

BILL ANALYSIS

Senate Research Center

S.B. 131
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DIGEST AND PURPOSE

Currently, personal automobile policy forms and endorsements are standard forms promulgated by the commissioner of insurance. Residential property insurance forms and endorsements are either standard forms promulgated by the commissioner or forms filed by national insurers or national organizations of insurers ("national" forms) that are adopted or approved by the commissioner. It is the position of the Department of Insurance that other residential property insurers in Texas may use these national forms that are adopted or approved by the Commissioner upon filing of the form with the commissioner; however, copyright or organizational membership issues may limit the use of these national forms by other insurers. S.B. 131 regulates policy forms and endorsements for personal automobile and homeowners insurance under a file and use system with a 60-day waiting period. The file and use regulation applies to all residential property insurers, regardless of size, and to all personal auto insurers. The insurer is required to file all policy forms and endorsements with the commissioner prior to use. Unless disapproved, the form becomes effective 60 days after it is filed with the commissioner.

The bill also addresses plain language requirements, public disclosure requirements, and disapproval standards and procedures.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Section 10, Article 5.142, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 5, Insurance Code, by adding Article 5.142, as follows:

Art. 5.142. POLICY FORMS FOR PERSONAL AUTOMOBILE INSURANCE COVERAGE AND RESIDENTIAL PROPERTY INSURANCE COVERAGE

Sec. 1. SCOPE. Provides that this article governs the regulation of policy forms and endorsements for personal automobile insurance and residential property insurance.

Sec. 2. DEFINITIONS. Defines "filer," "form," "insurer," "personal automobile insurance," and "residential property insurance."

Sec. 3. FORM FILINGS. (a) Requires each insurer to file its forms with the commissioner of insurance (commissioner). Prohibits the forms from being delivered or issued for delivery in the state unless the forms have been filed as provided by this article. Authorizes insurers to continue to use the standard policy forms and endorsements promulgated under Articles 5.06 (Policy Forms and Endorsements) and 5.35 (Policy Forms) of this code on notification to the commissioner in writing that the forms will continue to be used.

(b) Provides that the new form takes effect, unless disapproved by the commissioner as provided by Section 7 of this article, on the date specified by the insurer in the filing, but

not earlier than the 60th day after the date of filing of the form with the commissioner, except as provided by Subsection (c) of this section. Provides that, for purposes of this section, the date the form is received by the commissioner is the date of filing of the form with the commissioner. Requires the previously filed form that is in effect as provided by this article to remain in effect from the date of filing the form with the commissioner to the effective date of the new form.

(c) Authorizes the commissioner to approve a filing on written or electronic notification to the filer at any time before the 60th day after the date of filing of the form with the commissioner or before the effective date specified by the insurer in the filing. Authorizes the new form to be used on the receipt of the notice of the commissioner's approval.

(d) Requires each personal automobile insurance policy form to provide the coverages mandated under Articles 5.06-1 (Uninsured or Under Insured Motorist Coverage) and 5.06-3 (Personal Injury Protection Coverage) of this code, except that the coverages are authorized to be rejected by the named insured as provided by those articles.

(e) Requires all filed forms to comply with state and federal law.

Sec. 4. PLAIN LANGUAGE REQUIREMENT. Prohibits a form from being used if it is not in plain language. Defines plain language. Provides that this section does not apply to policy language that is mandated by state or federal law.

Sec. 5. PERSONAL AUTOMOBILE INSURANCE. Provides that a contract or agreement not written into the application and personal automobile insurance policy is void and of no effect and in violation of the provisions of this article and Subchapter A of this chapter and is sufficient cause for the revocation of the license of an insurer to write personal automobile insurance in the state.

Sec. 6. PUBLIC INFORMATION. Provides that each filing and any supporting information filed under this article is open to public inspection as of the date of the filing.

Sec. 7. DISAPPROVAL. (a) Authorizes the commissioner to disapprove a form filed under this article for certain reasons.

(b) Requires the commissioner, upon disapproving a filing before the 60th day after the date of the filing of the form with the commissioner, to issue an order specifying in what respects the form fails to meet the requirements of this article. Provides that the filer is entitled to a hearing on written request made to the commissioner not later than the 30th day after the effective date of the disapproval order.

(c) Authorizes the commissioner, upon disapproving a form that is in effect, to issue a disapproval order only after a hearing held after at least the 20th days' written notice to the insurer that made the filing. Requires the disapproval order to be issued not later than the 15th day after the close of the hearing and to specify how the form fails to meet the requirements of this article. Requires the disapproval order to state the date on which the further use of the disapproved form is prohibited.

(d) Requires the commissioner's order disapproving a form to state the grounds for the disapproval in enough detail to reasonably inform the filer of the grounds.

(e) Prohibits an insurer from using a form in the state after the commissioner disapproves the form.

Sec. 8. PUBLIC INSURANCE COUNSEL. Authorizes the office of public insurance counsel, notwithstanding Article 1.35A (Office of Public Insurance Counsel) of this code, to submit written comments to the commissioner and otherwise participate regarding individual company filings made under this article.

Sec. 9. HEARINGS. Provides that subject to Chapter 40 (Duties of State Office of Administrative Hearings and Commissioner in Certain Proceedings; Rate Setting Proceedings), of this code, Chapter 2001 (Administrative Procedure), Government Code, applies to all hearings conducted under this article. Provides that to the extent that any conflict between this article and Chapter 2001, Government Code, the provisions of this article prevail.

Sec. 10. RULEMAKING. Authorizes the commissioner to adopt rules which are reasonable and necessary to implement this article.

SECTION 2. Amends Article 5.06, Insurance Code, by adding Subsection (12), to require policy forms and endorsements for personal automobile insurance in this state, notwithstanding Subsections (1)-(8) of this article, to be regulated under Article 5.142 of this code. Authorizes an insurer to continue to use the standard policy forms and endorsements promulgated under this article that the insurer used immediately before the effective date of this subsection on notification to the commissioner in writing that the forms will continue to be used.

SECTION 3. Amends Article 5.35, Insurance Code, by adding Subsection (k), to require policy forms for residential property insurance in this state, notwithstanding Subsections (a)-(j) of this article, to be regulated under Article 5.142 of this code. Makes a conforming change regarding the use of standard policy forms and endorsements.

SECTION 4. Amends Article 5.01C, Section 4, Insurance Code, by adding policy forms filed and in effect as provided by Article 5.142 of this code as a type of policy form an insurer selling short-term insurance policies is required to use.

SECTION 5. Amends Article 5.06-1, Section (2), Insurance Code, as follows:

(c) Replaces the Texas Department of Insurance (TDI) with the commissioner regarding who defines “uninsured motor vehicle.” Authorizes the commissioner to allow the term “uninsured motor vehicle” to be defined to exclude certain motor vehicles the operators of which are in fact uninsured in the policy forms filed under Article 5.142 of this code.

(d) Makes conforming changes.

SECTION 6. Amends Article 5.06-6, Insurance Code, by replacing State Board of Insurance (board) with commissioner referring to the adoption and approval of policies under Article 5.06 of this code. Makes a conforming change.

SECTION 7. Amends Article 5.25-2, Insurance Code, by replacing board with department (TDI) regarding the distributions of lists in the section. Makes conforming and nonsubstantive changes.

SECTION 8. Amends Article 5.35-1, Insurance Code, by making a conforming change.

SECTION 9. Amends Article 5.36, Insurance Code, by making a conforming change.

SECTION 10. Amends Article 5.50, Insurance Code, by requiring Article 5.142 of this code to apply to other purely mutual or to other purely profit sharing fire insurance companies incorporated or unincorporated under the laws of this state and carried on by the members thereof solely for the protection of their property and not for profit.

SECTION 11. Amends Article 21.77, Section 8, Insurance Code, by making conforming changes.

SECTION 12. Amends Section 912.152, Insurance Code, by making conforming and nonsubstantive changes. Deletes existing text regarding the commissioner's authority to adopt different uniform policy forms for use by county mutual insurance companies.

SECTION 13. Amends Section 941.003(b), Insurance Code, by making a conforming change.

SECTION 14. Amends Section 942.003(b), Insurance Code, by making a conforming change.

SECTION 15. Amends Section 502.153(d), Transportation Code, by making a conforming change.

SECTION 16. Amends Section 521.143(c), Transportation Code, by making a conforming change.

SECTION 17. Requires the commissioner to adopt rules necessary to implement Article 5.142, Insurance Code, as added by this Act, not later than the 120th day after the effective date of this Act.

SECTION 18. Makes application of this Act prospective.

SECTION 19. Effective date: June 1, 2003, or September 1, 2003.