

By: Smithee

H.B. No. 639

Substitute the following for H.B. No. 639:

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C.S.H.B. No. 639

A BILL TO BE ENTITLED

AN ACT

relating to rate information to be filed by certain insurers of residential property; providing an administrative penalty.

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

SECTION 1. Chapter 5, Insurance Code, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. FILING OF RESIDENTIAL PROPERTY INSURANCE

RATES FOR REPORT TO LEGISLATURE

Art. 5.141. FILING OF RATE INFORMATION; REPORT

Sec. 1. PURPOSE. The purpose of this article is to require on a one-time basis that insurers writing residential property insurance in this state, immediately after the effective date of this article, file rates and supporting data, including current rates and estimated rates to be charged in the six-month period following the effective date of this article, with the commissioner of insurance for the purpose of the preparation of a summary report for submission to the 78th Legislature. The report shall contain a review of the rates, presented in a manner that protects the identity of individual insurers:

(1) to inform the legislature as to whether the rates are just, adequate, and reasonable and not excessive or unfairly discriminatory; and

(2) to assist in the determination of the most effective and efficient regulatory system for residential property

1 insurance in Texas.

2 Sec. 2. DEFINITIONS. In this article:

3 (1) "Insurer" means an insurance company, reciprocal
4 or interinsurance exchange, mutual, capital stock company, county
5 mutual insurance company, association, Lloyd's plan company, or
6 other entity writing residential property insurance in the state.
7 The term includes an affiliate as described by Section 823.003(a)
8 of this code if that affiliate is writing residential property
9 insurance in the state.

10 (2) "Residential property insurance" means insurance
11 against loss to residential real property at a fixed location or
12 tangible personal property provided in a homeowners policy, which
13 includes a tenant policy, a condominium owners policy, or a
14 residential fire and allied lines policy.

15 (3) "Supplementary rating information" means any
16 manual, rating schedule, plan of rules, rating rules,
17 classification systems, territory codes and descriptions, rating
18 plans, and other similar information used by the insurer to
19 determine the applicable premium for an insured. The term includes
20 factors and relativities, such as increased limits factors,
21 classification relativities, deductible relativities, premium
22 discount, and other similar factors and rating plans such as
23 experience, schedule, and retrospective rating.

24 Sec. 3. RATE INFORMATION. (a) Insurers must file
25 residential property insurance rates and supporting information
26 with the commissioner in accordance with the requirements
27 determined by the commissioner under this article.

1 (b) Filings made by each insurer must be sufficient to
2 respond to the commissioner's request for information under this
3 article and must provide both current rates and estimated rates for
4 the six-month period following the effective date of this article
5 based upon information reasonably known to the insurer at the time
6 of filing.

7 (c) As determined by the commissioner under Subsection (e)
8 of this section, the insurer shall file:

9 (1) all residential property insurance rates,
10 supplementary rating information, reasonable and pertinent
11 supporting information for risks written in the state, and all
12 applicable rating manuals;

13 (2) any statistics or other information to support the
14 rates to be used by the insurer;

15 (3) the policy fees, service fees, and other fees that
16 are charged under Article 21.35A or 21.35B of this code; and

17 (4) information on the credit scoring formulas and
18 methodologies possessed and used by the insurer to determine
19 residential property insurance premiums or underwriting and any
20 other information required by the commissioner relating to the
21 insurer's use of credit scoring to determine premiums or
22 underwriting for residential property insurance.

23 (d) The commissioner shall determine which insurers are
24 required to file the rating information under this section.

25 (e) The commissioner shall determine the type of
26 information to be included in the filing and the date on which the
27 filing is due.

1 (f) The commissioner may require only one filing of rates
2 and supporting information by an insurer under this section and may
3 require additional information as provided by Section 4 of this
4 article. The commissioner shall require the one filing of rates as
5 provided by this section to be made not later than the 30th day
6 after the effective date of this article.

7 (g) The commissioner shall issue an order specifying the
8 information that insurers must file to comply with this article and
9 the date on which the filing is due.

10 (h) The commissioner is not required to hold a hearing
11 before issuing the order required under Subsection (g) of this
12 section.

13 (i) The commissioner shall notify an affected insurer of the
14 order requiring the rate filing information under this section on
15 the day the order is issued.

16 Sec. 4. ADDITIONAL INFORMATION. After the initial rate
17 submission under Section 3 of this article, the commissioner may
18 require an insurer to provide additional, reasonable information
19 for purposes of the clarification or completeness of the initial
20 rate submission.

21 Sec. 5. USE OF FILED RATE INFORMATION. (a) Information
22 filed by an insurer with the department under this article that is
23 confidential under a law that applied to the insurer before the
24 effective date of this article remains confidential and is not
25 subject to disclosure under Chapter 552, Government Code, except
26 that the information may be disclosed as provided by Section
27 552.008, Government Code, relating to information for legislative

1 purposes. The information may not be released to the public except
2 in summary form in the report required under Section 6 of this
3 article.

4 (b) If information filed with the department under this
5 article is disclosed as provided by Section 552.008, Government
6 Code, the department shall require the requesting member, agency,
7 or committee of the legislature, and the employees of the
8 requesting member or the members or employees of the requesting
9 entity who will view or handle the confidential information, to
10 sign a confidentiality agreement that covers the information and
11 requires that:

12 (1) the information not be disclosed outside the
13 requesting entity, or within the requesting entity for purposes
14 other than the purposes for which it was received;

15 (2) the information be labeled as confidential;

16 (3) the information be kept securely; and

17 (4) the number of copies of the information and any
18 notes taken from the confidential information be controlled and
19 that all copies and notes that are not destroyed or returned to the
20 governmental body remain confidential and subject to the
21 confidentiality agreement.

22 (c) Subsection (a) of this section does not preclude the use
23 of information filed under this article as evidence in prosecuting
24 a violation of this code. Confidential information described by
25 Subsection (a) of this section that is used in prosecuting a
26 violation is subject to a protective order until all appeals of the
27 case have been exhausted. If an insurer is found, after the

1 exhaustion of all appeals, to have violated this code, a copy of the
2 confidential information used as evidence of the violation is no
3 longer presumed to be confidential.

4 Sec. 6. REPORT. (a) The commissioner shall submit a report
5 to the governor, the lieutenant governor, the speaker of the house
6 of representatives, and the members of the legislature on the
7 information collected from the filings required under this article.
8 The report shall be submitted not later than the 30th day after the
9 effective date of this article.

10 (b) The report required under this subsection shall provide
11 a summary review of the rates currently charged and estimated to be
12 charged over the six months following the effective date of this
13 article, presented in a manner that protects the identity of
14 individual insurers:

15 (1) to inform the legislature as to whether the rates
16 are just, adequate, and reasonable and not excessive or unfairly
17 discriminatory; and

18 (2) to assist the legislature in the determination of
19 the most effective and efficient regulatory system for residential
20 property insurance in Texas.

21 Sec. 7. NOTIFICATION; NONCOMPLIANCE. The commissioner
22 shall notify the governor, the lieutenant governor, the speaker of
23 the house of representatives, and the members of the legislature of
24 the names of the insurers whom the commissioner requested to make
25 the rate filings under this article and the names of the insurers
26 who did not respond in whole or in part to the commissioner's
27 request. This notification shall be made by separate letter on the

1 fourth day following the date on which the commissioner determines
2 the filing is due under Section 3(g) of this article.

3 Sec. 8. APPLICATION OF CERTAIN LAW. Chapter 40 of this code
4 does not apply to an action of the commissioner under Section 3(g)
5 of this article.

6 Sec. 9. FAILURE TO COMPLY. An insurer that fails to comply
7 with any request for information issued by the commissioner under
8 this article is subject, after notice and opportunity for hearing,
9 to sanctions as provided by Chapters 82 and 84 of this code.

10 SECTION 2. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2003.