

A BILL TO BE ENTITLED

AN ACT

relating to requirements for underwriting guidelines used in writing certain consumer lines of insurance; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter E, Chapter 21, Insurance Code, is amended by adding Article 21.49-2X to read as follows:

Art. 21.49-2X. UNDERWRITING REQUIREMENTS FOR CERTAIN CONSUMER LINES

Sec. 1. DEFINITIONS. In this article:

(1) "Insurer" means an insurer authorized to write property and casualty insurance in this state. The term includes:

(A) a county mutual insurance company, a farm mutual insurance company, a Lloyd's plan, and a reciprocal or interinsurance exchange; and

(B) an affiliate of an insurer, as described under Section 823.003 of this code.

(2) "Underwriting guideline" means a rule, standard, marketing decision, or practice that is used by an insurer or an agent of an insurer to examine, bind, accept, reject, cancel, or limit insurance coverage to groups of consumers of insurance.

Sec. 2. APPLICATION. This article applies only to an insurer in this state that writes:

(1) a personal automobile insurance policy;

(2) a homeowners or farm and ranch owners insurance

1 policy; or

2 (3) a residential fire and allied lines insurance
3 policy or farm and ranch insurance policy.

4 Sec. 3. OVERSIGHT OF UNDERWRITING PROCESS; STANDARDS. (a)
5 The commissioner, by rule, shall adopt standards for underwriting
6 guidelines to be used by insurers in writing insurance policies
7 subject to this article.

8 (b) In adopting standards under Subsection (a) of this
9 section, the commissioner shall consider information submitted by:

10 (1) the office of public insurance counsel;

11 (2) consumer protection organizations with
12 demonstrated expertise in the subject of consumer lines of
13 insurance coverage; and

14 (3) individuals who are policyholders or applicants
15 for insurance coverage in this state.

16 (c) The rules adopted under Subsection (a) of this section
17 must ensure that underwriting guidelines used by insurers in
18 writing insurance policies subject to this article:

19 (1) promote mitigation of losses;

20 (2) fairly spread risk among insureds based on
21 probable loss costs; and

22 (3) do not unfairly impact individuals who are
23 traditionally underserved by the insurance industry, including
24 low-income individuals and members of minority groups.

25 Sec. 4. SUBMISSION OF UNDERWRITING GUIDELINES BY INSURERS;
26 PUBLIC ACCESS. (a) Each insurer shall submit to the department, in
27 the form prescribed by the department, copies of the underwriting

1 guidelines used by the insurer in writing insurance policies
2 subject to this article.

3 (b) Underwriting guidelines submitted under Subsection (a)
4 of this section are not confidential and are subject to public
5 access in the manner prescribed by Chapter 552, Government Code.

6 Sec. 5. PROHIBITION; PENALTY. (a) An insurer may not use an
7 underwriting guideline that violates a standard adopted under
8 Section 3 of this article.

9 (b) An insurer that violates this article commits an unfair
10 practice in violation of Article 21.21 of this code.

11 Sec. 6. RULES. The commissioner shall adopt rules as
12 necessary to implement this article.

13 SECTION 2. Section 38.002, Insurance Code, is amended by
14 adding Subsection (g) to read as follows:

15 (g) This section does not apply to an underwriting guideline
16 that is subject to Article 21.49-2X.

17 SECTION 3. Article 21.49-2X, Insurance Code, as added by
18 this Act, applies only to an insurance policy delivered, issued for
19 delivery, or renewed on or after January 1, 2004. A policy
20 delivered, issued for delivery, or renewed before January 1, 2004,
21 is governed by the law as it existed immediately before the
22 effective date of this Act, and that law is continued in effect for
23 that purpose.

24 SECTION 4. This Act takes effect September 1, 2003.