

By: Jackson, et al.

S.B. No. 14

A BILL TO BE ENTITLED

AN ACT

relating to certain insurance rates, forms, and practices;  
providing penalties.

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

ARTICLE 1. RATE REQUIREMENTS

PART A. RATE FILINGS

SECTION 1.01. Chapter 5, Insurance Code, is amended by  
adding Subchapters Q and R to read as follows:

SUBCHAPTER Q. RATES FOR CERTAIN LINES

Art. 5.142. RATES FOR PERSONAL AUTOMOBILE AND RESIDENTIAL  
PROPERTY INSURANCE COVERAGE

Sec. 1. SCOPE. (a) This article governs the regulation of  
rates for personal automobile insurance and residential property  
insurance.

(b) Notwithstanding Subsection (a) of this section, this  
article does not apply to premium rates for motor vehicle insurance  
computed using a mile-based rating plan under Article 5.01-4 of  
this code.

Sec. 2. DEFINITIONS. In this article:

(1) "Advisory organization" means an organization  
licensed under Article 5.73 of this code.

(2) "Classification" means the grouping of risks with  
similar risk characteristics so that differences in expected costs  
may be appropriately recognized.

1           (3) "Disallowed expenses" includes:

2                   (A) administrative expenses, not including  
3 acquisition, loss control, and safety engineering expenses, that  
4 exceed 110 percent of the industry median for those expenses;

5                   (B) lobbying expenses;

6                   (C) advertising expenses, other than for  
7 advertising:

8                           (i) directly related to the services or  
9 products provided by the insurer;

10                           (ii) designed and directed at loss  
11 prevention; or

12                           (iii) for the promotion of organizations  
13 exempt from federal taxation under Section 501(c)(3), Internal  
14 Revenue Code of 1986, and its subsequent amendments;

15                   (D) amounts paid or reserved by an insurer,  
16 whether classified by the insurer as a loss or an expense:

17                           (i) as damages in an action brought against  
18 the insurer for bad faith; or

19                           (ii) as fees, fines, or penalties for a  
20 civil or criminal violation of law;

21                   (E) contributions to:

22                           (i) social, religious, political, or  
23 fraternal organizations; or

24                           (ii) organizations engaged in legislative  
25 advocacy;

26                   (F) except as authorized by rule by the  
27 commissioner, fees and assessments paid to advisory organizations;

1 and

2 (G) any unreasonably incurred expenses, as  
3 determined by the commissioner after notice and hearing.

4 (4) "Filer" means an insurer that files rates,  
5 supplementary rating information, supporting information, rating  
6 manuals, or any other information required to be filed under this  
7 article.

8 (5) "Insurer" means an insurance company, reciprocal  
9 or interinsurance exchange, mutual insurance company, capital  
10 stock company, county mutual insurance company, Lloyd's plan, or  
11 other legal entity authorized to write personal automobile  
12 insurance or residential property insurance in this state. The  
13 term includes an affiliate, as described by Section 823.003(a) of  
14 this code, if that affiliate is authorized to write and is writing  
15 personal automobile insurance or residential property insurance in  
16 this state. The term does not include:

17 (A) the Texas Windstorm Insurance Association  
18 under Article 21.49 of this code;

19 (B) the FAIR Plan Association under Article  
20 21.49A of this code; or

21 (C) the Texas Automobile Insurance Plan  
22 Association under Article 21.81 of this code.

23 (6) "Line" means a type of insurance subject to this  
24 article.

25 (7) "Personal automobile insurance" means motor  
26 vehicle insurance coverage for the ownership, maintenance, or use  
27 of a private passenger, utility, or miscellaneous type motor

1 vehicle, including a motor home, mobile home, trailer, or  
2 recreational vehicle, that is:

3 (A) owned or leased by an individual or  
4 individuals; and

5 (B) not primarily used for the delivery of goods,  
6 materials, or services, other than for use in farm or ranch  
7 operations.

8 (8) "Rate" means the cost of insurance per exposure  
9 unit, whether expressed as a single number or as a prospective loss  
10 cost, with an adjustment to account for the treatment of expenses,  
11 profit, and individual insurer variation in loss experience, and  
12 before any application of individual risk variations based on loss  
13 or expense considerations.

14 (9) "Rating manual" means a publication or schedule  
15 that lists rules, rating factors, classifications, territory codes  
16 and descriptions, rates, premiums, and other similar information  
17 used by an insurer to determine the applicable premium charged an  
18 insured for personal automobile insurance or residential property  
19 insurance.

20 (10) "Residential property insurance" means insurance  
21 coverage against loss to residential real property at a fixed  
22 location or tangible personal property provided in a homeowners  
23 policy, which includes a tenant policy, a condominium owners  
24 policy, or a residential fire and allied lines policy.

25 (11) "Supplementary rating information" means any  
26 manual, rating schedule, plan of rules, rating rules,  
27 classification systems, territory codes and descriptions, rating

1 plans, discount and surcharge programs, and other similar  
2 information used by the insurer to determine the applicable premium  
3 for an insured. The term includes factors and relativities,  
4 including increased limits factors, classification relativities,  
5 deductible relativities, minimum premiums, and other similar  
6 factors.

7 (12) "Supporting information" means:

8 (A) the experience and judgment of the filer and  
9 the experience or information of advisory organizations or other  
10 insurers relied on by the filer;

11 (B) the interpretation of any other information  
12 relied on by the filer;

13 (C) descriptions of methods used in making the  
14 rates; and

15 (D) any other information required by the  
16 commissioner by rule to be filed.

17 Sec. 3. RATE STANDARDS. (a) An insurer shall set rates for  
18 each line in accordance with this section.

19 (b) In setting rates, an insurer shall consider:

20 (1) past and prospective loss experience inside this  
21 state, and outside this state if the state data are not credible;

22 (2) the peculiar hazards and experiences of individual  
23 risks, past and prospective, inside and outside this state;

24 (3) the insurer's historical premium, exposure, loss,  
25 and expense experience;

26 (4) catastrophe hazards within this state;

27 (5) operating expenses, excluding disallowed

1 expenses;

2 (6) investment income;

3 (7) a reasonable margin for profit; and

4 (8) any other relevant factors inside and outside this  
5 state.

6 (c) An insurer may:

7 (1) group risks by classification for the  
8 establishment of rates and minimum premiums; and

9 (2) modify classification rates to produce rates for  
10 individual risks in accordance with rating plans that establish  
11 standards for measuring variations in those risks on the basis of  
12 any factor listed in Subsection (b) of this section.

13 (d) Rates established under this section may not be  
14 excessive, inadequate, unreasonable, or unfairly discriminatory  
15 for the risks to which they apply.

16 (e) In setting rates applicable to policyholders in this  
17 state, an insurer shall use its own historical premium and loss  
18 data, as well as its own data for expenses and for profit and  
19 contingency factors. The commissioner may require an audit of the  
20 insurer's historical premium and loss data. The insurer may  
21 separately supplement its own historical premium and loss data with  
22 industry-wide historical premium and loss data for this state as  
23 necessary. The commissioner by rule may establish requirements for  
24 reporting historical premium and loss data under this subsection.

25 Sec. 4. RATE FILINGS. (a) An insurer shall file with the  
26 department all rates, supplementary rating information, reasonable  
27 and pertinent supporting information, and all applicable rating

1 manuals for risks written in this state. The insurer shall include  
2 in the filing any statistics or other information to support the  
3 rates to be used by the insurer and as required by the commissioner  
4 by rule, including information necessary to evidence that the  
5 computation of the rate does not include disallowed expenses. An  
6 insurer shall include in the filing all information concerning  
7 policy fees, service fees, and other fees that are charged or  
8 collected by the insurer under Article 21.35B of this code.

9 (b) The commissioner may simplify filing requirements by  
10 rule for small insurers, subject to the following:

11 (1) a "small insurer" is defined as an insurer,  
12 including a Lloyd's plan insurer or reciprocal exchange, that  
13 during the previous calendar year wrote less than two percent of the  
14 total homeowners premium in the state; if such an insurer is part of  
15 an insurance group, the total aggregate homeowners premium for the  
16 group must be less than two percent for any insurer in the group to  
17 be considered a small insurer for purposes of this subsection;

18 (2) the commissioner must specify what information the  
19 small insurer must file to constitute a filing sufficient to comply  
20 with the filing requirements adopted under this article; and

21 (3) the commissioner shall allow for the immediate use  
22 of filed rates provided the rate filing does not constitute a  
23 significant overall rate increase, as determined by rule.

24 (c) No territory in a rating manual shall be smaller than  
25 the boundary of a county except as follows:

26 (1) for counties in the designated catastrophe area  
27 for the Texas Windstorm Insurance Association under Article 21.49

1 of this code, insurers may file their own territories no smaller  
2 than the areas seaward of the intracoastal canal and landward of the  
3 intracoastal canal to reflect the exposure to weather-related  
4 catastrophic events; and

5 (2) insurers may subdivide territories between the  
6 portion of the county located in the catastrophe area and that  
7 portion not located in the catastrophe area in non-first tier  
8 coastal counties, as defined in Article 21.49 of this code.

9 (d) Insurers shall reflect differences in expected water  
10 damage losses in calculating territorial rate relativities.

11 Sec. 5. PRIOR APPROVAL REQUIRED. (a) An insurer may not  
12 use a rate until the rate has been filed with the department and  
13 approved by the commissioner as provided by this section. For  
14 purposes of this section, a rate is filed with the department on the  
15 date the rate filing is received by the department.

16 (b) Not later than the 30th day after the date the rate is  
17 filed with the department, the commissioner shall:

18 (1) approve the rate if the commissioner determines  
19 that the rate complies with the requirements of this article; or

20 (2) disapprove the rate if the commissioner determines  
21 that the rate does not comply with the requirements of this article.

22 (c) If the commissioner approves a rate filing, the  
23 commissioner shall provide written or electronic notification of  
24 the approval to the insurer. On receipt of the notice of the  
25 commissioner's approval of a rate, the insurer may use the rate.

26 (d) Except as provided by Subsection (e) of this section or  
27 Section 9 of this article, if the rate has not been approved or



1 disapproved by the commissioner before the expiration of the 30-day  
2 period described by Subsection (b) of this section, the rate is  
3 deemed approved and the insurer may use the rate.

4 (e) The commissioner may extend the period for approval or  
5 disapproval of a rate filing for an additional 30-day period on the  
6 expiration of the 30-day period described by Subsection (b) of this  
7 section. If the rate has not been approved or disapproved by the  
8 commissioner before the expiration of the additional 30-day period  
9 described in this subsection, the rate is deemed approved and the  
10 insurer may use the rate. The commissioner may not extend the  
11 period for approval or disapproval of a rate filing beyond the  
12 additional 30-day period described in this subsection.

13 (f) If the department has requested additional information  
14 from the insurer during the first 30-day review period provided  
15 under Subsection (b) of this section or under the second 30-day  
16 review period provided under Subsection (e) of this section, the  
17 period of time between the date of the department's submission of  
18 the request for additional information to the insurer and the date  
19 of the receipt of the additional information by the department from  
20 the insurer shall not be counted in the days to determine what  
21 constitutes the first 30-day review period or the second 30-day  
22 review period. For purposes of this subsection, the date of the  
23 department's submission of the request for additional information  
24 is the date of the email or telephone call or postmarked date on the  
25 letter pertaining to the request for additional information.

26 (g) From the date of the filing of the rate with the  
27 commissioner to the effective date of the new rate, the insurer's

1 previously filed rate that is in effect as provided in this article  
2 shall remain in effect.

3 Sec. 6. DISAPPROVAL; WITHDRAWAL OF APPROVAL. (a) The  
4 commissioner shall disapprove a rate filed under this article if  
5 the commissioner determines that the rate does not meet the  
6 requirements of this article. The commissioner may consider the  
7 extent and nature of market competition in the personal automobile  
8 insurance and residential property insurance markets and the  
9 availability or lack of availability of personal automobile  
10 insurance and residential property insurance in determining  
11 whether to disapprove any rates filed under this article.

12 (b) If the commissioner disapproves a rate filing before the  
13 30th day after the date of the filing of the rate with the  
14 department, as provided in Section 5(b)(2) of this article and  
15 Subsection (e) of this section, or before the expiration of the  
16 additional 30-day period as provided in Section 5(e) of this  
17 article and Subsection (e) of this section, the commissioner shall  
18 issue an order specifying in what respects the rate filing fails to  
19 meet the requirements of this article. If the insurer has filed all  
20 of the information required to be filed under Section 4 of this  
21 article, the commissioner's order shall include the rates and terms  
22 which the commissioner would approve for use by the insurer. The  
23 filer is entitled to a hearing on written request to the  
24 commissioner not later than the 30th day after the effective date of  
25 the disapproval order.

26 (c) If the commissioner withdraws approval of a rate that is  
27 in effect, the commissioner shall notify in writing the insurer

1 that made the filing and may issue a withdrawal of approval order  
2 only after a hearing held not sooner than the 20th day after the  
3 date of the written notice. The order must be issued not later than  
4 the 15th day after the close of the hearing and must specify how the  
5 rate fails to meet the requirements of this article. The order must  
6 state the future date on which the further use of the disapproved  
7 rate is prohibited and, if applicable, specify the interim rate as  
8 provided in Subsection (d) of this section.

9 (d) If an insurer has no legally effective rate because of  
10 an order withdrawing the approval of rates that are in effect, the  
11 commissioner may specify an interim rate at the time the order is  
12 issued. The interim rate may be modified by the commissioner on the  
13 commissioner's own motion or on motion by the insurer. The interim  
14 rate or any modification of that rate shall take effect on the date  
15 specified in the commissioner's order.

16 (e) A commissioner's order disapproving a rate or  
17 withdrawing the previous approval of a rate, and any notice of the  
18 commissioner's intent to withdraw a previous approval, must state  
19 the grounds for the disapproval or for the withdrawal of previous  
20 approval in sufficient detail to reasonably inform the filer of the  
21 grounds.

22 (f) An insurer may not use a rate in this state after  
23 disapproval or withdrawal of approval of the rate by the  
24 commissioner, except as provided by Section 13(b) of this article.

25 Sec. 7. SUPERVISION REQUIREMENT. If the commissioner  
26 determines after a hearing that an insurer's rates require  
27 supervision because of the insurer's financial condition or the

1 insurer's rating practices, the commissioner may require the  
2 insurer to file with the commissioner all rates, supplementary  
3 rating information, and any supporting information prescribed by  
4 the commissioner.

5 Sec. 8. PUBLIC INFORMATION. Each rate filing and any  
6 supporting information filed under this article are subject to  
7 disclosure under Chapter 552, Government Code, as of the date the  
8 filing is received by the commissioner.

9 Sec. 9. RIGHTS OF INSURED, PUBLIC INSURANCE COUNSEL, AND  
10 OTHERS. An insured, the public insurance counsel, and any other  
11 interested person may make a written application to the  
12 commissioner not later than the 20th day after the date of a rate  
13 filing under Section 5 of this article requesting a hearing on the  
14 rate filing. The application must specify the grounds on which the  
15 applicant is requesting the hearing. If the commissioner finds  
16 that the application is made in good faith and that the applicant  
17 establishes reasonable grounds to justify holding the hearing, the  
18 commissioner shall conduct a hearing under Chapter 2001, Government  
19 Code. After that hearing, the commissioner has 30 days to  
20 disapprove the filing under Section 6 of this article, or it is  
21 deemed approved.

22 Sec. 10. QUARTERLY LEGISLATIVE REPORT. (a) Each insurer  
23 subject to this article shall file with the commissioner on a  
24 quarterly basis information relating to changes in losses,  
25 premiums, and market share.

26 (b) The commissioner shall report on a quarterly basis to  
27 the governor, the lieutenant governor, and the speaker of the house

1 of representatives on the information provided by the insurers'  
2 reports, summary information obtained from market conduct  
3 examinations and analyses to the extent such information is not  
4 confidential by law, and consumer complaints received by the  
5 department.

6 Sec. 11. RATE HEARINGS; ADMINISTRATIVE PROCEDURES. Chapter  
7 2001, Government Code, applies to all hearings on rates conducted  
8 under this article. To the extent of any conflict between this  
9 article and Chapter 2001, Government Code, this article prevails.

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

16 Sec. 13. JUDICIAL REVIEW. (a) Not later than the 10th day  
17 after the date of receipt of the commissioner's order under Section  
18 6(c) of this article, an insurer may file a petition for judicial  
19 review in a district court in Travis County. The standard of review  
20 of the commissioner's order is substantial evidence.

21 (b) During the pendency of the appeal, an insurer may charge  
22 either its existing rates or the rates as ordered by the  
23 commissioner.

24 Sec. 14. REFUND REQUIRED. If on final appeal the court  
25 upholds the commissioner's determination as to rates, the insurer  
26 shall refund the difference in overcharged premium to each  
27 policyholder, plus interest. The interest rate is the prime rate

1 plus one percent as published in *The Wall Street Journal* on the  
2 first day of each calendar year that is not a Saturday, Sunday, or  
3 legal holiday.

4 Sec. 15. RULES. The commissioner shall adopt rules as  
5 necessary to implement this article.

6 SUBCHAPTER R. NONSTANDARD MARKETS

7 Art. 5.1425. RATE REQUIREMENTS

8 Sec. 1. SCOPE. This article governs the regulation of rates  
9 for personal automobile insurance in nonstandard markets.

10 Sec. 2. PURPOSE. The purpose of this article is to:

11 (1) promote the availability of personal automobile  
12 liability insurance in this state by preserving residual markets  
13 for Texas residents historically served by such residual markets;

14 (2) reduce the number of uninsured drivers in this  
15 state by ensuring a readily available residual market for high  
16 risk, nonstandard drivers;

17 (3) ensure that rates in such residual markets are not  
18 excessive, inadequate, unreasonable, or unfairly discriminatory  
19 for the risks to which they apply; and

20 (4) ensure that such residual markets are subject to  
21 unfair discrimination statutes and to market conduct examination by  
22 the commissioner.

23 Sec. 3. STANDARD RATE INDEX. (a) Using standard and  
24 generally accepted actuarial techniques, the commissioner shall  
25 annually calculate and publish a statewide standard rate index  
26 intended to accurately reflect the statewide average rate for  
27 classifications, including the following:

1           (1) for private passenger automobile liability,  
2 standard rate indexes for bodily injury liability, property damage  
3 liability, personal injury protection, medical payments, and  
4 uninsured or underinsured motorist coverages; and

5           (2) for private passenger automobile physical damage,  
6 standard rate indexes for collision and other than collision  
7 coverages.

8           (b) The commissioner may establish and calculate other  
9 standard rate indexes for private passenger automobile insurance as  
10 necessary to implement the provisions of this article.

11           Sec. 4. NONSTANDARD RATES. (a) "Nonstandard rates" are  
12 rates that are 30 percent or higher than the standard rate index  
13 calculated by the commissioner.

14           (b) A county mutual insurance company, as defined in Chapter  
15 17 or 912 of this code, writing personal automobile insurance at  
16 nonstandard rates is not subject to Article 5.142 of this code  
17 provided the county mutual insurance company, its affiliated  
18 company, or group writes an aggregate of less than 3.5 percent of  
19 the total personal automobile insurance premiums in this state.

20           (c) A county mutual insurance company that increases its  
21 aggregate rates by 10 percent or more in a calendar year must  
22 secure the prior approval of the commissioner as provided by  
23 Section 5, Article 5.142 of this code.

24           (d) Notwithstanding Subsection (b) of this section, the  
25 commissioner may designate by rule other types of insurers that  
26 historically and currently, as of the effective date of this  
27 article, serve residual markets for high risk, nonstandard drivers

1 in this state. Such insurers designated by the commissioner may be  
2 subject to this article.

3 Sec. 5. RATE STANDARDS AND FILING. (a) Rates established  
4 under this article may not be excessive, inadequate, unreasonable,  
5 or unfairly discriminatory for the risks to which they apply.

6 (b) The commissioner by rule shall determine what an insurer  
7 must file to ensure compliance with Subsection (a) of this section  
8 and Section 3 of this article.

9 (c) The commissioner may disapprove a rate that does not  
10 comply with Subsection (a) of this section as provided for in  
11 Section 6, Article 5.142 of this code.

12 (d) Nothing in this article shall be construed to limit the  
13 commissioner's authority to conduct market conduct examinations  
14 under Article 1.15 of this code for an insurer subject to this  
15 article.

16 (e) Insurers subject to this article are subject to unfair  
17 discrimination provisions in this code, including Article 21.21-6  
18 of this code, as added by Chapter 415, Acts of the 74th Legislature,  
19 Regular Session, 1995, and Articles 21.21-8 and 21.21-10 of this  
20 code.

21 (f) No territory in a rating manual shall be smaller than  
22 the boundary of a county, except as follows:

23 (1) for counties in the designated catastrophe area  
24 for the Texas Windstorm Insurance Association, under Article 21.49  
25 of this code, insurers may file their own territories no smaller  
26 than the areas seaward of the intracoastal canal and landward of the  
27 intracoastal canal to reflect the exposure to weather-related



1 catastrophic events; and

2 (2) insurers may subdivide territories between the  
3 portion of the county located in the catastrophe area and that  
4 portion not located in the catastrophe area in non-first tier  
5 coastal counties, as defined in Article 21.49 of this code.

6 (g) Each rate filing and any supporting information filed  
7 under this article are subject to disclosure under Chapter 552,  
8 Government Code, as of the date the filing is received by the  
9 department.

10 PART B. TRANSITION

11 SECTION 1.02. An insurer's initial filing under Section 10,  
12 Article 5.142, Insurance Code, as added by this article, must  
13 include the information required under that section beginning with  
14 the calendar quarter beginning January 1, 2003.

15 ARTICLE 2. POLICY FORMS AND ENDORSEMENTS

16 PART A. FORM FILINGS

17 SECTION 2.01. Chapter 5, Insurance Code, is amended by  
18 adding Subchapter S to read as follows:

19 SUBCHAPTER S. POLICY FORMS FOR CERTAIN LINES

20 Art. 5.143. POLICY FORMS FOR PERSONAL AUTOMOBILE INSURANCE  
21 COVERAGE AND RESIDENTIAL PROPERTY INSURANCE COVERAGE

22 Sec. 1. SCOPE. This article governs the regulation of  
23 policy forms and endorsements for personal automobile insurance and  
24 residential property insurance.

25 Sec. 2. DEFINITIONS. In this article:

26 (1) "Filer" means an insurer that files forms or any  
27 other information required to be filed under this article.

1           (2) "Form" means any insurance policy form or  
2 endorsement form used in writing personal automobile insurance or  
3 residential property insurance in this state.

4           (3) "Insurer" means an insurance company, reciprocal  
5 or interinsurance exchange, mutual insurance company, capital  
6 stock company, county mutual insurance company, Lloyd's plan, or  
7 other legal entity authorized to write personal automobile  
8 insurance or residential property insurance in this state. The  
9 term includes an affiliate, as described by Section 823.003(a) of  
10 this code, if that affiliate is authorized to write and is writing  
11 personal automobile insurance or residential property insurance in  
12 this state. The term does not include:

13                   (A) the Texas Windstorm Insurance Association  
14 under Article 21.49 of this code;

15                   (B) the FAIR Plan Association under Article  
16 21.49A of this code; or

17                   (C) the Texas Automobile Insurance Plan  
18 Association under Article 21.81 of this code.

19           (4) "Personal automobile insurance" means motor  
20 vehicle insurance coverage for the ownership, maintenance, or use  
21 of a private passenger, utility, or miscellaneous type motor  
22 vehicle, including a motor home, mobile home, trailer, or  
23 recreational vehicle, that is:

24                   (A) owned or leased by an individual or  
25 individuals; and

26                   (B) not primarily used for the delivery of goods,  
27 materials, or services, other than for use in farm or ranch

1 operations.

2 (5) "Residential property insurance" means insurance  
3 coverage against loss to residential real property at a fixed  
4 location or tangible personal property provided in a homeowners  
5 policy, which includes a tenant policy, a condominium owners  
6 policy, or a residential fire and allied lines policy.

7 Sec. 3. PRIOR APPROVAL REQUIRED. (a) Each insurer shall  
8 file its forms with the department. The forms may not be delivered  
9 or issued for delivery in this state unless the forms have been  
10 filed with the department and approved by the commissioner as  
11 provided by this article.

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

16 (c) For the purposes of this article, the date the form is  
17 received by the department is the date of filing of the form with  
18 the commissioner.

19 (d) Not later than the 60th day after the date the form is  
20 filed with the department, the commissioner shall:

21 (1) approve the form if the commissioner determines  
22 that the form complies with the requirements of this article; or

23 (2) disapprove the form if the commissioner determines  
24 that the form does not comply with the requirements of this article.

25 (e) If the commissioner approves a form, the commissioner  
26 shall provide written or electronic notification of the approval to  
27 the insurer. On receipt of the notice of the commissioner's

1 approval of a form, the insurer may use the form.

2 (f) If the form has not been approved or disapproved by the  
3 commissioner before the expiration of the 60-day period described  
4 by Subsection (d) of this section, the form is deemed approved and  
5 the insurer may use the form. The commissioner may not extend the  
6 60-day period for approval or disapproval of a form.

7 (g) If the department has requested additional information  
8 from the insurer during the 60-day review period provided under  
9 Subsection (d) of this section, the period of time between the date  
10 of the department's submission of the request for additional  
11 information to the insurer and the date of the receipt of the  
12 additional information by the department from the insurer shall not  
13 be counted in the days to determine what constitutes the 60-day  
14 review period. For purposes of this subsection, the date of the  
15 department's submission of the request for additional information  
16 is the date of the email or telephone call or postmarked date on the  
17 letter pertaining to the request for additional information.

18 Sec. 4. REQUIREMENTS FOR FORMS; PLAIN LANGUAGE REQUIREMENT.

19 (a) Each form filed under this article must comply with applicable  
20 state and federal law.

21 (b) Each form for a policy of personal automobile insurance  
22 must provide the coverages mandated under Articles 5.06-1 and  
23 5.06-3 of this code unless the coverages are rejected by the named  
24 insured in the manner provided by those articles.

25 (c) A form may not be used if it is not in plain language.  
26 For the purposes of this section, a form is written in plain  
27 language if it achieves the minimum score established by the

1 commissioner on the Flesch reading ease test or an equivalent test  
2 selected by the commissioner or, at the option of the commissioner,  
3 if it conforms to the language requirements in a National  
4 Association of Insurance Commissioners model act relating to plain  
5 language. This section does not apply to policy language that is  
6 mandated by state or federal law.

7 Sec. 5. PERSONAL AUTOMOBILE INSURANCE. (a) A contract or  
8 agreement that is not written into the application for insurance  
9 coverage and the personal automobile insurance policy:

10 (1) is void and of no effect; and

11 (2) violates this article and Subchapter A of this  
12 chapter.

13 (b) A contract or agreement described by Subsection (a) of  
14 this section constitutes grounds for the revocation of the  
15 certificate of authority of an insurer to write personal automobile  
16 insurance in this state.

17 Sec. 6. PUBLIC INFORMATION. Each form filing and any  
18 supporting information filed under this article are subject to  
19 Chapter 552, Government Code, as of the date the filing is received  
20 by the department.

21 Sec. 7. DISAPPROVAL; WITHDRAWAL OF APPROVAL. (a) The  
22 commissioner may disapprove a form filed under this article or  
23 withdraw any previous approval of a form filed under this article if  
24 the form:

25 (1) violates or does not comply with this code or a  
26 valid rule duly adopted by the commissioner or is otherwise  
27 contrary to law; or

1           (2) contains provisions or has any titles or headings  
2 that are unjust, encourage misrepresentation, are deceptive, or  
3 violate public policy.

4           (b) If the commissioner disapproves a filing before the 60th  
5 day after the date of the filing of the form with the department,  
6 the commissioner shall issue an order specifying in what respects  
7 the form fails to meet the requirements of this article. The filer  
8 is entitled to a hearing on written request made to the commissioner  
9 not later than the 30th day after the effective date of the  
10 disapproval order.

11           (c) If the commissioner withdraws approval of a form that is  
12 in effect, the commissioner shall notify in writing the insurer  
13 that made the filing, and may issue a withdrawal of approval order  
14 only after a hearing held not sooner than the 20th day after the  
15 date of the written notice. The order must be issued not later than  
16 the 15th day after the close of the hearing and must specify how the  
17 form fails to meet the requirements of this article. The order must  
18 state the date on which the further use of the form is prohibited.

19           (d) A commissioner's order disapproving a form or  
20 withdrawing the previous approval of a form, and any notice of the  
21 commissioner's intent to withdraw a previous approval, must state  
22 the grounds for the disapproval or withdrawal of previous approval  
23 in sufficient detail to reasonably inform the filer of the grounds.

24           (e) An insurer may not use a form in this state after  
25 disapproval or withdrawal of approval of the form by the  
26 commissioner.

27           Sec. 8. PUBLIC INSURANCE COUNSEL. Notwithstanding Article

1 1.35A of this code, the office of public insurance counsel may  
2 submit written comments to the commissioner and otherwise  
3 participate regarding individual company filings made under this  
4 article.

5 Sec. 9. RULEMAKING. The commissioner may adopt reasonable  
6 and necessary rules to implement this article.

7 PART B. TRANSITION

8 SECTION 2.02. The commissioner of insurance shall adopt  
9 rules necessary to implement Article 5.143, Insurance Code, as  
10 added by this article, not later than the 120th day after the  
11 effective date of this Act.

12 SECTION 2.03. In the initial filing of forms under Article  
13 5.143, Insurance Code, as added by this article, the commissioner  
14 of insurance may determine a schedule of staggered filings for  
15 insurers required to make filings under that article. The  
16 commissioner shall notify the insurers of the schedule not later  
17 than the 10th day after the effective date of this Act. The period  
18 for staggered filings under this section may not exceed 120 days  
19 after the effective date of this Act.

20 ARTICLE 3. USE OF CREDIT SCORING

21 PART A. CREDIT SCORING

22 SECTION 3.01. Subchapter B, Chapter 21, Insurance Code, is  
23 amended by adding Article 21.21-10 to read as follows:

24 Art. 21.21-10. CREDIT SCORING BY INSURERS OF RESIDENTIAL  
25 PROPERTY AND PERSONAL AUTOMOBILES; SANCTIONS

26 Sec. 1. DEFINITIONS. In this article:

27 (1) "Adverse action" has the meaning assigned by

1 Section 603(k), Fair Credit Reporting Act (15 U.S.C. Section  
2 1681a), as amended.

3 (2) "Credit information" means any information by a  
4 consumer reporting agency bearing on a consumer's credit  
5 worthiness, credit standing, credit capacity, character, general  
6 reputation, personal characteristics, or mode of living that is  
7 used or expected to be used or collected in whole or in part for the  
8 purpose of serving as a factor in establishing the consumer's  
9 eligibility for credit or insurance.

10 (3) "Insurance credit score" means a numerical, alpha,  
11 or alphanumerical representation of the insurance risk an  
12 individual presents using some or all of the individual's  
13 attributes derived from a credit report or credit information in a  
14 formula to assess insurance risk on an actuarial or statistical  
15 basis. The term includes "credit score," "credit scoring," and  
16 "insurance score."

17 (4) "Insurance credit score model" means the  
18 methodology by which an individual's insurance credit score is  
19 determined.

20 (5) "Insurer" means an insurance company, reciprocal  
21 or interinsurance exchange, mutual insurance company, farm mutual  
22 insurance company, capital stock company, county mutual insurance  
23 company, Lloyd's plan, surplus lines insurer, or other legal entity  
24 engaged in the business of personal automobile insurance or  
25 residential property insurance in this state. The term includes:

26 (A) an affiliate as described by Section 2,  
27 Article 21.49-1 of this code or Section 823.003(a) of this code if



1 that affiliate is authorized to write and is writing personal  
2 automobile insurance or residential property insurance in this  
3 state;

4 (B) the Texas Windstorm Insurance Association  
5 created and operated under Article 21.49 of this code;

6 (C) the FAIR Plan Association under Article  
7 21.49A of this code; and

8 (D) the Texas Automobile Insurance Plan  
9 Association under Article 21.81 of this code.

10 (6) "Personal automobile insurance" means motor  
11 vehicle insurance coverage for the ownership, maintenance, or use  
12 of a private passenger, utility, or miscellaneous type motor  
13 vehicle, including a motor home, mobile home, trailer, or  
14 recreational vehicle, that is:

15 (A) owned or leased by an individual or  
16 individuals; and

17 (B) not primarily used for the delivery of goods,  
18 materials, or services, other than for use in farm or ranch  
19 operations.

20 (7) "Residential property insurance" means insurance  
21 coverage against loss to residential real property at a fixed  
22 location or tangible personal property provided in a homeowners  
23 policy, which includes a tenant policy, a condominium owners  
24 policy, or a residential fire and allied lines policy.

25 Sec. 2. USE OF CREDIT INFORMATION BY INSURER. An insurer  
26 that uses credit information in whole or in part in connection with  
27 a determination regarding any of the following must comply with the

1 requirements of this article:

- 2 (1) whether to issue a policy;
- 3 (2) the amount and terms of coverage in the policy;
- 4 (3) the duration of the policy;
- 5 (4) the rates and fees to be charged in the policy;
- 6 (5) whether to cancel a policy; or
- 7 (6) whether to renew a policy.

8 Sec. 3. RESTRICTIONS ON THE USE OF CREDIT INFORMATION.

9 (a) An insurer may not make a determination based in whole or in  
10 part on a credit score that includes:

- 11 (1) disputed credit information that is the subject of  
12 a pending dispute;
- 13 (2) medical bill collection information;
- 14 (3) the number of insurance inquiries or  
15 non-consumer-initiated credit inquiries; or
- 16 (4) the person's total available line of credit,  
17 except that the insurer may consider the total amount of  
18 outstanding debt in relation to the total available line of credit.

19 (b) An insurer may not make a determination based in whole  
20 or in part on the fact that a person has little or no credit history.

21 (c) An insurer may not make a determination based in whole  
22 or in part on the fact that the insurer is unable to determine a  
23 person's credit score, if the insurer has received complete and  
24 accurate information from the person.

25 (d) An insurer may not make a determination based in whole  
26 or in part on a person's ownership or possession of a particular  
27 type of credit card, charge card, or debit card.

1       (e) At the request of an insured or an applicant for  
2 insurance, an insurer shall rerun a credit check if a previous  
3 credit check on an insured or an applicant for insurance provided  
4 incorrect credit information and shall recalculate the credit score  
5 if the credit information changes.

6       (f) An insurer may not reject an application for, cancel, or  
7 refuse to renew, or determine the rate and fees to be charged for a  
8 personal automobile insurance policy or a residential property  
9 insurance policy predominately on the basis of a credit score. The  
10 commissioner by rule shall define the term "predominately."

11       (g) The commissioner shall promulgate by rule the allowable  
12 differences in the rates charged by insurers due solely to the  
13 differences in insurance credit scores.

14       Sec. 4. IMPROPER USES OF CREDIT INFORMATION AND SCORING.

15       (a) An insurer may not use credit information that is arbitrary,  
16 capricious, or unfairly discriminatory.

17       (b) An insurer may not use insurance credit scoring or an  
18 insurance credit score model or methodology that incorporates the  
19 race, color, religion, or national origin of an insured or an  
20 applicant for insurance.

21       (c) An insurer may not use insurance credit scoring or an  
22 insurance credit score model or methodology that incorporates the  
23 gender of an insured or an applicant for insurance.

24       (d) An insurer may not use insurance inquiries or  
25 non-consumer-initiated credit inquiries as part of the insurance  
26 credit scoring process.

27       Sec. 5. DISCLOSURE REQUIREMENTS. (a) If an insurance

1 credit score results in or contributes to an adverse action, the  
2 insurer shall fully explain to the insured or applicant each  
3 specific item or factor which resulted in or contributed to the  
4 adverse action and the weight given to each item or factor. The  
5 insurer shall provide such explanation to the insured or applicant  
6 at or near the time the adverse action is taken or as soon as  
7 practicable thereafter.

8 (b) Contracting with a vendor to develop insurance credit  
9 scores does not relieve an insurer of its duties under this article.  
10 A contract between an insurer and a vendor must specify how the  
11 information required by this section will be made available to the  
12 insured or the applicant.

13 (c) An insured or applicant may not be charged a fee for the  
14 information.

15 (d) An insurer shall require its agents to disclose to its  
16 customers, on a form promulgated by the commissioner, whether  
17 credit information will be obtained on the applicant or insured or  
18 on any other member or members of the applicant's or insured's  
19 household and used as part of the insurance credit scoring process.  
20 If credit information is obtained or used on the applicant or  
21 insured, or on any member of the applicant's or insured's household,  
22 the insurer shall disclose to the applicant the name of each person  
23 on whom credit information was obtained or used and how each  
24 person's credit information was used to underwrite or rate the  
25 policy.

26 Sec. 6. FILING OF CREDIT SCORING MODELS. An insurer that  
27 uses insurance credit scoring in whole or in part in deciding

1 whether to take any action described by this article shall file with  
2 the commissioner the insurance credit score models or methodologies  
3 for residential property insurance and personal automobile  
4 insurance used by the insurer. The commissioner may require an  
5 explanation from an insurer, through a promulgated form or in any  
6 other manner, as to how an insurer uses insurance credit scores that  
7 are developed on more than one named insured or resident of a  
8 household. If an insurer contracts with a vendor to develop  
9 insurance credit scores, the insurer shall file the vendor's credit  
10 scoring models or methodologies with the commissioner.

11 Sec. 7. PUBLIC INFORMATION. A credit scoring model filed  
12 for purposes of compliance with this article, as of the date the  
13 filing is received by the department:

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

19 Sec. 8. RIGHT TO APPEAL. (a) An insurer shall reconsider  
20 an adverse action by the insurer that has been appealed by an  
21 insured or an applicant for insurance.

22 (b) An appeal may be filed under this section on the basis  
23 of:

- 24 (1) catastrophic illness or injury;  
25 (2) temporary loss of employment;  
26 (3) death of an immediate family member; or  
27 (4) any other grounds as determined by the

1 commissioner by rule as provided by Section 9 of this article.

2 (c) In considering an appeal, the insurer shall make  
3 reasonable exceptions for credit scores that are adversely affected  
4 by any of the factors specified under Subsection (b) of this  
5 section.

6 (d) An insurer shall implement a procedure for appeals that  
7 conforms with rules for appeals adopted by the commissioner under  
8 Section 9 of this article.

9 Sec. 9. RULES; PROCEDURES. (a) The commissioner shall  
10 adopt rules governing the procedure for appeals under Section 8 of  
11 this article, including:

12 (1) rules regarding:

13 (A) the time during which an insured or an  
14 applicant for insurance has the right to file an appeal;

15 (B) the means of notification of the appeals  
16 process;

17 (C) the grounds for an appeal, which may include  
18 additional grounds for appeal and other exceptions as determined by  
19 the commissioner;

20 (D) provisions for reasonable, fair, and  
21 nondiscriminatory means of review and determination of an appeal;

22 (E) the time frame for the appeals decision; and

23 (F) the means of notification of the appeals  
24 decision; and

25 (2) any other rules the commissioner determines are  
26 reasonable and necessary to implement the appeals process under  
27 this section and Section 8 of this article.

1       (b) The commissioner shall adopt any other rules as  
2 necessary to implement the provisions of this article.

3       Sec. 10. SALE OF POLICY TERM INFORMATION BY CONSUMER  
4 REPORTING AGENCY PROHIBITED. (a) A consumer reporting agency may  
5 not provide or sell data or lists that include any information that,  
6 in whole or in part, was submitted in conjunction with an insurance  
7 inquiry about a consumer's credit information or a request for a  
8 credit report or insurance score, including:

9           (1) the expiration dates of an insurance policy or any  
10 other information that may identify periods during which a  
11 consumer's insurance may expire; and

12           (2) the terms and conditions of the consumer's  
13 insurance coverage.

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

17           (1) the insurance agent from whom information was  
18 received;

19           (2) the insurer on whose behalf the agent acted; or

20           (3) the insurer's affiliates.

21       (c) This section may not be construed to restrict the  
22 ability of an insurer to obtain a claims history report or a report  
23 regarding a motor vehicle.

24       Sec. 11. INDEMNIFICATION. (a) An insurer shall indemnify,  
25 defend, and hold its agent harmless from and against all liability,  
26 fees, and costs that arise out of or relate to the actions, errors,  
27 or omissions of an agent who obtains or uses credit information or

1 insurance scores for the insurer if the agent follows the  
2 instructions of or procedures established by the insurer and  
3 complies with any applicable law or rule.

4 (b) This section may not be construed to establish a cause  
5 of action that does not exist in the absence of this section.

6 Sec. 12. SANCTIONS. If the commissioner determines that an  
7 insurer has violated any provision of this article, the insurer is  
8 subject, after notice and opportunity for hearing, to sanctions as  
9 provided by Chapters 82 and 84 of this code.

10 PART B. TRANSITION

11 SECTION 3.02. Not later than the 120th day after the  
12 effective date of this Act, the commissioner of insurance shall  
13 adopt rules governing the procedures for appeal as provided by  
14 Subsection (a), Section 9, Article 21.21-10, Insurance Code, as  
15 added by this article, and any other rules as necessary to implement  
16 the provisions of Article 21.21-10, as provided by Subsection (b),  
17 Section 9, Article 21.21-10, Insurance Code, as added by this  
18 article.

19 SECTION 3.03. An insurer that is using an insurance credit  
20 score system on the effective date of this Act must file the  
21 insurance credit scoring models described by Section 6, Article  
22 21.21-10, Insurance Code, as added by this article, with the  
23 commissioner of insurance not later than the 30th day after the  
24 effective date of this Act. An insurer that uses an insurance  
25 credit score system after the effective date of this Act must file  
26 the insurer's insurance credit scoring models with the commissioner  
27 of insurance before using those models.



1 SECTION 3.04. (a) This article applies only to a  
2 residential property or personal automobile insurance policy:

3 (1) that is delivered, issued for delivery, or renewed  
4 on or after the effective date of this Act;

5 (2) the application for which is submitted on or after  
6 the effective date of this Act; or

7 (3) that is subject to determination of denial,  
8 cancellation, or nonrenewal on or after the effective date of this  
9 Act.

10 (b) A residential property or personal automobile insurance  
11 policy delivered, issued for delivery, or renewed before the  
12 effective date of this Act, or the application for which is  
13 submitted before the effective date of this Act, or that is subject  
14 to determination of denial, cancellation, or nonrenewal before the  
15 effective date of this Act, is governed by the law as it existed  
16 immediately before the effective date of this Act, and that law is  
17 continued in effect for that purpose.

18 ARTICLE 4. INITIAL RATE FILINGS; RATE REDUCTION

19 SECTION 4.01. Subchapter C, Chapter 5, Insurance Code, is  
20 amended by adding Articles 5.26-1 and 5.26-2 to read as follows:

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

23 Sec. 1. APPLICATION; DEFINITIONS. (a) This article  
24 applies only to residential property insurance.

25 (b) The definitions adopted under Article 5.142 of this code  
26 apply to this article.

27 Sec. 2. INITIAL RATE FILING. (a) Not later than the 10th

1 day after the effective date of this article, each insurer subject  
2 to Article 5.142 of this code must file the insurer's rates,  
3 supporting information, and supplementary rating information with  
4 the commissioner. The insurer may notify the department that the  
5 insurer is using the rate filing submitted under Article 5.141 of  
6 this code to comply with the requirements of this article, or the  
7 insurer may file a completely new rate in accordance with the  
8 provisions of Section 4, Article 5.142 of this code.

9 (b) The department may approve the rate filed by an insurer  
10 under Subsection (a) of this section or modify a filed rate not  
11 later than the 20th day after the effective date of this article for  
12 each insurer with \$10 million or more in direct written residential  
13 property insurance premium in this state during 2002 and not later  
14 than the 80th day after the effective date of this article for each  
15 insurer with less than \$10 million in direct written residential  
16 property insurance premium. An approved or modified rate under  
17 this subsection must be just, reasonable, adequate, not excessive,  
18 and not unfairly discriminatory for the risks to which it applies.  
19 The department has exclusive jurisdiction to determine a rate under  
20 this subsection. The department shall notify the insurer of the  
21 applicable rate.

22 Sec. 3. APPEAL TO COMMISSIONER. Not later than the 10th day  
23 after the date of receipt by the insurer of notification from the  
24 department of rates determined by the department under Section 2(b)  
25 of this article, an insurer may appeal the department's decision to  
26 the commissioner.

27 Sec. 4. HEARING. Not later than the 30th day after the date

1 of receipt of notification of an insurer's appeal under Section 3 of  
2 this article, the commissioner shall conduct a hearing and issue an  
3 order on the insurer's appeal. The burden of proof is on the  
4 insurer to show, by clear and convincing evidence, that the rate  
5 reduction specified by the department would produce inadequate  
6 rates. Notwithstanding any other provision of this code or the  
7 Government Code, the hearing shall not be conducted by the State  
8 Office of Administrative Hearings, but directly by the  
9 commissioner. The commissioner, by order, may affirm the rate  
10 reduction, grant a lesser rate reduction, or order a greater rate  
11 reduction than the rate reduction imposed under Section 2(b) of  
12 this article.

13 Sec. 5. JUDICIAL REVIEW. (a) Not later than the 10th day  
14 after the date of receipt of the commissioner's order under Section  
15 4 of this article, an insurer may file a petition for judicial  
16 review in a district court of Travis County. The standard of review  
17 of the commissioner's order is substantial evidence.

18 (b) During the pendency of the appeal, an insurer may charge  
19 either its existing rates or the rates as ordered by the  
20 commissioner.

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

1 Art. 5.26-2. PERSONAL AUTOMOBILE INSURANCE INITIAL RATE  
2 FILINGS

3 Sec. 1. APPLICATION; DEFINITIONS. (a) This article  
4 applies only to personal automobile insurance.

5 (b) The definitions adopted under Article 5.142 of this code  
6 apply to this article.

7 Sec. 2. (a) An insurer writing personal automobile  
8 insurance in this state must file its rates for that insurance  
9 coverage with the department in accordance with a schedule  
10 determined by the commissioner.

11 (b) Rates filed under this section are subject to Article  
12 5.142 of this code.

13 ARTICLE 5. REGULATION OF UNDERWRITING GUIDELINES

14 SECTION 5.01. Subchapter A, Chapter 38, Insurance Code, is  
15 amended by amending Section 38.002 and adding Section 38.003 to  
16 read as follows:

17 Sec. 38.002. UNDERWRITING GUIDELINES FOR PERSONAL  
18 AUTOMOBILE AND RESIDENTIAL PROPERTY INSURANCE; FILING;  
19 CONFIDENTIALITY. (a) In this section:

20 (1) "Insurer" means an insurance company, reciprocal  
21 or interinsurance exchange, mutual insurance company, farm mutual  
22 insurance company, capital stock company, county mutual insurance  
23 company, Lloyd's plan, a surplus lines insurer, or other legal  
24 entity engaged in the business of personal automobile insurance or  
25 residential property insurance in this state. The term includes:

26 (A) an affiliate as described by Section 2,  
27 Article 21.49-1, or Section 823.003(a) if that affiliate is

1 authorized to write and is writing personal automobile insurance or  
2 residential property insurance in this state;

3 (B) the Texas Windstorm Insurance Association  
4 created and operated under Article 21.49;

5 (C) the FAIR Plan Association under Article  
6 21.49A; and

7 (D) the Texas Automobile Insurance Plan  
8 Association under Article 21.81.

9 (2) "Personal automobile insurance" means motor  
10 vehicle insurance coverage for the ownership, maintenance, or use  
11 of a private passenger, utility, or miscellaneous type motor  
12 vehicle, including a motor home, mobile home, trailer, or  
13 recreational vehicle, that is:

14 (A) owned or leased by an individual or  
15 individuals; and

16 (B) not primarily used for the delivery of goods,  
17 materials, or services, other than for use in farm or ranch  
18 operations.

19 (3) "Residential property insurance" means insurance  
20 coverage against loss to residential real property at a fixed  
21 location or tangible personal property provided in a homeowners  
22 policy, which includes a tenant policy, a condominium owners  
23 policy, or a residential fire and allied lines policy.

24 (4) "Underwriting guideline" means a rule, standard,  
25 guideline, or practice, whether written, oral, or electronic, that  
26 is used by an insurer or its agent to decide whether to accept or  
27 reject an application for coverage under a personal automobile

1 insurance policy or residential property insurance policy or to  
2 determine how to classify those risks that are accepted for the  
3 purpose of determining a rate.

4 (b) Each insurer shall file with the department a copy of  
5 the insurer's underwriting guidelines. The insurer shall update  
6 its filing each time the underwriting guidelines are changed. If a  
7 group of insurers files one set of underwriting guidelines for the  
8 group, they shall identify which underwriting guidelines apply to  
9 each company in the group.

10 (c) The office of public insurance counsel may obtain a copy  
11 of each insurer's underwriting guidelines.

12 (d) The department or the office of public insurance counsel  
13 may disclose to the public a summary of an insurer's underwriting  
14 guidelines in a manner that does not directly or indirectly  
15 identify the insurer.

16 (e) Underwriting guidelines must be sound, actuarially  
17 justified, or otherwise substantially commensurate with the  
18 contemplated risk. Underwriting guidelines may not be unfairly  
19 discriminatory.

20 (f) The underwriting guidelines are subject to Chapter 552,  
21 Government Code.

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

25 (b) For purposes of this section, "insurer" means a  
26 reciprocal or interinsurance exchange, mutual insurance company,  
27 farm mutual insurance company, capital stock company, county mutual

1 insurance company, Lloyd's plan, surplus lines insurer, life,  
2 accident, or health or casualty insurance company, health  
3 maintenance organization, mutual life insurance company, mutual  
4 insurance company other than life, mutual, or natural premium life  
5 insurance company, general casualty company, fraternal benefit  
6 society, group hospital service company, or other legal entity  
7 engaged in the business of insurance in this state. The term  
8 includes an affiliate as described by Section 2, Article 21.49-1,  
9 or Section 823.003(a) if that affiliate is authorized to write and  
10 is writing insurance in this state.

11 (c) The department or the office of public insurance counsel  
12 may obtain a copy of an insurer's underwriting guidelines.

13 (d) [~~(b)~~] Underwriting guidelines are confidential, and the  
14 department or the office of public insurance counsel may not make  
15 the guidelines available to the public.

16 (e) [~~(c)~~] The department or the office of public insurance  
17 counsel may disclose to the public a summary of an insurer's  
18 underwriting guidelines in a manner that does not directly or  
19 indirectly identify the insurer.

20 (f) [~~(d)~~] When underwriting guidelines are furnished to the  
21 department or the office of public insurance counsel, only a person  
22 within the department or the office of public insurance counsel  
23 with a need to know may have access to the guidelines. The  
24 department and the office of public insurance counsel shall  
25 establish internal control systems to limit access to the  
26 guidelines and shall keep records of the access provided.

27 (g) [~~(e)~~] This section does not preclude the use of

1 underwriting guidelines as evidence in prosecuting a violation of  
2 this code. Each copy of an insurer's underwriting guidelines that  
3 is used in prosecuting a violation is presumed to be confidential  
4 and is subject to a protective order until all appeals of the case  
5 have been exhausted. If an insurer is found, after the exhaustion  
6 of all appeals, to have violated this code, a copy of the  
7 underwriting guidelines used as evidence of the violation is no  
8 longer presumed to be confidential.

9 (h) [~~(f)~~] A violation of this section is a violation of  
10 Chapter 552, Government Code.

11 ARTICLE 6. WITHDRAWAL REQUIREMENTS

12 SECTION 6.01. (a) Section 827.001, Insurance Code, as  
13 effective June 1, 2003, is amended to read as follows:

14 Sec. 827.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

15 (1) "Affiliate" has the meaning described by Section  
16 823.003(a) if that affiliate is authorized to write and is writing  
17 insurance in this state.

18 (2) "Insurer" means an insurance company or other  
19 legal entity authorized to engage in the business of insurance in  
20 this state, including a reciprocal or interinsurance exchange, a  
21 Lloyd's plan, a county mutual insurance company, and a farm mutual  
22 insurance company. The term does not include an eligible surplus  
23 lines insurer regulated under Chapter 981 [~~,"rating territory"~~  
24 ~~means a rating territory established by the department~~].

25 (b) Subsection (a), Article 21.49-2C, Insurance Code, as  
26 effective until June 1, 2003, is amended by adding Subdivisions (4)  
27 and (5) to read as follows:



1           (4) "Affiliate" has the meaning described by Section  
2 2, Article 21.49-1 of this code if that affiliate is authorized to  
3 write and is writing personal automobile insurance or residential  
4 property insurance in this state.

5           (5) "Insurer" means an insurance company or other  
6 legal entity authorized to engage in the business of insurance in  
7 this state, including a reciprocal or interinsurance exchange, a  
8 Lloyd's plan, a county mutual insurance company, and a farm mutual  
9 insurance company. The term does not include an eligible surplus  
10 lines insurer regulated under Article 1.14-2 of this code.

11           SECTION 6.02. (a) Section 827.002, Insurance Code, as  
12 effective June 1, 2003, is amended to read as follows:

13           Sec. 827.002. EXEMPTION. This chapter does not apply to a  
14 transfer of business from an insurer to a company that:

15           (1) is under common ownership with the insurer; ~~and~~

16           (2) is authorized to engage in the business of  
17 insurance in this state; and

18           (3) is not a reciprocal or interinsurance exchange, a  
19 Lloyd's plan, a county mutual insurance company, or a farm mutual  
20 insurance company.

21           (b) Subsection (b), Article 21.49-2C, Insurance Code, as  
22 effective until June 1, 2003, is amended to read as follows:

23           (b) This article does not apply to the transfer of the  
24 business from an insurer to a company that is under common  
25 ownership, is admitted to do business in this state, and is not a  
26 reciprocal or interinsurance exchange, a Lloyd's plan, a county  
27 mutual insurance company, or a farm mutual insurance company.

1 SECTION 6.03. (a) Section 827.003, Insurance Code, as  
2 effective June 1, 2003, is amended to read as follows:

3 Sec. 827.003. WITHDRAWAL PLAN REQUIRED. An ~~[authorized]~~  
4 insurer shall file with the commissioner a plan for orderly  
5 withdrawal if the insurer proposes to:

6 (1) withdraw from writing a line of insurance in this  
7 state or reduce the insurer's total annual premium volume by 75  
8 percent or more; or

9 (2) reduce, in a rating territory, the insurer's total  
10 annual premium volume in a ~~[personal]~~ line of personal automobile  
11 ~~[motor vehicle comprehensive]~~ or residential property insurance by  
12 50 percent or more.

13 (b) Subsections (a) and (g), Article 21.49-2C, Insurance  
14 Code, as effective until June 1, 2003, are amended to read as  
15 follows:

16 (a)(1) An ~~[authorized]~~ insurer shall file with the  
17 commissioner a plan for orderly withdrawal if the insurer proposes  
18 to withdraw from writing a line of insurance in this state or to  
19 reduce its total annual premium volume by 75 percent or more or  
20 proposes, in a ~~[personal]~~ line of personal automobile ~~[motor~~  
21 ~~vehicle comprehensive]~~ or residential property insurance, to  
22 reduce its total annual premium volume in a rating territory by 50  
23 percent or more. The insurer's plan shall be constructed to protect  
24 the interests of the people of this state and shall indicate the  
25 date it intends to begin and complete its withdrawal plan and must  
26 contain provisions for:

27 (A) meeting the insurer's contractual

1 obligations;

2 (B) providing service to its Texas policyholders  
3 and claimants; and

4 (C) meeting any applicable statutory  
5 obligations, such as the payment of assessments to the guaranty  
6 fund and participation in any assigned risk plans or joint  
7 underwriting arrangements.

8 (2) If within six months after a catastrophic event of  
9 natural origin an insurer, in response to such catastrophic event,  
10 wishes to restrict its writing of new business in a ~~[personal]~~ line  
11 of personal automobile ~~[comprehensive motor vehicle]~~ or  
12 residential property insurance in a rating territory, it shall  
13 prepare and file a plan as to such proposed plan of restriction with  
14 the commissioner for the commissioner's review and approval, unless  
15 the commissioner finds that any line of insurance described in the  
16 filed withdrawal plan is not offered in the state in a quantity or  
17 manner adequate to cover the risks or protect the interests of the  
18 citizens or potential policyholders of the state in consideration  
19 of the impact of the catastrophic event. If the commissioner makes  
20 this finding, then the commissioner may order the date that the  
21 withdrawal begins and may modify, restrict, or limit the withdrawal  
22 in any manner the commissioner decides, in the discretion of the  
23 commissioner ~~[comment. Approval of such plan is not required and~~  
24 ~~the insurer may institute such plan 15 days after filing]~~. However,  
25 in the event of a conflict between Subsections (a)(1) and (a)(2),  
26 where not accepting new business may result in a withdrawal as  
27 defined in Subsection (a)(1), Subsection (a)(1) controls.

1           (3) "Insurer" means an insurance company or other  
2 legal entity authorized to engage in the business of insurance in  
3 this state, including a reciprocal or interinsurance exchange, a  
4 Lloyd's plan, a county mutual insurance company, and a farm mutual  
5 insurance company. The term does not include an eligible surplus  
6 lines insurer regulated under Article 1.14-2 of this code [~~"Rating~~  
7 ~~territory" means a rating territory established by the Texas~~  
8 ~~Department of Insurance]~~.

9           (g) The commissioner may impose a moratorium of up to two  
10 years on the approval of plans for withdrawal or implementation of  
11 plans to restrict the writing of new business pursuant to  
12 Subsection (a)(2) of this section, including those such plans  
13 implemented subsequent to the commissioner's publishing of notice  
14 of intention to impose a moratorium regarding the catastrophic  
15 event related to such plans, and may renew the moratorium annually.  
16 To impose or renew a moratorium, the commissioner must find after  
17 notice and public hearing that a catastrophic event has occurred  
18 and that as a result of the event, the relevant line of insurance is  
19 not reasonably expected to be available to a substantial number of  
20 policyholders or potential policyholders in this state, or in the  
21 case of [~~personal~~] lines of personal automobile [~~motor vehicle~~  
22 ~~comprehensive~~] or residential property insurance, in a rating  
23 territory. Such notice and hearing shall be governed by provisions  
24 of Chapter 2001, Government Code, related to contested cases and of  
25 Subsection (b), Article 1.33B, Insurance Code. The commissioner  
26 shall, by rule, establish reasonable criteria for applying the  
27 above set forth standards for determining whether to impose a

1 moratorium. The commissioner may limit a moratorium on withdrawal  
2 from or reduction in personal lines insurance to certain  
3 geographical areas of this state.

4 SECTION 6.04. (a) Section 827.005, Insurance Code, as  
5 effective June 1, 2003, is amended to read as follows:

6 Sec. 827.005. APPROVAL OF WITHDRAWAL PLAN REQUIRED.

7 (a) The commissioner shall approve a withdrawal plan that  
8 adequately provides for meeting the requirements prescribed by  
9 Section 827.004(3), unless the commissioner finds that any line of  
10 insurance described in the filed withdrawal plan is not offered in  
11 the state in a quantity or manner adequate to cover the risks or  
12 protect the interests of the citizens or potential policyholders of  
13 the state. If the commissioner makes such a finding, then the  
14 commissioner may order the date that the withdrawal begins and may  
15 modify, restrict, or limit the withdrawal in any manner the  
16 commissioner decides, in the discretion of the commissioner.

17 (b) A withdrawal plan is deemed approved if the  
18 commissioner:

19 (1) does not hold a hearing on the plan before the 61st  
20 [~~31st~~] day after the date the plan is filed with the commissioner;  
21 or

22 (2) does not deny approval before the 61st [~~31st~~] day  
23 after the date a hearing on the plan is held.

24 (b) Subsections (e) and (f), Article 21.49-2C, Insurance  
25 Code, as effective until June 1, 2003, are amended to read as  
26 follows:

27 (e) (1) The commissioner shall approve the plan if it

1 adequately provides for:

2                   (A) [~~(1)~~] meeting the insurer's contractual  
3 obligations;

4                   (B) [~~(2)~~] providing service to its Texas  
5 policyholders and claimants; and

6                   (C) [~~(3)~~] meeting any applicable statutory  
7 obligations, such as the payment of assessments to the guaranty  
8 fund and participation in any assigned risk plans or joint  
9 underwriting arrangements.

10                   (2) Notwithstanding the provisions of Subdivision  
11 (1), if the commissioner finds that any line of insurance described  
12 in the filed withdrawal plan is not offered in the state in a  
13 quantity or manner adequate to cover the risks or protect the  
14 interests of the citizens or potential policyholders of the state  
15 then the commissioner may order the date that the withdrawal begins  
16 and may modify, restrict, or limit the withdrawal in any manner the  
17 commissioner decides, in the discretion of the commissioner.

18                   (f) The withdrawal plan shall be deemed approved if the  
19 commissioner has not held a hearing before the 61st day [~~within 30~~  
20 ~~days~~] after the plan is filed with the commissioner or has not  
21 denied approval before the 61st day [~~within 30 days~~] after the  
22 hearing. An insurer that withdraws from writing insurance in this  
23 state or that reduces its total annual premium volume by 75 percent  
24 or more in any year without receiving the commissioner's approval  
25 is subject to the civil penalties under Article 1.10 of this code.

26                   SECTION 6.05. Section 827.008, Insurance Code, as effective  
27 June 1, 2003, is amended to read as follows:

1           Sec. 827.008. RESTRICTION PLAN. (a) Before an insurer, in  
2 response to a catastrophic natural event that occurred during the  
3 preceding six months, may restrict writing new business in a rating  
4 territory in a [~~personal~~] line of personal automobile  
5 [~~comprehensive motor vehicle~~] or residential property insurance,  
6 the insurer must file a proposed restriction plan with the  
7 commissioner for the commissioner's review and approval, unless the  
8 commissioner finds that any line of insurance described in the  
9 filed withdrawal plan is not offered in the state in a quantity or  
10 manner adequate to cover the risks or protect the interests of the  
11 citizens or potential policyholders of the state in consideration  
12 of the impact of the catastrophic event. If the commissioner makes  
13 this finding, then the commissioner may order the date that the  
14 withdrawal begins and may modify, restrict, or limit the withdrawal  
15 in any manner the commissioner decides, in the discretion of the  
16 commissioner [~~comment~~].

17           (b) A [~~The commissioner's approval of a restriction plan~~  
18 ~~filed under Subsection (a) is not required. An insurer that files a~~  
19 ~~restriction plan may institute the plan on or after the 15th day~~  
20 ~~after the date the plan is filed.~~

21           [~~(c) Notwithstanding Subsection (b), a~~] withdrawal plan  
22 must be filed and approved under Sections 827.003 and 827.004 if an  
23 insurer's decision not to accept new business in a [~~personal~~] line  
24 of personal automobile [~~comprehensive motor vehicle~~] or  
25 residential property insurance results in a reduction of the  
26 insurer's total annual premium volume by 50 percent or more.

27           SECTION 6.06. Subsection (d), Section 827.010, Insurance

1 Code, as effective June 1, 2003, is amended to read as follows:

2 (d) To impose or renew a moratorium under this section, the  
3 commissioner must determine, after notice and hearing, that a  
4 catastrophic event has occurred and that as a result of that event a  
5 particular line of insurance is not reasonably expected to be  
6 available to a substantial number of policyholders or potential  
7 policyholders in this state or, in the case of [~~personal~~]  
8 personal automobile [~~motor vehicle comprehensive~~] or residential  
9 property insurance, in a rating territory.

10 SECTION 6.07. Subsections (a) and (b), Article 21.11-1,  
11 Insurance Code, are amended to read as follows:

12 (a) After an agency contract has been in effect for a period  
13 of two years an insurance company writing fire and casualty  
14 insurance in this state, specifically including a reciprocal or  
15 interinsurance exchange, mutual insurance company, capital stock  
16 company, county mutual insurance company, association, or Lloyd's  
17 plan company, may not terminate or suspend an agency contract or  
18 terminate one or more lines of insurance included within the agency  
19 contract with any appointed agent unless the company gives the  
20 agent notice in writing of the termination or suspension at least  
21 six months in advance. As used in this article, "suspend" means the  
22 temporary cessation of business relations and refusal to accept  
23 insurance contracts [~~contract~~] submitted by the agent and shall not  
24 include situations in which business is suspended immediately  
25 following a natural disaster.

26 (b) The company shall renew all contracts or lines of  
27 insurance included within the agency contract for fire and casualty



1 insurance for the agent during a period of six months from the  
2 effective date of the termination or suspension, but in the event  
3 any risk shall not meet current underwriting standards of the  
4 company, the company may decline its renewal, provided that the  
5 company shall give the agent not less than 60 days' notice of its  
6 intention not to renew the contract or line of insurance. The  
7 company's written underwriting standards shall be provided to its  
8 agents who have been terminated at the same time the company first  
9 notifies the agent of the company's intention to terminate the  
10 agent's contract or a line of insurance. The written underwriting  
11 standards that the insurer furnishes to its terminated agents must  
12 conform to the same underwriting standards that were in effect for  
13 that agent before the company's decision to terminate or suspend  
14 the agent's contract or a line of insurance. Notwithstanding the  
15 provisions of this section, an insurance company may furnish  
16 different underwriting standards to different agents of the  
17 company, so long as such underwriting standards are not used in ways  
18 that intentionally or otherwise serve to prevent or discourage the  
19 renewal of the insurance policies of terminated agents. An  
20 insurance company that is renewing contracts or lines of insurance  
21 under this subsection shall pay to the terminated agent commissions  
22 for those renewals according to the same commission schedule that  
23 was in effect for that agent before the company's decision to  
24 terminate the agency contract or line of insurance. A terminated  
25 agent must be allowed to pay to the company all sums due according  
26 to the same accounts current payment terms that are in effect for  
27 agents of the company who have not been terminated. An insurance

1 company that is renewing contracts or lines of insurance under this  
2 subsection may not require a terminated agent to convert from  
3 agency billing to company billing during the termination period  
4 unless that agent agrees to such conversion in writing.

5 SECTION 6.08. Subsection (a), Article 17.22, Insurance  
6 Code, is amended to read as follows:

7 (a) County mutual insurance companies shall be exempt from  
8 the operation of all insurance laws of this state, except such laws  
9 as are made applicable by their specific terms or as in this Chapter  
10 specifically provided. In addition to such other Articles as may be  
11 made to apply by other Articles of this Code, county mutual  
12 insurance companies shall be subject to:

13 (1) Subdivision 7 of Article 1.10 of this Code; and

14 (2) Articles 1.15, 1.15A, 1.16, 1.24, 2.04, 2.05,  
15 2.08, 2.10, 4.10, 5.12, 5.37, 5.38, 5.39, 5.40, 5.49, 21.21,  
16 21.21-1, and 21.49 of this Code.

17 SECTION 6.09. Subsection (b), Article 18.23, Insurance  
18 Code, is amended to read as follows:

19 (b) In addition to such Articles as may be made to apply by  
20 other Articles of this Chapter, underwriters at a Lloyds' shall not  
21 be exempt from and shall be subject to Articles 1.15A, 2.20, 5.35,  
22 5.38, 5.39, 5.40, 5.49, 21.21, 21.11-1, and 21.49-8 of this Code.

23 SECTION 6.10. (a) This article applies only to a reduction  
24 or withdrawal of a line of insurance by an insurer on or after the  
25 effective date of this Act. A reduction or withdrawal of a line of  
26 insurance by an insurer before the effective date of this Act is  
27 governed by the law as it existed immediately before the effective

1 date of this Act, and that law is continued in effect for that  
2 purpose.

3 (b) The change in law made by this article to Article  
4 21.49-2C, Insurance Code, shall not be construed as affecting the  
5 repeal of that article by Chapter 1419, Acts of the 77th  
6 Legislature, Regular Session, 2001.

7 ARTICLE 7. DEPARTMENT REVIEW

8 SECTION 7.01. Article 1.15, Insurance Code, is amended by  
9 adding Section 11 to read as follows:

10 Sec. 11. (a) The department shall review any insurer or  
11 group of insurers licensed to write private passenger automobile or  
12 residential property insurance in this state for purposes of  
13 ascertaining the business practices, performance, and operations  
14 of an insurer. Insurers shall make available to the department for  
15 review or duplication all papers, books, records, documents, files,  
16 or other relevant information.

17 (b) The review shall be independent of the examination of  
18 financial condition of the insurer, and include but not be limited  
19 to advertising, trade, rating, claim, underwriting, and other  
20 practices, performance, or operations not wholly related to the  
21 financial solvency of an insurer.

22 (c) For insurers with a market share greater than five  
23 percent in either private passenger automobile or residential  
24 property insurance, the department shall conduct a review no less  
25 than every 12 months. For insurers with a market share less than or  
26 equal to five percent in either private passenger automobile or  
27 residential property insurance, the department shall conduct a

1 review no less than every two years. The period between reviews  
2 shall begin on the completion of the previous review under this  
3 section. Market share shall be determined by the most recent four  
4 consecutive calendar quarters for which market share data is  
5 available.

6 (d) The department may conduct nonfinancial and financial  
7 reviews of an insurer under this article simultaneously. The  
8 review shall result in distinct and separate reports on financial  
9 practices, performance, and operations and on nonfinancial  
10 practices, performance, and operations.

11 (e) The department shall publish a schedule of mandatory  
12 reviews no later than September 1 of each year for the upcoming  
13 12-month period. The schedule shall not preclude the department  
14 from conducting reviews on a more frequent basis. To the greatest  
15 extent possible, the department shall notify an insurer of an  
16 upcoming review not on the published schedule, unless there is  
17 probable and documented cause for a known violation of this code and  
18 notification may result in the possible destruction or alteration  
19 of information subject to review under this article.

20 (f) This section shall not be construed to be exclusive  
21 authority or limit reviews, reports, or remedies in any manner. All  
22 other provisions of this code or any other law are in addition to,  
23 and shall be harmonized with, the provisions of this section.

24 SECTION 7.02. The Texas Department of Insurance shall  
25 publish the schedule for reviews under Section 11, Article 1.15,  
26 Insurance Code, as added by this article, no later than 90 days  
27 after the effective date of this Act. All initial reviews shall be

1 completed in accordance with the schedule published by the  
2 commissioner of insurance.

3 ARTICLE 8. INSURANCE DISCRIMINATION

4 SECTION 8.01. Article 21.21-6, Insurance Code, as added by  
5 Chapter 415, Acts of the 74th Legislature, Regular Session, 1995,  
6 is amended by adding Section 6 to read as follows:

7 Sec. 6. CRIMINAL PENALTY. (a) In this section, "person"  
8 means a legal entity described in Sections (2)(a), (b), (e), (f),  
9 and (j) of this article, or its officers or directors.

10 (b) A person commits an offense if the person, with criminal  
11 negligence:

12 (1) offers insurance coverage at a premium based on a  
13 rate that is, because of race, color, religion, or national origin,  
14 different than another premium rate offered or used by the person  
15 for the same coverage; or

16 (2) collects an insurance premium based on a rate that  
17 is, because of race, color, religion, or national origin, different  
18 than another premium rate offered or used by the person for the same  
19 coverage.

20 (c) An offense under this section is a state jail felony.

21 ARTICLE 9. RATES STANDARDS

22 SECTION 9.01. Chapter 1, Insurance Code, is amended by  
23 adding Article 1.02 to read as follows:

24 Art. 1.02. RATING. Rates adopted under this code must be  
25 just, fair, reasonable, adequate, not confiscatory and not  
26 excessive for the risks to which they apply, and not unfairly  
27 discriminatory.

ARTICLE 10. CONFORMING AND OTHER AMENDMENTS; REPEALER

SECTION 10.01. Subsection (f), Article 5.01, Insurance Code, is amended to read as follows:

(f) Notwithstanding Subsections (a) through (d) of this article, on and after the effective date of Subchapter Q of this chapter [~~March 1, 1992~~], rates for personal automobile insurance in this state are determined as provided by that subchapter, and rates for commercial automobile [~~motor vehicle~~] insurance in this state are determined as provided by Article 5.13-2 [~~the flexible rating program adopted under Subchapter M~~] of this code [~~chapter~~].

SECTION 10.02. Section 4, Article 5.01C, Insurance Code, is amended to read as follows:

Sec. 4. FORMS. An insurer selling short-term liability insurance policies under this article must use the policy forms adopted by the commissioner under Article 5.06 of this code or filed and approved as provided by Article 5.143 of this code [~~unless the insurer is exempt from using those forms~~].

SECTION 10.03. Subsection (b), Article 5.01-2, Insurance Code, as effective until June 1, 2003, is amended to read as follows:

(b) On and after the effective date of Subchapter Q of this chapter [~~March 1, 1992~~], rates for personal automobile [~~motor vehicle~~] insurance written by a Lloyd's plan insurer or a reciprocal or interinsurance exchange are determined as provided by [~~the flexible rating program adopted under~~] Subchapter Q [~~M~~] of this chapter.

SECTION 10.04. Section 4, Article 5.01-4, Insurance Code,

1 is amended to read as follows:

2           Sec. 4. APPLICABILITY OF CERTAIN LAWS. (a) In reporting  
3 incurred losses and earned premiums as required under this  
4 [~~subchapter, Subchapter M of this chapter, or Chapter 17 of this~~]  
5 code, an insurer shall separately report experience based on use of  
6 the mile-based rating plan and the time-based rating plan.

7           (b) The classifications used by an insurer for motor  
8 vehicles insured under the mile-based rating plan are exempt from  
9 the provisions of this subchapter other than this article [~~and~~  
10 ~~Subchapter M of this chapter~~].

11           SECTION 10.05. Subsection (g), Article 5.03, Insurance  
12 Code, is amended to read as follows:

13           (g) Notwithstanding Sections (a) through (e) of this  
14 article, on and after the effective date of Subchapter Q of this  
15 chapter [March 1, 1992], rates for personal automobile insurance in  
16 this state are determined as provided by that subchapter, and rates  
17 for commercial automobile insurance in this state [motor vehicles]  
18 are determined as provided by Article 5.13-2 [Subchapter M] of this  
19 code [chapter].

20           SECTION 10.06. Subsections (b) and (c), Section 2, Article  
21 5.03-2, Insurance Code, are amended to read as follows:

22           (b) An insurer shall, on receipt of written verification  
23 from the insured that the insured motorbicycle is equipped with a  
24 qualifying antitheft device, grant a discount in the premiums  
25 charged for comprehensive insurance for a motorcycle or  
26 motorbicycle in an amount greater than a Category I or Category II  
27 discount if the department [State Board of Insurance], by rule,

1 authorizes additional discounts based on the installation of  
2 additional antitheft devices that are designed for use on  
3 motorcycles or motorbicycles.

4 (c) The discounts under this article shall be set by the  
5 department based on sound actuarial principles [~~State Board of~~  
6 ~~Insurance~~].

7 SECTION 10.07. Subsection (c), Section 2, Article 5.03-3,  
8 Insurance Code, is amended to read as follows:

9 (c) The commissioner by rule shall set, based on sound  
10 actuarial principles, the amount of the discounts applicable under  
11 this article and may adopt other rules necessary for the  
12 implementation of this article.

13 SECTION 10.08. Subsection (a), Article 5.03-4, Insurance  
14 Code, is amended to read as follows:

15 (a) The commissioner shall by rule set, based on sound  
16 actuarial principles, a [~~require a five percent premium~~] discount  
17 applicable to a personal motor vehicle insurance policy for  
18 completion of a drug and alcohol driving awareness program that has  
19 been approved by the Texas Education Agency under the Texas Driver  
20 and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas  
21 Civil Statutes).

22 SECTION 10.09. Subsection (f), Section 2, Article 5.03-5,  
23 Insurance Code, is amended to read as follows:

24 (f) The commissioner by rule shall set, based on sound  
25 actuarial principles, the amount of the discount applicable under  
26 this article and may adopt other rules necessary for the  
27 implementation of this article, including rules identifying youth



1 groups whose members are eligible for a discount under this  
2 article.

3 SECTION 10.10. Subchapter A, Chapter 5, Insurance Code, is  
4 amended by adding Article 5.03-6 to read as follows:

5 Art. 5.03-6. PREMIUM DISCOUNT FOR MORE AUTOS THAN  
6 OPERATORS. (a) For purposes of this article, "motor vehicle"  
7 means any private passenger vehicle or utility type vehicle, with a  
8 gross vehicle weight of 25,000 pounds or less, of the pickup body,  
9 sedan delivery, panel truck, van type, and multi-use type, not used  
10 for the delivery or transportation of goods, materials, or supplies  
11 other than samples; unless the delivery of goods, materials, or  
12 supplies is not the primary usage of the vehicle, or unless used for  
13 farming or ranching.

14 (b) An insurer who writes, delivers, or issues for delivery  
15 in this state personal automobile insurance as defined by Article  
16 5.143 of this code, for a motor vehicle, in addition to any  
17 applicable multi-car discount, shall provide a discount for motor  
18 vehicles in excess of operators in a household.

19 (c) The commissioner by rule shall set, based on sound  
20 actuarial principles, the amount of the discount applicable under  
21 this article and may adopt other rules necessary for the  
22 implementation of this article.

23 SECTION 10.11. Subsection (c), Article 5.04, Insurance  
24 Code, is amended to read as follows:

25 (c) Notwithstanding Subsections (a) and (b) of this  
26 article, on and after the effective date of Subchapter Q of this  
27 chapter [March 1, 1992], rates for personal automobile insurance in

1 this state are determined as provided by that subchapter, and rates  
2 for commercial automobile insurance in this state [motor vehicles]  
3 are determined as provided by Article 5.13-2 [~~Subchapter M~~] of this  
4 code [chapter].

5 SECTION 10.12. Article 5.06, Insurance Code, is amended by  
6 adding Subsection (12) to read as follows:

7 (12) Notwithstanding Subsections (1)-(8) of this article,  
8 policy forms and endorsements for personal automobile insurance in  
9 this state are regulated as provided by Article 5.143 of this code.  
10 An insurer may continue to use the policy forms and endorsements  
11 adopted or approved by the commissioner under this article that the  
12 insurer used immediately before the effective date of Article 5.143  
13 of this code on notification to the commissioner in writing that the  
14 policy forms and endorsements will continue to be used.

15 SECTION 10.13. Subsection (2), Article 5.06-1, Insurance  
16 Code, is amended to read as follows:

17 (2) For the purpose of these coverages: (a) the term  
18 "uninsured motor vehicle" shall, subject to the terms and  
19 conditions of such coverage, be deemed to include an insured motor  
20 vehicle where the liability insurer thereof is unable to make  
21 payment with respect to the legal liability of its insured within  
22 the limits specified therein because of insolvency.

23 (b) The term "underinsured motor vehicle" means an  
24 insured motor vehicle on which there is valid and collectible  
25 liability insurance coverage with limits of liability for the owner  
26 or operator which were originally lower than, or have been reduced  
27 by payment of claims arising from the same accident to, an amount

1 less than the limit of liability stated in the underinsured  
2 coverage of the insured's policy.

3 (c) The commissioner [~~Board~~] may, in the policy forms  
4 adopted under Article 5.06 of this code, define "uninsured motor  
5 vehicle" to exclude certain motor vehicles whose operators are in  
6 fact uninsured. The commissioner may in the policy forms filed and  
7 approved under Article 5.143 of this code allow the term "uninsured  
8 motor vehicle" to be defined to exclude certain motor vehicles  
9 whose operators are in fact uninsured.

10 (d) The portion of a policy form adopted under Article  
11 5.06 of this code or filed and approved under Article 5.143 of this  
12 code to provide coverage under this article shall include  
13 provisions that, regardless of the number of persons insured,  
14 policies or bonds applicable, vehicles involved, or claims made,  
15 the total aggregate limit of liability to any one person who  
16 sustains bodily injury or property damage as the result of any one  
17 occurrence shall not exceed the limit of liability for these  
18 coverages as stated in the policy and the total aggregate limit of  
19 liability to all claimants, if more than one, shall not exceed the  
20 total limit of liability per occurrence as stated in the policy; and  
21 shall provide for the exclusion of the recovery of damages for  
22 bodily injury or property damage or both resulting from the  
23 intentional acts of the insured. The portion of a policy form  
24 adopted under Article 5.06 of this code or filed and approved under  
25 Article 5.143 of this code to provide coverage under this article  
26 shall require that in order for the insured to recover under the  
27 uninsured motorist coverages where the owner or operator of any

1 motor vehicle which causes bodily injury or property damage to the  
2 insured is unknown, actual physical contact must have occurred  
3 between the motor vehicle owned or operated by such unknown person  
4 and the person or property of the insured.

5 SECTION 10.14. Article 5.06-6, Insurance Code, is amended  
6 to read as follows:

7 Art. 5.06-6. COVERAGES FOR SPOUSES AND FORMER SPOUSES. A  
8 personal automobile policy or any similar policy form adopted or  
9 approved by the commissioner [~~State Board of Insurance~~] under  
10 Article 5.06 of this code or filed and approved under Article 5.143  
11 of this code that covers liability arising out of ownership,  
12 maintenance, or use of a motor vehicle of a spouse, who is otherwise  
13 insured by the policy, shall contain a provision to continue  
14 coverage for the spouse during a period of separation in  
15 contemplation of divorce.

16 SECTION 10.15. Subsection (c), Article 5.09, Insurance  
17 Code, is amended to read as follows:

18 (c) Notwithstanding Subsection (a) of this article, on and  
19 after the effective date of Subchapter Q of this chapter [~~March 1,~~  
20 ~~1992~~], rates for personal automobile insurance in this state are  
21 determined as provided by that subchapter, and rates for commercial  
22 automobile insurance in this state [~~motor vehicles~~] are determined  
23 as provided by Article 5.13-2 [~~Subchapter M~~] of this code  
24 [~~chapter~~].

25 SECTION 10.16. Subsection (c), Article 5.11, Insurance  
26 Code, is amended to read as follows:

27 (c) Notwithstanding Subsections (a) and (b) of this

1 article, on and after the effective date of Subchapter Q of this  
2 chapter [~~March 1, 1992~~], rates for personal automobile insurance in  
3 this state are determined as provided by that subchapter, and rates  
4 for commercial automobile insurance in this state [~~motor vehicles~~]  
5 are determined as provided by Article 5.13-2 [~~Subchapter M~~] of this  
6 code [~~chapter~~].

7 SECTION 10.17. Article 5.13, Insurance Code, is amended to  
8 read as follows:

9 Art. 5.13. SCOPE OF SUBCHAPTER [~~SUB-CHAPTER~~]. (a) This  
10 subchapter [~~Sub-chapter~~] applies to every insurance company,  
11 corporation, interinsurance exchange, mutual, reciprocal,  
12 association, Lloyd's plan, [~~Lloyds~~] or other organization or  
13 insurer writing any of the characters of insurance business herein  
14 set forth, hereinafter called "Insurer"; provided that nothing in  
15 this entire subchapter [~~Sub-chapter~~] shall [~~ever~~] be construed to  
16 apply to any county or farm mutual insurance company or  
17 association, as regulated under Chapters 16 and 17 of this code,  
18 except that Section 8, Article 5.13-2 of this code, shall apply to a  
19 county mutual insurance company with respect to commercial  
20 automobile insurance [~~Code~~].

21 (b) This subchapter [~~Sub-chapter~~] applies to the writing of  
22 casualty insurance and the writing of fidelity, surety, and  
23 guaranty bonds, on risks or operations in this State except as  
24 herein stated.

25 (c) This subchapter [~~Sub-chapter~~] does not apply to the  
26 writing of motor vehicle, life, health, accident, professional  
27 liability, reinsurance, aircraft, fraternal benefit, fire,

1 lightning, tornado, windstorm, hail, smoke or smudge, cyclone,  
 2 earthquake, volcanic eruption, rain, frost and freeze, weather or  
 3 climatic conditions, excess or deficiency of moisture, flood, the  
 4 rising of the waters of the ocean or its tributaries, bombardment,  
 5 invasion, insurrection, riot, civil war or commotion, military or  
 6 usurped power, any order of a civil authority made to prevent the  
 7 spread of a conflagration, epidemic or catastrophe, vandalism or  
 8 malicious mischief, strike or lockout, water or other fluid or  
 9 substance, resulting from the breakage or leakage of sprinklers,  
 10 pumps, or other apparatus erected for extinguishing fires, water  
 11 pipes or other conduits or containers, or resulting from casual  
 12 water entering through leaks or opening in buildings or by seepage  
 13 through building walls, including insurance against accidental  
 14 injury of such sprinklers, pumps, fire apparatus, conduits or  
 15 container, workers' [~~workmen's~~] compensation, inland marine, ocean  
 16 marine, marine, or title insurance; nor does this subchapter  
 17 [~~Sub-chapter~~] apply to the writing of explosion insurance, except  
 18 insurance against loss from injury to person or property which  
 19 results accidentally from steam boilers, heaters or pressure  
 20 vessels, electrical devices, engines and all machinery and  
 21 appliances used in connection therewith or operation thereby.

22       (d) This subchapter [~~Sub-chapter~~] shall not be construed as  
 23 limiting in any manner the types or classes of insurance which may  
 24 be written by the several types of insurers under appropriate  
 25 statutes or their charters or permits.

26       (e) The regulatory power herein conferred is vested in the  
 27 commissioner [~~Board of Insurance Commissioners of the State of~~

1 ~~Texas. Within the Board, the Casualty Insurance Commissioner shall~~  
2 ~~have primary supervision of regulation herein provided, subject~~  
3 ~~however to the final authority of the entire Board].~~

4 SECTION 10.18. The heading to Article 5.13-2, Insurance  
5 Code, is amended to read as follows:

6 Art. 5.13-2. RATES FOR GENERAL LIABILITY, COMMERCIAL  
7 AUTOMOBILE, AND COMMERCIAL PROPERTY INSURANCE COVERAGE

8 SECTION 10.19. Sections 1 and 2, Article 5.13-2, Insurance  
9 Code, are amended to read as follows:

10 Sec. 1. PURPOSE. This article governs the regulation of  
11 general liability, commercial automobile, commercial property,  
12 which shall include farm and ranch owners and farm and ranch  
13 policies, all commercial casualty, and medical professional  
14 liability insurance rates and forms. It does not govern  
15 [~~automobile~~,] fidelity, surety, or guaranty bonds. The purposes of  
16 this article are to:

17 (1) promote the public welfare by regulating insurance  
18 rates to prohibit excessive, inadequate, or unfairly  
19 discriminatory rates;

20 (2) promote availability of insurance;

21 (3) promote price competition among insurers to  
22 provide rates and premiums that are responsive to competitive  
23 market conditions;

24 (4) prohibit price-fixing agreements and other  
25 anticompetitive behavior by insurers;

26 (5) regulate the insurance forms used for lines of  
27 insurance subject to this article to ensure that they are not

1 unjust, unfair, inequitable, misleading, or deceptive; and

2 (6) provide regulatory procedures for the maintenance  
3 of appropriate information reporting systems.

4 Sec. 2. SCOPE. This article applies to all lines of general  
5 liability, commercial automobile, commercial property, all  
6 commercial casualty, and medical professional liability insurance  
7 written under policies or contracts of insurance issued by a  
8 licensed insurer, other than a fidelity, surety, or guaranty bond  
9 or an automobile insurance policy.

10 SECTION 10.20. Subdivision (2), Section 3, Article 5.13-2,  
11 Insurance Code, is amended to read as follows:

12 (2) "Insurer" means an insurer to which Article 5.13  
13 of this code applies, but does not include the Texas Windstorm  
14 Insurance Association. However, the provisions of Sections 4, 5,  
15 6, and 7 of this article shall not apply to Lloyd's plans or  
16 reciprocals with respect to commercial property insurance. The  
17 provisions of Section 8 of this article shall apply to county mutual  
18 insurance companies with respect to commercial automobile  
19 insurance.

20 SECTION 10.21. Subsection (b), Article 5.25, Insurance  
21 Code, is amended to read as follows:

22 (b) Notwithstanding Subsection (a) of this article, on and  
23 after the effective date of Subchapter Q of this chapter [~~March 1,~~  
24 ~~1992~~], rates for homeowners and residential fire and residential  
25 allied lines insurance coverage under this subchapter are  
26 determined as provided by Subchapter Q [~~M~~] of this chapter, and  
27 rates for other lines of insurance subject to this subchapter are



1 determined as provided by Article 5.13-2 of this code. This  
2 subsection does not affect the requirement for the commissioner to  
3 conduct inspections of commercial property and prescribe a manual  
4 of rules and rating schedules for commercial property under this  
5 subchapter.

6 SECTION 10.22. Subsection (b), Article 5.25A, Insurance  
7 Code, is amended to read as follows:

8 (b) Notwithstanding Subsection (a) of this article, on and  
9 after the effective date of Subchapter Q of this chapter [~~March 1,~~  
10 ~~1992~~], rates for homeowners and residential fire and residential  
11 allied lines insurance coverage under this subchapter are  
12 determined as provided by Subchapter Q [~~M~~] of this chapter, and  
13 rates for other lines of insurance subject to this subchapter are  
14 determined as provided by Article 5.13-2 of this code.

15 SECTION 10.23. Article 5.25-2, Insurance Code, is amended  
16 to read as follows:

17 Art. 5.25-2. CITY FIRE LOSS LISTS

18 Sec. 1. In this article,

19 [~~(1)~~] "list" means the list of fire and lightning  
20 losses in excess of \$100 paid under policy forms adopted or approved  
21 by the commissioner [~~board~~] under Article 5.35 of this code or filed  
22 and approved as provided by Article 5.143 of this code [~~subchapter~~]  
23 in a particular city or town prepared by the department [~~State Board~~  
24 ~~of Insurance~~] for distribution to the city or town[+]

25 [~~(2)~~ ~~"board" means the State Board of Insurance~~].

26 Sec. 2. (a) The department [~~board~~] shall compile for each  
27 city or town in Texas a list of the insured fire losses paid under

1 policy forms adopted or approved by the commissioner [~~board~~] under  
2 Article 5.35 of this code or filed and approved as provided by  
3 Article 5.143 of this code [~~subchapter~~] in that city or town for the  
4 preceding statistical year.

5 (b) The list shall include:

6 (1) the names of persons recovering losses under  
7 policy forms adopted or approved by the commissioner [~~board~~] under  
8 Article 5.35 of this code or filed and approved as provided by  
9 Article 5.143 of this code [~~subchapter~~];

10 (2) the addresses or locations where the losses  
11 occurred; and

12 (3) the amount paid by the insurance company on each  
13 loss.

14 (c) The department [~~board~~] shall obtain the information to  
15 make the lists from insurance company reports of individual losses  
16 during the statistical year.

17 Sec. 3. Upon the request of any city or town, or its duly  
18 authorized agent or fire marshal [~~marshall~~], the department [~~board~~]  
19 shall provide that city or [~~and~~] town with a copy of the list for its  
20 particular area.

21 Sec. 4. Each city or town shall investigate its list to  
22 determine the losses actually occurring in its limits and shall  
23 make a report to the department, [~~board~~] which report shall  
24 include:

25 (1) a list of the losses that actually occurred in the  
26 limits of the city or town;

27 (2) a list of any losses not occurring in the limits of

1 the city or town; and

2 (3) other evidence essential to establishing the  
3 losses in the city or town.

4 Sec. 5. The department [~~board~~] shall make such changes or  
5 corrections as to it shall seem appropriate in order to correct the  
6 list of insured fire and lightning losses paid under policy forms  
7 adopted or approved by the commissioner [~~board~~] under Article 5.35  
8 of this code or filed and approved as provided by Article 5.143 of  
9 this code [~~subchapter~~] in a particular city or town and said list of  
10 losses, as changed or corrected, shall be used to determine the fire  
11 record credit or debit for each particular city or town for the next  
12 year.

13 Sec. 6. The commissioner [~~board~~] shall set and collect a  
14 charge for compiling and providing a list of fire and lightning  
15 losses paid under policy forms adopted or approved by the  
16 commissioner [~~board~~] under Article 5.35 of this code or filed and  
17 approved as provided by Article 5.143 of this code [~~subchapter~~] in a  
18 particular city or town and as the commissioner [~~board~~] shall deem  
19 appropriate to administer the fire record system.

20 Sec. 7. The department [~~board~~] is authorized to require  
21 each and every city or town in the State of Texas and each and every  
22 insurance company or carrier of every type and character whatsoever  
23 doing business in the State of Texas to furnish to it a complete and  
24 accurate list of all fire and lightning losses occurring within the  
25 State of Texas and reflected in their records for the purpose of  
26 accumulating statistical information for the control and  
27 prevention of fires.

1           Sec. 8. The department [~~board~~] may, at its discretion,  
2 furnish such list only during such time as the fire record system  
3 remains in force and effect.

4           SECTION 10.24. Subsection (i), Article 5.26, Insurance  
5 Code, is amended to read as follows:

6           (i) Notwithstanding Subsections (a)-(h) of this article, on  
7 and after the effective date of Subchapter Q of this chapter  
8 [~~March 1, 1992~~], rates for homeowners and residential fire and  
9 residential allied lines insurance coverage under this subchapter  
10 are determined as provided by Subchapter Q [~~M~~] of this chapter, and  
11 rates for other lines of insurance subject to this subchapter are  
12 determined as provided by Article 5.13-2 of this code.

13           SECTION 10.25. Subsection (d), Article 5.28, Insurance  
14 Code, is amended to read as follows:

15           (d) Notwithstanding Subsection (a) of this article, on and  
16 after the effective date of Subchapter Q of this chapter [~~March 1,~~  
17 ~~1992~~], rates for homeowners and residential fire and residential  
18 allied lines insurance coverage under this subchapter are  
19 determined as provided by Subchapter Q [~~M~~] of this chapter, and  
20 rates for other lines of insurance subject to this subchapter are  
21 determined as provided by Article 5.13-2 of this code.

22           SECTION 10.26. Subsection (b), Article 5.29, Insurance  
23 Code, is amended to read as follows:

24           (b) Notwithstanding Subsection (a) of this article, on and  
25 after the effective date of Subchapter Q of this chapter [~~March 1,~~  
26 ~~1992~~], rates for homeowners and residential fire and residential  
27 allied lines insurance coverage under this subchapter are

1 determined as provided by Subchapter Q [~~M~~] of this chapter, and  
2 rates for other lines of insurance subject to this subchapter are  
3 determined as provided by Article 5.13-2 of this code.

4 SECTION 10.27. Subsection (b), Article 5.30, Insurance  
5 Code, is amended to read as follows:

6 (b) Notwithstanding Subsection (a) of this article, on and  
7 after the effective date of Subchapter Q of this chapter [~~March 1,~~  
8 ~~1992~~], rates for homeowners and residential fire and residential  
9 allied lines insurance coverage under this subchapter are  
10 determined as provided by Subchapter Q [~~M~~] of this chapter, and  
11 rates for other lines of insurance subject to this subchapter are  
12 determined as provided by Article 5.13-2 of this code.

13 SECTION 10.28. Subsection (b), Article 5.31, Insurance  
14 Code, is amended to read as follows:

15 (b) Notwithstanding Subsection (a) of this article, on and  
16 after the effective date of Subchapter Q of this chapter [~~March 1,~~  
17 ~~1992~~], rates for homeowners and residential fire and residential  
18 allied lines insurance coverage under this subchapter are  
19 determined as provided by Subchapter Q [~~M~~] of this chapter, and  
20 rates for other lines of insurance subject to this subchapter are  
21 determined as provided by Article 5.13-2 of this code.

22 SECTION 10.29. Subsection (b), Article 5.32, Insurance  
23 Code, is amended to read as follows:

24 (b) Notwithstanding Subsection (a) of this article, on and  
25 after the effective date of Subchapter Q of this chapter [~~March 1,~~  
26 ~~1992~~], rates for homeowners and residential fire and residential  
27 allied lines insurance coverage under this subchapter are

1 determined as provided by Subchapter Q [~~M~~] of this chapter, and  
2 rates for other lines of insurance subject to this subchapter are  
3 determined as provided by Article 5.13-2 of this code.

4 SECTION 10.30. Subdivision (3), Section 1, Article 5.33A,  
5 Insurance Code, is amended to read as follows:

6 (3) "Department" [~~"Board"~~] means the Texas Department  
7 [~~State Board~~] of Insurance.

8 SECTION 10.31. Subsection (c), Section 3, Article 5.33A,  
9 Insurance Code, is amended to read as follows:

10 (c) The inspector who is assigned by the city or county  
11 shall inspect the property and shall file a written report with the  
12 department [~~Board~~] stating the inspector's findings and whether or  
13 not the property qualifies for a premium reduction.

14 SECTION 10.32. Subsection (a), Section 4, Article 5.33A,  
15 Insurance Code, is amended to read as follows:

16 (a) If the inspector's report states that the applicant's  
17 property qualifies for a premium reduction, the department [~~board~~]  
18 shall issue to the applicant a premium reduction certificate  
19 entitling him or her to a premium reduction on the homeowners  
20 insurance.

21 SECTION 10.33. Section 5, Article 5.33A, Insurance Code, is  
22 amended to read as follows:

23 Sec. 5. AMOUNT OF PREMIUM REDUCTION. The department  
24 [~~board~~] shall establish by rule, based on sound actuarial  
25 principles, the amount of premium reduction applicable under this  
26 article to homeowners insurance.

27 SECTION 10.34. Subsection (e), Section 6, Article 5.33A,

1 Insurance Code, is amended to read as follows:

2 (e) The department [~~Board~~] may adopt rules that set  
3 standards for alternative specifications to protect a person's  
4 property that are at least as effective as those listed in this  
5 section. Such alternative specifications shall entitle a person's  
6 property meeting such specifications to a similar homeowners  
7 premium reduction under this article.

8 SECTION 10.35. Section 9, Article 5.33A, Insurance Code, is  
9 amended to read as follows:

10 Sec. 9. ASSUMPTION OF POWERS, DUTIES, AND RESPONSIBILITIES  
11 BY BOARD. If for any reason the commission is unable to assume the  
12 powers, duties, and responsibilities given to it under this  
13 article, the department [~~board~~] shall designate a successor to  
14 exercise those powers, duties, and responsibilities.

15 SECTION 10.36. Section 5, Article 5.33B, Insurance Code, as  
16 added by Chapter 337, Acts of the 74th Legislature, Regular  
17 Session, 1995, is amended to read as follows:

18 Sec. 5. AMOUNT OF PREMIUM REDUCTION. The commissioner  
19 shall establish by rule, based on sound actuarial principles, the  
20 amount of a premium reduction applicable under this article to a  
21 homeowners insurance policy.

22 SECTION 10.37. Subsection (b), Section 3, Article 5.33C,  
23 Insurance Code, is amended to read as follows:

24 (b) The commissioner shall establish by rule, based on sound  
25 actuarial principles, the amount of discount applicable under this  
26 article. The commissioner may adopt rules necessary for the  
27 implementation of this article.

1 SECTION 10.38. Subsection (b), Article 5.34, Insurance  
2 Code, is amended to read as follows:

3 (b) Notwithstanding Subsection (a) of this article, on and  
4 after the effective date of Subchapter Q of this chapter [~~March 1,~~  
5 ~~1992~~], rates for homeowners and residential fire and residential  
6 allied lines insurance coverage under this subchapter are  
7 determined as provided by Subchapter Q [~~M~~] of this chapter, and  
8 rates for other lines of insurance subject to this subchapter are  
9 determined as provided by Article 5.13-2 of this code.

10 SECTION 10.39. Article 5.35, Insurance Code, is amended by  
11 adding Subsection (k) to read as follows:

12 (k) Notwithstanding Subsections (a)-(j) of this article,  
13 policy forms and endorsements for residential property insurance in  
14 this state are regulated as provided by Article 5.143 of this code.  
15 An insurer may continue to use the policy forms and endorsements  
16 adopted or approved by the commissioner under this article that the  
17 insurer used immediately before the effective date of Article 5.143  
18 of this code on notification to the commissioner in writing that the  
19 policy forms and endorsements will continue to be used.

20 SECTION 10.40. Article 5.35-1, Insurance Code, is amended  
21 to read as follows:

22 Art. 5.35-1. COVERAGES FOR SPOUSES AND FORMER SPOUSES. A  
23 homeowner's policy or fire policy promulgated under Article 5.35 of  
24 this code or filed and approved as provided by Article 5.143 of this  
25 code may not be delivered, issued for delivery, or renewed in this  
26 state unless the policy contains the following language: "It is  
27 understood and agreed that this policy, subject to all other terms



1 and conditions contained in this policy, when covering residential  
2 community property, as defined by state law, shall remain in full  
3 force and effect as to the interest of each spouse covered,  
4 irrespective of divorce or change of ownership between the spouses  
5 unless excluded by endorsement attached to this policy until the  
6 expiration of the policy or until canceled in accordance with the  
7 terms and conditions of this policy."

8 SECTION 10.41. Article 5.36, Insurance Code, is amended to  
9 read as follows:

10 Art. 5.36. WRITTEN EXPLANATION OF CERTAIN ENDORSEMENTS  
11 REQUIRED. An insurer may not use an endorsement to a policy form to  
12 which Article 5.35 of this code or Article 5.143 of this code  
13 applies that reduces the amount of coverage, unless requested by  
14 the insured, that would otherwise be provided under the policy  
15 unless the insurer provides the policyholder with a written  
16 explanation of the change made by the endorsement before the  
17 effective date of the change.

18 SECTION 10.42. Subsection (b), Article 5.39, Insurance  
19 Code, is amended to read as follows:

20 (b) Notwithstanding Subsection (a) of this article, on and  
21 after the effective date of Subchapter Q of this chapter [~~March 1,~~  
22 ~~1992~~], rates for homeowners and residential fire and residential  
23 allied lines insurance coverage under this subchapter are  
24 determined, and hearings related to those rates are conducted, as  
25 provided by Subchapter Q [~~M~~] of this chapter, and rates for other  
26 lines of insurance subject to this subchapter are determined as  
27 provided by Article 5.13-2 of this code.

1 SECTION 10.43. Subsection (d), Article 5.40, Insurance  
2 Code, is amended to read as follows:

3 (d) Notwithstanding Subsections (a)-(c) of this article, on  
4 and after the effective date of Subchapter Q of this chapter  
5 ~~[March 1, 1992]~~, rates for homeowners and residential fire and  
6 residential allied lines insurance coverage under this subchapter  
7 are determined, and hearings related to those rates are conducted,  
8 as provided by Subchapter Q ~~[M]~~ of this chapter, and rates for other  
9 lines of insurance subject to this subchapter are determined as  
10 provided by Article 5.13-2 of this code.

11 SECTION 10.44. Subsection (b), Article 5.41, Insurance  
12 Code, is amended to read as follows:

13 (b) Notwithstanding Subsection (a) of this article, on and  
14 after the effective date of Subchapter Q of this chapter ~~[March 1,~~  
15 ~~1992]~~, rates for homeowners and residential fire and residential  
16 allied lines insurance coverage under this subchapter are  
17 determined as provided by Subchapter Q ~~[M]~~ of this chapter, and  
18 rates for other lines of insurance subject to this subchapter are  
19 determined as provided by Article 5.13-2 of this code.

20 SECTION 10.45. Subsection (g), Article 5.53, Insurance  
21 Code, is amended to read as follows:

22 (g) The writing of inland marine insurance, rain insurance  
23 and insurance against loss by hail on farm crops, shall be governed  
24 by the provisions of Articles 5.25 to 5.48, inclusive, and also  
25 Articles 5.50 to 5.51, inclusive, of this subchapter and Article  
26 5.67 of Subchapter D~~[+]~~ of this chapter, in the same manner and to  
27 the same extent as fire insurance and fire insurance rates are now

1 affected by the provisions of said articles, except that wherever  
2 in any of said articles reference is made to making, fixing,  
3 prescribing, determination or promulgation by the Board of rates or  
4 policy forms or endorsements, the provisions of this article shall  
5 control. [~~Notwithstanding any other provision of this subchapter,  
6 the flexible rating program created under Subchapter M of this  
7 chapter does not apply to this article.~~]

8 SECTION 10.46. Subsection (a-1), Article 5.96, Insurance  
9 Code, is amended to read as follows:

10 (a-1) This [~~Except as provided by Section 5(d), Article  
11 5.101, of this code, this~~] article does not apply to the setting of  
12 [~~benchmark~~] rates for motor vehicle insurance and fire and allied  
13 lines insurance under Subchapter Q [~~M~~] of this chapter.

14 SECTION 10.47. (a) Section 5, Article 17.25, Insurance  
15 Code, as effective until June 1, 2003, is amended to read as  
16 follows:

17 Sec. 5. POLICY FORMS PRESCRIBED. Each county mutual  
18 insurance company shall be subject to the provisions of Articles  
19 [~~Article~~] 5.06, [~~and Article~~] 5.35, and 5.143 of this code [~~Code~~].  
20 County [~~The Board of Insurance Commissioners pursuant to Article  
21 5.35 may in its discretion make, promulgate and establish uniform  
22 policies for county~~] mutual insurance companies shall file policy  
23 forms under Article 5.143 of this code or continue to use the  
24 standard policy forms and endorsements promulgated under Articles  
25 5.06 and 5.35 of this code on notification to the commissioner in  
26 writing that the forms will continue to be used [~~different from the  
27 uniform policies made, promulgated and established for use by~~]

1 ~~companies other than county mutual insurance companies, and shall~~  
2 ~~prescribe the conditions under which such policies may be adopted~~  
3 ~~and used by county mutual insurance companies, and the conditions~~  
4 ~~under which such companies shall adopt and use the same forms and no~~  
5 ~~others as are prescribed for other companies].~~

6 (b) Section 912.152, Insurance Code, as effective June 1,  
7 2003, is amended to read as follows:

8 Sec. 912.152. POLICY FORMS. (a) A county mutual insurance  
9 company is subject to Articles 5.06, ~~[and]~~ 5.35, and 5.143.

10 (b) County ~~[The commissioner, in accordance with Article~~  
11 ~~5.35, may adopt for use by county]~~ mutual insurance companies shall  
12 file policy forms under Article 5.143 or continue to use the  
13 standard policy forms and endorsements promulgated under Articles  
14 5.06 and 5.35 on notification to the commissioner in writing that  
15 the forms will continue to be used ~~[uniform policy forms that differ~~  
16 ~~from the forms adopted for use by other companies and shall~~  
17 ~~prescribe the conditions under which a county mutual insurance~~  
18 ~~company:~~

19 ~~[(1) may use the policy forms adopted under this~~  
20 ~~subsection, or~~

21 ~~[(2) shall use the policy forms adopted for other~~  
22 ~~companies].~~

23 SECTION 10.48. (a) Section 6, Article 17.25, Insurance  
24 Code, as effective until June 1, 2003, is amended to read as  
25 follows:

26 Sec. 6. FILE OF SCHEDULE OF CHARGES. As part of the rate  
27 filings required under Article 5.142 of this code, a county mutual

1 insurance company [~~Such companies~~] shall file with the department  
2 [~~Board~~] a schedule of its rates, the amount of policy fee,  
3 inspection fee, membership fee, or initial charge by whatever name  
4 called, proposed to be charged to its policyholders or those  
5 applying for policies. The filing of this information shall be in  
6 accordance with the requirements of Article 5.142 of this code.

7 (b) Section 912.201, Insurance Code, as effective June 1,  
8 2003, is amended to read as follows:

9 Sec. 912.201. SCHEDULE OF CHARGES. As part of the rate  
10 filings required under Article 5.142, a [A] county mutual insurance  
11 company shall file with the department a schedule of the amounts the  
12 company proposes to charge [~~charges~~] a policyholder or an applicant  
13 for a policy, regardless of the term the company uses to refer to  
14 those charges, including "rate," "policy fee," "inspection fee,"  
15 "membership fee," or "initial charge." The filing of this  
16 information shall be in accordance with the requirements of Article  
17 5.142.

18 SECTION 10.49. Section 8, Article 21.77, Insurance Code, is  
19 amended to read as follows:

20 Sec. 8. POLICY FORMS. All policy forms for insurance  
21 written under this article shall be prescribed by the commissioner  
22 [~~board~~] as provided in Article 5.06 of this code or filed and in  
23 effect as provided in Article 5.143 of this code [~~, Insurance Code~~].

24 SECTION 10.50. (a) Section 912.002, Insurance Code, as  
25 effective June 1, 2003, is amended by amending Subsection (a) and  
26 adding Subsection (c) to read as follows:

27 (a) A county mutual insurance company is exempt from the

1 operation of all insurance laws of this state[~~, including the~~  
2 ~~flexible rating program under Article 5.101,~~] except laws that are  
3 made applicable by their specific terms or except as specifically  
4 provided by this chapter.

5 (c) Rate regulation for a personal automobile insurance  
6 policy written by a county mutual insurance company is subject to  
7 Subchapter Q, Chapter 5. Rate regulation for a residential  
8 property insurance policy written by a county mutual insurance  
9 company is subject to Subchapter Q, Chapter 5. The commissioner may  
10 adopt rules as necessary to implement this subsection.

11 (b) Subsection (b), Article 17.22, Insurance Code, as  
12 effective until June 1, 2003, is amended to read as follows:

13 (b) Rate regulation for a personal automobile insurance  
14 policy written by a county mutual insurance company is subject to  
15 Subchapter Q, Chapter 5 of this code. Rate regulation for a  
16 residential property insurance policy written by a county mutual  
17 insurance company is subject to Subchapter Q, Chapter 5 of this  
18 code. The commissioner may adopt rules as necessary to implement  
19 this subsection [~~The flexible rating program created under~~  
20 ~~Subchapter M, Chapter 5, of this code does not apply to county~~  
21 ~~mutual insurance companies~~].

22 SECTION 10.51. Section 912.152, Insurance Code, as  
23 effective June 1, 2003, is amended to read as follows:

24 Sec. 912.152. POLICY FORMS. (a) A county mutual insurance  
25 company is subject to Articles 5.06, [~~and~~] 5.35, and 5.143.

26 (b) County [~~The commissioner, in accordance with Article~~  
27 ~~5.35, may adopt for use by county~~] mutual insurance companies shall

1 file policy forms under Article 5.143 or continue to use the  
2 standard policy forms and endorsements promulgated under Articles  
3 5.06 and 5.35 on notification to the commissioner in writing in the  
4 manner prescribed by Article 5.143 that those forms will continue  
5 to be used [~~uniform policy forms that differ from the forms adopted~~  
6 ~~for use by other companies and shall prescribe the conditions under~~  
7 ~~which a county mutual insurance company:~~

8           ~~[(1) may use the policy forms adopted under this~~  
9 ~~subsection; or~~

10           ~~[(2) shall use the policy forms adopted for other~~  
11 ~~companies].~~

12           SECTION 10.52. (a) Subsection (b), Section 941.003,  
13 Insurance Code, as effective June 1, 2003, is amended to read as  
14 follows:

15           (b) A Lloyd's plan is subject to:

16                   (1) Section 5, Article 1.10;

17                   (2) Article 1.15A;

18                   (3) Subchapter A, Chapter 5;

19                   (4) Articles 5.35, 5.38, 5.39, 5.40, [~~and~~] 5.49,  
20 5.142, and 5.143;

21                   (5) Articles 21.21 and 21.49-8; and

22                   (6) Sections 822.203, 822.205, 822.210, and 822.212.

23           (b) Article 18.23, Insurance Code, as effective until  
24 June 1, 2003, is amended by adding Subsection (c) to read as  
25 follows:

26           (c) Rate regulation for a personal automobile insurance  
27 policy written by a Lloyd's plan is subject to Subchapter Q, Chapter

1 5 of this code. Rate regulation for a residential property  
2 insurance policy written by a Lloyd's plan is subject to Subchapter  
3 Q, Chapter 5 of this code. The commissioner may adopt rules as  
4 necessary to implement this subsection.

5 SECTION 10.53. (a) Subsection (b), Section 942.003,  
6 Insurance Code, as effective June 1, 2003, is amended to read as  
7 follows:

8 (b) An exchange is subject to:

9 (1) Section 5, Article 1.10;

10 (2) Articles 1.15, 1.15A, and 1.16;

11 (3) Subchapter A, Chapter 5;

12 (4) Articles 5.35, 5.37, 5.38, 5.39, ~~and~~ 5.40,  
13 5.142, and 5.143;

14 (5) Articles 21.21 and 21.49-8; and

15 (6) Sections 822.203, 822.205, 822.210, 822.212,  
16 861.254(a)-(f), 861.255, 862.001(b), and 862.003.

17 (b) Article 19.12, Insurance Code, as effective until  
18 June 1, 2003, is amended by adding Subsection (c) to read as  
19 follows:

20 (c) Rate regulation for a personal automobile insurance  
21 policy written by a reciprocal or interinsurance exchange is  
22 subject to Subchapter Q, Chapter 5 of this code. Rate regulation  
23 for a residential property insurance policy written by a reciprocal  
24 or interinsurance exchange is subject to Subchapter Q, Chapter 5 of  
25 this code. The commissioner may adopt rules as necessary to  
26 implement this subsection.

27 SECTION 10.54. Subsection (d), Section 502.153,



1 Transportation Code, is amended to read as follows:

2 (d) A personal automobile policy used as evidence of  
3 financial responsibility under this section must comply with  
4 Article 5.06 or 5.143, Insurance Code.

5 SECTION 10.55. Subsection (c), Section 521.143,  
6 Transportation Code, is amended to read as follows:

7 (c) A personal automobile insurance policy used as evidence  
8 of financial responsibility under this section must comply with  
9 Article 5.06 or 5.143, Insurance Code.

10 SECTION 10.56. The following laws are repealed:

11 (1) Subsection (h), Article 5.26, and Articles 5.50,  
12 5.101, and 40.061, Insurance Code;

13 (2) as effective June 1, 2003, Subsection (c), Section  
14 941.003, and Subsection (c), Section 942.003, Insurance Code; and

15 (3) Section 4C, Article 5.73, Insurance Code.

16 ARTICLE 11. LEGISLATIVE OVERSIGHT COMMITTEE

17 SECTION 11.01. Subchapter E, Chapter 21, Insurance Code, is  
18 amended by adding Article 21.49-20 to read as follows:

19 Art. 21.49-20. PROPERTY AND CASUALTY LEGISLATIVE OVERSIGHT  
20 COMMITTEE. (a) In this section, "committee" means the property  
21 and casualty insurance legislative oversight committee.

22 (b) The committee is composed of seven members as follows:

23 (1) the chair of the Senate Business and Commerce  
24 Committee and the chair of the House Committee on Insurance, who  
25 shall serve as joint chairs of the committee;

26 (2) two members of the senate appointed by the  
27 lieutenant governor;

1           (3) two members of the house of representatives  
2 appointed by the speaker of the house of representatives; and

3           (4) the public insurance counsel.

4           (c) An appointed member of the committee serves at the  
5 pleasure of the appointing official. In making appointments to the  
6 committee, the appointing officials shall attempt to appoint  
7 persons who represent the gender composition, minority  
8 populations, and geographic regions of the state.

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

12           (e) The committee shall:

13                   (1) meet at least annually with the commissioner;

14                   (2) receive information about rules relating to  
15 property and casualty insurance proposed by the department, and may  
16 submit comments to the commissioner on those proposed rules;

17                   (3) monitor the progress of property and casualty  
18 insurance regulation reform, including the fairness of rates,  
19 underwriting guidelines, and rating manuals, the availability of  
20 coverage, the effect of rate rollbacks, credit scoring, and  
21 regulation of homeowners and automobile insurance markets; and

22                   (4) review recommendations for legislation proposed  
23 by the department.

24           (f) The committee may request reports and other information  
25 from the department as necessary to carry out this section.

26           (g) Not later than November 15 of each even-numbered year,  
27 the committee shall report to the governor, lieutenant governor,

1 and speaker of the house of representatives on the committee's  
2 activities under Subsection (e). The report shall include:

3 (1) an analysis of any problems caused by property and  
4 casualty insurance regulation reform; and

5 (2) recommendations of any legislative action  
6 necessary to address those problems and to foster stability,  
7 availability, and competition within the property and casualty  
8 insurance industry.

9 ARTICLE 12. GENERAL TRANSITION; SEVERABILITY; EFFECTIVE DATE

10 SECTION 12.01. The amendment of statutory provisions by  
11 this Act does not affect the repeal of those provisions by Section  
12 31, Chapter 1419, Acts of the 77th Legislature, Regular Session,  
13 2001.

14 SECTION 12.02. Except as provided by Section 3.04 of this  
15 Act, this Act applies to an insurance policy that is delivered,  
16 issued for delivery, or renewed on or after the effective date of  
17 this Act. A policy delivered, issued for delivery, or renewed  
18 before the effective date of this Act is governed by the law as it  
19 existed immediately before the effective date of this Act, and that  
20 law is continued in effect for that purpose.

21 SECTION 12.03. If any provision of this Act or its  
22 application to any person or circumstance is held invalid, the  
23 invalidity does not affect other provisions or applications of this  
24 Act that can be given effect without the invalid provision or  
25 application, and to this end the provisions of this Act are declared  
26 to be severable.

27 SECTION 12.04. This Act takes effect immediately if it

S.B. No. 14

1 receives a vote of two-thirds of all the members elected to each  
2 house, as provided by Section 39, Article III, Texas Constitution.  
3 If this Act does not receive the vote necessary for immediate  
4 effect, this Act takes effect September 1, 2003.