

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 1061  
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State Affairs  
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Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Currently, although charging discriminatory premiums on certain insurance policies is illegal, some insurers continue to charge race-based premiums for policies sold before the practice was stopped in the 1960s and 1970s. C.S.S.B. 1061 gives state regulators and law enforcement officers more tools to end the practice. It specifically makes the offer of sale or collection of premiums on discriminatory insurance policies a state jail felony. The bill also establishes a registry for Holocaust victims' insurance information. It requires insurance companies to ensure that Holocaust victims or their heirs receive proceeds of Holocaust-era insurance policies.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 5 (Sections 2A and 2B, Article 21.74, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 5, Article 21.21-6, Insurance Code, as follows:

- (a) Modifies statutory references to conform to current law.
- (b) Provides that it is not a defense to an action of the commissioner of insurance (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 2. 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 that a person commits an offense if the person with criminal negligence offers insurance coverage at a premium based on a rate that is, because of certain characteristics, different from another premium rate offered or used by the person for the same coverage and the same risk, or collects an insurance premium based on a rate that is, because of certain characteristics, different from another premium rate offered or used by the person for the same coverage and the same risk.

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

SECTION 3. 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 4. 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 5. 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 sold certain policies pertaining to Holocaust victims.

(b) Requires each insurer to file or cause to be filed with the commissioner certain information regarding certain policies related to Holocaust victims.

(c) Requires each insurer to certify that certain actions have occurred relating to the distribution of the proceeds of certain policies relating to Holocaust victims.

(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 the Texas Department of Insurance 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 is public information, is not subject to any exceptions to disclosure under Chapter 552, Government Code, and cannot be withheld from disclosure under any other law.

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

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

SECTION 8. Effective date: September 1, 2003.