b) of this article.

Sec. 4. HEARING. Requires the commissioner to conduct a hearing and issue an order on the insurer's appeal not later than the 30th day after the date of receipt of notification of an insurer's appeal under Section 3 of this article. Provides that the burden of proof is on the insurer to show, by clear and convincing evidence, that the rate reduction specified by TDI would produce inadequate rates. Provides that the hearing shall not be conducted by the State Office of Administrative Hearings, but directly by the commissioner, notwithstanding any other provision of this code or the Government Code. Authorizes the commissioner, by order, to affirm the rate reduction, grant a lesser rate reduction, or order a greater rate reduction than the rate reduction imposed under Section 2(b) of this article.

Sec. 5. JUDICIAL REVIEW. (a) Authorizes an insurer to file a petition for judicial review in a district court of Travis County, not later than the 10th day after the date of receipt of the commissioner's order under Section 4 of this article. Provides that the standard of review of the commissioner's order is substantial evidence.

(b) Authorizes an insurer to charge either its existing rates or the rates as ordered by the commissioner, during the pendency of the appeal.

Sec. 6. REFUND REQUIRED. Requires the insurer to refund the difference in overcharged premium to each policyholder, plus interest, if on final appeal the court upholds the commissioner's determination that the insurer's rates are excessive. Provides that the interest rate is the prime rate plus one percent as published in *The Wall Street Journal* on the first day of each calendar year that is not a Saturday, Sunday, or legal holiday.

Sec. 7. EXPIRATION. (a) Provides that this article expires September 1, 2004.

(b) Provides that the expiration of this article does not affect an action or proceeding against an insurer subject to that law for a failure to comply with that law before its expiration, regardless of when the action or proceeding was commenced, and that law is continued in effect for that purpose.

ARTICLE 5. RATE REGULATION EFFECTIVE UNTIL DECEMBER 1, 2004

SECTION 5.01. Amends Article 5.13, Insurance Code, as follows:

Art. 5.13. New heading: SCOPE OF SUBCHAPTER. (a) Provides that this subchapter applies to every insurance company, corporation, interinsurance exchange, mutual, reciprocal, association, Lloyd's plan, or other organization or insurer writing any of the characters of insurance business herein set forth, hereinafter called "Insurer"; provided that nothing in this entire subchapter shall be construed to apply to any county or farm mutual insurance company or association, as regulated under Chapters 16 and 17 of this code, except that Article 5.13-2 of this code shall apply to a county mutual insurance company with respect to rates for commercial automobile insurance.

(b) Provides that this subchapter applies to the writing of casualty insurance and the writing of fidelity, surety, and guaranty bonds, on risks or operations in this State except as herein stated.

(c) Changes "workmen's" compensation to "workers'" compensation. Makes nonsubstantive changes.

(d) Makes a conforming change.

(e) Provides that the regulatory power herein conferred is vested in the commissioner, rather than the Board of Insurance Commissioners of the State of Texas. Deletes language relating to the Casualty Insurance Commissioner having primary supervision of regulation herein provided.

SECTION 5.02. Amends the heading of Article 5.13-2, Insurance Code, to read as follows:

Art. 5.13-2. RATES AND FORMS FOR CERTAIN PROPERTY AND CASUALTY
INSURANCE

SECTION 5.03. Amends Sections 1 and 2, Article 5.13-2, Insurance Code, as follows:

Sec. 1. PURPOSE. Provides that this article governs the regulation of insurance described by Section 2 of this article.

Sec. 2. SCOPE. (a) Provides that this article applies to all lines of certain insurance written under policies or contracts of insurance issued by an insurer authorized to engage in the business of insurance in this state.

(b) Provides that this article does not apply to a line of insurance regulated under Subchapter A or C of this chapter, except as otherwise specifically provided by this article.

(c) Requires the commissioner to adopt rules governing the manner in which forms and rates for the various classifications of risks insured under inland marine insurance, as determined by the commissioner, are regulated.

SECTION 5.04. Amends Subdivision (2), Section 3, Article 5.13-2, Insurance Code, to redefine "insurer."

SECTION 5.05. Provides that this article expires December 1, 2004.

ARTICLE 6. RATE REGULATION EFFECTIVE DECEMBER 1, 2004

SECTION 6.01. Amends Article 5.13, Insurance Code, as follows:

Art. 5.13. New heading: SCOPE OF SUBCHAPTER. (a) Provides that this subchapter applies to every insurance company, corporation, interinsurance exchange, mutual, reciprocal, association, Lloyd's plan, or other organization or insurer writing any of the characters of insurance business herein set forth, hereinafter called "Insurer"; provided that nothing in this entire subchapter shall be construed to apply to any county or farm mutual insurance company or association, as regulated under Chapters 911 and 912, rather than Chapters 16 and 17, of this code, except that Article 5.13-2 of this code shall apply to a county mutual insurance company with respect to personal automobile and commercial automobile insurance, residential and commercial property insurance, and inland marine insurance.

(b) Creates this subsection from existing text. Makes a conforming change.

(c) Includes noncommercial inland marine in the list of writings that this subchapter does not apply to. Makes conforming changes.

(d) Makes a conforming change.

(e) Provides that the regulatory power herein conferred is vested in the commissioner, rather than the Board of Insurance Commissioners of the State of Texas. Deletes language requiring that within the board, the Casualty Insurance

Commissioner have primary supervision of regulation herein provided, subject however to the final authority of the entire Board.

SECTION 6.02. Amends the heading of Article 5.13-2, Insurance Code, to read as follows:

Art. 5.13-2. RATES AND FORMS FOR CERTAIN PROPERTY AND CASUALTY INSURANCE

SECTION 6.03. Amends Sections 1 and 2, Article 5.13-2, Insurance Code, as follows:

Sec. 1. PURPOSE. Provides that this article governs the regulation of insurance described by Section 2 of this article.

Sec. 2. SCOPE. (a) Provides that this article applies to all lines of the following insurance written under policies or contracts of insurance issued by an insurer authorized to engage in the business of insurance in this state:

- (1) general liability insurance;
- (2) residential and commercial property insurance, including farm and ranch insurance and farm and ranch owners insurance;
- (3) personal and commercial casualty insurance, except as provided by Subsection (b) of this section;
- (4) medical professional liability insurance;
- (5) fidelity and surety bonds other than criminal court appearance bonds;
- (6) personal umbrella insurance;
- (7) personal liability insurance;
- (8) guaranteed auto protection (GAP) insurance;
- (9) involuntary unemployment insurance;
- (10) financial guaranty insurance;
- (11) inland marine insurance;
- (12) rain insurance;
- (13) hail insurance on farm crops; and
- (14) personal and commercial automobile insurance.

(b) Requires the commissioner to adopt rules governing the manner in which forms and rates for the various classifications of risks insured under inland marine insurance, as determined by the commissioner, are regulated.

SECTION 6.04. Amends Section 3, Article 5.13-2, Insurance Code, as follows:

Sec. 3. DEFINITIONS. Defines "disallowed expenses," "insurer," "rating manual," and "residential property insurance."

(b) Provides what a rate is for purposes of this article.

SECTION 6.05. Amends Section 4, Article 5.13-2, Insurance Code, by amending Subsections (b) and (d) and adding Subsection (f), as follows:

(b) Requires an insurer to consider certain factors in setting rates.

(d) Prohibits rates established under this article from being excessive, inadequate, unreasonable, or unfairly discriminatory for the risks to which they apply.

(f) Requires an insurer to use methods based on sound actuarial principles.

SECTION 6.06. Amends Section 5, Article 5.13-2, Insurance Code, by amending Subsection (a) and adding Subsections (a-1) and (a-2), as follows:

(a) Requires each insurer to file with the commissioner all rates, applicable rating

manuals, supplementary rating information, and additional information as required by the commissioner for risks written in this state.

(a-1) Requires the commissioner by rule to determine the information required to be provided in the filing, including:

- (1) the categories of supporting information;
- (2) the categories of supplementary rating information;
- (3) any statistics or other information to support the rates to be used by the insurer, including information necessary to evidence that the computation of the rate does not include disallowed expenses; and
- (4) information concerning policy fees, service fees, and other fees that are charged or collected by the insurer under Article 21.35A or 21.35B of this code.

(a-2) Requires the commissioner to consider insurer and market-specific attributes, as applicable, and promulgate filing requirements accordingly to accommodate premium volume and loss experience, targeted markets, limitations on coverage, and any potential barriers to market entry or growth, for an insurer with less than five percent of the market.

SECTION 6.07. Amends Article 5.13-2, Insurance Code, by adding Section 5A, as follows:

Sec. 5A. PRIOR APPROVAL REQUIRED FOR CERTAIN INSURERS. (a) Requires the commissioner by order to require an insurer to file with the commissioner all rates, supplementary rate information, and any supporting information as prescribed by this section if the commissioner determines that:

- (1) an insurer's rates require supervision because of the insurer's financial condition;
- (2) an insurer's rates require supervision because of the insurer's rating practices; or
- (3) a statewide insurance emergency exists.

(b) Prohibits an insurer from using a rate until the rate has been filed with TDI and approved by the commissioner as provided by this section, except as provided by Subsection (k) of this section. Provides that for purposes of this section, a rate is filed with TDI on the date the rate filing is received by TDI.

(c) Requires the commissioner, not later than the 30th day after the date the rate is filed with TDI, to:

- (1) approve the rate if the commissioner determines that the rate complies with the requirements of this article; or
- (2) disapprove the rate if the commissioner determines that the rate does not comply with the requirements of this article.

(d) Provides that, except as provided by Subsection (f) of this section, if the rate has not been approved or disapproved by the commissioner before the expiration of the 30-day period described by Subsection (c) of this section, the rate is considered approved and the insurer may use the rate unless the rate proposed in the filing represents an increase of 12.5 percent or more from the insurer's prior filed rate.

(e) Prohibits the commissioner and the insurer from by agreement extending the 30-day period described by Subsection (c) of this section.

(f) Authorizes the commissioner, for good cause, to extend the period for approval or disapproval of a rate for one additional 30-day period on the expiration of the 30-day period described by Subsection (c) of this section.

(g) Authorizes TDI to request additional information from the insurer, if TDI determines that the information filed by the insurer under this article is incomplete or otherwise deficient. Provides that if TDI requests additional information from the insurer during the first 30-day review period provided under Subsection (c) of this section or under the second 30-day review period provided under Subsection (f) of this section, the period of time between the date of TDI's submission of the request for additional information to the insurer and the date of the receipt of the additional information by TDI from the insurer is not counted to determine what constitutes the first 30-day review period or the second 30-day review period. Provides that for purposes of this subsection, the date of TDI's submission of the request for additional information is the date of the electronic mailing or telephone call or the postmarked date on the department's letter relating to the request for additional information.

(h) Requires the commissioner to approve the rate filing if the proposed rate is adequate, not excessive, and not unfairly discriminatory.

(i) Requires the commissioner to provide written or electronic notification of the approval to the insurer, if the commissioner approves a rate filing. Authorizes the insurer to use the rate, on receipt of the notice of the commissioner's approval of a rate.

(j) Provides that from the date of the filing of the rate with TDI to the effective date of the new rate, the insurer's previously filed rate that is in effect on the date of the filing remains in effect.

(k) Authorizes an insurer to use any rate subsequently filed by the insurer, without prior approval of the commissioner, if the subsequently filed rate does not exceed the lesser of 107.5 percent of the rate approved by the commissioner or 110 percent of any rate used by the insurer within the previous 12-month period, after approval of a rate filing under this section. Provides that filed rates under this subsection take effect on the date specified by the insurer.

(l) Requires the commissioner to issue an order in the manner prescribed by Section 7(b) of this article, if the commissioner disapproves a rate filing under Subsection (c)(2) of this section. Provides that the insurer is entitled to a hearing in accordance with Section 7(b) of this article.

(m) Authorizes the commissioner to require an insurer to file the insurer's rates under this section until the commissioner determines that the conditions described by Subsection (a) of this section no longer exist.

SECTION 6.08. Amends Article 5.13-2, Insurance Code, by adding Section 13, as follows:

Sec. 13. STANDARD RATE INDEX FOR PERSONAL AUTOMOBILE INSURANCE; EXEMPTION. (a) Provides that this section governs rate regulation of personal automobile insurance issued by a county mutual insurance company as prescribed by this section.

(b) Requires the commissioner to annually compute and publish a statewide standard rate index that accurately reflects the average statewide rates for classifications for certain coverages for personal automobile insurance policies, using standard and generally accepted actuarial techniques.

(c) Requires the commissioner to compute the rate index using the benchmark rate in effect for personal automobile insurance under Article 5.101 of this code on the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, and adjusted annually thereafter by the commissioner to reflect average changes in claims costs in the personal automobile insurance market in this state.

Authorizes the commissioner, after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, and before the first annual adjustment by the commissioner, to adjust the computation of the rate index under this section as the commissioner determines necessary.

(d) Authorizes the commissioner to compute and establish standard rate indexes other than the rate index required under Subsection (b) of this section for any of the personal automobile insurance coverages listed under that subsection as necessary to implement this section.

(e) Provides that for purposes of this section, "nonstandard rates" means rates that are 30 percent or more above the standard rate index as determined by the commissioner under this section.

(f) Provides that a county mutual insurance company that issues personal automobile insurance policies only at nonstandard rates is subject to filing requirements as determined by the commissioner by rule if the insurer and the insurer's affiliated companies or group have a market share of less than 3.5 percent. Requires an insurance company subject to this subsection to comply with the rating standards established by this article, in setting rates. Requires the company to for informational purposes file the rates and any additional information required by TDI, not later than the first day on which any change in the rates becomes effective. Requires the commissioner by rule to determine the information required to be provided in the filing under this subsection. Authorizes the commissioner to inspect the books and records of the company at any time to ensure compliance with the rating standards. Provides that an insurance company described by this subsection is subject to Article 5.144 of this code. Provides that a county mutual insurance company not described by this section is subject to Article 21.81 of this code and is required to comply with the filing requirements of this article and any other provision of this code applicable to a county mutual insurance company.

(g) Authorizes the commissioner by rule to designate other types of insurers that historically and as of the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, have served exclusively or are serving exclusively the high-risk, nonstandard market and meet capitalization and solvency requirements set by the commissioner. Provides that an insurer designated by the commissioner under this subsection is governed by this section.

SECTION 6.09. Amends Article 5.13-2, Insurance Code, by adding Section 14, as follows:

Sec. 14. REVIEW OF RATES. Requires the commissioner to consider any state or federal legislation that has been enacted and that may impact rates for liability coverage included in a policy subject to this article, in reviewing rates under this article.

SECTION 6.10. Amends Article 5.13-2, Insurance Code, by adding Section 15, as follows:

Sec. 15. NOTICE OF RATE INCREASE. (a) Requires an insurer to send a policyholder of a policy of residential property insurance issued by the insurer notice of any rate increase scheduled to take effect on the renewal of the policy that will result in an increase in the premium amount to be paid by the policyholder that is at least 10 percent greater than the lesser of the premium amount paid by the policyholder for coverage under the policy during:

- (1) the 12-month period preceding the renewal date of the policy; or
- (2) the policy period preceding the renewal date of the policy.

(b) Requires an insurer to send the notice required by Subsection (a) of this section before the renewal date but not later than the 30th day before the date the

rate increase is scheduled to take effect.

(c) Authorizes the insurer to send the notice required by Subsection (a) of this section to any policyholder of residential property insurance issued by the insurer, regardless of whether that policyholder's premium amount to be paid will increase as a result of the scheduled rate change, in addition to the mandatory notice under Subsection (a) of this section.

(d) Authorizes the commissioner by rule to exempt an insurer from the notice requirements under this section for a short-term policy, as defined by the commissioner, that is written by the insurer.

SECTION 6.11. Amends Article 5.13-2, Insurance Code, by adding Section 16, as follows:

Sec. 16. RIGHTS OF PUBLIC INSURANCE COUNSEL. (a) Authorizes the public insurance counsel to review all rate filings and additional information provided by an insurer under this article, on request to the commissioner. Provides that confidential information reviewed under this subsection remains confidential.

(b) Authorizes the public insurance counsel, not later than the 30th day after the date of a rate filing under this article, to object to an insurer's rate filing or the criteria relied on by the insurer to determine the rate by filing a written objection with the commissioner. Requires the written objection to contain the reasons for the objection.

SECTION 6.12. Requires a county mutual insurance company required to make informational rate filings under Section 13(f), Article 5.13-2, Insurance Code, as added by this Act, to make an initial informational rate filing, as required by the commissioner of insurance, not later than the 30th day after the effective date of this article.

SECTION 6.13. Provides that this article takes effect December 1, 2004, except that Sections 14 and 15, Article 5.13-2, Insurance Code, as added by this article, take effect on the effective date of this Act.

ARTICLE 7. EXEMPTIONS FROM CERTAIN RATE REQUIREMENTS

SECTION 7.01. Amends Subchapter B, Chapter 5, Insurance Code, by adding Article 5.13-2C, as follows:

Art 5.13-2C. EXEMPTIONS FROM RATE FILING AND APPROVAL REQUIREMENTS FOR CERTAIN INSURERS

Sec. 1. DEFINITIONS. Defines "insurer" and "residential property insurance."

Sec. 2. APPLICABILITY. (a) Provides that, except as provided by Subsection (b) of this section, this article applies only to an insurer that, during the calendar year preceding the date filing is otherwise required under Article 5.13-2 or 5.142 of this code, issued residential property insurance policies in this state that accounted for less than two percent of the total amount of premiums collected by insurers for residential property insurance policies issued in this state, more than 50 percent of which cover certain property.

(b) Provides that if an insurer described by Subsection (a) of this section is a member of an affiliated insurance group, this article applies to the insurer only if the total aggregate premium collected by the group accounts for less than two percent of the total amount of premiums collected by insurers for residential property insurance policies issued in this state.

Sec. 3. EXEMPTION. (a) Provides that, except as provided by Subsection (b) of this

section, an insurer described by Section 2 of this article is exempt from the rate filing and approval requirements of Article 5.142 and of Article 5.13-2 of this code.

(b) Requires an insurer described by Section 2 of this article that proposes to increase the premium rates charged policyholders for a residential property insurance product by 10 percent or more than the amount the insurer charged policyholders for the same or an equivalent residential property insurance product during the preceding calendar year to file the insurer's proposed rates in accordance with Article 5.142 or 5.13-2 of this code, as applicable, and obtain approval of the proposed rates as provided by the applicable article.

(c) Provides that Article 5.142 of this code does not apply to an insurer described by Section 2 of this article, except as provided by Subsection (b) of this section.

ARTICLE 8. REGULATION OF UNDERWRITING GUIDELINES

SECTION 8.01. Amends Subchapter A, Chapter 38, Insurance Code, by amending Section 38.002 and adding Section 38.003, as follows:

Sec. 38.002. UNDERWRITING GUIDELINES FOR PERSONAL AUTOMOBILE AND RESIDENTIAL PROPERTY INSURANCE; FILING; CONFIDENTIALITY.

(a) Defines "insurer," "personal automobile insurance," "residential property insurance," and "underwriting guideline."

(b) Requires each insurer to file with TDI a copy of the insurer's underwriting guidelines. Requires the insurer to update its filing each time the underwriting guidelines are changed. Requires a group of insurers that files one set of underwriting guidelines for the group, to identify which underwriting guidelines apply to each company in the group.

(c) Authorizes the office of public insurance counsel to obtain a copy of each insurer's underwriting guidelines.

(d) Authorizes TDI or the office of public insurance counsel to disclose to the public a summary of an insurer's underwriting guidelines in a manner that does not directly or indirectly identify the insurer.

(e) Requires underwriting guidelines to be sound, actuarially justified, or otherwise substantially commensurate with the contemplated risk. Prohibits underwriting guidelines from being unfairly discriminatory.

(f) Provides that the underwriting guidelines are subject to Chapter 552, Government Code.

Sec. 38.003. UNDERWRITING GUIDELINES FOR OTHER LINES; CONFIDENTIALITY. (a) Provides that this section applies to all underwriting guidelines that are not subject to Section 38.002.

(b) Defines "insurer."

(c) Creates this subsection from existing text. Redesignates Subsections (b)-(f) as (d)-(h).

SECTION 8.02. Amends Subchapter E, Chapter 21, Insurance Code, by adding Article 21.49-2V, as follows:

Art. 21.49-2V. MEMBERSHIP DUES; ISSUANCE AND RENEWAL OF POLICY. (a) Authorizes an insurer to require that membership dues in its sponsoring organization be paid as a condition for issuance or renewal of a policy, except as otherwise provided by

law.

(b) Provides that for purposes of this article, "insurer" includes a county mutual insurance company, a Lloyd's plan, and a reciprocal or interinsurance exchange.

ARTICLE 9. WINDSTORM INSURANCE

SECTION 9.01. Amends, Section 3(f), Article 21.49, Insurance Code, to redefine "insurable property."

SECTION 9.02. Amends Section 5, Article 21.49, Insurance Code, by adding Subsection (m) to authorize the commissioner by rule to supplement the building specifications in the plan of operation with the structural provisions of the International Residential Code for one- and two-family dwellings, as published by the International Code Council, or by an analogous entity recognized by TDI, after January 1, 2004, for geographic areas specified by the commissioner. Authorizes the commissioner by rule to adopt subsequent editions of that code and adopt any supplements published by the International Code Council and amendments to that code, for those specified geographic areas.

SECTION 9.03. Amends Section 6A, Article 21.49, Insurance Code, by amending Subsections (a), (d), (h), (j), and (k) and adding Subsections (j-1) and (k-1), as follows:

(a) Requires all structures that are constructed or repaired or to which additions are made on or after January 1, 1988, to be considered insurable property for windstorm and hail insurance from the Association, be inspected or approved by the Board for compliance with the plan of operation. Requires the commissioner by rule to adopt the 2003 International Residential Code for one- and two-family dwellings published by the International Code Council, rather than authorize the supplementation the building specifications in the plan of operation, after January 1, 2004, rather than 2002, for geographic areas specified by the commissioner. Authorizes the commissioner by rule to adopt a subsequent edition of that code and adopt any supplements published by the International Code Council and amendments to the code. Deletes language requiring roofing materials to satisfy the building specifications in the plan of operation if those materials pass the UL Standard 997 or a comparable test certified by the Board and are installed as required by the Board to promote the wind resistance of the materials. Evidence of previous insurance includes a copy of a previous policy, copies of canceled checks or agent's records that show payments for previous policies, and a copy of the title to the structure or mortgage company records that show previous policies. Requires a person after January 1, 2004, to submit a notice of a rather than an application for, windstorm inspection to the unit responsible for certification of windstorm inspections at TDI before beginning to construct, alter, remodel, enlarge, or repair a structure. Deletes language referring to failure to submit a timely application and the authorization of the Board to appoint or employ qualified inspectors as defined in this Section to perform any inspections required by this Section.

(d) Authorizes a windstorm inspection to only be performed by a qualified inspector. Redefines "qualified inspector."

(h) Authorizes TDI, rather than the board, to charge a reasonable fee to cover the cost of making building requirements, rather than specifications, and inspection standards available to the public.

(j) Authorizes TDI, after notice and hearing, to cancel or revoke an appointment made under this section if the holder of the appointment is found to be in violation of, or to have failed to comply with, specific provisions of this section or any rule or regulation of the commissioner made under this section. Authorizes the commissioner, in lieu of cancellation or revocation, to order one or more of certain sanctions, if the commissioner determines from the facts that it would be fair, reasonable, or equitable. Makes conforming changes.

(j-1) Authorizes the commissioner to take action against the appointed person in the manner provided by Subsection (j) of this section, if an appointed person is an engineer licensed by the Texas Board of Professional Engineers who is found by TDI to have knowingly, wilfully, fraudulently, or with gross negligence signed or caused to be prepared an inspection report that contains a false or fraudulent statement or entry but prohibits the commissioner from levying any monetary fine against an appointed person who is a licensed engineer.

(k) Requires TDI, unless the order is lawfully stayed, to cancel the appointment of the person if it is found after hearing that any appointed person has failed to comply with an order issued under Subsection (j) of this section. Authorizes TDI to informally dispose of any matter under Subsection (j) of this section by consent order or default. Makes conforming changes.

(k-1) Requires the commissioner to notify the Texas Board of Professional Engineers of each order issued by the commissioner against an appointed person who is an engineer licensed by the Texas Board of Professional Engineers, including an order suspending, canceling, or revoking the appointment of that person. Makes conforming changes.

SECTION 9.04. Amends Subsections (b), (f), (g), (h), (k), (l), and (m), Section 6C, Article 21.49, Insurance Code, as follows:

(b) Makes a conforming change.

(f) Requires the advisory committee to analyze and make recommendations for changes regarding procedures described under Section 5(d) of this article that are adopted by the commissioner in the plan of operation. Requires the advisory committee to seek to balance the concerns of all affected parties, including consumers, builders, and the association.

(g) Requires each proposal for a change in an applicable procedure, rather than building specification to be submitted to the commissioner. Requires each proposal to be submitted separately in writing and contain certain information.

(h) Makes a conforming change.

(k) Makes a conforming change.

(l) Makes a conforming change.

(m) Deletes language authorizing the commissioner by rule to adopt a recommendation of the advisory committee by amending the plan of operation and, in amending the plan, to adopt a specification by reference. Makes a conforming change.

SECTION 9.05. Amends Article 21.49, Insurance Code, adding Section 6D, as follows:

Sec. 6D. APPOINTMENT OF ENGINEERS; RULES. (a) Requires the commissioner, on the request of an engineer licensed by the Texas Board of Professional Engineers, to appoint the engineer under this article not later than the 10th day after the date of the engineer's delivery to the commissioner of information demonstrating that the engineer is qualified to perform windstorm inspections under this article.

(b) Requires the commissioner to adopt rules to determine the information the commissioner will consider in appointing engineers under Subsection (a) of this section.

SECTION 9.06. Repealer: Subsections (c) and (e), Section 6A, Article 21.49, Insurance Code.

SECTION 9.07. Amends Subdivision (9), Subsection (h), Section 8, Article 21.49, Insurance

Code, to delete language providing that this subdivision expires December 31, 2005.

SECTION 9.08. Makes application of this Act prospective for Section 3(f), Article 21.49, Insurance Code, as amended by this article.

SECTION 9.09. Makes application of this Act prospective to January 1, 2004 for Article 21.49, Insurance Code, as amended by this article, other than Section 3(f).

SECTION 9.10. Provides that except as provided by Section 9.08 of this Act, this article takes effect January 1, 2004.

ARTICLE 10. WITHDRAWAL REQUIREMENTS

SECTION 10.01. (a) Provides that effective June 1, 2003, Section 827.001, Insurance Code, is amended as follows:

Sec. 827.001. New heading: DEFINITIONS. Defines "insurer" and "rating territory."

(b) Provides that until June 1, 2003, Subsection (a), Article 21.49-2C, Insurance Code, is amended by adding Subdivision (4), to define "insurer."

SECTION 10.02. (a) Provides that effective June 1, 2003, Section 827.002, Insurance Code, is amended as follows:

Sec. 827.002. EXEMPTION. Provides that this chapter does not apply to a transfer of business from an insurer to a company that:

- (1) is within the same insurance group as the insurer;
- (2) is authorized to engage in the business of insurance in this state; and
- (3) is not a reciprocal or interinsurance exchange, a Lloyd's plan, a county mutual insurance company, or a farm mutual insurance company.

(b) Until June 1, 2003, Subsection (b), Article 21.49-2C, Insurance Code, is amended to provide that this article does not apply to the transfer of the business from an insurer to a company that is within the same insurance group as the insurer and is admitted to do business in this state. Provides that this subsection expires June 1, 2003.

SECTION 10.03. (a) Provides that effective June 1, 2003, Section 827.003, Insurance Code, is amended as follows:

Sec. 827.003. WITHDRAWAL PLAN REQUIRED. Requires an insurer to file with the commissioner a plan for orderly withdrawal if the insurer proposes to:

- (1) reduce the insurer's total annual premium volume by 50, rather than 75 percent or more;
- (2) reduce the insurer's annual premium by 75 percent or more in a line of insurance in this state; or
- (3) reduce in this state, or in any applicable rating territory, the insurer's total annual premium volume in a line of personal automobile or residential property insurance by 50 percent or more.

(b) Provides that until June 1, 2003, Subdivision (1), Subsection (a), Article 21.49-2C, Insurance Code, is amended to provide that this subdivision expires June 1, 2003. Requires an insurer to file with the commissioner a plan for orderly withdrawal if the insurer proposes to reduce its total annual premium volume by 50 percent or more, proposes to reduce the insurer's annual premium by 75 percent or more in a line of insurance in this state, or proposes, in a personal line of motor vehicle insurance or residential property insurance, to reduce its total annual premium volume in a rating territory by 50 percent or more. Makes

conforming changes.

SECTION 10.04. (a) Provides that effective June 1, 2003, Section 827.005, Insurance Code, is amended as follows:

Sec. 827.005. APPROVAL OF WITHDRAWAL PLAN. (a) Provides an exception.

(b) Authorizes the commissioner to modify, restrict, or limit a withdrawal plan under this section as necessary if the commissioner finds that a line of insurance subject to the withdrawal plan is not offered in a quantity or manner to adequately cover the risks in this state or to adequately protect the residents of this state and policyholders in this state. Authorizes the commissioner by order to set the date on which the insurer's withdrawal begins.

(c) Creates this subsection from existing text to provide that a withdrawal plan is deemed approved if the commissioner:

- (1) does not hold a hearing on the plan before the 61st, rather than 31st, day after the date the plan is filed with the commissioner; or
- (2) does not deny approval before the 61st day after the date a hearing on the plan is held.

(b) Provides that until June 1, 2003, Subsections (e) and (f), Article 21.49-2C, Insurance Code, are amended as follows:

(e) Provides an exception.

(f) Authorizes the commissioner to modify, restrict, or limit a withdrawal plan under this section as necessary if the commissioner finds that a line of insurance subject to the withdrawal plan is not offered in a quantity or manner to adequately cover the risks in this state or to adequately protect the residents of this state and policyholders in this state. Authorizes the commissioner by order to set the date on which the insurer's withdrawal begins. Requires the withdrawal plan to be deemed approved if the commissioner has not held a hearing within 60, rather than 30, days after the plan is filed with the commissioner or has not denied approval within 60 days after the hearing. Makes a conforming change.

SECTION 10.05. (a) Provides that effective June 1, 2003, Section 827.008, Insurance Code, is amended as follows:

Sec. 827.008. RESTRICTION PLAN. (a) Requires the insurer to file a proposed restriction plan with the commissioner for the commissioner's review and approval before an insurer, in response to a catastrophic natural event that occurred during the preceding six months, may restrict writing new business in a rating territory in a line of personal automobile, rather than comprehensive motor vehicle, or residential property insurance.

(b) Authorizes the commissioner to modify, restrict, or limit a restriction plan under this section as necessary if the commissioner finds that a line of insurance subject to the restriction plan is not offered in this state in a quantity or manner to adequately cover the risks in this state or to adequately protect the residents of this state and policyholders in this state in light of the impact of the catastrophic natural event. Authorizes the commissioner by order to set the date on which the insurer's restriction begins. Deletes language providing that the commissioner's approval of a restriction plan filed under Subsection (a) is not required.

(c) Makes conforming changes.

(b) Provides that until June 1, 2003, Subdivision (2), Subsection (a), Article 21.49-2C, Insurance Code, is amended to authorize the commissioner to modify,

restrict, or limit a restriction plan under this section as necessary if the commissioner finds that a line of insurance subject to the restriction plan is not offered in this state in a quantity or manner to adequately cover the risks in this state or to adequately protect the residents of this state and policyholders in this state in light of the impact of the catastrophic natural event. Authorizes the commissioner by order to set the date on which the insurer's restriction begins. Makes conforming changes.

SECTION 10.06. (a) Makes conforming changes.

(b) Provides that until June 1, 2003, Subsection (g), Article 21.49-2C, Insurance Code, is amended to require notice and hearing to be governed by provisions of Chapter 2001, Government Code, related to contested cases and by Chapter 40 of this code, rather than of Subsection (b), Article 1.33B, Insurance Code. Makes conforming changes.

SECTION 10.07. Makes application of this Act prospective.

ARTICLE 11. REVENUE BOND PROGRAM

PART A. FAIR PLAN ASSOCIATION

SECTION 11.01. Amends Subchapter E, Chapter 21, Insurance Code, by adding Article 21.49A-1, as follows:

Art. 21.49A-1. REVENUE BOND PROGRAM FOR FAIR PLAN ASSOCIATION

Sec. 1. PURPOSE. Provides that the legislature finds that the issuance of public securities to provide a method to raise funds to provide residential property insurance through the FAIR Plan Association in this state is for the benefit of the public and in furtherance of a public purpose.

Sec. 2. DEFINITIONS. Defines "association," "public security resolution," "bond," "board," and "insurer."

Sec. 3. PUBLIC SECURITIES AUTHORIZED; APPLICATION OF TEXAS PUBLIC FINANCE AUTHORITY ACT. (a) Requires the Texas Public Finance Authority to issue public securities to:

- (1) fund the association, including:
 - (A) to establish and maintain reserves to pay claims;
 - (B) to pay operating expenses; and
 - (C) to purchase reinsurance;
- (2) pay costs related to issuance of the public securities; and
- (3) pay other costs related to the public securities as may be determined by the board.

(b) Provides that to the extent not inconsistent with this article, Chapter 1232, Government Code, applies to public securities issued under this article. Provides that in the event of a conflict, this article controls.

Sec. 4. APPLICABILITY OF OTHER STATUTES. Provides that the following laws apply to public securities issued under this article to the extent consistent with this article:

- (1) Chapters 1201, 1202, 1204, 1205, 1231, and 1371, Government Code; and
- (2) Subchapter A, Chapter 1206, Government Code.

Sec. 5. LIMITS. Authorizes the Texas Public Finance Authority to issue, on behalf of the association, public securities in a total amount not to exceed \$75 million.

Sec. 6. CONDITIONS. (a) Authorizes public securities issued under this article to be issued at public or private sale.

(b) Prohibits public securities to mature not more than 10 years after the date issued.

(c) Requires public securities to be issued in the name of the association.

Sec. 7. ADDITIONAL COVENANTS. Authorizes the board to make additional covenants with respect to the public securities and the designated income and receipts of the association pledged to their payment, and to provide for the flow of funds and the establishment, maintenance, and investment of funds and accounts with respect to the public securities, in a public security resolution.

Sec. 8. SPECIAL ACCOUNTS. (a) Authorizes a public security resolution to establish special accounts, including an interest and sinking fund account, reserve account, and other accounts.

(b) Requires the association to administer the accounts in accordance with Article 21.49A of this code.

Sec. 9. SECURITY. (a) Provides that public securities are payable only from the service fee established under Section 10 of this article or other amounts that the association is authorized to levy, charge, and collect.

(b) Provides that public securities are obligations solely of the association. Provides that public securities do not create a pledging, giving, or lending of the faith, credit, or taxing authority of this state.

(c) Requires each public security to include a statement that the state is not obligated to pay any amount on the public security and that the faith, credit, and taxing authority of this state are not pledged, given, or lent to those payments.

(d) Requires each public security issued under this article to state on its face that the public security is payable solely from the revenues pledged for that purpose and that the public security does not and may not constitute a legal or moral obligation of the state.

Sec. 10. SERVICE FEE. (a) Authorizes a service fee to be assessed against:

- (1) each insurer; and
- (2) the association.

(b) Requires the service fee to be set by the commissioner in an amount sufficient to pay all debt service on the public securities. Requires the service fee to be paid by each insurer and the association as required by the commissioner by rule.

(c) Requires the comptroller to collect the service fee and TDI to reimburse the comptroller in the manner described by Article 4.19 of this code.

(d) Authorizes the commissioner, in consultation with the comptroller, to coordinate payment and collection of the service fee with other payments made by insurers and collected by the comptroller.

(e) Provides that as a condition of engaging in the business of insurance in this state, an insurer agrees that if the company leaves the property insurance market in this state the insurer remains obligated to pay, until the public securities are retired, the insurer's share of the service fee assessed under this section in an amount proportionate to that insurer's share of the property insurance market,

including residential property insurance, in this state as of the last complete reporting period before the date on which the insurer ceases to engage in that insurance business in this state. Requires the proportion assessed against the insurer to be based on the insurer's gross premiums for property insurance, including residential property insurance, for the insurer's last reporting period.

Sec. 11. TAX EXEMPT. Provides that the public securities issued under this article, any interest from those public securities, and all assets pledged to secure the payment of the public securities are free from taxation by the state or a political subdivision of this state.

Sec. 12. AUTHORIZED INVESTMENTS. Provides that the public securities issued under this article constitute authorized investments under Articles 2.10 and 3.33 and Subpart A, Part I, Article 3.39 of this code.

Sec. 13. STATE PLEDGE. Provides that the state pledges to and agrees with the owners of any public securities issued in accordance with this article that the state will not limit or alter the rights vested in the association to fulfill the terms of any agreements made with the owners of the public securities or in any way impair the rights and remedies of those owners until the public securities, bond premium, if any, or interest, and all costs and expenses in connection with any action or proceeding by or on behalf of those owners, are fully met and discharged. Authorizes the association to include this pledge and agreement of the state in any agreement with the owners of the public securities.

Sec. 14. ENFORCEMENT BY MANDAMUS. Provides that a writ of mandamus and all other legal and equitable remedies are available to any party at interest to require the association and any other party to carry out agreements and to perform functions and duties under this article, the Texas Constitution, or a public security resolution.

SECTION 11.02. Amends Section 3(e), Article 21.49A, Insurance Code, to require the plan of operation to provide for certain items.

SECTION 11.03. Amends Section 5(d), Article 21.49A, Insurance Code, to make a conforming change.

SECTION 11.04. Amends Section 11, Article 21.49A, Insurance Code, as follows:

Sec. 11. ASSESSMENTS AND PREMIUM SURCHARGES. Requires the association, at the direction of the commissioner, to either request the issuance of public securities as authorized by Article 21.49A-1 of this code or assess participating insurers in accordance with this section, should a deficit occur in the association. Authorizes each insurer to charge a premium surcharge on every property insurance policy issued by it insuring property in this state, the effective date of which policy is within the three-year period commencing 90 days after the date of assessment by the association under this section.

SECTION 11.05. Amends Article 21.49A, Insurance Code, by adding Section 15, as follows:

Sec. 15. RETENTION OF PROFITS. Requires the association to retain any profits of the association to be used for the purposes of the association. Requires the profits of the association to be used to mitigate losses, including the purchase of reinsurance and the offset of future assessments, and prohibits the profit from being distributed to insurers.

PART B. TRANSITION

SECTION 11.06. Provides that the changes in law made by this article to Article 21.49A, Insurance Code, apply only to the profits earned by the FAIR Plan Association in accordance with Article 21.49A on or after the effective date of this Act.

ARTICLE 12. SANCTIONS, PENALTIES, AND PAYMENT UNDER CERTAIN POLICIES

SECTION 12.01. Amends Section 5, Article 21.21-6, Insurance Code, as added by Chapter 415, Acts of the 74th Legislature, Regular Session, 1995, as follows:

Sec. 5. SANCTIONS. (a) Creates this subsection from existing text to provide that any legal entity engaged in the business of insurance in this state found to be in violation of or failing to comply with this article is subject to the sanctions authorized by Chapter 82, rather than in Article 1.10, of this code or administrative penalties authorized by Chapter 84, rather than under Article 1.10E, of this code. Authorizes the commissioner to utilize the cease and desist procedures authorized by Chapter 83, rather than Article 1.10A, of this code.

(b) Provides that it is not a defense to an action of the commissioner under Subsection (a) of this section that the contract giving rise to the alleged violation was entered into before the effective date of this article.

SECTION 12.02. Amends Subchapter B, Chapter 21, Insurance Code, by adding Article 21.21-6A, as follows:

Art. 21.21-6A. CRIMINAL PENALTY. (a) Defines "person."

(b) Provides circumstances under which a person commits an offense.

(c) Provides that an offense under this article is a state jail felony.

SECTION 12.03. Amends Section 3(c), Article 21.21-8, Insurance Code, to require all actions under this article to be commenced on or before the second anniversary of, rather than within 12 months after, the date on which the plaintiff was denied insurance or the unfair act occurred or the date the plaintiff, in the exercise of reasonable diligence, should have discovered the occurrence of the unfair act.

SECTION 12.04. Amends Section 1, Article 21.74, Insurance Code, by amending Subdivisions (1) and (2) and adding Subdivision (4), as follows:

(1) Redefines "holocaust victim."

(2) Redefines "insurer."

(4) Defines "proceeds."

SECTION 12.05. Amends Article 21.74, Insurance Code, by adding Sections 2A and 2B as follows:

Sec. 2A. FILINGS AND CERTIFICATES OF INSURANCE. (a) Provides that this section applies to each insurer engaging in business in the state that, directly or through a related company, sold to persons in Europe insurance policies described by Section 1 of this article or dowry or educational insurance policies that were in effect during the period of 1920 to 1945, whether the sale occurred before or after the insurer and the related company became related.

(b) Requires each insurer to file or cause to be filed with the commissioner certain information.

(c) Requires each insurer to certify certain information.

(d) Requires the commissioner by rule to require that insurers update the information submitted to the commissioner under this section at reasonable intervals.

Sec. 2B. ESTABLISHMENT AND MAINTENANCE OF REGISTRY; PUBLIC ACCESS. (a) Requires the commissioner to establish and maintain within TDI a central registry containing records and information relating to insurance policies described by

Section 2A(a) of this article of Holocaust victims, living and deceased. Requires the registry to be known as the Holocaust Era Insurance Registry.

(b) Requires the commissioner by rule to establish appropriate mechanisms to ensure public access to the registry.

(c) Provides that information contained in the registry:

(1) is public information;

(2) is not subject to any exceptions to disclosure under Chapter 552, Government Code; and

(3) cannot be withheld from disclosure under any other law.

SECTION 12.06. (a) Makes application of this Act prospective as it applies to Article 21.21-6A, Insurance Code, as added by this Act.

(b) Provides that Section 3(c), Article 21.21-8, Insurance Code, as amended by this Act, applies to a cause of action for which the limitations period established under that subsection before its amendment by this Act has not expired on the effective date of this Act.

SECTION 12.07. Requires an insurer subject to Article 21.74, Insurance Code, as amended by this Act, to file the information and certification required by Section 2A of that article, not later than the 180th day after the effective date of this Act.

ARTICLE 13. RATES STANDARDS

SECTION 13.01. Amends Chapter 1, Insurance Code, by adding Article 1.02, as follows:

Art. 1.02. RATING. (a) Defines "insurer."

(b) Requires rates used under this code to be just, fair, reasonable, adequate, not confiscatory and not excessive for the risks to which they apply, and not unfairly discriminatory. Prohibits an insurer from using rates that violate this article.

(c) Provides that for purposes of this article, a rate is:

(1) excessive if the rate is likely to produce a long-term profit that is unreasonably high in relation to the insurance coverage provided;

(2) inadequate if the rate is insufficient to sustain projected losses and expenses to which the rate applies, and continued use of the rate:

(A) endangers the solvency of an insurer using the rate; or

(B) has the effect of substantially lessening competition or creating a monopoly within any market; or

(3) unfairly discriminatory if the rate:

(A) is not based on sound actuarial principles;

(B) does not bear a reasonable relationship to the expected loss and expense experience among risks; or

(C) is based in whole or in part on the race, creed, color, ethnicity, or national origin of the policyholder or an insured.

ARTICLE 14. LEGISLATIVE OVERSIGHT COMMITTEE

SECTION 14.01. Amends Subchapter E, Chapter 21, Insurance Code, by adding Article 21.49-20, as follows:

Art. 21.49-20. PROPERTY AND CASUALTY LEGISLATIVE OVERSIGHT COMMITTEE. (a) Defines "committee."

(b) Provides the composition of the committee.

(c) Provides that an appointed member of the committee serves at the pleasure of the appointing official. Requires the appointing officials to attempt to appoint persons who represent the gender composition, minority populations, and geographic regions of the state, in making appointments to the committee.

(d) Provides that the committee is subject to Chapter 325, Government Code (Texas Sunset Act). Provides that unless continued in existence as provided by that chapter, the committee is abolished September 1, 2007.

(e) Requires the committee to perform certain functions.

(f) Authorizes the committee to request reports and other information from TDI as necessary to carry out this section.

(g) Requires the committee to report to the governor, lieutenant governor, and speaker of the house of representatives on the committee's activities under Subsection (e) of this section, not later than November 15 of each even-numbered year. Requires the report to include certain information.

ARTICLE 15. RULEMAKING

SECTION 15.01. Amends Section 36.001, Insurance Code, as follows:

Sec. 36.001. New heading: GENERAL RULEMAKING AUTHORITY. (a) Authorizes the commissioner to adopt any rules necessary and appropriate to implement the powers and duties of TDI under this code and other laws of this state.

(b) Requires rules adopted under this section to have general and uniform application. Deletes language requiring the commissioner to publish the rules in a format organized by subject matter and requiring the published rules to be kept current and be available in a form convenient to any interested person.

SECTION 15.02. Amends Section 36.004, Insurance Code, to provide an exception.

SECTION 15.03. Amends Subchapter A, Chapter 36, Insurance Code, by adding Section 36.005, as follows:

Sec. 36.005. INTERIM RULES TO COMPLY WITH FEDERAL REQUIREMENTS.

(a) Authorizes the commissioner to adopt rules to implement state responsibility in compliance with a federal law or regulation or action of a federal court relating to a person or activity under the jurisdiction of TDI under certain circumstances.

(b) Authorizes the commissioner to adopt a rule under this section only if the federal action requiring the adoption of a rule occurs or takes effect between sessions of the legislature or at such time during a session of the legislature that sufficient time does not remain to permit the preparation of a recommendation for legislative action or permit the legislature to act. Requires a rule adopted under this section to remain in effect only until 30 days following the end of the next session of the legislature unless a law is enacted that authorizes the subject matter of the rule. Provides that if a law is enacted that authorizes the subject matter of the rule, the rule will continue in effect.

SECTION 15.04. Amends Subsection (p), Article 3.42, Insurance Code, to provide that the commissioner is hereby authorized to adopt reasonable rules as necessary to implement and accomplish the purposes of this Article. Requires the commissioner to adopt rules under this Article in compliance with Chapter 2001, Government Code, rather than the Administrative Procedure Act. Prohibits a rule adopted under this Article from being repealed or amended until after the first anniversary of the adoption of the rule unless the commissioner finds that it is in the significant and material interests of the citizens of this state or that it is necessary as a result of

legislative enactment to amend, repeal, or adopt a rule or part of a rule.

SECTION 15.05. Repealer: Section 36.002, Insurance Code.

ARTICLE 16. CANCELLATION OF CERTAIN INSURANCE POLICIES

SECTION 16.01. Amends Section 4, Article 21.49-2B, Insurance Code, by amending Subsection (i) and adding Subsection (j), as follows:

(i) Authorizes an insurer to cancel any insurance policy other than a personal automobile or homeowners insurance policy if the policy has been in effect less than 90 days. Authorizes an insurer to cancel a personal automobile insurance policy if the policy has been in effect less than 60 days. Authorizes an insurer to cancel a homeowners insurance policy if the policy has been in effect less than 60, rather than 90, days under certain circumstances.

(j) Provides that for the purposes of Subsection (i), an inspection report is deemed accepted if an insurer does not reject the inspection report given to the insurer under Subsection (i)(2) before the 11th day after the date the inspection report is received by the insurer.

ARTICLE 17. N.A.I.C. FEES

SECTION 17.01. Amends Section 802.055, Insurance Code, as effective June 1, 2003, as follows:

Sec. 802.055. New heading: COSTS PAID BY INSURANCE COMPANY. Requires an insurance company to pay all costs of preparing and furnishing to the National Association of Insurance Commissioners the information required under Section 802.052, including any related filing fees.

ARTICLE 18. MEDICAL LIABILITY INSURANCE UNDERWRITING ASSOCIATION

SECTION 18.01. Amends Subdivision (5), Subsection (b), Section 4, Article 21.49-3, Insurance Code, to replace references to the "board" with "department." Requires any assessment or contribution to be reimbursed to the members, or to the state to the extent that the members have recouped their assessments using premium tax credits as provided under Subsection (b)(3) of this section, with interest at a rate to be approved by the commissioner, subject to the approval of the commissioner, rather than the board. Replaces reference to Article 6.12 with Section 862.001.

ARTICLE 19. CERTAIN INSURANCE TRUSTS

SECTION 19.01. Amends Subsection (b), Article 21.49-4, Insurance Code, to authorize an incorporated association, the purpose of which, among other things, shall be to federate and bring into one compact organization the entire profession licensed to practice medicine and surgery or dentistry in the State of Texas, or a portion of the members of the profession licensed to practice medicine who are practicing a particular specialty within the practice of medicine or surgery in the state or are practicing within a particular region of the state to create a trust to self-insure physicians or dentists and by contract or otherwise agree to insure other members of the organization or association against health care liability claims and related risks on complying with certain conditions.

ARTICLE 20. INSURER INTERESTS IN CERTAIN REPAIR FACILITIES

SECTION 20.01. Amends Subdivision (4), Section 2306.001, Occupations Code, as added by H.B. No. 1131, Acts of the 78th Legislature, Regular Session, 2003, to define "insurer."

SECTION 20.02. Provides that Subdivision (4), Section 2306.001, Occupations Code, as

amended by this article, is contingent on the passage of H.B. No. 1131, Acts of the 78th Legislature, Regular Session. Provides that if that legislation does not become law, Subdivision (4), Section 2306.001, Occupations Code, as amended by this article, has no effect.

ARTICLE 21. CONFORMING AMENDMENTS; REPEALER

SECTION 21.01. Amends Subsection (f), Article 5.01, Insurance Code, to provide that, notwithstanding Subsections (a) through (d) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rather than March 1, 1992, rates for personal automobile insurance in this state are determined as provided by Article 5.101 of this code, and rates for commercial motor vehicle insurance in this state are determined as provided by Article 5.13-2, rather than the flexible rating program adopted under Subchapter M, of this code. Provides that on and after December 1, 2004, rates for personal automobile insurance and commercial automobile insurance in this state are determined as provided by Article 5.13-2 of this code.

SECTION 21.02. Amends Section 4, Article 5.01C, Insurance Code, as follows:

Sec. 4. FORMS. Requires an insurer selling short-term liability insurance policies under this article to use the policy forms adopted by the commissioner under Article 5.06 of this code or filed and in effect as provided by Article 5.145 of this code unless the insurer is exempt from using those forms.

SECTION 21.03. Amends Subsection (b), Article 5.01-2, Insurance Code, to provide that this subsection expires December 1, 2004. Makes conforming changes.

SECTION 21.04. Amends Section 4, Article 5.01-4, Insurance Code, as follows:

Sec. 4. APPLICABILITY OF CERTAIN LAWS. (a) Requires an insurer, in reporting incurred losses and earned premiums as required under this subchapter or Subchapter M of this chapter, or on and after December 1, 2004, under Article 5.13-2 of this code, to separately report experience based on use of the mile-based rating plan and the time-based rating plan.

(b) Makes a conforming change.

SECTION 21.05. Amends Subsection (g), Article 5.03, Insurance Code, to provide that notwithstanding Sections (a) through (e) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for personal automobile insurance in this state are determined as provided by Article 5.101 of this code, and rates for commercial motor vehicle insurance in this state are determined as provided by Article 5.13-2 of this code. Provides that on and after December 1, 2004, rates for personal automobile insurance and commercial automobile insurance in this state are determined as provided by Article 5.13-2 of this code.

SECTION 21.06. Amends Subsection (c), Article 5.04, Insurance Code, to make conforming changes.

SECTION 21.07. Amends Article 5.06, Insurance Code, by adding Subsection (12) to provide that, notwithstanding Subsections (1)-(10) of this article, policy forms and endorsements for automobile insurance in this state are regulated under Article 5.13-2 of this code.

(b) Authorizes an insurer to continue to use the policy forms and endorsements promulgated, approved, or adopted by the commissioner under this article before the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, on notification in writing to the commissioner that the insurer will continue to use the policy forms and endorsements promulgated, approved, or adopted by the commissioner under this article.

SECTION 21.08. Amends Subsection (2), Article 5.06-1, Insurance Code, as follows:

(c) Authorizes the commissioner, rather than the board, in the policy forms adopted under Article 5.06 of this code, to define "uninsured motor vehicle" to exclude certain motor vehicles whose operators are in fact uninsured. Authorizes the commissioner in the policy forms filed under Article 5.145 of this code to allow the term "uninsured motor vehicle" to be defined to exclude certain motor vehicles whose operators are in fact uninsured.

(d) Includes the portion of a policy form filed under Article 5.145 of this code in relation to policy coverage. Makes a conforming change.

SECTION 21.09. Amends Article 5.06-6, Insurance Code, as follows:

Art. 5.06-6. COVERAGES FOR SPOUSES AND FORMER SPOUSES. Requires a personal automobile policy or any similar policy form adopted or approved by the commissioner, rather than the State Board of Insurance under Article 5.06 of this code or filed under Article 5.145 of this code that covers liability arising out of ownership, maintenance, or use of a motor vehicle of a spouse, who is otherwise insured by the policy, to contain a provision to continue coverage for the spouse during a period of separation in contemplation of divorce.

SECTION 21.10. Amends Subsection (c), Article 5.09, Insurance Code, to make conforming changes.

SECTION 21.11. Amends Subsection (c), Article 5.11, Insurance Code, to make conforming changes.

SECTION 21.12. Amends Subsection (b), Article 5.25, Insurance Code, to make conforming changes.

SECTION 21.13. Amends Subsection (b), Article 5.25A, Insurance Code, to make conforming changes.

SECTION 21.14. Amends Article 5.25-2, Insurance Code, as follows:

Art. 5.25-2. CITY FIRE LOSS LISTS

Sec. 1. Redefines "list."

Sec. 2. (a) Makes conforming changes.

(b) Requires the list to include certain information.

(c) Makes a conforming change.

Sec. 3 through Sec. 8. Make conforming change.

SECTION 21.15. Amends Subsection (i), Article 5.26, Insurance Code, to provide that, notwithstanding Subsections (a)-(h) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q, rather than M, of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

SECTION 21.16. Amends Article 5.28(d), Insurance Code, to make conforming changes.

SECTION 21.17. Amends Article 5.29(b), Insurance Code, to make conforming changes.

SECTION 21.18. Amends Article 5.30(b), Insurance Code, to make conforming changes.

SECTION 21.19. Amends Article 5.31(b), Insurance Code, to make conforming changes.

SECTION 21.20. Amends Article 5.32(b), Insurance Code, to make conforming changes.

SECTION 21.21. Amends Article 5.34(b), Insurance Code, to make conforming changes.

SECTION 21.22. Amends Article 5.35, Insurance Code, by adding Subsection (k), as follows:

(k)(1) Provides that notwithstanding Subsections (a)-(j) of this article, policy forms and endorsements for residential property insurance in this state are regulated under Article 5.13-2 of this code.

(2) Authorizes an insurer to continue to use the policy forms and endorsements promulgated, approved, or adopted by the commissioner under this article before the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, on notification in writing to the commissioner that the insurer will continue to use the policy forms and endorsements promulgated, approved, or adopted by the commissioner under this article.

SECTION 21.23. Amends Article 5.35-1, Insurance Code, to make a conforming change.

SECTION 21.24. Amends Article 5.36, Insurance Code, to make conforming changes.

SECTION 21.25. Amends Article 5.39(b), Insurance Code, to make conforming changes.

SECTION 21.26. Amends Article 5.40(d), Insurance Code, to make conforming changes.

SECTION 21.27. Amends Article 5.41(b), Insurance Code, to make conforming changes.

SECTION 21.28. Amends Article 5.52, Insurance Code, as follows:

Art. 5.52. PROVISIONS GOVERNING LIGHTNING, WINDSTORM, HAIL, INVASION, RIOT, VANDALISM, STRIKES, LOCKOUTS AND OTHER INSURANCE; "EXPLOSION" DEFINED. (a) Creates this subsection from existing text and makes a conforming change.

(b) Provides that notwithstanding Subsection (a) of this section, rain insurance and hail insurance on farm crops are governed by Article 5.13-2 of this code.

(c) Creates this subsection from existing text and replaces the word "above" with "in this article."

SECTION 21.29. Amends Article 5.53, Insurance Code, as follows:

Art. 5.53. New heading: APPLICATION TO MARINE INSURANCE. Requires the provisions of this article to apply to all insurance which is now or hereafter defined by statute, by rules of the commissioner, rather than by ruling of the Board of Insurance Commissioners, or by lawful custom, as marine insurance. Prohibits the provisions of Chapter 5 of this code, other than this article, to apply to marine insurance as defined by this article. Deletes Subsections (a)-(h) relating to class rates and rating plans.

SECTION 21.30. Amends Section 1(a), Article 5.53-A, Insurance Code, to provide that any company licensed to engage in the business of fire insurance and its allied lines, or inland marine insurance, or both, is authorized to write home warranty insurance or home protection insurance in this state.

SECTION 21.31. Amends Subsection (a-1), Article 5.96, Insurance Code, to provide that this article does not apply to the setting of rates for personal automobile insurance under Article 5.101 of this code, rates for fire and allied lines insurance under Subchapter Q of this chapter or, on and after December 1, 2004, rates for personal automobile insurance and fire and allied lines insurance under Article 5.13-2 of this code. Makes conforming changes.

SECTION 21.32. Amends Subsections (a) through (d) and (f) through (m), Article 5.97, Insurance Code, as follows:

(a) Authorizes TDI, rather than the State Board of Insurance, to take action on filings for standard and uniform rates, rating plans, manual rules, classification plans, statistical plans, and policy and endorsement forms, or any modification of any of these for the lines of insurance regulated in Subchapter B, Chapter 5, of this code under the procedure specified in this article.

(b) through (d) Make conforming changes.

(f) Authorizes the commissioner, rather than requires the board, to hold a hearing to consider the proposal or enter an order implementing or denying the proposal. Makes conforming changes.

(g) through (j) Make a conforming change.

(k) Provides that any person aggrieved by an order of the commissioner is entitled to redress as provided by Article 5.23 of this code.

(l) Provides that Chapters 2001 and 2002, Government Code, do not apply to commissioner or TDI action taken under this article.

(m) Makes conforming changes.

SECTION 21.33. Amends Subsection (c), Article 21.28-E, Insurance Code, to prohibit the provisions of this article from applying to marine insurance as defined by Article 5.53.

SECTION 21.34. Amends Section (4)(b)(4), Article 21.49-3, Insurance Code, to make conforming changes.

SECTION 21.35. Amends Section (5)(a), Article 21.55, Insurance Code, to make conforming changes.

SECTION 21.36. Amends Article 21.56(e), Insurance Code, to make conforming changes.

SECTION 21.37. Amends Section 8, Article 21.77, Insurance Code, as follows:

Sec. 8. POLICY FORMS. Requires all policy forms for insurance written under this article to be prescribed by the commissioner as provided in Article 5.06 of this code or filed and in effect as provided in Article 5.145 of this code. Makes a conforming change.

SECTION 21.38. Amends Article 21.79E, Insurance Code, as follows:

Art. 21.79E. CREDIT INVOLUNTARY UNEMPLOYMENT INSURANCE. Requires any insurer authorized to write any form of casualty insurance in this state to also be authorized to write group or individual credit involuntary unemployment insurance indemnifying a debtor for installment or other periodic payments on the indebtedness while the debtor is involuntarily unemployed, including policy forms and endorsements which define involuntary unemployment to provide coverage and a premium charge for interruption or reduction of a debtor's income during periods of leave (paid or otherwise) authorized by the Federal Family and Medical Leave Act of 1993 (29 U.S.C. Section 2601 et seq.), as amended, or other state or federal laws. Authorizes such insurance to be

written alone or in conjunction with credit life insurance, credit accident and health insurance, or both, in policies issued by any authorized insurer, but not in contravention of the Texas Free Enterprise and Antitrust Act of 1983, rather than Chapter 15, Business & Commerce Code. Authorizes rates and forms for such insurance to be made and filed in accordance with Article 5.13-2, rather than Articles 5.14 and 5.15 of this code.

SECTION 21.39. Amends Subdivision (2), Section 1, Article 21.81, Insurance Code, to redefine "authorized insurer."

SECTION 21.40. (a) Provides that effective June 1, 2003, Section 912.002, Insurance Code, is amended by amending Subsection (a) and adding Subsection (c), as follows:

(a) Provides that a county mutual insurance company is exempt from the operation of all insurance laws of this state except laws that are made applicable by their specific terms or except as specifically provided by this chapter.

(c) Provides that rate regulation for a residential fire and allied lines insurance policy written by a county mutual insurance company is subject to Subchapters Q and U, Chapter 5. Provides that on and after December 1, 2004, rate regulation for a personal automobile insurance policy and a residential fire and allied lines insurance policy written by a county mutual insurance company is subject to Article 5.13-2. Provides that a county mutual insurance company is subject to Subchapter U, Chapter 5. Authorizes the commissioner to adopt rules as necessary to implement this subsection.

(b) Provides that until June 1, 2003, Subsection (b), Article 17.22, Insurance Code, is amended as follows:

(b) Provides that rate regulation for a residential fire and allied lines insurance policy written by a county mutual insurance company is subject to Subchapters O and Q, Chapter 5 of this code. Authorizes the commissioner to adopt rules as necessary to implement this subsection. Provides that this subsection expires June 1, 2003.

SECTION 21.405. Amends Subchapter A, Chapter 912, Insurance Code, by adding Section 912.005, as follows:

Sec. 912.005. LIMITATION ON TRANSFER OF BUSINESS TO COUNTY MUTUAL INSURANCE COMPANY. Prohibits an insurer from transferring more than 10 percent of the insurer's insurance policies to a county mutual insurance company without the prior approval of the commissioner.

SECTION 21.41. Amends Section 912.152, Insurance Code, as follows:

Sec. 912.152. POLICY FORMS. (a) Provides that a county mutual insurance company is subject to Articles 5.06, 5.35, and 5.145.

(b) Requires county mutual insurance companies to file policy forms under Article 5.145 or continue to use the standard policy forms and endorsements promulgated under Articles 5.06 and 5.35 on notification to the commissioner in writing in the manner prescribed by those articles that those forms will continue to be used.

SECTION 21.42. (a) Provides that effective June 1, 2003, Section 912.201, Insurance Code, is amended as follows:

Sec. 912.201. SCHEDULE OF CHARGES. Requires a county mutual insurance company to file premium, expense, and loss experience data with TDI in the manner prescribed by the commissioner. Requires an insurer to file the schedules and data required under this section according to rules promulgated by the commissioner.

(b) Provides that until June 1, 2003, Section 6, Article 17.25, Insurance Code, is amended as follows:

Sec. 6. FILE SCHEDULE OF CHARGES. Requires items required under this section to be filed according to rules promulgated by the commissioner.

SECTION 21.43. (a) Provides that effective June 1, 2003, Subsection (b), Section 941.003, Insurance Code, is amended as follows:

(b) Provides that a Lloyd's plan is subject to:

- (1) Section 5, Article 1.10;
- (2) Article 1.15A;
- (3) Subchapters A, Q, T, and U, Chapter 5;
- (4) Articles 5.35, 5.38, 5.39, 5.40, and 5.49;
- (5) Articles 21.21 and 21.49-8;
- (6) Sections 822.203, 822.205, 822.210, and 822.212; and
- (7) Article 5.13-2, as provided by that article.

(b) Provides that until June 1, 2003, Article 18.23, Insurance Code, is amended by adding Subsection (c), as follows:

(c) Provides that rate regulation for a personal automobile insurance policy written by a Lloyd's plan is subject to Subchapter M, Chapter 5 of this code. Provides that rate regulation for a homeowners or residential fire and allied lines insurance policy written by a Lloyd's plan is subject to Subchapter Q, Chapter 5 of this code. Authorizes the commissioner to adopt rules as necessary to implement this subsection. Provides that a Lloyd's plan is subject to Subchapter O, Chapter 5 of this code. Provides that this subsection expires June 1, 2003.

SECTION 21.44. (a) Provides that effective June 1, 2003, Subsection (b), Section 942.003, Insurance Code, is amended as follows:

(b) Provides that an exchange is subject to:

- (1) Section 5, Article 1.10;
- (2) Articles 1.15, 1.15A, and 1.16;
- (3) Subchapters A, Q, T, and U, Chapter 5;
- (4) Articles 5.35, 5.37, 5.38, 5.39, and 5.40;
- (5) Articles 21.21 and 21.49-8;
- (6) Sections 822.203, 822.205, 822.210, 822.212, 861.254(a)-(f), 861.255, 862.001(b), and 862.003; and
- (7) Article 5.13-2, as provided by that article

(b) Provides that until June 1, 2003, Article 19.12, Insurance Code, is amended by adding Subsection (c), as follows:

(c) Provides that rate regulation for a personal automobile insurance policy written by a reciprocal or interinsurance exchange is subject to Subchapter M, Chapter 5 of this code. Provides that rate regulation for a homeowners or residential fire and allied lines insurance policy written by a reciprocal or interinsurance exchange is subject to Subchapter Q, Chapter 5 of this code. Authorizes the commissioner to adopt rules as necessary to implement this subsection. Provides that a reciprocal or interinsurance exchange is subject to Subchapter O, Chapter 5 of this code. Provides that this subsection expires June 1, 2003.

SECTION 21.45. Amends Section 502.153(d), Transportation Code, to provide that a personal automobile policy used as evidence of financial responsibility under this section must comply with Article 5.06 or 5.145, Insurance Code.

SECTION 21.46. Amends Section 521.143(c), Transportation Code, to makes a conforming change.

SECTION 21.47. Repealer:

- (1) Articles 5.03-2, 5.03-3, 5.03-4, and 5.03-5, Insurance Code;
- (2) Subsection (h), Article 5.26, and Articles 5.33C, 5.50, and 40.061, Insurance Code;
- (3) Subsection (b), Section 5, Article 5.13-2, Insurance Code;
- (4) Section 4C, Article 5.73, Insurance Code;
- (5) Article 5.33B, Insurance Code, as added by Chapter 337, Acts of the 74th Legislature, Regular Session, 1995;
- (6) Articles 5.14, 5.15, and 5.15B, Insurance Code;
- (7) Subsection (e), Article 5.97, Insurance Code; and
- (8) Subdivision (2), Subsection (b), Section 4, Article 21.49-3, Insurance Code.

SECTION 21.48. Repealer: Article 5.33A, Insurance Code.

ARTICLE 22. GENERAL TRANSITION; SEVERABILITY; EFFECTIVE DATE

SECTION 22.01. Provides that the amendment of statutory provisions by this Act does not affect the repeal of those provisions by Section 31, Chapter 1419, Acts of the 77th Legislature, Regular Session, 2001.

SECTION 22.02. Makes application of this Act prospective.

SECTION 22.03. Provides that if any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 22.04. Effective date: upon passage or September 1, 2003.